

Australian Government Treaty Review

Oxfam Community Aid Abroad
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Community Aid Abroad - Oxfam Australia is deeply concerned about the position adopted by the Government as a result of its review of Australia's interaction with the UN treaty committee system¹. Our position is based on the assertion that all human rights are universal, indivisible, inalienable, interdependent and interrelated; and on the belief that a strong, vibrant and robust human rights system is vital for people to escape the poverty trap. Community Aid Abroad - Oxfam Australia considers that full participation and cooperation with the human rights protection system is of critical importance both domestically and internationally. It is vital that every effort is made by Australia to continue its strong history of active support for the UN and its treaty system.

Community Aid Abroad - Oxfam Australia's major concerns regarding the Government's position are as follows ;

1. Undermining of the international recognition of the UN human rights system.

The Government has announced that a "more economical and selective approach" will be applied to its reporting and representation activities in relation to treaty committees. Australia has received criticisms from three treaty bodies² based on their examination and consideration of periodic reports and communications by people in Australia.

As a signatory to these treaties Australia has legally binding obligations to comply with a reporting process, and adherence is not discretionary. Limiting entry of treaty bodies (and Committee in Human Rights mechanisms) to Australia and providing information only when the government considers there are "compelling reasons to do so" directly erode the system's effectiveness. It is important to clarify that the UN treaty committees do not intrude into domestic affairs as suggested by the Government. They have the mandate to ascertain whether the law and practice of signatory countries meet their treaty obligations, and while their recommendations are not legally binding, they have considerable moral weight. In attempting to control the level of scrutiny, Australia could damage its international regard as a leader in the promotion of human rights.

Of particular concern is the report that last year the Government declined to extend an invitation sought by the Committee on the Elimination of Racial Discrimination, and that this year it reacted negatively to a request by the Working Group on Arbitrary Detention to visit Australia. Further, the planned visit by the UN Special Rapporteur on Racism is still in doubt, with government representatives stating that no final decision had been made yet.

¹Joint statement of 29 August 2000 by the Minister of Foreign Affairs, the Attorney-General and the Minister for Immigration and Multicultural Affairs

²Committees monitoring the implementation of the International Covenant of Civil and Political Rights (ICCPR), the Convention against Torture (CAT), and the Convention on the Elimination of All Forms of Racial Discrimination (CERD)

In rejecting "unwarranted requests" from treaty committees in regards to delaying the deportation of unsuccessful asylum seekers who fear torture the Government is seriously compromising its position for the sake of administrative expediency. To claim that domestic human rights issues are better dealt with within the country is problematic, as there are many rights protected by human rights treaties that are not adequately covered by under Australian law.

2. **Contradicting previous positions.**

In a 1997 address³, Alexander Downer himself recognised the importance of NGOs role in promoting human rights stating "...I want to pay tribute to the role that NGOs play in support of our human rights efforts. Many of the examples I have given, especially in regard to enhancing civil society, involve a crucial role for NGOs."

The Government's call for "ensuring adequate recognition of the primary role of democratically elected governments and the subordinate role of non-government organisations (NGOs)" shifts the position from one of cooperation to one of unnecessary hostility. Such a stance seriously undermines the critical role that NGOs play in the promotion of human rights across the world. In many cases they constitute the only voice advocating for the rights of women, men and children suffering human rights violations of terrible proportions. By undermining the position and credibility of NGOs, Australia is providing tacit support to governments whose appalling human rights records are exposed by these organisations. Further, it suggests to the Australian community that these organisations have in some way breached, or weakened, the democratic processes of the country.

The government's unwillingness to sign the Optional Protocol on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) could be misconstrued by countries that - unlike Australia - have little respect for women's rights. The change of heart is most surprising in light of revelations that Australia played a central role in drafting the protocol on women's rights it now refuses to sign. According to a report in *The Age* (5/9/00) UN reports show that Australia's delegates had argued for NGOs to have increased access to the complaints process, warning that limiting their voices could discriminate against those women who were unable to present cases on their own. By adopting this stance, Australia is weakening the protection available to some of the most vulnerable people in the world.

³"Promoting Good Governance and Human Rights through the Aid Program". DFAT/NGO Human Rights Consultations, Canberra 27 August 1997

3. Limiting Australia's role in the region.

Australia has consistently placed human rights as a priority in terms of our engagement and dialogue with neighbouring nations. Australia's credibility to take on this role is based on our sound human rights record and ongoing support of the UN system. Participation in the UN human rights system is a voluntary act of sovereignty providing a context where governments have obligations and citizens have rights, expressed through international covenants, agreements and commitments. The upholding of an international system of human rights reflects Australian community values of tolerance and respect for the rights of others. Full participation is also critical to our future as it provides a sound basis for promoting regional security and stability. Australia has played a vital role in leading the promotion and protection of human rights in the region. By destabilising the notion of unconditional support and engagement with the system Australia is eroding its achievements and credibility.

4. Providing excuses for countries engaging in serious violations of human rights.

Human rights are universal and apply to everyone regardless of the political system of the country where they live. There is no argument that many other countries have, overall, worse human rights records than Australia. The UN treaty committees recognise that Australians generally enjoy a high standard of human rights, however their task is to identify gaps in the protection of rights in the countries they examine. Australia is not exempt from this process, and therefore it is not surprising that most of the treaty committees have drawn attention to the inequalities experienced by indigenous people in Australia, and to the circumstances of the detention of asylum seekers. These issues are hardly trivial, as suggested by the Attorney General, they are the cause of major concern and debate across the Australian community. Criticism is not a sound enough reason to adopt a defensive attitude in response to observations by the treaty monitoring bodies. Australia's stance of non-cooperation provides a welcome precedent and leverage for countries that engage in gross violations of human rights to follow suit.

5. Reforming not disengaging.

Community Aid Abroad - Oxfam Australia acknowledges that the UN treaty body system needs positive reform. This accords with the views of Mary Robinson, the High Commissioner for Human Rights, who has an agenda for strengthening and improving the quality of the work of these bodies. Further, an extensive review of the UN human rights treaty system has been in progress since 1998, and Australia has already contributed to this important initiative. We agree that the system requires increased resources in order for treaty committees to enhance their coordination, research and analysis capacity. The supervisory role played by the committees is crucial for ensuring an independent and equitable assessment of countries' human rights records. Rather than disengaging, Australia could offer to provide additional voluntary funds to the High Commissioner's Office to effectively back up its call for improvement.

Call to the Government

Community Aid Abroad - Oxfam Australia calls on the Government to re-assess the position it has taken in relation to its commitment to the UN treaty bodies and human rights mechanisms. In particular, we urge the government to provide full support to the system and to move away from measures that are ambiguous or inconsistent to Australia's strong support of universal human rights. Australia must ensure its actions protect human rights rather than erode the system and provide a welcome excuse for countries wishing to justify the gross human rights abuses they perpetrate. We must show courage in confronting and addressing outstanding human rights issues on our own soil. The Government's full support and cooperation are required to maintain -and strengthen- the integrity of the system. We urge the Government to clarify its reform agenda and to release information on the concrete initiatives it will seek support for in the UN. In particular, the government must ensure that it continues to issue invitations to the appropriate treaty bodies and UN mechanisms in line with our international commitments and our responsibility to uphold democratic processes.