

NWS 21/01/97

AI News - January 1997

News:

Great Lakes Region

Human rights crisis in Central Africa

Hundreds of thousands of men, women and children are still in mortal danger in eastern Zaire and neighbouring countries. Decades of misrule and organized mass atrocities have set populations against each other. But the many disparate groups from Rwanda, Zaire and Burundi have one thing in common: they are in grave danger of being killed or tortured by government or rebel forces.

Hundreds of civilians were killed in eastern Zaire in October 1996 by Zairian troops and a Tutsi-led armed group. After the town of Bukavu fell to the rebels, journalists counted 82 bodies, including that of the Archbishop of Bukavu, who had publicly accused the rebels of being supported by the Rwandese Government. Ethnic tensions in the area had been brewing for years, exacerbated by repeated human rights violations by Zairian troops. Zairian soldiers and heavily armed deserters continue to abuse the civilian population, especially people from Rwanda and Burundi.

About 500 Rwandese refugees and displaced Zairians were massacred by rebel forces on or around 18 November at Chimanga, south of Bukavu. Many of the vast refugee camps housing Rwandese refugees in eastern Zaire have emptied. Some of the mainly Hutu refugees, who arrived when the Tutsi-dominated Rwandese Patriotic Front took over Rwanda in 1994, have returned to Rwanda. Their future is uncertain, given the continuing violations of human rights being committed there. Those who remain in Zaire may also face starvation, disease or becoming victims of continuing violence. These refugees had fled to Zaire after the 1994 genocide in Rwanda when as many as one million people died. According to reports, members of the former government and militias responsible for the genocide had been undergoing military training in and around the camps, had intimidated the refugee population and had extorted a "war tax" to support their efforts to invade Rwanda.

Tens of thousands of refugees from Burundi were also living in eastern Zaire, avoiding massacres in Burundi by the army and by militias, both Tutsi and Hutu. Many have been forced back to Burundi. Hundreds of adult men who returned have been rounded up and killed by the Burundi security forces near the border or in the capital Bujumbura.

As the crisis in the area escalated,

AI issued a detailed appeal for the protection of human rights.* AI called for a strong international presence in eastern Zaire, Burundi and Rwanda to protect civilians. Refugee camps should be a place of safety for non-combatants.

AI urged those discussing international or regional interventions to base their proposals on providing protection and assistance to all groups in danger. It stressed that no one should be forced to return to a country where they might face human rights abuse. Any troops sent to the area with a "peace-keeping" role must have the protection of human rights as a first priority.

AI appealed to all combatants to stop attacks on civilians, and to officials in the region to stop inciting violence. It called for those responsible for abuses to be brought to justice and urged the international community not only to provide the resources to strengthen criminal justice systems in Zaire, Rwanda and Burundi but also to prosecute suspects in other countries. AI also called on the international community to prevent transfers of weapons to the combatants in the area.

*See Crisis in eastern Zaire: Amnesty International's appeal for the protection of human rights in the crisis in eastern Zaire (AI Index: AFR 02/15/96).

Hungry crowds

at a warehouse

in Goma, Zaire, in November 1996. Unless human rights are protected, there can be no end to the crisis in Central Africa.

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United Kingdom

Another death in police custody

AI is concerned about the continuing number of deaths in custody arising from alleged ill-treatment or excessive use of force in restraining detainees in the United Kingdom. Many of the victims come from black or ethnic minority communities.

Ibrahima Sey, a 29-year-old Gambian asylum-seeker, died in police custody in March 1996.

After a domestic disturbance, Ibrahima Sey agreed to be taken into custody as long as a friend could accompany him. He was not handcuffed and went along peacefully. However, when police tried to separate the two friends at the police station, Ibrahima Sey became very agitated. His friend said, "As I was being led away, the last sight I had of Ibrahima was of him lying on his stomach, with the police pulling his arm around his back as if to handcuff him."

The police stated that Ibrahima Sey then became unwell and was taken to a hospital, where he died. A post-mortem report included a provisional finding that death had followed a period of exertion and that Ibrahima Sey was suffering from hypertensive heart disease. However, an independent pathologist who carried out a further post-mortem on behalf of the family found no evidence of heart disease.

