



Australia's Human Rights Score Card

Australia's 2015 UPR—NGO Coalition Fact Sheet 16

Prisoners & Prison Conditions

Overview

Since Australia's last Universal Periodic Review, the number of imprisoned disadvantaged people has increased, and the general conditions in prisons around Australia have deteriorated.¹

Overcrowding, poor conditions and substandard healthcare characterise Australian prisons. Aboriginal and Torres Strait Islander peoples continue to be over-represented in all prisons.

Australia is yet to ratify the OPCAT and provide independent, prison oversight bodies.

Proposed Recommendation:

Australia should ratify the OPCAT.

Over-Crowding

The swelling in prison numbers has generally occurred faster than growth in prison capacity, resulting in prison over-crowding.² To cope, many prisoners are being held in demountable shipping containers; are sharing cells; or are sleeping on mattresses on the floor.³ Over-crowding impacts the availability of rehabilitation and education programs, and results in more prisoners being classified as high-risk, and held in oppressive conditions.⁴

Over-crowding also impacts pre-trial detention conditions, with prisoners often being held in temporary police or court cells, only designed for very short-term detention.

¹ Australian Bureau of Statistics, *Prisoners in Australia, 2014* (Cat. No. 4517.0, 11 December 2014) <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4517.0~2014~Main%20Features~Overview~3>> (ABS 2014).

² Sean Rubinsztein-Dunlop, *Australia's Prison System Overcrowded to bursting point with more than 33,000 people in jail* (3 July 2014) ABC News <www.abc.net.au/news/2014-07-02/australian-prison-overcrowding-female-populations-growing/5567610>.

³ Ibid.

⁴ See, eg Victorian Ombudsman, 'Investigation into the rehabilitation and reintegration of prisoners in Victoria' (October 2014) <<https://www.ombudsman.vic.gov.au/getattachment/280f4a06-5927-4221-bf64-d884ba6abaf9/publications/discussion-papers/discussion-paper-investigation-into-the-rehabilita.aspx>>.

This has consequences such as making it difficult for prisoners in pre-trial detention to communicate with their lawyers, to receive visits from family, to have their minimum rights met (such as time outdoors), or to be readily available for requisite court appearances.

While it is critical that prisons be of an adequate standard, focus should equally be on reducing imprisonment rates through measures, including: early intervention strategies; the implementation of non-custodial sentencing options; effective personal development services to address reoffending such as education, computers in cells and online services; resourced post-release support programs; and a commitment to addressing the underlying socioeconomic reasons for offending in the first instance. This is important to ensure governments are not continually building new prisons to accommodate exponentially-increasing prisoner numbers, but rather are addressing the social determinants that lead to contact with the criminal justice system.

Proposed Recommendation:

Australia should commit to reducing the number of people entering the prison system, and to reduce the overcrowding of prisons.

Women in Prisons

Women, and in particular Aboriginal women, are the fastest growing prisoner demographic in Australia.⁵ Since 2011, the number of women prisoners has increased at 21 times the rate of male prisoners, and the number of Aboriginal women in prison has almost doubled in the past decade.⁶ While the reasons for the increase in women's incarceration rates are complex, contributing factors include women's disadvantaged socioeconomic status.⁷ This is particularly pronounced in relation to Aboriginal women.⁸

⁵ ABS 2014 (n 1).

⁶ Ibid.

⁷ See, eg Mary Stathopoulos, 'Addressing women's victimisation histories in custodial settings' (Issues Paper No 13, Australian Centre for the Study of Sexual Assault, 2012) <www.aifs.gov.au/acssa/pubs/issue/i13/i13.pdf>.

⁸ For an overview of the characteristics of Aboriginal women in custody, see Lorana Bartels, 'Indigenous Women's Offending

Many imprisoned women have a diagnosed mental illness, have a history of victimisation and are primary care givers. The impact of custody on women's lives is significant.

Given the growth in women's prisoner numbers, Australia should invest more in understanding gender-specific patterns of criminalisation, and in particular, the relationship between victimisation and offending. Further, early intervention and diversionary practices specifically designed for women, and Aboriginal women in particular, should be developed.

Proposed recommendation:

Australia should reduce the over-imprisonment of women through implementing gender and culturally specific early intervention and diversionary programs.

Healthcare in Prisons

The Australian prisoner population has more significant and chronic health needs than the general population.⁹ The type of and manner in which health services are delivered in prisons varies across Australian jurisdictions. Across the board, prisoners do not have access to Medicare, the free health service provided by the Australian Government. Prisoners largely do not have the freedom to choose their medical provider, or access an alternative medical provider. Most prisoners do not have access to comprehensive and quality mental health care, in addition to easy access to family and social support to lessen the damage of isolation.

Further, although many prisoners in Australia experience drug addiction, most prisons do not provide safe injecting equipment as a harm minimisation strategy; or access to prescribed pharmacotherapy substitution treatment.

Proposed Recommendation:

Australia should ensure prisoners have the same access to quality healthcare, including mental health care, as people in the general community.

Patterns: A literature review' (Research and public policy series paper No 107, Australian Institute of Criminology, July 2010) <www.aic.gov.au/documents/F/4/0/%7bF400B08D-7ECB-43EE-BB6E-38B2C3580A46%7drpp107.pdf>.

⁹ See, eg Australian Institute of Health and Welfare, 'Prisoner Health Services in Australia 2012' (Bulletin No 123, Australian Institute of Health and Welfare, August 2014) <www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129548270>.

Young People in Prisons

While the overall rate of detention of non-Aboriginal young people has generally declined or remained stable, the rate of detention of Aboriginal young people has increased. Half of the young people in detention in Australia are Aboriginal.¹⁰ Aboriginal young people are 31 times more likely to be detained than the general youth population.¹¹

Compounding this over-representation is the fact that half of the young people in detention are in pre-trial detention.¹² These high pre-trial detention rates show that bail systems are either not youth specific, or are being used for punitive purposes.

Pre-trial detention should only be used to protect the community from further offending and to guard the integrity of the trial process.¹³ This is particularly important because the consequences of early exposure to detention can be adverse for young people.¹⁴

Proposed Recommendation:

Australia should commit to reducing the number of young people in pre-trial detention by making current bail practices youth appropriate.

¹⁰ This figure varies across jurisdictions, with Western Australia having the highest rate of Aboriginal juvenile detention in the nation: Government of Western Australia, Department of Corrective Services Weekly Offender Statistics Report as at 26 June 2014 <http://www.correctiveservices.wa.gov.au/_files/about-us/statistics-publications/statistics/2014/cnt140626.pdf>.

¹¹ See, eg Jessica Kidd, 'Over-representation of Indigenous Australians in prison a catastrophe, says Mick Gooda, the Aboriginal and Torres Strait Islander Social Justice Commissioner' (ABC News 5 December 2014) <<http://www.abc.net.au/news/2014-12-04/number-of-indigenous-australians-in-prison-a-catastrophe/5945504>>.

¹² See, eg Kelly Richards, 'Trends in Juvenile Detention in Australia' (Trends and Issues in Crime and Criminal Justice, No. 416 May 2011) <http://www.aic.gov.au/media_library/publications/tandi_pdf/tand_i416.pdf>.

¹³ New South Wales Law Reform Commission, *Bail*, Report No 133 (2012) xvii <<http://www.lawreform.lawlink.nsw.gov.au/agdbasev7wr/lrc/documents/pdf/r133.pdf>>.

¹⁴ *ibid* xviii.