



REPORT

HUMAN RIGHTS SITUATION IN CERTAIN COUNTRIES

AUSTRALIA

BY MINISTRY OF FOREIGN AFFAIRS OF THE
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INTRODUCTION

This report is a further effort by the Russian Foreign Ministry to bring public attention to human rights challenges facing today's international community.

We firmly believe that applying the so-called double-standards while assessing certain situations and phenomena remains a major challenge in this field. It is evident that year after year the "collective West" has been increasingly resorting to this approach in order to fuel confrontation. These states have totally discredited everything they said about the universal nature of human rights. In fact, some members of the international community have blatantly instrumentalized the human rights agenda to serve the political interests of certain states and to interfere in internal affairs and infringe the sovereignty of independent states.

We have repeatedly pointed out that, despite the legal mechanisms established and currently in place within the UN, the OSCE and the Council of Europe that aim to reject, condemn and prevent the glorification of Nazism, racism, xenophobia and related intolerance, a number of countries openly spread racist ideology and values, provoking the upsurge of radical nationalism. In certain states, manifestations of racism and intolerance have permeated structures in all spheres of public life. Attempts to split societies based on ethnic origin and language are mounting. Some of these countries are witnessing a steady growth of xenophobic and racist incidents, a surge of aggressive nationalism, chauvinism, and other forms of racial and religious intolerance. Authorities in these countries are trying to justify their inaction with regard to a wide range of manifestations of intolerance by hypocritically claiming the absolute nature of the freedom of expression.

Today, all these manifestations are glaringly obvious. The 2022 events vividly showed that the West had only applied its duplicitous approaches to inflict maximum damage on Russia and the "Russian world", seeking "Russia's strategic defeat" - the fact they now openly acknowledge. They are ready to justify and use any ways and means whatsoever to achieve this. The history of the 20th century offers instructive examples in this regard.

It is also telling that racist, neo-colonial views are typical of Western "model democracies." The recent notorious metaphor about the world divided into the "nice small garden" and "the jungle" used by EU High Representative for Foreign Affairs and Security Policy Josep Borrell is an apt illustration of this neo-colonial perception. The fact that Western countries are seeking to propagate their "rule-based order" as opposed to international law is in line with these views. This approach builds on an inherently racist division of states into those who "have the right" to lay down such rules and those who must strictly follow Western instructions.

Particularly noteworthy are the efforts of Western countries and their allies to rewrite the history and revise the outcomes of World War II, their cynical attempts to whitewash war criminals and their accomplices – those who devised and put into practice the theory of racial superiority, – as well as to glorify Nazi collaborators as members of national liberation movements and introduce the related topics as subjects in general compulsory education curricula. Anything is fit for the purpose: distortion of historical facts; bashing of culture and traditional values, "war" against monuments and memorials, cracking down on religious organizations.

This report looks into the human rights situation in certain countries, including those that consider themselves advanced democracies which claim to set standards in human rights protection, as well as those that seek to join them. Building on data from international and national sources, as well as reports from human rights non-governmental organizations, the research summarizes evidence on human rights violations in the said group of countries. It also takes into account recommendations to these countries made by international universal and regional human rights mechanisms, including treaty bodies (committees) and regional (particularly European) human rights institutions.

We recommend that the reader, when going through the sections of this report on the current human rights situation in the said countries, bear in mind that these very states actively work to "export" their democratic and human rights standards presented as universal, interfere in internal affairs and are highly critical of the human rights situation in undesirable countries that pursue an independent foreign policy agenda and defend their own historical, cultural and religious values and norms.

We believe that the emerging new world and fairer system of international relations will make it possible to fully implement the principle of genuine respect for the sovereignty, as well as historical, cultural, religious, and national particularities of states across the world. Such system will be free from colonialism, neo-colonialism, racism, racial discrimination and related intolerance. Likewise, it will not tolerate attempts by certain countries to 'bring to heel' the international legal system and use its universal human rights mechanisms to suit their own vested interests. This report includes negative examples from both the present and the recent past, which, for the most part, we are all well aware of, to illustrate behaviours the entire constructive-minded international community needs to stand up to.