Police statements confirmed that CS incapacitant spray had been used on Ibrahima Sey after arrest and while he was handcuffed. Guidelines on the use of CS spray state that officers should use the spray primarily for self-defence, in violent incidents or to deal with violent subjects. However, according to reports, at least five officers were attempting to restrain Ibrahima Sey when the spray was squirted into his face and a number of officers also suffered after-effects.

AI has urged the authorities to carry out an independent investigation into Ibrahima Sey's death.

Launch in south africa of AI's campaign on nigeria

AI Secretary General Pierre Sané meets Archbishop Desmond Tutu in Cape Town, South Africa, on 5 November 1996 to discuss AI's concerns in Nigeria and to hand over a copy of AI's 10-point program for human rights reform in Nigeria. Pierre Sané was in South Africa to launch a worldwide campaign to end contempt for human rights in Nigeria. At a press conference in Johannesburg on 8 November, he also raised AI's concerns about the refugee crisis in Zaire and warned that a crisis in Nigeria could have consequences as serious as those in the Great Lakes.

On the day of the press conference, three AI officials were detained in the Nigerian capital, Lagos, on their way to meet foreign diplomats. They were released after 12 hours. AI is calling for an end to harassment of human rights defenders in Nigeria.

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International conference on torture in Stockholm

A call for human rights organizations around the world to renew the fight against torture by adopting national strategies for abolition was issued by AI's International Conference on Torture in Stockholm on 6 October 1996.

The Conference, which launched a plan for worldwide action, had 120 participants from 50 countries. It was organized by AI's Swedish Section with help from sections in The Netherlands, United Kingdom and the USA.

"For too long, governments have failed to live up to their commitment to abolish torture," said Dick Oosting, the Conference chairperson and former AI Deputy Secretary General. "It is time for human rights workers everywhere to join forces to step up the fight against torture and hold governments accountable."

The Plan of Action against Torture calls on non-governmental organizations to establish systems of vigilance so that any occurrence of torture will be detected and swiftly acted on. Special support

should be given to vulnerable social groups, raising their awareness of what constitutes torture, of their rights and how to defend them.

Human rights organizations should oppose all forms of sexual abuse by state agents. They should also work together to document and oppose transfers of equipment, know-how and training for military, security or police use that facilitate torture, whether by government or opposition forces.

An important part of the plan focuses on the role of the police. Police officers are among the first to run the risk of violating human rights, and so action to prevent torture by the police is vital to the strategy for combating torture worldwide.

News in Brief

tAI is calling for increased protection for human rights as the withdrawal of the UN Angola Verification Mission, scheduled for February 1997, approaches. Respect for the right to life has been eroded by more than 30 years of war and Angolan institutions for protecting human rights remain weak. The departure of international peace-keepers could see a resurgence of human rights abuses. AI has recommended various safeguards including a human rights commission which would initially include international monitors, but could eventually become a national institution.

tGrowing numbers of civilians — including women, children, teachers and journalists — have died or “disappeared” in Algeria in recent years, warns AI in a report published in November 1996. Killings, torture and abductions are committed in the name of the “anti-terrorist fight” by some or “holy war” by others, says the organization. AI calls on the authorities to investigate human rights abuses, to lift the impunity enjoyed by security forces, and to disband the government-backed militias as a first step to ending the mass violations, and on all armed opposition groups to put an end to their campaign against civilians.

See Algeria: Fear and silence — a hidden human rights crisis (AI Index: MDE 28/11/96).

tChildren are increasingly becoming the victims of torture in Turkey as a result of the government’s failure to enforce safeguards and act on long overdue reforms, says AI in a report published in November 1996. Children as young as 12, some detained on suspicion of very minor offences, have been subjected to appalling cruelty in police custody, including beatings, electric shocks and hosing with cold water. See Turkey: Children at risk of torture, death in custody and “disappearance” (AI Index: EUR 44/144/96).

Worldwide Appeals

Indonesia

On 8 July 1996, Dita Sari, leader of the Indonesian Centre for Workers’ Struggle (PPBI), was arrested with two colleagues during a labour demonstration in the East Java town of Surabaya. The PPBI is an organization working for labour rights in a country which has only one officially recognized trade union.

