



Opinion by  
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# On the Ground at Australia's Universal Periodic Review

Australia's second Universal Periodic Review took place under the auspices of the UN Human Rights Council in early November, and I was pleased to be on the ground to witness proceedings.

Under the UPR, every country is reviewed over a 4.5 year period, and this was Australia's second UPR.

## The process

In the lead up to the UPR, Australia produced a 20-page national report on its own human rights record, the UN compiled two official reports, and individual submissions came from NGOs.

At Australia's UPR, the official delegation, which included parliamentarians Phillip Ruddock and Anne McEwen, had 70 minutes to present its report and respond to questions and recommendations from other states. More than 100 states took up the opportunity to intervene in Australia's review with comments and recommendations; it was the fifth-largest number of interventions for any country in this second round of UPR. This interest reflected both the prominence of some of Australia's human rights issues internationally and the excellent work of a delegation of Australian NGOs that visited Geneva to lobby delegations in advance of the review.

As so many countries wished to speak, each was allocated just 65 seconds to speak – and yet most managed to both make their recommendations and convey some elements of praise for Australia. The proposal for a referendum on Indigenous recognition and the advent of the NDIS were particularly popular.

Many states maintained diplomatic niceties and congratulated Australia on the progress it had made since its last UPR. This commentator firmly believes Australia's human rights record has gone backwards since 2011.

Furthermore, while Australia accepted the vast majority of the recommendations from the 2011 UPR, the AHRC has reported that only 10% have been fully implemented. Only Russia pointed this out, during what was perhaps the most hostile intervention in terms of tone. Other states, such as Denmark and the Maldives, commented on specific 2011 recommendations that had been accepted but not fulfilled.

## The issues

The dominant issue, which came up in about two-thirds of the interventions and about half of the recommendations, was Australia's asylum seeker policy. While the delegation defended Australia's policies, citing the familiar tropes of stopping drownings and combating people smuggling, there was no sign that the international community bought those arguments.

Many recommended an end to turnbacks, offshore processing and mandatory detention (particularly for children). Some were concerned over possible refoulement in the swift rejection of asylum claims and returns to countries such as Sri Lanka and Vietnam. Others were also concerned about the lack of transparency – a particular feature of Operation Sovereign Borders.

The concern over asylum policies was reflected by countries from all UN regions, including staunch allies such as the UK and the US, neighbours like Indonesia, states that host millions of refugees such as Turkey and Kenya, and source countries like Afghanistan.

Other dominant issues concerned the rights of Indigenous people (closing the gap, disproportionate representation in criminal justice), people with a disability (discrimination, forced sterilisation, indefinite detention for some charged with a crime), women (stopping family violence, achieving equality), and children (particularly in the area of juvenile justice).

Another common recommendation was for Australia to ratify the human rights treaties to which it is not yet a party, especially the Optional Protocol to the Convention against Torture, which would authorise independent international oversight of places of detention. This was a recommendation that had in fact been accepted from 2011, but is not yet fulfilled.

Other issues which arose multiple times included calls for Australia to combat Islamophobia, to address human trafficking and modern forms of slavery, to enact comprehensive anti-discrimination legislation, to adopt national human rights legislation, to increase aid, to adopt a national action plan on business and human rights, to protect elder rights, and to enact marriage equality legislation.

Surprisingly, Australia's counter-terrorism laws attracted little comment.

## Conclusion

The UPR applies equally to all states, and yet media reports often ignore recommendations from countries with comparatively good human rights credentials and fixate instead on recommendations from states with poor human rights records, such as North Korea.

But does that matter if the recommendations are true? Human rights are not a contest; they are minimum standards of respect for human beings. Australia must take all of the recommendations seriously, regardless of their source.

Australia will have until March to decide whether to accept or reject the recommendations. It will likely reject many of the recommendations regarding asylum seekers, given the bipartisan support for most current policies. However, in doing so, Australia will be testing the international community's patience, and perhaps entrenching pariah status on the issue.

In other areas, Australia is likely to be more amenable to accepting recommendations. The key then will be for government, civil society and the international community to ensure proper follow-up and implementation. Hopefully Australia will take its commitments to this second round of UPR more seriously than the first, which is likely given it is running for a seat on the Human Rights Council from 2018.

***A news article on Australia's UPR is on page 2 of this newsletter, and a report on our pre-UPR public event is on page 9.***