

## Under pressure from Australian government

# UN censors human rights findings

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After sustained lobbying by the Australian government, the United Nations has modified, allegedly under the express direction of Secretary-General Kofi Annan, a damning report on human rights abuses in Australia.

Information leaked to the Fairfax press by Australian diplomats and/or UN officials in New York and Geneva last week reveals that the original report found that juvenile mandatory sentencing laws in the Northern Territory (NT) and Western Australia (WA) violate at least three UN conventions.

The NT laws stipulate that children aged 15 to 17 years must be sent to jail for 28 days for any second property offence, no matter how trivial. Adult offenders (anyone aged 18 or more) must serve at least 14 days for a first offence, 90 days for a second, and a minimum of one year for a third. In WA, anyone over 15 years of age convicted of a home burglary for a third time faces incarceration for a minimum of 12 months.

The laws in both states specifically target Aboriginal people. While comprising just 25 percent of the population in the NT, for example, Aborigines make up more than 75 percent of those convicted and jailed under mandatory sentencing.

Published in the *Sydney Morning Herald* and the Melbourne *Age* last Friday, the uncensored UN document found that the mandatory sentencing laws breach the Convention on the Rights of the Child, to which Australia is a signatory, the principle of the independence of the judiciary and numerous human rights provisions prohibiting racial discrimination.

"According to the statistics provided, there is an overwhelming indication that either indigenous Australian children are in an environment (poverty, lack of employment for their parents, etc) which makes their participation in criminal acts very difficult to escape from, or they are treated in a discriminatory fashion by the Northern Territory and Western Australia State courts."

The whitewashed version, which "the UN signed off on and sent through" according to Foreign Affairs Minister Alexander Downer, omitted any reference to infringements of international codes. It thus, in the words of an unnamed UN source "saved the federal government from the prospect of a UN Human Rights Commission request to override the laws in the Northern Territory and Western Australia."

Downer claimed on ABC radio that he had "never seen" the original, and that it did not have "any official United Nations status".

But he did admit to dispatching a number of government officials to "talk with the UN officials the whole time and in both Geneva and New York" while the report was being drawn up.

The doctored report's origins lie in the unfortunate timing of a trip by Kofi Annan to Australia last month. The visit was planned to provide the UN leader with an opportunity to officially thank Prime

Minister Howard and his government for leading the UN's intervention into East Timor. Fulsome praise was to be extended to the Australians for their supposed commitment to human rights and the welfare of the oppressed East Timorese. (The Howard government's participation was in fact aimed at shoring up Australia's considerable financial and strategic interests within the region, regardless of the fate of the local population.)

But, as it happened, Annan flew from Dili, the war-ravaged capital of East Timor, into the middle of a political storm over Australia's human rights record at home. His plane touched down in Darwin in the Northern Territory on February 18, just 9 days after a 15-year-old Aboriginal boy committed suicide in a local jail cell. Johnno Warramarrba, an orphan, had been sentenced under the Territory's mandatory sentencing laws to 14 days jail for stealing pens and pencils worth \$50.

Instead of the anticipated pleasantries, Annan's visit became the focus for angry demands from human rights organisations and legal practitioners around the country that the UN act to force the federal government to legislate against the racist and discriminatory legislation.

Leader of the federal Labor Opposition, Kim Beazley, in a private audience with the UN Secretary-General, requested that the sentencing laws be referred to the UN Commissioner for Human Rights, Mary Robinson, for investigation.

While in the country, Annan carefully deflected any public discussion of the issue. Bowing to pressure from Howard, who reportedly warned the UN leader to "keep out of the debate", Annan told the National Press Club in Canberra: "I'm sure Australia is conscious of its commitments in this regard and since the Government is dealing with it, I don't think I should be drawn into this."

Once having left, Annan referred the matter to Robinson. A number of UN officials and international law experts were commissioned to prepare a brief on the status of the Australian laws vis-a-vis major UN conventions.

The furore within Australia continued to build up steam. A letter sent by four senior NSW judges to the *Sydney Morning Herald* was afforded the headline: "Judges lash Howard's 'clever politics'". "It is racist (and cowardly) to enact and implement laws which apply most harshly to a disempowered minority," the judges wrote. "It might be thought to be clever politics but it is not leadership to pander to ignorance and prejudice."

Thirty-four Australian lawyers, all leading specialists in international law, signed a statement that the mandatory sentencing laws violated the UN Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the Convention for the Elimination of Racial Discrimination. The current

Chief Justice of the Family Court, three former Chief Justices of the High Court, and numerous other judges, legal officials and human rights figures joined in to publicly condemn the laws.