Dita Sari and her two colleagues were allegedly beaten when they were arrested. At first they were accused of offences connected to the demonstration, but officials subsequently sought to link their labour activities to attempts to revive communism — which is banned — in Indonesia. The PPBI is affiliated to the People’s Democratic Party, many of whose members have been arrested since a raid on the headquarters of the Indonesian Democratic Party (PDI) in Jakarta on 27 July and subsequent riots. Since the raid, at least 103 peaceful political, human rights, labour and other activists have been

taken into custody. Although she was in detention at the time, Dita Sari has been accused of involvement in the riots.

Dita Sari faces charges under the Anti-subversion Law, which carries the death penalty. She is also charged with expressing “hatred” towards the government, which carries seven years’ imprisonment, and with inciting others to break the law or disobey a government order, which carries a maximum of six years’ imprisonment. AI considers her to be a prisoner of conscience.

+Please write, asking for the immediate and unconditional release of Dita Sari, to: Attorney General Agung Singgih S.H./ Jaksa Agung/

Jl. Sultan Hasanuddin No. 1/ Kebayoran Baru/ Jakarta Selatan/ Indonesia. Fax: +62 21 720 8557.

Dita Sari

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Russia

Aleksandr Nikitin, a retired naval captain, has been detained since 6 February 1996 by the Federal Security Services (FSB) in St Petersburg. On 30 September 1996, he was formally charged with treason in the form of espionage (Article 64 of the Russian Criminal Code), release of state secrets (Article 74) and falsification of documents (Article 196). The charges against him — which run to 5,000 pages — are based on a secret Ministry of Defence Decree, No. 71 of 1993. Neither Aleksandr Nikitin nor his lawyer have been allowed to see the decree.

Aleksandr Nikitin was working for a Norwegian environmental organization, Bellona Foundation, gathering material about accidents on nuclear submarines and the consequences for the environment. He co-wrote Chapter 8 of Bellona’s report, Sources of radioactive contamination: The Russian Northern Fleet, which was based on already publicly available materials. The accusations against Aleksandr Nikitin were based on this work. AI regards him as a prisoner of conscience.

The FSB has repeatedly violated Russian law and international human rights standards while investigating the case. Expert committees were organized by the FSB to review the claim that Aleksandr Nikitin obtained his information from open sources. They refused to apply any legislation other than two unpublished decrees from 1992 and 1993 and ignored the Law on State Secrets, which has higher legal force and expressly prohibits classifying information on the environment and public health as secret. A similar provision exists also in national legislation on information adopted in 1995. Furthermore, Aleksandr Nikitin has not been allowed access to public materials to prepare his defence.

+Please write, calling for the immediate and unconditional release of Aleksandr Nikitin, to: Boris Yeltsin/ President of the Russian Federation/ Rossiyskaya Federatsiya/ g. Moskva/ Kreml/ Prezidentu Rossiyskoy Federatsii/ Yeltsinu B.N./ Russia.

Fax: +7095 206 51 73

Libya

Over three years have elapsed since the “disappearance” of Mansur Kikhiya, and the Libyan and Egyptian Governments remain silent as to his fate.

Mansur Kikhiya, a prominent Libyan human rights activist and the Secretary General of the National Libyan Alliance, an opposition group based abroad, went missing on 10 December 1993 from a hotel in Cairo. He may have been abducted by Libyan government agents and taken back to Libya.

Mansur Kikhiya was Libya’s Foreign Minister between 1972 and 1974. In 1975, he became Libya’s Permanent Representative to the UN in New York, a post he held until September 1980 when he resigned in protest against the execution of political opponents by the Libyan Government. He is married with two children and is a diabetic.

Immediately after his “disappearance”, the Egyptian authorities stated that they had launched an investigation. In July 1995 and in November 1996, AI delegates were informed by an Egyptian official

that the investigation had been completed, and that no crime had been committed in Egypt regarding Mansur Kikhiya's case. The full findings of the investigation and the methods used have not been made public.

+Please write, seeking information about the whereabouts of Mansur Kikhiya, and asking what steps have been taken to investigate his "disappearance", to: Colonel Mu' ammar al-Gaddafi/ Leader of the Revolution/ Office of the Leader of the Revolution/ Tripoli/ Socialist People's Libyan Arab Jamahiriya.

