

AMNESTY INTERNATIONAL

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Australia: Amnesty International urges end to mandatory detention of asylum-seekers, welcomes commitment to respect rights of Indigenous Peoples and regrets rejection of same-sex marriage

Human Rights Council adopts Universal Periodic Review outcome on Australia

Amnesty International welcomes Australia's positive engagement with the Universal Periodic Review, including the national consultation undertaken beforehand, and is pleased that Australia has accepted the majority of the recommendations made to it during the review.¹

In particular, the organization welcomes Australia's commitment to reflect the Declaration on the Rights of Indigenous Peoples in national law and policy;² to consider becoming party to ILO Convention 169 concerning Indigenous and Tribal Peoples;³ to revise the Constitution to recognize Aboriginal and Torres Strait Island Peoples;⁴ and to review Australia's counter terrorism legislation.⁵

By contrast, Amnesty International regrets that Australia has rejected recommendations to introduce a Human Rights Act, which is necessary to embed Australia's international human rights obligations in national law. Moreover, Amnesty International is concerned that – despite Australia's assurances that it is has been reinstated – the Racial Discrimination Act 1975 has only been partially reinstated and provides no retrospective rights in the Northern Territory.⁶ The organisation welcomes Australia's commitment to end discrimination based on sexual orientation or gender⁷, but regrets that Australia has rejected the recommendation to allow same-sex marriages.⁸

Amnesty International has repeatedly raised concerns about Australia's treatment of refugees and asylum-seekers. It has recently criticized Australia's handling of riots at an immigration detention centre on Christmas Island, including the use of force against asylum-seekers, and its pursuit of a bilateral agreement with Malaysia to exchange asylum-seekers arriving by boat, which breaches the 1951 Refugee Convention.

¹ A/HRC/17/10/Add.1

² A/HRC/17/10, paragraph 86.24

³ Ibid, paragraphs 86.11-86.12.

⁴ Ibid, paragraphs 86.104-86.106.

⁵ Ibid, paragraphs 86.137-86.140

⁶ Ibid, paragraph 86.24- 86.25

⁷ Ibid, paragraphs 86.66-86.69

⁸ Ibid, paragraph 86.70

Amnesty International deplores Australia's rejection of recommendations to end mandatory detention of asylum-seekers.⁹ Despite Australia's contention that mandatory detention is based on unauthorized arrival,¹⁰ in reality all those who arrive undocumented by boat are asylum-seekers and face indefinite detention.

Amnesty International further regrets Australia's only partial acceptance of recommendations concerning the detention of children in immigration facilities.¹¹ According to the Department of Immigration and Citizenship, 1,048 children were detained in immigration facilities as of 15 April 2011. Despite its stated commitment to safeguard the rights of refugees and asylum-seekers Australia's rejection of key recommendations appears to signal a lack of political will to meet its international obligations in this area.

Background

The UN Human Rights Council adopted the outcome of the Universal Periodic Review of Australia on 8 June 2011 during its 17th session. Prior to the adoption of the report of the review Amnesty International delivered the oral statement above. Amnesty International also contributed to the information basis of the review through its submission on Australia:
<http://www.amnesty.org/en/library/asset/ASA12/002/2010/en/12fde5c7-838d-4edf-8b5f-1a36bf38455a/asa120022010en>.

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⁹ Ibid, paragraphs 86.126 and 86.132

¹⁰ Ibid, paragraphs 86.126, 86.127 and 86.132

¹¹ Ibid, paragraphs 86.128-86.129