
amnesty international

£AUSTRALIA

@Tasmanian law discriminates against homosexuals

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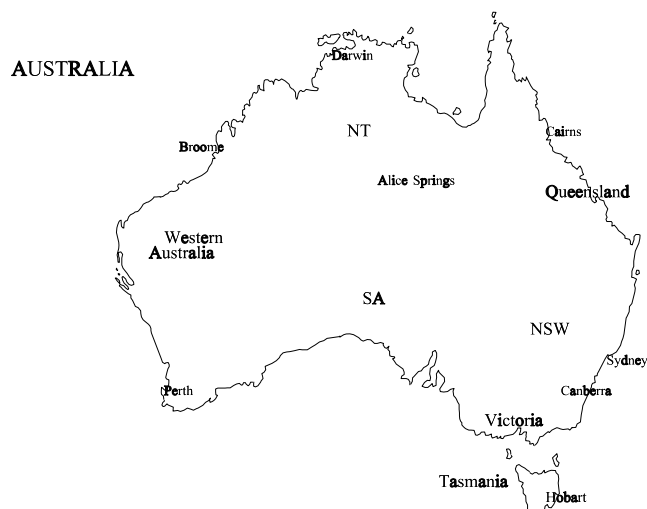
DISTR: SC/CO/GR

Amnesty International is concerned that certain sections of the Tasmanian Criminal Code Act 1924 (Amended 1987) criminalizes all male homosexual acts between consenting adults in private. Homosexuals imprisoned under this law would be considered by Amnesty International as prisoners of conscience.

Section 122 (a and c) states 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," and could be charged with "unnatural sexual intercourse." Section 123 of the same Act states that "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". It is clear that this law allows for the prosecution of consenting adults engaging in homosexual acts in private. There are no persons currently imprisoned under this law. The last time the law was used was in 1977 when several people were charged for "indecent practice between male persons".

LEGISLATION IN AUSTRALIA

Under the constitution of Australia, power over the enactment and enforcement of criminal law resides primarily with the states comprising the federation. In general, the Federal Government only has direct responsibility for criminal law in the territories under its administration.



Male homosexual acts between consenting adults in private were decriminalized in the Australian Capital Territory in 1976; in the Northern Territory in 1983; in South Australia in 1972; in Victoria in 1980; in New South Wales in 1984; in Western Australia in 1989 and in Queensland in 1990. Tasmania has not decriminalized male homosexual acts between consenting adults in private despite recommendations from various government and non-government sources.

BACKGROUND

Amnesty International seeks the release of prisoners of conscience, a term the organization uses to describe those imprisoned for their beliefs, colour, sex, ethnic origin, language or religion who have not used or advocated violence. Amnesty International also works for fair and prompt trials for all political prisoners and opposes the death penalty, extrajudicial executions, "disappearances" and torture. The organization has for many years opposed the violation of human rights of homosexuals through its work and by calling for the release as prisoners of conscience of people detained because of their advocacy of homosexual rights. At its International Council Meeting in Yokohama, Japan in 1991, Amnesty International affirmed its mandate to include a call for the release of individuals who have been imprisoned solely because of their homosexuality, including the practice of homosexual acts in private between freely consenting adults, and for the repeal of laws that may lead to the imprisonment of prisoners of conscience, such as Sections 122 (a and c) and 123 of the Tasmanian Criminal Code Act 1924 (Amended 1987).

APPEAL TO THE GOVERNMENT

Amnesty International urges the Tasmanian State Government to repeal Sections 122 (a and c) and 123 of the Tasmanian Criminal Code Act 1924 (Amended 1987) and 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. Amnesty International wrote to the Premier of the State of Tasmania in July 1992 concerning this matter but has not received a response to date.

KEYWORDS: HOMOSEXUALS1 / LEGISLATION /

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