Telex: 70 0901 20162 ALKHASU LY; and urging the Egyptian government to make public the full findings and methods of the investigation into the abduction of Mansur Kikhiya, to: His Excellency Muhammad Hosni Mubarak/ President of the Arab Republic of Egypt/ 'Abedine Palace/ Cairo/ Egypt. Telex: 93794 WAZRA UN.

Update: Burundi

Due to the suspension of postal services to Burundi, people who want to reply to the Burundi appeal (featured in AI News, November 1996) should send their letters by fax to the Ministry of Defence in Burundi. Fax: +00 257 213 055. Alternatively, letters can be sent care of the Burundi government representative at: Embassy of the Republic of Burundi/ Square Marie Louise 46/ 1040 Brussels/ Belgium.

Areas under the jurisdiction of the Palestinian authority

Prolonged political detention, torture and unfair trials

Human rights abuses in the areas under the jurisdiction of the Palestinian Authority have become widespread and systematic since its establishment in May 1994, AI said in a report published in December 1996.*

Abuses include large-scale arbitrary arrests, prolonged detention without charge or trial of hundreds of political detainees and the increasingly widespread use of torture. At least nine people have died in the custody of the Palestinian security services in circumstances where torture appears to have caused or contributed to their deaths.

A number of human rights activists and journalists who have been critical of the Palestinian Authority or have disobeyed the orders of President Yasser Arafat have been arrested. Dr Iyad al-Sarraj, Commissioner General of the Palestinian Independent Commission for Citizens' Rights, was arrested three times for speaking out about human rights abuses in the Palestinian Authority areas. AI had issued Urgent Actions on his case and when he visited the International Secretariat in October 1996 he expressed his thanks to all those who had worked on his behalf.

AI delegates visiting the Palestinian Authority areas in 1996 raised human rights concerns with government

and security officials and made recommendations for ending torture. In August President Arafat was quoted as saying to a Norwegian official that he "would not tolerate torture". On a visit to Norway in November, he publicly committed himself to ending torture and to implementing an agreement which would allow the International Committee of the Red Cross to visit any prisoner in any Palestinian jail. AI welcomes these statements and calls on the Palestinian Authority to back them up with concrete measures to end human rights abuses.

*See Palestinian Authority: Prolonged political detention, torture and unfair trials (AI Index: MDE 15/68/96), and Palestinian Authority: Death in custody of Mahmud Jumayel (AI Index: MDE 15/62/96).

Mahmud Jumayel, aged 26, died in custody in July 1996. His death followed a three-hour period of torture in Jneid Prison, Nablus, West Bank.

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india

Torture victim wins case after 20-year struggle

Archana Guha has been struggling for more than 20 years to gain redress for torture in an Indian prison that left her unable to walk.

In August 1996, a Calcutta metropolitan magistrate found two police officers guilty of torturing her in 1974. They were each sentenced to one year's imprisonment and a fine of Rs. 2,000 (approximately US\$57).

Archana Guha, the headmistress of a junior highschool in Calcutta, was imprisoned with her sister-in-law on charges that were later dropped. She was held pending trial for three years, during which time she was tortured so badly that her legs were paralysed. She left the jail in a wheelchair in May 1977.

Archana Guha received medical treatment at the Rehabilitation Centre for Victims of Torture in Denmark and she is now able to walk, although with difficulty. AI has campaigned on her case for many years.

Archana Guha began court proceedings in 1977 in a private complaint against five police officers who had tortured her. Every effort was made by the perpetrators to avoid a conclusion to the legal proceedings. Since 1977, three of the police officers allegedly involved have died and one has retired. Archana Guha has been supported by her brother and legal counsel, Saumen Guha, who has argued her case in court and kept the case alive.

The two police officers have appealed against their sentence.

Archana Guha

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El Salvador

Threat of death penalty looms

El Salvador has taken a significant step towards reintroducing the death penalty.

On 10 October 1996, the Legislative Assembly approved a motion to reintroduce the death penalty for kidnapping, aggravated homicide and rape. The death penalty was abolished in El Salvador in 1983 for all but exceptional crimes in times of international war.

