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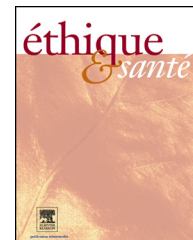


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## CORRESPONDENCE

### Legitimacy in international law of Australian border closure to own citizens



*Légitimité en droit international de la fermeture de la frontière australienne à ses propres citoyens*

#### Covid-19 border closure in Australia

The right of return in international law guarantees everyone's right of voluntary return to their country of citizenship. The right is formulated in the 1948 Universal Declaration of Human Rights, the 1948 Fourth Geneva Convention, and the 1966 International Covenant on Civil and Political Rights. As these declarations are customary international law, the right of return is binding also for those countries, which did not sign the above conventions. Since the start of the Covid-19 pandemic, this right is limited in Australia, and especially the state of Victoria, through the instrument of cap-on-arrival, further reduced cap-on-arrival, temporary-airport-closure, and mandatory hotel-quarantine-detention. Citizens are also prevented from leaving.

Common sense, successful experiences of other countries, and also the recommendation by the Board of Inquiry into the Covid-19 hotel quarantine program of Victoria, are in favor of case-based hybrid approaches, including home-based quarantine, for citizens returning from overseas. This advice is not followed. As a result, 40,000 Australian citizens are officially stranded overseas not being permitted to return, while many more are prevented from leaving. However, selected foreigners are granted permission to enter or leave despite they are nominally not allowed.

After the WHO declared Covid-19 a pandemic on 11-3-2020, most countries closed their borders, but not to their returning citizens. After 19 months, Australia's borders are still closed [1]. The situation is dramatic especially in the state of Victoria, where the airport is often suddenly closed to commercial flights.

#### The hotel quarantine program

The quarantine program has run smoothly in every state and territory of Australia, except Victoria, the only state that experienced so far a not negligible number of Covid-19 cases and fatalities. Victoria (7M people) had 20,483 cases and 820 fatalities. The other states and territories (18M people) have been practically untouched by Covid-19. The excess cases of Victoria are attributed to specific flaws in the hotel

quarantine program run in the state, namely "from hotel quarantine staff breaching COVID-19 rules" [2]. In reality, the cases of Victoria were built through mismanagement [3].

The Board of Inquiry appointed to examine the Covid-19 Hotel Quarantine Program in Victoria delivered the final report in December 2020 [4]. After acknowledging the weaknesses of the hotel quarantine program, the report proposed alternative arrangements [4]. "While it is accepted there were extraordinary pressures and concerns impacting upon the decision to impose the mandatory Hotel Quarantine Program in March 2020, a more considered and orderly approach to finding measures that are the least restrictive should now be properly undertaken for the next iteration of a quarantine program for returning travelers. The recommendations made in Section 2 of the Interim Report regarding the option of a home-based quarantine model are adopted for this purpose."

Even though there are certainly cases where hotel quarantine should be maintained, travelers in risk categories for age or comorbidities and/or from low-risk countries having the opportunity to safely isolate at their homes should be allowed to do so. This would reduce the risk of viral transmission in inadequate air-conditioned hotel quarantine facilities, lacking windows, cleaning, and decent food. This would permit to lift the cap on arrivals for the many citizens still stranded overseas to return to their homes. The number of passengers per flight could be increased, flights could be made more frequent and the cost of the airfare could reduce. Also, there would be no cost for the hotel quarantine detention by the government and the travelers.

As per 2-7-2021, rather than easing restrictions, the cap on arrival has been slashed rather than increased [5,6].

#### Australian double standards

The advice has not yet been followed by the Australian and Victorian bureaucrats, preferring rigid policies, with double standards. Whereas the entry of citizens stranded abroad, or even in other states, is capped, and commercial flights are canceled, non-citizens such as tennis players and entourage from overseas, also from hot-spots, may reach Melbourne in the thousands with charter flights [7]. Celebrities and other non-ordinary citizens or visitors also enjoy opportunities negated to ordinary citizens [8]. Celebrities also often enjoy the "privilege" of home quarantine moving from hot spots and not certainly because of medical justification [8] while requests of ordinary citizens for exemptions from hotel quarantine detention are routinely rejected.

