

'Unacceptable': UN committee damns Australia's record on human rights

Committee vice-chair says Australia can't 'pick and choose' which laws it follows and which rights it wants to uphold



The same-sex postal survey was criticised by a UN committee member: 'Human rights are not to be determined by opinion poll or a popular vote.' Photograph: Danny Casey/AAP

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19 October 2017

Australia has been excoriated before the UN human rights committee for its “chronic non-compliance” with the committee’s recommendations, drawing particular condemnation over the mandatory detention of children and the same-sex marriage survey.

Prof Yuval Shany, the committee’s vice-chair, said it was “unacceptable” for Australia to “routinely reject” the committee’s views, or “self-judge” international human rights treaties, telling Australia it could not “pick and choose” which laws it sought to follow and which rights it wanted to uphold.

Australia’s lack of implementation of committee findings was “completely off the charts for the committee”, Shany said. “It’s incredible for a country that claims to have a leading role in global human rights.”

While Australia had a “generally strong record” on human rights, Shany said, it had “very little to be proud of” in addressing failings identified by the human rights committee and other national and international bodies.

“There seems to be a misunderstanding of the purpose of the views of the committee – they are not an invitation to respond ... they are an articulation of a specific duty to take action on Australia’s obligation under the covenant,” Shany said. “While the function of the human rights council is not as such a judicial body, the views ... are characteristic of a judicial decision ... [and] represent an authoritative view.” “While we can accept, in some cases, delay, because changes take time especially in implementing domestic legislation, it is unacceptable for a state to almost routinely fail to implement the views of the committee and in essence challenges the expert nature of the committee.”

The committee made particular reference to the government’s dismissal of the Australian Human Rights Commission’s 2015 report *The Forgotten Children*, which found that immigration detention centres were a “dangerous place for children” and called for a royal commission into the mandatory detention of children.

The then prime minister, Tony Abbott, dismissed the report as a “blatantly partisan politicised exercise”. The committee was especially troubled that the then commission chair, Prof Gillian Triggs, was asked to resign by the attorney general before the report was published.

Australia’s marriage equality postal survey was also criticised. A committee member, Sarah Cleveland, told the Australian delegation: “Human rights are not to be determined by opinion poll or a popular vote.”

Other issues addressed by the committee included domestic violence, transgender rights, the sterilisation of intellectually disabled women and girls, and the impact of anti-terrorism laws on civil liberties.

Australia’s refugee policies will be further examined overnight Australia time.

The country’s permanent representative to the UN in Geneva, John Quinn, said Australia was “not complacent” in regards to its adherence to international human rights law. He acknowledged there were things it “could do better”.

But the Australian delegation said the implementation of the committee’s views would have to be an area where the committee and the government “respectfully disagree”. Australia, the committee was told, does not regard the views of the committee and other treaty bodies as legally binding.

Amy Frew, a lawyer with the Human Rights Law Centre in Geneva for the hearings, said committee members were clearly dismayed at Australia’s disdain for the committee’s expertise and processes.

“The condemnation shows how far we have strayed from the promises we made to uphold the civil and political rights of Australians and people in our care.”

Australia's periodic examination by the UN human rights committee in Geneva, comes in the same week as Australia was elected uncontested to the UN human rights council in New York.

The foreign minister, Julie Bishop, has nominated as priorities for Australia's three-year term: gender equality; good governance; freedom of expression; Indigenous rights; strong national human rights institutions; and the global abolition of the death penalty.

Another arm of the UN focused on Australia this week. On Wednesday, the office of the United Nations high commissioner for refugees said Australia had responsibility to prevent the "looming humanitarian emergency" caused by its enforced closure of its Manus Island offshore detention centre while hundreds of men remained living there.

"Having created the present crisis, to now abandon the same acutely vulnerable human beings would be unconscionable," said Thomas Albrecht, UNHCR's regional representative in Canberra.

"Legally and morally, Australia cannot walk away from all those it has forcibly transferred to Papua New Guinea and Nauru."