Last week, amid a climate of mounting opposition, the Australian parliament's upper house, the Senate, passed a private members bill, sponsored by Greens Senator Bob Brown to override both the WA and NT legislation. In the lower house, the prime minister gagged any debate on the Senate bill, despite being lobbied by seven of his own backbench MPs to support it. This effectively ended any possibility of the federal parliament overriding the laws.

In the meantime, the Department of Foreign Affairs had sprung into action in an effort to defuse the row on the international arena. Visits were made by Australian diplomatic staff to the offices of UNICEF in New York and the High Commissioner for Human Rights in Geneva. As the *Herald* reports: "Over the ensuing days, there would be several more meetings, some formal, some less so, with key members of the office of the UN Secretary General Kofi Annan." UN personnel working on the report were informed that there existed a high level of political volatility in Australia, and an adverse finding could damage the government.

According to the *Herald's* account, "the Australians received a favourable hearing on all counts". Apparently Annan personally appointed a senior officer to ensure that the final UN report would fall into line with the Howard government's requirements.

Throughout the controversy, the conservative Northern Territory and Western Australian governments have insisted on maintaining the mandatory sentencing laws. Introduced in 1997, they formed a central part of the "law and order" campaign cranked up, particularly in rural and regional areas, to divert popular attention from the real causes of the escalating social crisis—government cutbacks in welfare, housing, education and health and rising unemployment. The most disadvantaged and vulnerable sections of the population are vilified as welfare cheats. Those victims of government policy who resort to petty theft, including young children, are blamed for their own misfortune and branded as criminals.

Howard's reluctance to override the laws, despite his repeated claims to personally oppose them, is grounded in his fear of losing even more electoral support in rural Australia, where backing for the legislation among the non-Aboriginal population is reportedly high. Having played a key role in creating a reactionary social climate in these areas, a climate that saw the rapid rise of the extreme right wing One Nation party, he is loathe to fall foul of it and suffer the political consequences.

But other interests are at stake in the conflict. While there is no doubt an element of legitimate outrage on the part of some of the opponents of mandatory sentencing, it is significant that the laws only came under the spotlight after Johnno Warramarrba's suicide. Few, if any, public denunciations were forthcoming from the legal fraternity when the laws were enacted, or when the scores of impoverished Aboriginal youth and unemployed convicted under them during the past three years were thrown into jail.

In the past year, however, international circumstances have changed. "Human rights" has become the new banner under which foreign policy is conducted. It was the ideological basis for NATO's war against Serbia last year and for the UN's occupation of East Timor. The rather rapid about-turn in the media, and its role in fanning and promoting the snowballing public protests can be largely attributed to this.

For Australia to be condemned for violations of UN conventions on

human rights would compromise its international profile, and therefore its ability to function, not only as an emissary of the UN or the United States, but as a neo-colonial power in its own right, within the Asia-Pacific region.

And with the Olympic Games just six months away, and the gaze of the international media surveying the country, considerable nervousness exists in ruling circles about the more blatant examples of racism and human rights abuse, especially concerning Aborigines.

As one comment in the *Sydney Morning Herald* put it: "...with the Olympics closing in, some very stupid politicians obviously think no-one will notice and/or care." Another observed: "Australia will ... be held up to international embarrassment and international ridicule in this particularly significant year where the eyes of the world are on Australia."

Opposition MP and Shadow Attorney-General Robert McClelland was even more blunt: "Our moral credibility is being damaged [and] we [will] lose our force internationally, and that affects our credibility in a whole range of things."

"Our ability to participate in international forums and indeed our power to negotiate on things such as trade [will be affected]... so our failure to honour our commitments to the international community can only damage our community and damage it severely."

From the UN's standpoint, however, the quid pro quo for Australia's role in East Timor has been to turn a blind eye. According to the *Sydney Morning Herald* report, Kofi Annan was "eager to maintain the good relations he had established with the government through Australia's leading role in the East Timor peacekeeping mission."

The whole affair exposes, not only the deep-seated racism of the Australian political establishment and the reactionary social forces upon which it is based, but the cynical and highly selective policies of the United Nations. When it serves their financial and geo-political interests, the major powers wheel out human rights considerations to justify, under the auspices of the UN, weeks of bombardment by hi-tech bombers in the Balkans, or crippling sanctions bringing widespread disease and death in Iraq. But when a "friendly" power is involved, as in the case of Australia at the present moment, "human rights" are simply shoved under the carpet.



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