AUSTRALIA

Over the past few years, Canberra's claims to global leadership in the human rights sphere have been visibly shaken by the criticism from international and national human rights entities. Respect for the rights of the aboriginal population and other vulnerable groups, as well as backsliding on the freedom of speech and the protection of personal data remain the most acute issues.

Increased incidents of racial discrimination and xenophobia in both everyday life and the public domain were reported by the Committee on the Elimination of Racial Discrimination (CERD) in November 2017[1], and by the Human Rights Committee (HRCttee) in October 2017.[2]. Migrants, especially Arabs, Muslims, people of African descent, and people from indigenous communities are the most frequent targets of intolerant attitudes.

The latter even lack constitutional recognition and remain the poorest and most vulnerable social group in Australia. In October 2019, the Committee on the Rights of Persons with Disabilities (CRPD) noted that aboriginal and Torres Strait Islander peoples, are expressing suicidal ideation due to the lack of support, poverty and isolation.[3].

Persons with disabilities, women and minors are the most vulnerable group in indigenous communities. In November 2019, the Australian government was criticized by the Committee on the Rights of the Child, which noted that Aboriginal and Torres Strait Islander children disproportionately more often became victims or witnesses of family and domestic violence, including sexual violence.[4].

In September 2022, the HRCttee found that Australia had failed to adequately protect Torres Strait Islanders against "the effects of climate change." The Committee arrived at this conclusion upon examination of a complaint filed by representatives of eight Australian islands. The plaintiffs claimed that the state's failure to adequately protect their territories against extreme weather conditions had resulted in the indigenous peoples' inability to engage in farming, traditional crafts, and many ceremonies inherent in their culture. The Committee called on the Australian government to compensate the indigenous Islanders for the harm suffered and engage in meaningful consultations with communities to develop measures to secure their safe existence on the islands.[5]

The Closing the Gap Initiative launched by the government in 2008 and designed to ensure that the Aboriginal population enjoys the same opportunities to exercise their rights as Australians of European ancestry, has also proven insufficiently effective. Many indigenous peoples live in remote and hard-to-reach areas, which severely limits their access to medical, educational, legal and other services and reduces their financial opportunities. So far, some progress has been made in

education only. In other aspects, the gap remains, with the Aboriginal population still severely disadvantaged, in employment, mortality, and imprisonment rates.

Statistics show that, though the indigenous population only amounts to 3 per cent (about 750,000 people) of the total Australian population, natives account for about 30 per cent of prison inmates in Australia. Thus, the share of prisoners per total number of Aboriginal people (about 13,000 prisoners) is more than 13 times higher than that of "white" criminals per total non-Indigenous population (about 32,000 out of 24.5 million).

In November 2017, the CERD[6] also noted the plight of indigenous people in Australia, including in terms of political participation, the lack of protection of their land rights, socio-economic discrimination, disproportionate rate of violence against indigenous women, as well as extremely high imprisonment rate among Aboriginal people, especially children. Law enforcement officers continue to treat the indigenous population in a biased way. However, no remedy mechanisms have been provided to them so far.

In December 2015, a 26-year-old Dungutti man David Dungay died in his prison cell due to asphyxia. The prisoner was restrained by the guards after he had refused to follow their order to stop eating biscuits. A video footage shows that before fainting he screamed 12 times that he could not breathe. The coroner of the state found that none of the guards should even face disciplinary action, let alone criminal charge.[7]

The trial of police officer Zachary Rolfe, who shot dead 19-year-old Kumanjayi Walker from the Aboriginal community of Yuendumu in November 2019, was another high-profile case. The teenager had a criminal record and was wanted by the police; during his first attempted arrest, he had threatened officers with an axe; he had stabbed Rolfe in the shoulder with a pair of scissors before the officer shot him. Wounded Walker was brought to the police station where he received first aid. But the local health clinic was closed, and the nearest city of Alice Springs is 300 km away. The boy died about an hour later. The incident sparked protests of the Aboriginal community demanding that those guilty of the death of their member be punished; the murder charges were filed within a few days. Chief Minister of the Northern Territory Michael Gunner promised that "consequences would flow". In March 2022, the police officer was acquitted.[8]

