



Australia's Human Rights Score Card

Australia's 2015 UPR—NGO Coalition Fact Sheet 1

Constitutional, Legislative and Institutional Framework

In 2011, Australia received a number of recommendations directed at strengthening the constitutional, legal and institutional protection of rights.¹ Unfortunately, despite modest positive steps, many of the issues remain and a number of steps taken in response to UPR recommendations have been discontinued.

Incorporation of treaties into domestic law

Despite being a party to seven core human rights treaties, Australia has not fully incorporated these into domestic law, and there is no overarching and comprehensive protection of human rights in Australian law.

In response to recommendations received during the 2011 UPR, Australia said it would formally consider becoming a party to ILO Convention No. 169 and the Convention for the Protection of all Persons from Enforced Disappearance and said it was working towards the ratification of the Optional Protocol to the Convention against Torture or other Inhuman or Degrading Treatment or Punishment. Australia also said it would systematically review its reservations to human rights treaties. To date there appears to be limited, if any, progress towards ratification of OP CAT and no public communication on the consideration of ratification of other treaties or withdrawal of reservations.

However, in a positive development, since January 2012 statements of compatibility have accompanied all federal legislation and a Joint Parliamentary Committee on Human Rights was established to scrutinise federal legislation for its compatibility with the seven core human rights treaties.²

A National Human Rights Action Plan was introduced in 2012. However, the NHRAP appears

to have been discontinued and there has been no publicly reporting on its implementation since June 2013.

A project to consolidate and strengthen federal anti-discrimination laws was initiated following UPR recommendations in 2011 but deferred indefinitely in 2013.

Proposed Recommendations:

Australia should fully incorporate its international human rights obligations into domestic law by introducing a comprehensive, judicially enforceable federal Human Rights Act.

Australian Human Rights Commission

Australia has an independent national human rights institution in accordance with the Paris Principles. Since the last UPR, there have been positive developments in establishing a National Children's Commissioner and Age Discrimination Commissioner, as well as a full-time Race Discrimination Commissioner and Human Rights Commissioner.

However, the authority of the Australian Human Rights Commission (AHRC) is limited to inquiries and complaints. It cannot make enforceable determinations and there is no requirement that the Australian Government implement or even respond to its recommendations.

More disturbingly, since 2014 there have been unprecedented attacks on the independence and functioning of the AHRC, including a substantial reduction of funding (representing 30% of the AHRC's budget)³ and attempts to procure the President of the AHRC's resignation.

¹ See, for example, Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Australia*, 17th sess, UN Doc A/HRC/17/10 UPR 2010 (March 2011), [86.1 – 86.6], [86.7 – 86.9], [86.10], [86.11],[86.12], [86.13], [86.14], [86.16], [86.17], [86.18], [86.19], [86.20], [86.21], [86.22], [86.28], [86.30],[86.35], [86.36],[86.38].

² *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

³ The funding cuts to the AHRC announced on 15 December 2014 amount to \$5 million over three years, or more than \$1.6 million per year: see Australian Government, *Mid-Year Economic and Fiscal Outlook: Appendix A – Policy Decisions Taken since the 2014-2015 Budget: Expense Measures* (2014). See also Human Rights Law Centre, 'Slashing funding for

Between November 2014 and February 2015, Australian government ministers have verbally attacked the integrity, impartiality and judgment of the President of the Australian Human Rights Commission, Professor Gillian Triggs. In February 2015, the Chairperson of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) wrote to the Australian Prime Minister expressing deep concern over these attacks.⁴ The Special Rapporteur on the situation of human rights defenders expressed concern that these attacks may constitute retaliation for the Commission's report documenting the violation of the rights of children in Australia's immigration detention centres.

Despite requests to halt the attacks from the Special Rapporteur and ICC, in June 2015 government ministers publicly repeated the allegations.⁵

Proposed Recommendation:

Australia should urgently restore funding and independence to the AHRC to enable it to effectively carry out its functions.

Domestic Implementation of UN Recommendations

Australia lacks any institutional mechanism for the consideration and implementation of views and recommendations made by UN human rights mechanisms. Australia regularly fails to implement these views and recommendations.⁶

Proposed Recommendation:

Australia should extend the mandate of the Joint Parliamentary Committee on Human Rights to include the domestic consideration, follow up and oversight of implementation of recommendations and views of UN human rights mechanisms.

Human Rights Education

Work has been undertaken to introduce human rights education in the school curriculum and develop resources for public servants, and should be developed further. However, human rights education, grants have been defunded.⁷

Proposed Recommendation:

Australia should further resource human rights education in accordance with the World Program on Human Rights Education

human rights watchdog is dangerous for human rights and democracy', (Media Release, 15 December 2014)

⁴ Letter from Chairperson of the ICC to Prime Minister Abbott dated 23 February 2015 (available at http://www.ishr.ch/sites/default/files/article/files/the_prime_minister_of_australia.pdf)

⁵ Correspondence between the Special Rapporteur on the situation of human rights defenders and the Australian Government referred to in *Communications Report on Special Procedures A/HRC/29/50* (2 June 2015).

Patrick Begley, 'Triggs refuses to resign in the face of personal attacks', *The Age*, (12 June 2015).

Joint media release - Senator the Hon George Brandis QC, Attorney-General and the Hon Peter Dutton MP, Minister for Immigration and Border Protection, (5 June 2015).

⁶ See Human Rights Committee, *Concluding Observations of the Human Rights Committee: Australia* (March 2009), UN Doc CCPR/C/AUS/CO/5, [10]. For detail and analysis of the adequacy of Australia's response to individual communications please see <http://remedy.org.au/cases/>.

⁷ Human Rights Law Centre, 'Government shouldn't sacrifice human rights for short term political gain', (Media Release 7 November 2012).