

60th anniversary of the Universal Declaration of Human Rights

A package of initiatives for the Australian observance

Introduction

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948. Dr HV Evatt, Australia's Minister for External Affairs in the Chifley Labor Government, was the President of the General Assembly and chaired the session at which the UDHR was passed. Australia had been one of the eight States given responsibility for drafting the Declaration and so it was fitting that its Minister chaired the session that adopted it.

In 2008, the United Nations is observing a 60th anniversary year that will culminate with the anniversary itself on 10 December 2008. The High Commissioner for Human Rights has called on States to undertake their own programs of activities to mark the anniversary. The Rudd Labor Government could adopt a package of important human rights initiatives for Australia's observance. This short paper proposes elements for that package.

Respecting and promoting all human rights

A package of initiatives for the 60th anniversary will contribute towards the observance of the anniversary. More importantly, it will assist in restoring Australia's leadership in international human rights. Most fundamentally, however, it will contribute to advancing the protection and promotion of human rights in Australia and beyond. The rights recognised in the Declaration are universal and indivisible. Protection and promotion of these rights are the best means to counter terrorism, build greater security and ensure prosperity. This was recognised by Dr Evatt in 1945 when, in the aftermath of World War II and in the days prior to the adoption of the UN Charter, he prophetically stated,

So we are on the eve of San Francisco. The nations must not fumble this second chance to create a system of international cooperation within which they can live together as friends. While security is the first task, it is not enough to plan for security alone; economic and social conditions are potential factors in international relations. Poverty and unemployment are the worst menace to peace.

We must observe the 60th anniversary of the Declaration – and do so in ways that are meaningful – not just because of Australia's significant role in its drafting and adoption but so that Australians and others can enjoy the rights that belong to all.

Restoring our traditional leadership in international human rights

The Howard Government moved Australia into an oppositional role in relation to almost all the major international human rights institutions and initiatives. This first confused

and then alienated many traditional allies in positive human rights work that were accustomed to a strong Australian commitment to the international human rights system. The damage done to our international standing has been immense but it can be restored. That work has already begun with significant steps have been taken in the months since the Rudd Labor Government was elected.

- Australia was one of the first 30 States to ratify the Convention on the Rights of Persons with Disabilities, the third Western State to do so.
- The Government has stated its intention to ratify the Optional Protocol to the Convention Against Torture, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women and the Optional Protocol to the Convention on the Rights of Persons with Disabilities as soon as possible. The actual ratifications, however, remain to be completed.
- Australia has also played a more positive role in the negotiation of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
- The examination of Australia's performance of its obligations under the Convention Against Torture was seen as far more constructive than any Australian appearance before a treaty monitoring committee since 2000.
- The Government has announced that it will make a standing invitation to the Special Procedures of the UN Human Rights Council to make official visits to Australia.

The package of initiatives to mark the 60th anniversary of the Declaration can build on these good beginnings. It should include the following.

Outstanding treaty ratifications

- Optional Protocol to the Convention Against Torture
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women
- Optional Protocol to the Convention on the Rights of Persons with Disabilities
- Convention on Enforced Disappearances
- Migrant Workers Convention

Support for the negotiation of new international standards

- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

Engagement with international human rights mechanisms

- Review all treaty body Concluding Observations, Recommendations and Opinions concerning Australia and respond positively and constructively
- Update and revise Australia's "Common Core Document" report to treaty bodies, in light of comments from non-government organisations and changes in government policy

- Issue an invitation to the United Nations High Commissioner for Human Rights to make an official visit to Australia for discussions on how to strengthen the work of her Office, including Australia's cooperation with the growing OHCHR field presences in the Asia Pacific region.

Support for international initiatives on indigenous rights

- Publicly endorse the Declaration in the Rights of Indigenous Peoples in an appropriate UN forum
- Revive consideration of and consultation on Australian ratification of the International Labor Organisation Convention 169 on indigenous populations

Support for international human rights work

- Ensure that the Australian aid program is based on a human rights approach to development and provides direct support to human rights initiatives
- Establish a fund to provide grants to Australian and international human rights non-government organisations for international work on human rights, especially at global and regional levels where Australian funding is not presently available
- Explore the establishment of a centre to promote research, dialogue and cooperation on human rights in the Asia Pacific region
- Provide qualified Australian secondments to the UN Junior Professional Officers scheme, enabling young Australians to join young professionals from 23 countries who are sponsored by their governments to work and learn in the UN human rights system
- Increase appropriate support for Australian nationals currently in the UN system or seeking to contribute to it
- Provide official public recognition of Australians who make a significant contribution to human rights through the UN system (including contributions through treaty bodies and special procedures) and other organisations
- Provide support to enable strengthened civil society engagement both with government and the multilateral system
- Contribute to, and provide leadership on, the development of an international regulatory framework on business and human rights, building on the work undertaken by Harvard University Professor John Ruggie during the first term of his mandate as the Special Representative to the Secretary-General on business and human rights

Building a human rights system in Australia – *Bringing Rights Home*

Domestically too, the new Rudd Labor Government has acted quickly to address some longstanding injustices and other serious human rights situations inherited from the Howard Government that breached both international standards and Australian values.