In September 2019, Joyce Clarke was shot by a police officer as she walked down a street outside her home in Geraldton holding a kitchen knife in her hand. The woman had mental issues and had been released from hospital a few days before, after a suicide attempt. The police officers called by her relatives (who were concerned about Clarke's condition and asked to help them take her to hospital) confirm that the woman stood almost still and there were no sudden movements or threats on her part. The jury found the police officer who shot the woman (his identity remains suppressed due to safety concerns) not guilty after the argument presented by lawyer Linda Black. The lawyer called the Aboriginal woman "a walking time bomb", quick-tempered and aggressive, and qualified the shooter's action as self-defense.[9]

The said incident also highlighted the persisting problem of prejudice towards the indigenous population on the part of medical staff (Joyce Clarke was released from hospital despite her clearly psychotic state). Other high-profile cases include the death of Naomi Williams, a six months' pregnant 27-year-old woman. She had

presented to hospital 18 times in the six months before her death with pain and vomiting, but had been given proper treatment or sent to a specialist. She and her unborn child died of sepsis. The infection proved treatable with a course of antibiotics. Following an inquest (that took three years) the state coroner merely issued recommendations, leaving their implementation to the discretion of the hospital administration. Those guilty remained unpunished.[10]

The information provided by The Guardian reveals the true scope of the problem. With reference to the Australian Institute of Criminology and several other line agencies, The Guardian reports 500 indigenous deaths over the last 30 years (1991 - 2021) at police stations and in similar circumstances.[11]

Australian laws on Aboriginal cultural heritage need to be reformed because mining companies still manage to find loopholes in laws to obtain consent for the destruction of indigenous artefacts when conducting extractive activities. Causing destruction or alterations to Aboriginal territories is a crime under Australian law. Yet regulations may be more flexible at the state level. Thus, in Western Australia, consent by the Aboriginal Affairs Minister is enough to avoid criminal liability. Furthermore, most agreements between companies and tribal elders include a clause prohibiting the latter to seek advice from third parties, including in order to protect their cultural heritage, without prior consultation with company administration. Aboriginal people complain that in fact, all these treaties are signed only on conditions set forth by mining companies.[12]

In May 2017, experts of the Committee on Economic, Social and Cultural Rights (CESCR) expressed concern over Australia's non-compliance with the principle of free, prior and informed consent of indigenous peoples while developing policies with regard to extractive activities on the lands traditionally used by them.[13]

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In order to smooth over the impression of the total failure of state policies in this field, the Australian government seeks to demonstrate its concern over and full involvement in the issue. Hence, a tolerant attitude towards ideas promoted by some civic associations to change the date of Australia Day, the flag and the anthem. All official events must now be opened with reference to "traditional owners of the land." In 2020, governments of states and the Coalition of Peaks comprising representatives of 55 Aboriginal organizations and associations signed an agreement on the renewed Closing the Gap Programme stipulating that governments of states are to establish their own mechanisms to engage with Aboriginal organizations. They should build on a new practice of framing decisions pertaining to the interests of Australia's First Nations as a document bearing a signature of a local Aboriginal community elder. However, since the recommendations are not binding, those who are to follow them approach them in a formal way, do not seek to achieve results and sometimes ignore them altogether or delay their implementation as much as possible.

Some political activists believe that a referendum should be held on the issue of establishing a new advisory body within the Australian parliament - the so-called "First Nations Voice to Parliament" referred to in the 2017 Uluru Statement from the

Heart. Experts hope that the Labor party which came to power in 2022 will achieve progress in this area. The Albanese government announced a referendum on the constitutional recognition of the indigenous populations, including the creation of the "Voice," to be held no later than 30 July 2024.

As for Canberra's migration policy, it is also criticized by the human rights community. Australia refuses asylum to irregular refugees and places them indefinitely at detention centres, including on Nauru and (earlier) on Manus Island (Papua New Guinea) without adequate access to medical and legal services. The harsh conditions for inmates in such centres, including inadequate mental health services, serious safety issues and instances of violence, sexual abuse and self-harm, as well as the fact that the harsh conditions compel some asylum seekers to return to their countries of origin were pointed out by the HRCtee.[14]

