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AUSTRALIA

A brief to the Australian Labor Party 1998 National Conference

January 1998

AI INDEX: ASA12/01/98

DISTR: CO

Amnesty International appreciates the opportunity to comment on human rights issues in the draft Australian Labor Party (ALP) Platform discussed at the ALP's 1998 National Conference. For human rights 1998 is a particularly important year as it sees the 50th anniversary of the Universal Declaration of Human Rights.

Amnesty International is independent of political persuasion and does not support or oppose any political party, government, or the views of people whose rights it seeks to protect. The following comments concentrate on some of the issues covered by Amnesty International's very specific mandate in relation to the draft ALP platform sections on "*Community Security and Access to Justice*" (section 10), "*Human Rights and Equal Opportunity for All Australians*" (11), and "*Securing Australia's Place in the World*" (14).¹

General observations

Amnesty International welcomes the draft ALP platform's outspoken support for fundamental human rights principles and their consistent and equal application in

¹ Where the following comments do not deal with a particular human rights issue in the draft platform, this should not be interpreted as an endorsement or otherwise, of the ALP position by Amnesty International.

Australia's domestic and foreign policy. However, in Amnesty International's experience, all too often the actions of government parties do not reflect the policy platforms they offer in opposition. As with other countries around the world, the organization will continue to monitor the performance of any Australian government on key human rights issues in its mandate.

Amnesty International particularly supports the draft platform's commitment

- to adhere to Australia's international human rights obligations,
- to make the rights of women, young and indigenous people a priority,
- to incorporate international human rights obligations into domestic laws, and
- to monitor their implementation through a properly funded and independent national human rights commission.

Amnesty International welcomes the draft ALP platform's clear endorsement for the promotion of universal human rights as "*a core foreign policy objective which cannot be traded off against other diplomatic and economic goals*" (emphasis added). The organization is particularly encouraged by the rejection of attempts to portray international action on human rights concerns as interference in the internal affairs of other states.

However, Amnesty International believes that the ALP platform should be more specific on some of its human rights commitments, and should reflect issues of considerable concern to many Australians which in recent years also prompted international criticism, including from United Nations' human rights institutions. These include the rights of detained asylum-seekers and of children who come into contact with the criminal justice system. Amnesty International also calls on the ALP to commit itself to strictly measuring its future performance against the aims and pledges expressed in its platform.

Comments on section 10: Community Security and Access to Justice

Amnesty International believes that conformity of laws and policies with international human rights standards is a foundation - and not an impediment - for government measures to protect the personal safety and security of its citizens. In addition, a fair, efficient and fully independent judicial system, which provides equal and unimpeded access to the courts in all Australian jurisdictions and which respects the special needs of children, is vital for the enjoyment and protection of human rights for all Australians.

Amnesty International welcomes proposals to develop national standards in the criminal justice system, such as a **national criminal code** and a **code of custody, sentencing an parole**, with the aim

- to prohibit the imposition of the death penalty,
- to ensure Australian criminal laws conform with international human rights standards,
- to ensure consistent, just and humane treatment of offenders and accused,
- to adopt special measures against deaths in custody,

- to adopt special measures for the protection of detained young people, and
- to minimize imprisonment for the non-payment of fines, especially for children.

In Amnesty International's opinion, urgent attention should be given to

- measures against **deaths in custody**, including deaths of people whom police are trying to apprehend, with particular emphasis on deaths of indigenous Australians,
- developing national standards for strict **controls on the use of firearms** and offensive weapons, including their use by police and prison officers, and
- measures for the **training of law enforcement officials** in the non-discriminatory and non-violent administration of the law.

Amnesty International would welcome a clearer and stronger commitment in the draft platform for a *national* approach towards the **rights of children**, for example a commitment to give full effect to the Convention on the Rights of the Child.

Comments on section 11: Human Rights and Equal Opportunity for All Australians

Amnesty International strongly supports the draft platform's proposal to seek the incorporation into domestic law of Australia's obligations under international human rights treaties. In the organization's experience, the assumption that existing laws already provide for adequate implementation of Australia's international human rights obligations is misplaced. The weak status of human rights treaties in Australian law has become apparent in the debate on, for example,

- the Native Title Amendment Bill 1997,
- the Australian Government's recent response to the 'stolen children' inquiry report,
- the views on Australia of the UN Committee on the Rights of the Child,
- the Australian High Court 1995 'Teoh' decision (that human rights treaty obligations should be taken into account in administrative decision-making),
- subsequent proposed legislation against the 'Teoh' decision, i.e. the Administrative Decisions (Effect of International Instruments) bills of 1995 and 1997,
- Tasmania's reluctance, until 1997, to repeal anti-homosexual laws, and
- Queensland's new legislation to outlaw and adequately punish all forms of torture.

In Amnesty International's opinion, paragraph 69 on support for **refugees** leaves open some important legal questions addressed in a Senate resolution of 30 October 1997 which requested a government report on options to bring Australia's immigration detention policy in line with its international human rights obligations. Amnesty International accepts that *initial* **detention of asylum-seekers** who arrive in Australia without proper documents may be appropriate to ensure that questions of personal identity and national security can be adequately assessed. However, the continuing

detention of asylum-seekers should be decided on the circumstances of the individual case, and should be subject to periodic review.

Coronial inquiries and statistical developments since the Royal Commission into Aboriginal **Deaths in Custody** indicate the need to make the improved standards of care in prison and police custody work more effectively towards reducing deaths in custody, both among Aborigines and other prisoners. State and territory governments should be encouraged and given the resources to properly implement the Royal Commission's recommendations on custodial care and to adopt best practice initiatives on the prevention and investigation of all deaths in custody. All Australian governments share the responsibility to make sure the commission's recommendations are applied consistently and effectively. Amnesty International would welcome an ALP commitment to **national standards in coronial investigations** of deaths in custody and to improve compliance with the recommendations by coroners to prevent future deaths.²

Comments on section 14: Securing Australia's Place in the World

Australia's geo-political situation and its experience in helping to develop and promote international standards in human rights provide challenges and opportunities for Australia to work internationally against serious and persistent human rights violations, particularly in the Asia-Pacific region. Amnesty International welcomes the draft platform's support for universal human rights and democratic processes as an *"integral part of Australia's engagement with Indonesia."* In Amnesty International's view, however, international activities on human rights will only be credible and ultimately effective if domestic concerns for the human rights of Australians are seen to be seriously and effectively addressed.

Australian engagement with its neighbours and with international governmental organizations in the Asia-Pacific region should not lead to a soft stance on serious human rights violations in some countries and outspoken criticism of similar abuses in others. While Amnesty International welcomes bilateral dialogue on human rights, for example with China and Indonesia, Australia's credibility depends on its consistency, in public as well as in diplomatic relations, in the defence of human rights and compliance with international standards.

Amnesty International welcomes the draft ALP platform's commitment to *"further strengthen international mechanisms and processes for monitoring human rights violations, especially those under the auspices of the United Nations [...]"* Amnesty International believes the Australian Human Rights and Equal Opportunity Commission, as a member of the Asia-Pacific Forum of national human rights institutions, should be supported in its important complementary role to government initiatives for the promotion of internationally recognized human rights standards in the Asia-Pacific region.

To this end, Amnesty International would welcome an ALP commitment to support and facilitate opportunities for independent international human rights monitors,

² For further details on these recommendations see Amnesty International's report *Australia: Deaths in custody: how many more?*, June 1997, AI Index ASA12/04/97.

including non-government organizations, to investigate alleged violations of human rights on the ground, and to engage in a dialogue with the authorities responsible.

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