The proposal was introduced by members of the ruling ARENA party following the execution in neighbouring Guatemala of two men convicted of raping and killing a four-year-old girl.

Any constitutional reform passed by the Legislative Assembly must be ratified by two thirds of the next elected Assembly before it can take effect. Elections for a new Legislative Assembly will take place in March 1997.

AI considers that reintroducing the death penalty would be a serious setback for human rights and a breach of El Salvador's international commitments, including the American Convention on Human Rights, which states that the death penalty "shall not be extended to crimes to which it does not presently apply" (Article 4(2)).

+Please write, appealing against the reintroduction of the death penalty, which is a violation of the right to life, to: President of the Legislative Assembly/ Señorita Gloria Salguero Gross/ Presidenta de la Asamblea Legislativa/ Honorable Asamblea Legislativa/ Centro de Gobierno/ San Salvador/ El Salvador. Fax: +503 271 1143.

AI News

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AUSTRALIA: A CHAMPION OF HUMAN RIGHTS ?

Successive Australian Governments have expressed pride in the country's efforts to promote human rights, nationally and internationally. The Foreign Minister recently reaffirmed his commitment to raising cases "of human rights concern brought to our attention by Amnesty International" through Australia's network of Embassies and High Commissions.

The new coalition government, which took office in March 1996, has stated that its policies on human rights are based on the Universal Declaration of Human Rights and that it therefore does not presume to hold other nations to "standards that we do not apply to ourselves". Australia was instrumental in July 1996 in establishing an informal Asia-Pacific forum of national human rights institutions.

However, Australia's own human rights record raises serious questions. Aboriginal Australians have been ill-treated and abused by state officials, and suffer systemic discrimination. Incidents of ill-treatment by police have gone unpunished. The government has also taken decisions that appear to undermine its stated commitment to human rights.

Aboriginal deaths in custody

In November 1993 Daniel Yock, an 18-year-old Aboriginal youth, died about half an hour after his controversial arrest following an altercation with a police officer in Brisbane. Witnesses testified that he was kicked or punched by arresting officers while lying on the ground face down. He was handcuffed behind his back. Post-mortem examinations established a heart condition as the immediate cause of death, but found fresh minor injuries on his body.

Following allegations by a former police officer of systematic police violence against Aboriginal youth in the area, another official inquiry into the death of Daniel Yock opened in October 1995. Publication of the proceedings and the evidence presented was banned, and no report summarizing the findings of the inquiry had been published by November 1996. No police officer has been disciplined or charged in connection with Daniel Yock's death, but there are reports of police threatening Aboriginal children by referring to his death. For example, in January 1996 a 12-year-old Aboriginal girl was reportedly arrested for slapping a police officer in the face in response to his threat to "do a Daniel Yock" to her younger brothers and sisters at an Aboriginal band's concert in Brisbane.

Daniel Yock's death in custody is just one of many regarded as suspicious by the victims' families. Since the mid-1980s there have been many allegations that ill-treatment by law enforcement officials contributed to deaths in police custody or prison. Almost 25 per cent of those who died in custody during 1995 were Aborigines, a higher percentage than in any year since 1980. A report by the Australian Institute of Criminology in September 1996 notes as a "serious concern"

the high number of Aborigines killed during police efforts to apprehend them. Since 1990 most of these deaths happened in Western Australia.

Prison deaths reach new high

In 1987 concerns about deaths in custody of Aborigines following alleged ill-treatment by law enforcement officials led to the establishment of a national Royal Commission into Aboriginal Deaths in Custody. Between 1988 and 1991 the Commission published evidence detailing the social disadvantage and discrimination suffered by indigenous Australians at the hands of the authorities. The Commission pointed to the disproportionate number of Aborigines and Torres Strait Islanders in custody as one major cause of the high rate of Aboriginal deaths in custody -- "too many Aboriginal people are in custody too often".

Although they are only 1.3 per cent of the adult population, Aborigines account for an estimated 30 per cent of the prison population, and in remote areas up to 98 per cent of inmates in police lockups. The Royal Commission found that glaring deficiencies in the prison and police custody systems, and in many cases lack of proper care, had contributed to the high death rate.