- Most significantly the Government issued the long awaited national apology to Australia's indigenous people. The Government was applauded for the breadth

- and generosity of the apology. No single act has done more to enhance Australia's international reputation as a leader in human rights.
- The so-called Pacific Solution for asylum seekers has been ended and Temporary Protection Visas discontinued;
 - Parliament's Joint Standing Committee on Migration has begun an inquiry into immigration detention.
 - The Work Choices scheme is being repealed and protection of workers' rights restored.
 - The Senate Standing Committee on Legal and Constitutional Affairs is reviewing the Sex Discrimination Act.
 - The Government has commenced a legislative program to repeal provisions in laws that discriminate against same-sex couples.
 - The Productivity Commission is undertaking an inquiry into paid maternity leave in Australia.
 - For the first time, the Government will fund the participation of an expert advisor from the community sector and an Aboriginal or Torres Strait Islander woman to be part of the Australian delegation to the next session of the United Nations Commission on the Status of Women

These and other initiatives are very welcome but only the start of what needs to be done. Australia has ratified most of the core international human rights treaties and ratification of the outstanding ones will be addressed under this package. However, most of these international obligations are not adequately incorporated into Australian domestic law, as the treaty monitoring bodies regularly point out. Australia needs to draw from international human rights law and the best international practice and develop its own indigenous system for the promotion and protection of human rights in Australian law and institutions.

The Labor Party's National Platform commits the Government to a national process to examine better protection and promotion of human rights in Australian law and this was strongly supported at the Australia 2020 Summit. This should be the lynchpin to the domestic side of the package, an initiative for "bringing rights home".

Better legal protection of human rights

- Launch the national process for consideration of better protection and promotion of human rights in Australian law, including through an Australian bill or charter of rights. This process should include a national program for community consultation including the use of community education packages to assist public debate
- Enact national legislation for a criminal offence of torture with domestic and extra-territorial application
- Enact national legislation to prohibit the re-introduction of the death penalty in any Australian jurisdiction

Human rights education and training

- Ensure the incorporation of human rights education into school curricula through its inclusion in the national education framework
- Undertake a limited public education program to mark the 60th anniversary of the Universal Declaration of Human Rights
- Commence a program of training on human rights within the Australian Public Service so that managers and administrators are aware of their human rights responsibilities and of best practice in public administration in the implementation of human rights obligations

Institutional renewal

During the Howard decade, the Human Rights and Equal Opportunity Commission was systematically diminished and sidelined. Its budget was cut by 40% in 1998 as punishment for its politically unacceptable report *Bringing them home*. It spent the decade under the constant threat of re-structuring, with legislation in parliament but not passed and key leadership positions unfilled. The Commission is now more than 20 years old and it is timely to review its structure, functions and resources as part of its renewal and restoration to a central position in Australian national governance as the principal expert on human rights. It is also timely to increased Parliament's role in monitoring human rights performance and in ensuring that laws, policies and practices comply with human rights obligations.

- Establish an independent public review of the structure, functions, powers and resources of the Human Rights and Equal Opportunity Commission to ensure that it is truly renewed and restored

Parliament and parliamentarians, have a very special role in the promotion and protection of human rights. Developments during the Howard years highlighted the absence in Parliament of a dedicated committee with a focus on, and expertise in, human rights. There is a need for a dedicated committee able to scrutinise legislation, review and monitor the implementation of human rights commitments.

- Up-grade the Human Rights Sub-committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade to a full Joint Parliamentary Committee on Human Rights whose tasks would include contributing to the promotion and protection of human rights nationally and internationally, and monitoring and reporting on Australia's implementation of the recommendations of UN treaty bodies and the Special Procedures of the UN Human Rights Council

Support for human rights work

- Provide public support for human rights non-government organisations for their work in Australia, through core and project funding

- Extend tax deductibility for donations to human rights non-government organisations for their work in Australia

Law reform

There are several areas of law that give rise to significant questions about compliance with human rights standards. These have been highlighted in judicial decisions, including in the High Court, in reports of the Human Rights and Equal Opportunity Commission and in other areas. The Government should launch a “human rights audit” of legislation, beginning with areas where there has already been authoritative criticism and proposals for reform. It could be undertaken within government (the Attorney-General’s Department) or through an appropriate statutory authority (the Human Rights and Equal Opportunity Commission or the Australian Law Reform Commission) or by the recommended Joint Standing Committee on Human Rights. The best approach might be to divide the task among several agencies to ensure that it proceeds as quickly as possible. The audit will need to be complemented with a legislative program to “make right” areas of deficiency that are identified.

- Launch a “human rights audit” of federal legislation
- Undertake as a priority reviews of counter-terrorism legislation and asylum seeker legislation for compliance with human rights standards
- Continue the legislative program to amend federal laws to remove discrimination on the basis of same sex relationships

This package of initiatives is a means to equip Australia better to meet the human rights challenges of this century and to cement Australia’s place and leadership role internationally and within the Asia Pacific region in protecting and promoting human rights.

Human Rights Council of Australia
A Just Australia
Amnesty International Australia
Australian Lawyers for Human Rights
Brotherhood of St Laurence
Diplomacy Training Program
Edmund Rice Centre
GetUp
Human Rights Law Resource Centre
Oxfam Australia
Public Interest Advocacy Centre
Rights Australia
World Vision

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