

AUSTRALIA MUST HONOUR ITS OBLIGATIONS UNDER INTERNATIONAL LAW

Australia is a signatory to both the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights.

In April this year Australia joined 144 other countries in giving public support to the Declaration on the Rights of Indigenous Peoples. In conjunction with this, the government announced its intention to reinstate the Racial Discrimination Act in the Northern Territory during the spring sitting of Parliament.

Following a tour of Australia in August the UN Rapporteur, Professor James Anaya, made a statement commending the Australian government for its plan to reinstate the Act, but at the same time making it very clear that the accompanying 'special measures' and their delivery were discriminatory and failed to comply with Australia's obligations. He said that the existing "special measures" were overtly discriminatory and would have been illegal had the Racial Discrimination Act not been suspended.

As legislation is drawn up to reinstate the Racial Discrimination Act, any 'special measures', if still deemed necessary, must be redesigned to ensure their compliance with international human rights principles. This is a moral obligation on the part of the government, and nothing less would be acceptable.

Aboriginal Australians have suffered years of neglect. The Rudd government has signalled through The Apology its intention to make significant changes aimed at 'closing the gap'. The gap can only start to close when all Aboriginal people have their rights protected and when they are genuinely engaged in partnership with government to identify the challenges and work cooperatively to develop policies that will directly reduce their disadvantage.

The removal, or redesign, of special measures is an essential starting point. To help in this process the Committee for the Convention for the Elimination of Racial Discrimination has recently issued a recommendation designed to help law makers in understanding the scope of special measures.

Australia has given its very public support to the Declaration of the Rights of Indigenous Peoples. It is essential that the directions provided by Professor Anaya be given serious attention, as government strives to implement new legislation that will fully comply with its international obligations.

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