In response to the Royal Commission, federal and state governments have repeatedly promised to reduce the incarceration of Aborigines in order to cut down the number of deaths in custody. Despite these commitments, at least 100 Aborigines died in custody in the seven years to July 1996, more than in the nine and a half years investigated by the Royal Commission. While fewer Aborigines died in police cells, deaths of indigenous people in prisons reached an all-time high between July 1995 and June 1996.

Ill-treatment by police

One of the findings of the Royal Commission was:

"far too much police intervention in the lives of Aboriginal people throughout Australia has been arbitrary, discriminatory, racist and violent... [T]he antipathy which so many Aboriginal people have towards police is based not just on historical conduct but upon the contemporary experience of contact with many police officers."

Many Aboriginal people feel little has changed since the Commission published its reports.

For example, several Aboriginal legal services issued cards advising Aborigines of their legal rights and obligations if they were arrested. Distribution of the cards was halted after numerous reports that police had beaten or intimidated Aboriginal suspects who produced the cards and asked to contact a lawyer.

After long delays, Gavin Little found in January 1996 that he had exhausted all affordable options in his complaint against a police officer who had hit him on the head with a baton at least four times in November 1990 (see photograph).

Gavin Little and his brother were standing in front of their house in Geraldton when police on their way to an incident stopped to question them. The brothers were arrested, but said they were not told why. According to an Ombudsman's report published in 1995, two officers held Gavin Little while another one deliberately struck him on the head with a baton as he was bending forward. He needed hospital treatment. The Director of Public Prosecutions found inexcusable delays in police internal investigations into the case and recommended that one of the officers be charged with assault. According to the Ombudsman's report, however, "technical legal reasons"

prevented the officer from facing public prosecution. Gavin Little was convicted in 1991 on charges of hindering the police, resisting arrest and assaulting a public officer.

In January 1996 an Aboriginal woman who had just been raped was held in custody by police in the Northern Territory for more than 15 hours under circumstances which Amnesty International considers to be cruel, inhuman or degrading treatment. Police officers initially detained her on suspicion of drunkenness, and then extended her detention when they found an outstanding warrant for her arrest because she previously had failed to appear in court on a minor charge. Despite the fact that she was a rape victim, police officers delayed her medical examination, which established internal injuries and the need for treatment.

The woman said that she asked to be allowed to go home after the examination, but the police refused. Police also refused her request for pain-killing drugs and discouraged a counsellor sent by the doctor from seeing her at the police station. The woman was taken to court in a police van where she was exposed to rain. Appearing in court shaking and wet, she was released on bail and later fined in relation to the outstanding warrant.

During an Ombudsman investigation into her complaints against the police, officers stated that they believed the woman had been better cared for in the police lockup than she would have been at her "primitive" Aboriginal community home. The Ombudsman pointed to many failures in individual officers' duty of care and recommended that his report be made public. The Speaker of Parliament ruled against publishing it.

Children

In some states between 50 and 60 per cent of all children in custody are Aboriginal, although they are less than four per cent of the juvenile population. Aboriginal children in Western Australia and Queensland are about 30 times more likely to be imprisoned than others. Aboriginal communities across Australia have repeatedly complained about continuing instances of juveniles being harassed, intimidated and ill-treated by police patrols for no apparent reason, particularly on weekend nights.

Six police officers in the state of Queensland were charged with deprivation of liberty because they had taken three Aboriginal boys, aged 12 to 14, from central Brisbane to an isolated industrial wasteland 14 kilometres outside the city to "reflect on their misdemeanours". Police had apprehended the boys in a shopping mall one night in May 1994 but did not charge them or take them to a police station. The boys told a Criminal Justice Commission inquiry that, after arriving at a desolate riverbank at about 3am, the police officers threatened them with torture and drowning and then abandoned them to find their way home in the dark.

In court in February 1996 the boys were intimidated by counsel for the police and were wrongly addressed as "defendants" by the magistrate. The magistrate did not commit the police officers for trial, ruling that there was insufficient evidence that the children had been transported by police against their will. All six officers returned to normal duties with disciplinary sanctions suspended, pending periods of "good behaviour".

Such incidents and the fear of reprisals may explain why many Aboriginal people are reluctant to pursue formal complaints about ill-treatment at the hands of law enforcement officials.

