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Human Rights Day: Isn't it time to reconsider our mandatory, long-term immigration detention regime?

On International Human Rights Day, the Law Council of Australia is calling on government to reassess its mandatory, indefinite detention of non-citizens who do not hold a valid visa.

This policy, originally intended as a temporary and exceptional measure, has now been in place for decades and has resulted in prolonged periods of detention for far too many individuals who do not pose a risk to community health or safety.

Law Council President, Pauline Wright, says that such detention is arbitrary and contrary to Australia's international human rights obligations.

"The recent release of the Australian Human Rights Commission's (AHRC's) *Inspections of Australia's immigration detention facilities* report has provided a stark reminder of the harms associated with Australia's closed immigration detention regime," Ms Wright said.

"While in many respects, Australia is a healthy, functioning democracy which embeds respect for the rule of law, there are key areas in which successive Australian governments have failed to make progress on realising human rights – with its record even worsening, rather than improving, over time.

"Australia's offshore processing regime for asylum seekers who arrive by boat also breaches international human rights and refugee law norms," Ms Wright said.

"The Law Council considers that such deprivation of liberty should not be considered routine and detention of people outside the criminal justice system should not be normalised.

"Australia needs to ensure international human rights and refugee law principles are fully observed, including using detention only as a last resort and for the minimum possible time. Australia must further establish long-term, durable solutions for all refugees, including those in offshore processing and those within its territory.

"The AHRC's report disclosed that in 2019, the average period that an individual was held in Australian immigration detention was 581 days - the highest ever recorded, and far beyond the averages of comparable countries which face similar challenges to Australia.

"Many Australians have recently, for the first time, experienced the realities of being in lockdown. An average of 581 days – separated from family and friends with no certainty of the future – is for many of us unimaginable," Ms Wright said.

Human Rights Day is the day the United Nations General Assembly adopted the Universal Declaration of Human Rights in 1948 and is an important moment for all persons across the globe to reflect on progress made in realising human rights in law and in practice.

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The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.