The lack of an adequate legal mechanism to regulate periods of detention in migration centres in the major stumbling block here. An average term of detention is 736 days (accounting for two full years).[15] In some instances, however, persons have awaited decisions by immigration authorities for more than 11 years.[16] On 13 May 2021, Australian parliament endorsed amendments ruling out the possibility to expel foreigners who stay illegally in the country if they have applied for asylum. According to the government, the measure aims to ensure that the 1951 Convention relating to the Status of Refugees prohibiting forcible return of refugees to a country where their life or freedom would be threatened, is reflected in national legislation. This step was followed by a joint statement of 30 human rights entities, including Amnesty International Australia. They pointed out that even the amended version of the law lacks provisions on the periods of detention of persons in migration centres and in fact authorizes indefinite detention.[17] According to the Australian Home Affairs Department, as of May 2022, more than 1.4 thousand irregular migrants were kept at Australian detention centres, including on the continent.[18]

In December 2019, Australian parliament took yet another "progressive" step by voting to repeal the Medevac Bill passed in March 2019 by the Labor majority, which permitted illegal migrants whose health required medical attention to enter Australia. About 200 people who managed to enter Australia this way are currently kept in national migration centres or detained in hotels.

Experts of the Committee on the Rights of the Child believe that the best interests of the child are not a primary consideration in asylum, refugee and migration processes. They also criticized Australia for not intending to establish an independent guardianship body for unaccompanied children and ignoring the issue of prohibiting the detention of children in all circumstances. Furthermore, neither the Migration Act nor the Maritime Powers Act prohibit the return of vessels carrying children who may be in need of international assistance.[19]

In April 2022, the WA Court of Appeal heard the statements of six Indonesians who were sentenced to prison in 2009 for smuggling people by sea. Under Australian law, the then minors were to be deported to Indonesia, but law enforcement officers disregarded their oral testimonies and put down their dates of birth based on the medical evaluation. They relied on wrist X-ray evidence to determine that they were of age, despite the fact that the world scientific community was sceptical about this method. The court of appeal found that a miscarriage of justice had occurred in 2009 and ruled that the earlier decisions be reversed. Yet the issue of compensation as well as that of the systemic nature of this sort of "errors" remain unresolved.[20]

As for the foreigners residing in the country on legal grounds, including of Russian origin, Australian competent authorities have usually treated them, until recently, impartially. Violations of the rights of Russian citizens and compatriots living abroad have mainly occurred due to persistent deficiencies in the law enforcement system.

First of all, the local police often fail to pay due attention to reports of victims of domestic violence. The story of Olga Edwards (Serebryanskaya) got a wide media coverage. On 5 July 2018, her former husband came to her house, shot dead their children and committed suicide. In September 2020, the Coroner's Court in Lidcombe, Sydney, initiated a check for possible gross negligence on the part of police officers. Olga Edwards had repeatedly reported instances of domestic abuse on the part of her husband, but complaints of the Russian woman had not been given due consideration. Her written statement of December 2016 bears a note made by the law enforcement officers, which reads as follows: "may be a premeditated attempt to influence some future family court and divorce proceedings.[21]"

The hysteria whipped up by Australian authorities and the Ukrainian diaspora (including the Australian Federation of Ukrainian Organisations) around the Special Military Operation, which had been launched by the Russian Federation to demilitarize and de-Nazify Ukraine, could not but affect Russian citizens and compatriots living in the country. Members of the Russian diaspora in Australia, who had always been actively involved in efforts to preserve the Russian language and culture, were subjected to enormous psychological pressure. Faced with outright intimidation, few patriotically-minded compatriots proved ready to openly express their views.

On 13 March 2022, activists from the Russian community held a pro-Russian rally in front of the Russian Consulate General in Sydney, which was also attended by representatives of friendly diasporas and some critically-minded Australians. TASS reporter Anna Arkayeva, who had covered the event, received threats from pro-Ukrainian associations soon afterwards.

It should be also noted that Australian competent authorities have always closely followed the efforts of pro-Russian activists in Australia. In particular, the ataman of the Australian branch of the Union of Cossack Warriors of Russia and Abroad Semyon Boykov was interrogated as to whether he had contacts with members of armed formations in Donbass. Later on, he was sentenced to ten months in prison for publicly stating that local authorities had limited themselves to imposing but nominal pre-trial restrictions on a person accused of child molestation. Boykov is being accused of breaching a court order not to disclose confidential information. This a tough step can be explained by our fellow citizen's public activity, which has for a long time run counter to the Russophobic line pursued by official authorities in Canberra.