Government inaction

The new federal government of Prime Minister John Howard has acknowledged the urgent need to deal with the number of Aboriginal deaths in custody and has repeatedly stated it would be a

priority. However, the government has shown no sense of urgency. It acknowledged "a lack of co-ordination" between federal and state governments on implementing the Royal Commission's recommendations and stated that it would be holding a summit meeting of all relevant state and federal ministers to remedy the situation. However, this summit was first announced in 1995 but is not scheduled until May 1997. Apart from this summit, the government has shown little political will to hold state and territory governments to account for their responsibilities regarding Aboriginal deaths in custody.

During its first months in office the government moved to restrict many Aboriginal organizations founded or financially supported as a result of Royal Commission recommendations. Despite the fact that a disproportionate number of Aboriginal juveniles remain in custody, many youth support and community service programs have had their federal funding stopped.

Politicians have stressed the cost of the efforts since the Royal Commission to bring change, for example by improving lockup and prison conditions. Although these efforts have failed to reduce Aboriginal deaths in custody, there has been a political backlash against government programs to redress the disadvantages Aborigines face. This backlash gained support in the second half of 1996 when the Prime Minister hesitated for several weeks to refute claims made by politicians that Aborigines were privileged and not disadvantaged, prompting a major public debate on racism. Comments against Asian immigration were also widely aired.

Other deaths in custody and police shootings

It is not only Aboriginal detainees, however, who have died in custody following alleged ill-treatment by law enforcement officials. In June 1996 a parliamentary inquiry recommended an independent judicial inquiry into the death in police custody of Stephen Wardle and into allegations that police harassed his family when they rejected official explanations of his death.

Stephen Wardle died from the toxic effects of prescribed drugs and alcohol within hours of his arrest on suspicion of drunkenness in the East Perth Police lockup in February 1988. On his arrival at the lockup police recorded no visible injuries upon him. Official inquiries failed to explain many controversial circumstances surrounding his death, including numerous injuries found on his body, the alteration of police records and the disappearance of evidence.

Five of the 10 people shot dead by police in Victoria during 1994 had a history of mental illness. In one such case, a Coroner's inquiry questioned whether police were justified in shooting dead at close range a disturbed Aboriginal woman who refused to lay down a hatchet. Evidence presented in another inquiry in October 1996 raised suspicions that a police officer who killed a burglar had injured himself to make it appear he had been attacked by the burglar. In the 11 months to November 1996, no fatal shooting has been reported in Victoria.

Prisoner of conscience

The imprisonment of a political activist during the 1996 federal election campaign exposed a conflict between Australia's international human rights obligations and domestic legislation. In February 1996 Albert Langer was sentenced to 10 weeks' imprisonment for failing to obey an injunction which ordered him to stop advocating a method of filling in ballot papers which, although it did not invalidate the vote, was not prescribed by law. He had unsuccessfully contested electoral legislation which prohibits encouraging voters to do this. He was held as a prisoner of conscience for three

weeks until a Federal Court reduced his sentence to three weeks but upheld his conviction. The law under which he was imprisoned had not been repealed by November 1996.

Tasmanian criminal code

In 1994 the [UN] Human Rights Committee ruled that sections of the Tasmanian Criminal Code Act (1924) directly contravene Australia's obligations under Article 17 of the International Covenant on Civil and Political Rights. The offending sections punish male homosexual acts between consenting adults in private, in breach of Australia's commitment to guarantee protection against arbitrary or unlawful interference with a person's privacy. Despite federal intervention, Tasmania disregarded the findings and remains the only Australian state in which adult homosexual activity in private is punishable by imprisonment. Instead of repealing the offending provisions as suggested by the Human Rights Committee, the Tasmanian Government in January 1996 proposed an increase in the maximum penalty for male homosexual acts between consenting adults in private from 21 to 25 years' imprisonment.

Detention of asylum-seekers

Australia has a policy of automatically detaining asylum-seekers who arrive without prior authorization of their entry. Amnesty International believes this practice infringes Australia's obligations under international human rights standards.

