

AUSTRALIA

AUSTRALIA

Head of state: Queen Elizabeth II, represented by Peter Hollingworth (replaced William Deane in June)

Head of government: John Howard

Capital: Canberra

Population: 19.3 million

Official language: English

Death penalty: abolitionist for all crimes

More than 1,800 asylum-seekers travelling by boat were intercepted by warships, arbitrarily detained and denied the right to claim asylum on the Australian mainland.

About 600 possible asylum-seekers travelling by boat from Indonesia were turned back by the navy. Parliament passed legislation which reduced the government's accountability in the courts for actions taken to prevent asylum-seekers from arriving in Australia without valid travel documents.

Background

Australians celebrated 100 years of constitutional democracy, but critics lamented the lack of human rights guarantees in the Constitution.

In November, the government of Prime Minister John Howard was returned to power in elections dominated by the debate on asylum issues. Throughout much of the year, public discussion of human rights centred on the controversy over refugee rights. The government defended itself against strong international criticism over its refugee policy by stating that Australia seeks to prioritize refugees awaiting resettlement in other countries. However, it did not increase its annual intake of such refugees and refused entry into Australia to those awaiting resettlement from Indonesia.

Deaths in custody

Aborigines remained disproportionately represented at all stages of the criminal justice system. This was despite a Royal Commission into Aboriginal Deaths in Custody which 10 years earlier had recommended reducing indigenous overrepresentation in prison and police custody. In April, the Australian Institute of Criminology reported that during the past 20 years, indigenous people were between seven and 22 times more likely than other Australians to die in custody or in police operations.

In June, the state government of Western Australia confirmed that forensic tissue samples from the body of Stephen Wardle, missing since 1992, had been located. His controversial death within hours of being detained without charge at a police station was expected to be examined in 2002 by a Royal Commission of Inquiry into the Western Australia police service.

Asylum-seekers

In August, the federal government began developing a new policy to prevent people arriving by boat without valid travel papers from making asylum claims on mainland Australia. Warships and elite soldiers stopped so-called "boat people" from reaching the continent.

By December, Australian military and civilian authorities had transferred more than 1,700 asylum-seekers who had been intercepted at sea to remote islands in the Indian and Pacific Oceans. Almost all were then arbitrarily and indefinitely detained without independent review or any legal justification for their detention, in contravention of international law. The rest were either deported, or imprisoned in Australia on people-smuggling charges.

By 31 December, 1,118 mostly Afghan and Middle Eastern asylum-seekers were detained on Nauru, in return for some US\$15 million in aid from Australia. Australia funded the cost of their detention and the processing of their refugee claims in facilities run by the International Organisation for Migration (IOM). In October, the IOM set up an Australian-funded detention centre at the isolated Lombrum military base in Manus Island, Papua New Guinea, for another 216 asylum-seekers (see Papua New Guinea entry). The UN High Commissioner for Refugees (UNHCR) assessed more than 500 of the first asylum-seekers taken to Nauru, but declined subsequent requests to process other asylum-seekers transferred by Australia to other countries. The results of the processing was expected to be announced in 2002.

In December, the government suspended processing of asylum applications lodged by Afghans on grounds of persecution under the *Taleban*, but continued to detain them indefinitely without the right to seek release from detention in court.

☞ In October, a warship fired warning shots across a boat carrying asylum-seekers in an attempt to deter the boat from heading for Australia.

☞ The military forced some 600 asylum-seekers to leave Australian territorial waters. At least 356 others, including 70 children, drowned after their leaking boat sank on the journey from Indonesia to Australia. Some of them had close relatives among refugees already in Australia, while others had waited months to be resettled in another country after being recognized as refugees by the UNHCR. Ahmed al-Zalime, a refugee living in Australia whose three daughters drowned in the incident, was unable to visit his rescued wife in Indonesia, because Australian temporary refugee visas prohibit return to the country after any overseas travel. Another refugee was unable to retrieve his wife's body from Indonesia for the same reason.

☞ In August, 433 mostly Afghan asylum-seekers became the first of more than 2,500 people to be prevented from exercising their right to claim asylum in Australia. They were rescued from their sinking Indonesian boat by the crew of the Norwegian freighter *MV Tampa* off Australia's Christmas Island. The asylum-seekers were refused permission to land by both the Indonesian and Australian authorities and spent

eight days in appalling conditions on board the *Tampa*. The Australian government denied access to a medical team sent by the organization *Médecins Sans Frontières* to provide humanitarian assistance to the asylum-seekers. Licensed and equipped for only 50 people, the *Tampa* sailed towards Christmas Island without Australian permission after sending a medical distress signal because of health problems among the asylum-seekers, some of whom threatened to jump overboard if returned to Indonesia. Armed Australian troops then boarded the *Tampa* and later transferred the asylum-seekers to an improvised detention centre in Nauru, an isolated South Pacific island state. In October, 131 of these asylum-seekers were flown to New Zealand which offered residency to those it assessed to be refugees.

Legislative changes

In September, Parliament hastily passed legislation aimed at curbing the smuggling of asylum-seekers into the country. Under the new legislation, people arriving at certain off-shore Australian islands were denied the right to claim asylum there. The laws created three classes of refugees whose rights and status depend on their manner of arrival in Australia. Recognized refugees on temporary visas were denied indefinitely permission to reunite with their children, spouse or other relatives living overseas, and more than 2,000 of them lost the right to seek permanent protection in Australia.

The laws also sought to narrow Australian interpretation of the 1951 UN Refugee Convention in a manner criticized by the UNHCR and non-governmental organizations. They widened the government's powers to arbitrarily detain asylum-seekers arriving without valid visas and to remove asylum-seekers to other countries for detention and determination of their refugee status. Australian courts can no longer hear cases against any government action or use of force to prevent the arrival of people, including asylum-seekers, suspected of trying to land without authorization.

Following elections in October, the newly elected Labor government of the Northern Territory amended controversial criminal legislation on mandatory minimum terms of imprisonment for both adults and juveniles convicted of offences involving damage to property. The amendments restore power to the courts to take into account the severity of an offence and other circumstances, and remove the requirement that repeat child offenders serve a minimum prison term irrespective of what damage they caused.

Conditions of detention

There were protests and riots in Australian immigration detention centres throughout the year. In October, the Western Australian Inspector of Custodial Services linked such riots to detention conditions, including unacceptable overcrowding, "disgracefully inadequate" medical services and a lack of accountability for detention staff.

In November, the Human Rights Commissioner launched a national inquiry into the situation of nearly 600 children detained as asylum-seekers in Australia; some had been held

for as long as three years. In December, the Commission criticized detention conditions for asylum-seekers on Christmas Island, where it found women and children being held in a crowded sports hall without any separation from single men and with virtually no contact with the world outside. They were not allowed to use the telephone or send letters, read newspapers or listen to the radio, and were initially only allowed access to sunlight and fresh air for 20 minutes a day.

AI country reports/ visits

Visit

In November, an AI delegate visited Australian-funded detention facilities on Nauru.