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# amnesty international

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## AUSTRALIA

### Tasmania retains draconian law against homosexuals

July 1996

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Amnesty International is concerned that the Tasmanian Legislative Council has for the third time failed to repeal state legislation which allows 21 years imprisonment for consensual homosexual acts conducted by adult males in private. Homosexual males imprisoned under this legislation would be considered by Amnesty International to be prisoners of conscience.

In February 1996 Amnesty International urged the Tasmanian state government to repeal sections of the Tasmanian criminal code that criminalize homosexual acts between consenting male adults in private, and to ensure that future legislation governing sexual offences would not permit the imprisonment of people solely for such acts. The organization expressed its concern at the state government's plans to increase the maximum penalty for male homosexual acts from 21 to 25 years.<sup>1</sup> These plans were reportedly dropped after state elections in late February 1996.

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<sup>1</sup> See *Australia: Tasmania to raise penalty in discriminatory law against homosexuals*, 6 February 1996 (Amnesty International index ASA 12/02/96) for further information.

In early June 1996 the House of Assembly (Tasmania's lower house) endorsed a bill to reform the disputed state legislation<sup>2</sup>. However, on 18 June 1996 the Tasmania Legislative Council (the upper house) voted against the bill. During the debate, which only lasted four hours, objections were raised to repealing existing legislation by a small majority of state councillors. Opponents of the bill reportedly argued that there were moral reasons for opposing reform and that it would lead to a higher incidence of HIV and the promotion of homosexual activity in schools.

In a letter to Amnesty International in February 1996, the then Tasmanian Attorney-General and Minister for Justice, Ronald Cornish, stated that sections 122 (a), (c), and 123 of Tasmanian state law were necessary to prosecute perpetrators of rape or indecent assault in cases where the offence happened before 1987 and the victim was male. He confirmed that existing legislation provides for the protection of under-aged male victims of sexual offences after 1987. The proposed amendments to the Criminal Code which the Legislative Council voted against in June 1996 reportedly provided for prosecution of cases prior to 1987. Amnesty International is confident that amendments can be made to the law in such a way that the legal protection of minors and male victims of rape before 1987 is not reliant on provisions which criminalize homosexual acts between consenting adult males.

Tasmania remains the only Australian state which has not decriminalized private homosexual activity. Amnesty International has repeatedly urged the Tasmanian State Government to repeal relevant sections of the Criminal Code. In 1994 the Human Rights Committee, an international body serviced by the United Nations, found that the Tasmanian law directly contravenes Australia's obligations under the International Covenant on Civil and Political Rights (ICCPR), as the disputed articles are in breach of article 17, paragraph 1, of the ICCPR. This article declares that

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

The committee stated that the rescindment of the disputed codes would remedy this breach.

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<sup>2</sup> Sections 122 (a), (c) and 123 of the 1924 Tasmanian Criminal Code Act 1924 (amended 1987). Sections 122 (a) and (c) state that "Any person who (a) has sexual intercourse with any person against the order of nature; (c) consents to a male person having sexual intercourse with him or her against the order of nature, is guilty of a crime". Section 123 states "Any male person who, whether in public or private, commits any indecent assault upon, or other act of gross indecency with, another male person, or procures another male person to commit any act of gross indecency with himself or any other male person, is guilty of a crime" and could be charged with "indecent practice between male persons".

*WHAT YOU CAN DO: Please send faxes/telegrams/express and airmail letters either in English or your own language:*

Amnesty International again urges the Tasmanian State Government to repeal Sections 122 (a), (c) and 123 of the Tasmanian Criminal Code Act 1924 (Amended 1987). The human rights organization also calls upon the Tasmanian Government to ensure that future legislation governing sexual offences in the state of Tasmania will not permit the imprisonment of people for consensual homosexual acts between adults in private, who would be considered by Amnesty International to be prisoners of conscience.

**INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM**

✍ *urging the Tasmanian State Government to take steps to immediately repeal Sections 122 (a) and (c) and 123 of the Tasmanian Criminal Code Act 1924 (Amended 1987).*

✍ *urging the Tasmanian State Government to ensure that any future legislation governing sexual offences in the state of Tasmania will not permit the imprisonment of people for consensual homosexual acts between adults in private.*

**PLEASE SEND APPEALS TO:**

*The Hon Tony Rundle, MHA Tasmanian State Premier  
Premier*

*Executive Building, Level 11*

*15 Murray Street*

*Hobart, Tas 7000*

*AUSTRALIA*

*FAX: +61 02 34 1572*

*Salutation: Dear Premier*

*The Hon Raymond Groom, MHA Tasmanian Attorney-General*

*Attorney-General and Minister for Justice*

*Executive Building, Level 9*

*15 Murray Street*

*Hobart, Tas 7000*

*AUSTRALIA*

*FAX: +61 02 237 610*

*Salutation: Dear Attorney-General*

**PLEASE COPY YOUR LETTERS TO THE FEDERAL ATTORNEY-GENERAL**

*The Hon Daryl Williams*

*Attorney-General*

*Suite MF 21, Parliament House*

*Canberra, ACT 2600*

*AUSTRALIA*

*FAX: +61 6 273 4102*

*Salutation: Dear Attorney-General*

**AND TO DIPLOMATIC REPRESENTATIVES OF AUSTRALIA ACCREDITED TO YOUR COUNTRY FOR THEIR INFORMATION.**

**PLEASE START SENDING APPEALS NOW AND UP TO OCTOBER 1996**

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