The majority of "boat people" who arrived from 1989 onwards were detained during the entire asylum procedure, which could take months and sometimes years. More than 800 children, among them more than 70 babies born in detention, spent up to two years behind barbed wire. In recent years immigration authorities have made efforts to speed up the asylum process and so reduce detention periods. Since 1994 asylum-seekers may also be released from detention on "compassionate grounds", including age, ill-health or experience of torture or trauma. However, fewer than 60 of the 2,600 asylum-seekers detained between November 1989 and September 1996 benefitted from these provisions.

According to international standards detention of asylum-seekers should normally be avoided, and should be resorted to only where necessary and only for certain specified reasons. It should not apply to whole groups of asylum-seekers or for the entire duration of asylum procedures. Those who exercise their right to appeal against a refusal of asylum are effectively penalized for doing so because they continue to be detained.

In order to be able to pursue an asylum claim effectively, asylum-seekers need to be informed of their rights under Australian and international law. International standards also require that any detained person be given an explanation of their rights and how to exercise them. However, the government recently moved to limit detained asylum-seekers' access to this information.

In March 1996 immigration officials refused to deliver letters sent by the Human Rights and Equal Opportunity Commission (HREOC) to Chinese boat people who the Commission said were held incommunicado at Port Hedland detention centre. The letters concerned a complaint about alleged human rights violations against 34 Chinese adults and 12 children who had arrived by boat in February. The HREOC letters were not delivered on the grounds that the detainees had not tried to complain to the Commission.

In June a Federal Court ordered the Department of Immigration and Multicultural Affairs to pass letters from the HREOC to the detainees. Two weeks later the government appealed against the court decision and proposed legislation to remove certain existing rights of detained asylum-seekers and to effectively exclude its officials from independent scrutiny under Australian human rights laws.

Wavering commitment to human rights

In recent years the application of human rights standards within Australia has often depended on political, constitutional and administrative considerations.

In 1995 both government and opposition in the House of Representatives endorsed legislation which, if adopted, would have allowed officials to disregard human rights commitments under international treaties which Australia had ratified but not formally implemented. The bill was introduced in response to a High Court judgment which held that the ratification of a human rights treaty created a "legitimate expectation" that government officials would take into account the treaty provisions, even if they had not been incorporated into domestic law. The proposed bill lapsed when federal elections were held in March 1996 and is expected to be reintroduced in 1997.

Criticism of the bill by a member of the Senate Committee reviewing it suggested that if it were passed Australia would present:

"a two-faced image to the world by allowing the government to wax lyrical about its human rights treaty commitments, but quashing any suggestions that the same human rights will be protected at home."

Indications of the new Australian Government's approach to human rights also emerged from negotiations with the European Union in July 1996 over an economic treaty. A proposed clause on human rights endorsed respect for "basic human rights as proclaimed in the Universal Declaration of Human Rights" as a standard both parties to the treaty would have to maintain. Australia refused to agree to make the human rights clause a binding part of the treaty.

In November 1996 the Prime Minister declined a call to intervene when 10 Australian delegates to a conference on East Timor, held in Malaysia, were detained and deported by the Malaysian authorities. He effectively questioned the universality of human rights when he offered understanding for the Malaysian authorities' action to break up the conference, saying that "keeping people out of the country with whose views you have a problem is not a process unknown in Australia".

[3000]

Captions:

Demonstrators in Sydney holding crosses and banners bearing the names of more than 200 Aborigines who have died in custody in Australia since 1980. Annual commemorations of deaths in custody have taken place since 16-year-old John Pat died of multiple injuries in a police cell in September 1983.

© By kind permission of Aboriginal Deaths in Custody Watch Committee, Sydney

Many Aboriginal families have a relative in prison and most know someone who has died in custody.

© Penny Tweedie/Panos Pictures

Left: Gavin Little demonstrates how police held him pinned against a police van while an officer punched him and hit his head with a baton in Geraldton, Western Australia

© AI

Above: Gashes left by baton hits after treatment at hospital

© Gavin Little

An Aboriginal youth demonstrates how police allegedly aimed baton blows to another youth's head in Kalgoorlie

© AI

AI delegates discuss an AI News article with relatives of people who died in custody

© AI

A police lock-up. Once detained, Aborigines are 16.5 times more likely to die in custody than other Australians.

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