

Human Rights 2010

Ten Policies to Promote Freedom, Fairness and Equality in Australia



Australia's Human Rights Legacy and the 2010 Federal Election

Respect for human rights is the foundation of a community that is fair, just, cohesive and inclusive.¹ The promotion and protection of human rights should be a key priority for the next Australian Government.

On the international stage, Australia has a proud bipartisan history in the development of human rights laws and institutions.² At home, the recent National Human Rights Consultation demonstrated that human rights matter deeply to Australians. Human rights principles resonate with Australian democratic values, including the rule of law and our sense of a fair go.

The Consultation also demonstrated, however, that our framework of laws and institutions does not provide comprehensive protection of rights, particularly for vulnerable or disadvantaged groups. The Consultation disclosed a strong majority view that 'we could do better in guaranteeing fairness for all within Australia and in protecting the dignity of people who miss out',³ including the homeless, people with mental illness, Aboriginal Australians, asylum seekers and children with disability.

Ten Policies for a Fairer Australia

The next Federal Government should commit to the following policies for a fairer Australia:

1. A comprehensive poverty alleviation and social inclusion strategy, with holistic, concrete and measurable programs and targets, including in the areas of Indigenous disadvantage, mental illness, violence against women and homelessness.⁴
2. Consolidated federal anti-discrimination legislation which actively promotes equality, provides comprehensive protection against discrimination and establishes reporting frameworks and requirements to measure progress.⁵ Equality can contribute to social cohesion, higher productivity and participation, and improved outcomes in areas including education and health.⁶
3. Strengthened parliamentary engagement with human rights, including by enacting the Human Rights (Parliamentary Scrutiny) Bill 2010, requiring the preparation of reasoned Statements of Compatibility for all proposed legislation, and empowering the Joint Parliamentary Human Rights Committee to 'monitor national and international human rights obligations and provide suggestions and recommendations on how to best promote and protect human rights standards'.⁷
4. An inquiry into the merits of constitutional amendment to enshrine the right to equality and non-discrimination.
5. A comprehensive federal Human Rights Act which provides legal recognition and protection of all civil, political, economic, social and cultural rights and establishes mechanisms to promote human dignity, good government and accountability.⁸
6. The establishment of mechanisms to ensure independent monitoring, oversight and scrutiny of all places of detention, including prisons, immigration detention centres, juvenile justice facilities, police cells, psychiatric hospitals and disability institutions.⁹ The humane treatment of detainees contributes to rehabilitation, reduced recidivism, and safer and more cohesive communities.
7. The abolition of mandatory immigration detention and off-shore processing, an increase in Australia's humanitarian intake, and access to adequate housing, health care, education and work rights for refugees and asylum-seekers.¹⁰ The next Federal Government should also legislate to

provide complementary protection in accordance with Australia's refugee and human rights law obligations.¹¹

8. A comprehensive review of Australia's counter-terrorism laws, policies and practices to ensure that they are consistent with international human rights standards and are reasonable, necessary, proportionate and effective.¹²
9. Committing to use the *UN Declaration on the Rights of Indigenous Peoples* as the basis for Indigenous affairs, including in relation to: the National Congress of Australia's First Peoples; the commitment to 'Close the Gap'; the amendment of the Northern Territory Intervention and native title legislation; the provision of reparations to the Stolen Generations; the repayment of Stolen Wages; and Treaty negotiations.
10. A human rights-based approach to foreign policy, including by: undertaking Human Rights Impact Assessments across all areas of foreign affairs (including aid, development, trade, investment, business, labour, migration, defence, military cooperation, security and the environment);¹³ ensuring that human rights are incorporated into the objectives and activities of all regional organisations and processes in which Australia participates and that impact on human rights; and negotiating for bilateral and multilateral agreements to include human rights clauses and safeguards.¹⁴

¹ See, eg, *Universal Declaration of Human Rights* (1948). See also Australian Bureau of Statistics, *Measures of Australia's Progress: Summary Indicators 2009*, Report No 1383.0.55.001 (2009).

² The following human rights treaties were signed by a Coalition Government and subsequently ratified by a Labor Government: *International Convention on the Elimination of All Forms of Racial Discrimination*; *International Convention on the Elimination of All Forms of Discrimination against Women*; *Convention on the Rights of Persons with Disabilities*. The following treaties were signed by a Labor Government and ratified by a Coalition Government: *International Covenant on Civil and Political Rights*; *International Covenant on Economic, Social and Cultural Rights*.

³ National Human Rights Consultation Committee, *Report of the National Human Rights Consultation* (2009) 343-4.

⁴ Committee on Economic, Cultural and Social Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Australia* (May 2009), UN Doc E/C.12/AUS/CO/4, [24].

⁵ Human Rights Committee, *Concluding Observations of the Human Rights Committee: Australia*, UN Doc CCPR/C/AUS/CO/5 (April 2009), [12]; Committee on Economic, Cultural and Social Rights, *Concluding Observations* [14]. See also Human Rights Law Resource Centre, *Advance Australia Fair: An Agenda to Promote Equality and Address Discrimination in Australia* (2010) at www.hrlrc.org.au/files/Policy-Paper-Equality-and-Human-Rights1.pdf.

⁶ See, eg, Tim Toohey, David Colosimo and Andrew Boak (Goldman Sachs JB Were), *Australia's Hidden Resource: The Economic Case for Increasing Female Participation* (2009) at www.womenonboards.org.au/pubs/091130gsibw.pdf; Equalities Review Panel (UK), *Fairness and Freedom: The Final Report of the Equalities Review* (2007).

⁷ Joint Committee on Foreign Affairs, Defence and Trade (JCFADT), *Human Rights in the Asia-Pacific: Challenges and Opportunities* (April 2010) 165. See also National Human Rights Consultation Committee, *Report* [Recommendations 6-7].

⁸ National Human Rights Consultation Committee, *Report* [Recommendations 17-31]; Human Rights Committee, *Concluding Observations* [8]; Committee on Economic, Cultural and Social Rights, *Concluding Observations* [11]. See also Human Rights Law Resource Centre, *A Human Rights Act for All Australians* (2009) at www.hrlrc.org.au/content/topics/national-human-rights-consultation/a-human-rights-act-for-all-australians/.

⁹ The Optional Protocol to the Convention against Torture, which Australia signed on 19 May 2009, requires all parties to establish independent 'national preventative mechanisms' to regularly examine, report and make recommendations on the treatment of persons deprived of liberty and the conditions of places of detention: see Articles 17-23.

¹⁰ Human Rights Committee, *Concluding Observations* [23]; Committee on Economic, Cultural and Social Rights, *Concluding Observations* [25].

¹¹ Human Rights Committee, *Concluding Observations* [19].

¹² National Human Rights Consultation Committee, *Report* [Recommendation 4]; Human Rights Committee, *Concluding Observations* [11].

¹³ JCFADT, *Human Rights in the Asia-Pacific* [Recommendation 2].

¹⁴ See, eg, JCFADT, *Australia's Relationship with ASEAN* (2010) 159 [Recommendation 8].