Australian media outlets have occasionally shown a biased attitude towards the Russian diaspora against the backdrop of their generally lopsided presentation of the Russian issue. In August 2020, the Inside Story online magazine published an article by Kyle Wilson (a retired intelligence officer who specializes in Russia and is currently an Australian National University staff member) calling our compatriots who openly support Russia's policy "Putin's fifth column in Australia." In January 2021, Australia's central television channel, ABC, broadcasted a so-called documentary "Putin's Patriots: Russian Money and Influence in Australia," depicting

a number of civic associations of Russian nationals as agents of Russia's allegedly malicious influence (including local branches of the Union of Cossacks Warriors in Russia and Abroad, the Night Wolves Motorcycle Club, and others).

Numerous complaints from our compatriots to the Russian Embassy are indicative of the fact that the Russophobic policy adopted by the country's leadership and its state-controlled media has spread hatred towards people of Russian descent across various spheres of public life. It should be noted, however, that Australian authorities take certain measures to prevent possible conflicts in public places. The police are taking preventive measures to protect the Russian Orthodox churches in Sydney and Melbourne.

Human rights defenders have also pointed to certain aspects of the counter-terrorism activities conducted by Australian special services. In particular, they are entitled to detain individuals suspected of terrorist activity for more than 48 hours without charge, conduct surveillance on individuals, and access bank account information, electronic and text messages, computer and telephone devices of citizens without a relevant court order.

The Telecommunications Amendment Act became effective in 2015, which made it compulsory for telecommunications companies to keep metadata on the Australians' phone calls and electronic messages for two years. Besides, in December 2018, a law compelling cryptographically encrypted electronic messaging services to provide information about the correspondence of terrorist suspects to security authorities was enacted.

The Espionage and Foreign Interference Act and the Foreign Influence Transparency Scheme Act enacted in December 2018 criminalize obtaining and dissemination of classified information and compel individuals and legal entities acting in the interests of foreign States to provide data regarding their activities at short notice of competent authorities. According to human rights activists, all these powers can be used for uncontrolled and unfounded interference with the citizens' privacy. Thus, the HRCttee has noted that there is a risk that such emergency measures could over time become the norm rather than the exception.[22]

In 2019, the CRC recommended that Australian authorities revoke the December 2015 amendments to the Citizenship Act that allow for children under 18 years of age to lose their Australian citizenship if they engage in or are convicted of certain foreign fighting or terrorism-related conduct.[23]

The international human rights community is criticizing the ongoing practice of the impunity of law enforcement officers for the abuse of power. The HRCttee has pointed out, in particular, that the existing close relationship between the police investigations and the coroners' investigations may compromise the independence of investigations.[24]

In June 2019, the Australian Federal Police (AFP) searched the house of the political editor of News Corp media holding newspapers as well as the headquarters of the largest broadcasting corporation, ABC, seizing material on war crimes in Afghanistan. The Federal Court of Australia subsequently dismissed the company's suit filed against the AFP regarding the lawfulness of the actions by law enforcement officers.[25]

In September 2021, the Surveillance Legislation Amendment Act was adopted to expand surveillance powers of Australian special services to conduct surveillance as part of operational and investigative activities.

The AFP and the Criminal Intelligence Commission have been given the power to disrupt and delete data on the Internet to prevent offence, to track down online activities by criminal organizations and establish control over accounts without consent of account holders for the purpose of collecting evidence of criminal activity.[26]

People with disabilities also face challenges in Australia. They cannot fully exercise their electoral rights, the rights to health, education, family life, etc. The Committee on the Rights of Persons with Disabilities highlights the segregated education experienced by children with disabilities as well as insufficient funding for inclusive education in mainstream schools. It points to the lack of access to early intervention mechanisms for children with disabilities, the widespread practice of retaining and restraining them in adult settings. Besides, parents with disabilities are more likely than other parents to have their child removed from their care, often on the basis of disability. There are challenges related to providing affordable and accessible housing and information and communication technologies.

