

AUSTRALIA AND THE BIRTH OF THE INTERNATIONAL BILL OF RIGHTS 1946–1966 by Annemarie Devereux

Foreword

The Hon Elizabeth Evatt AC

The post-war period is sometimes seen as a time when Australia made an important contribution to the development of the United Nations and, in particular, to its human rights institutions. This study by Annemarie Devereux will not entirely shatter the illusion that it was a “golden era” for Australian commitment to human rights, but it provides a solid basis on which to form a more realistic assessment of Australia’s role, a better appreciation of Australia’s positive achievements and an understanding of policies which now appear far less acceptable.

The author has made an intensive examination of Australia’s policies and practice in regard to the development of the Universal Declaration of Human Rights and the two covenants which form the International Bill of Rights. It covers a period of 20 years, from 1946 to 1966. The study is based on a comprehensive examination of a vast number of documents held in archives in Australia, as well as materials at the United Nations offices in Geneva and New York.

This is the first systematic evaluation of the human rights policies pursued by Australia in that period and their philosophical and pragmatic underpinnings. It is a lucid study, well documented and convincing in its argument. It reveals how Australia dealt with such significant and controversial issues as the relationship between economic, social and cultural rights and civil and political rights, the nature of self-determination as a right, the role of minority rights, and the meaning of domestic jurisdiction.

The author explains that the policy stances adopted by Australia on these and other issues were largely the outcome of the differing political and philosophical values held by the Ministers, who directed policies, and the senior officers and diplomatic representatives, who were charged with putting those policies into practice. The divergent approaches of these key players, and the changing balance in their relationships was a significant factor in shaping our human rights policies and makes for fascinating reading.

The study also examines how Australia’s policies and practice in the post-war period were influenced by the restrictive attitudes then held towards the rights of immigrants and Indigenous people, not to mention the lack of concern for women’s rights. Other areas of difficulty for Australia in the negotiation processes included domestic implementation, international supervision of human rights and the respective responsibilities of federal and State governments. Our attitudes on these issues not only influenced Australia’s stance at the drafting stages of the instruments, they remained significant factors affecting Australia’s later decisions concerning ratification and reservations to those instruments.

This study is all the more interesting because it sets the discussion of Australian policy and practice in the context of the contemporary international debate on human

rights issues. It shows how Australia's human rights policies were affected by international peer pressure. For example, Australia needed to take public positions in the UN about such issues as Apartheid. It also wanted to avoid becoming isolated in the international arena, or falling too far out of step with such significant powers as the UK and the US.

The author's analysis of the Australian position on selected human rights issues is an important contribution to the jurisprudence of human rights. Some of the issues discussed in this work which were of great concern to Australia in that period remain of concern both here and in other countries. For example, the scope of domestic jurisdiction, the role of international scrutiny and the obligations of states to implement obligations are still debated at both national and international level.

The author has extended her analysis to the current attitude of the Australian government towards the international human rights system, in order to show how they are linked to those of the earlier period. In particular, the study shows that the negative attitudes evinced by the Australian government in recent times towards the views of the supervisory treaty bodies have deep roots. This analysis is of special interest to those, like me, who regret Australia's recent criticisms of the treaty body system, its rejection of the views of those bodies, and its refusal to ratify either the Optional Protocol to the Convention Against Torture (providing for visits to places of detention) or the Optional Protocol to the Women's Convention (providing for a complaint procedure).

This study will help to put these and other current events into a longer perspective, so that they can be seen as part of the development of Australian human rights policy and practice. It may help us to understand how these policies developed and to find more effective ways to influence future directions when times are more propitious.