The National Disability Insurance Scheme is being criticized, as it still relies heavily on the medical model of disability and does not provide older persons with disabilities, persons with disabilities from culturally and linguistically diverse backgrounds, and other categories of people with equal opportunities. Moreover, such factors as complex procedures, limited publicly available and accessible information on the system and the lack of services in remote areas of the country reduce its accessibility.[27]

Human rights monitoring mechanisms are concerned with the practice of non-therapeutic forced sterilization of women and girls with intellectual disabilities and/or cognitive impairment, despite the fact that in its July 2013 report, the Senate Standing Committee on Community Affairs recommended limiting this practice and strengthening the safeguards against abuse.

The HRCttee,[28] the Committee on the Elimination of Discrimination against Women (CEDAW) (in July 2018),[29] and the CHC[30] have highlighted this issue. In October 2019, the CRPD also took note of the reports of forced sterilization, forced abortion and forced contraception among persons with disabilities. Besides, experts were concerned about the cases of obliging persons with cognitive and mental impairment to undergo treatment, including through indefinite detention in psychiatric centres, as well as the use of psychotropic medications, physical restraints and seclusion under the guise of behaviour modification against persons with disabilities, including children.[31]

Despite the government's proclaimed commitment to the principle of gender equality, the Australian constitution lacks appropriate safeguards and the prohibition of discrimination against women. The practice of subjecting women to forced marriage and female genital mutilation still persists in the country. At the same time, as the Committee on the Elimination of Discrimination against Women notes in its concluding observations, there is no systematic data collection on the number of women who have faced these challenges.[32]

There are a number of challenges pertaining to ensuring the rights of children. In November 2019, the CRC expressed concern over the persistently high number of minors in alternative care, with remarkably high though traditional overrepresentation of Indigenous minors in alternative care. Experts also noted the limited access to mental health and therapeutic services for children in alternative care.

Another problem is the high rate of violence against minors both in the home and in specialized institutions. The CRC criticized the fact that the National Redress Scheme, which was set up for people who have experienced institutional child sexual abuse, only covers citizens and permanent residents of Australia. At the same time, it excludes persons sentenced to five years of imprisonment or longer and children who were under eight years of age in 2018.[33]

In June 2022, the ABC news agency published results of a journalistic investigation into the government childcare system. Based on the evidence of more than 700 persons, 222 of whom were child protection workers, the investigation concludes that there have been numerous instances of abuse and violence, systematic manipulation of statistics about children in care and discrimination based on race. It also includes evidence of negligence on the part of the childcare staff. Besides, child protection services tend to disregard welfare measures for struggling families and prefer to remove the child right away.[34]

The criminal age of responsibility continues to be 10 years old in Australia. The HRCtee[35] and the CRC[36] noted the need to review this regulation. There were similar calls during the third cycle of the UN Human Rights Council Universal Periodic Review in January 2021.[37]

Among the minors prosecuted under the court judgment, there is a disproportionately high share of persons with disabilities, Aboriginal people and those who belong to both categories at once.[38] According to the Committee on the Rights of the Child, children in detention are frequently subjected to verbal abuse, including of a racist nature. Moreover, they often are subjected to cruel and degrading treatment: they are deliberately denied access to water, restrained in ways that are potentially dangerous and many are subjected to isolation. There are cases where children are detained with adults.[39]

Canberra continues to dismiss the recommendation, arguing that the matter falls under the exclusive jurisdiction of the states and territories. It has become traditional to refer to the inability to deal with certain problems because they fall outside the responsibility of the federal authorities. During the COVID-19 pandemic the government used this argument to excuse its failure to increase the number of quarantine areas for Australians returning from abroad and residents. In April 2021, the HRCtee decided in favour of two Australians upon complaints about the violation of their right to return to their homeland.

Noteworthy is the fact that the decision by the international expert body had no effect whatsoever on Canberra's behaviour: Australian government claimed that the said persons had failed to prove that their situation had been critical.[40]

There are also doubts as to the alleged independence of the leaders of national human rights organizations. Candidates to the posts of the Disability Discrimination Commissioner in 2019 and the head of the Australian Human Rights Commission

(AHRC) in 2021 were approved without due selection process. As a result, in April 2022, the Global Alliance of National Human Rights Institutions (GANHRI) called into question the the AHRC's re-accreditation. The Alliance warned that if Australia did not take measures within 18 months to ensure a transparent representative selection process to senior posts in the human rights sphere, the country's status would be downgraded.[41]

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