According to the latest statistic [9], there have been in January 2021 7990 arrivals of visitors, in theory not

permitted, and a comparable number of residents returning from overseas at 11,350. Thus, everything but a negligible number of arrivals of not Australian citizens, residents, or immediate family members of citizens and residents, has been coupled to often insurmountable restrictions to ordinary citizens. In 2020, Melbourne airport was more often closed than open. In 2021, the airport was initially open to permit charter flights of tennis players and entourage, but then the international flights were paused again [10]. Melbourne airport has rarely worked at the capped capacity agreed with the Federal Government.

### Explicit bans of citizens on entry

In addition to making intentionally hard the entry of citizens stranded overseas, on 1-5-2021, the Federal Government also decided to temporarily forbid the entry to the citizens stranded in India [11]. India was at the time at the center of an outbreak of Covid-19 infection however not comparable in specific numbers with the previous outbreaks of the United States or the United Kingdom. Bans and threats of jail and fines were not introduced for those countries. The controversial ban was lifted on 15-5-2021. At the same time when nothing was done also for those vulnerable citizens more at risk, the cricket team was quickly moved to the Maldives, before they eventually returned to Australia with a government-approved charter flight on 17-5-2021 [12]. The specific number of cases for the Maldives was more than 10 times the value for India, 2,361.91 vs. 231.52, Fig. 1, but this did not prevent the return of special citizens.

### The role of vaccines

The situation is not being changed by vaccinations. After vaccination started worldwide, many other countries have fully vaccinated even more than 70% of the population, with some stranded Australian citizens in between them. Australian Federal and state governments haven't shown any interest in having a registry of citizens vaccinated overseas, and doubts have been cast if overseas vaccination could be recognized onshore. Proof of vaccination is not considered for exemption from caps on arrival, and hotel quarantine detention, as "there are currently no grounds in Victoria for an exemption from mandatory hotel quarantine based on a person being vaccinated against COVID-19".

As per 1-6-2021, fully vaccinated Australian citizens are prevented from leaving the country and are still limited from overseas with the same caps on arrivals, temporary reduction of caps on arrivals, or temporary closure of the airport to international travel, and hotel quarantine programs. While based on best science the United States (US) Centers for Disease Control and Prevention (CDC) [14] has removed almost every restriction to the international movements of vaccinated US citizens, that by the way were never prevented from entering or leaving the country, based on not sure which "science", Australia still dramatically restrict movements of every Australian citizen, vaccinated or not.

### Travel restrictions open violations of international law

It was immediately noticed at the beginning of the pandemic as travel restrictions were open violations of international

law [15]. Under this criterion, Victoria has exceeded every other state of Australia, and Australia has exceeded every other country in the world, in limiting the opportunities to enter or leave for their citizens.

With the excuse of the pandemic, violations of the rights of ordinary citizens have become a daily practice by Australian bureaucrats in general, and Victorian in particular, in name of medical science they do not know, nor they listen to while applying double standards.

### A long history of human rights abuses

Surrounded by rough seas and protected by globalist complicity, Australia has a long history of human rights abuses gone unchallenged by the international community [16,17], from the killing of aborigines to the stolen generation, from the abuses of migrants to the abuses of refugees, now to the abuses of citizens and residents also having dual citizenship because of Covid-19.

Human rights abuses related to Covid-19 also include the most politically motivated, and medically insane onshore restrictions, from full lockdowns even without hospitalized patients which may be also retroactive, following criteria completely different from state to state, to the prohibition of using antiviral drugs [18] successfully used in lower case fatality rates countries [19,20].

### Latest developments

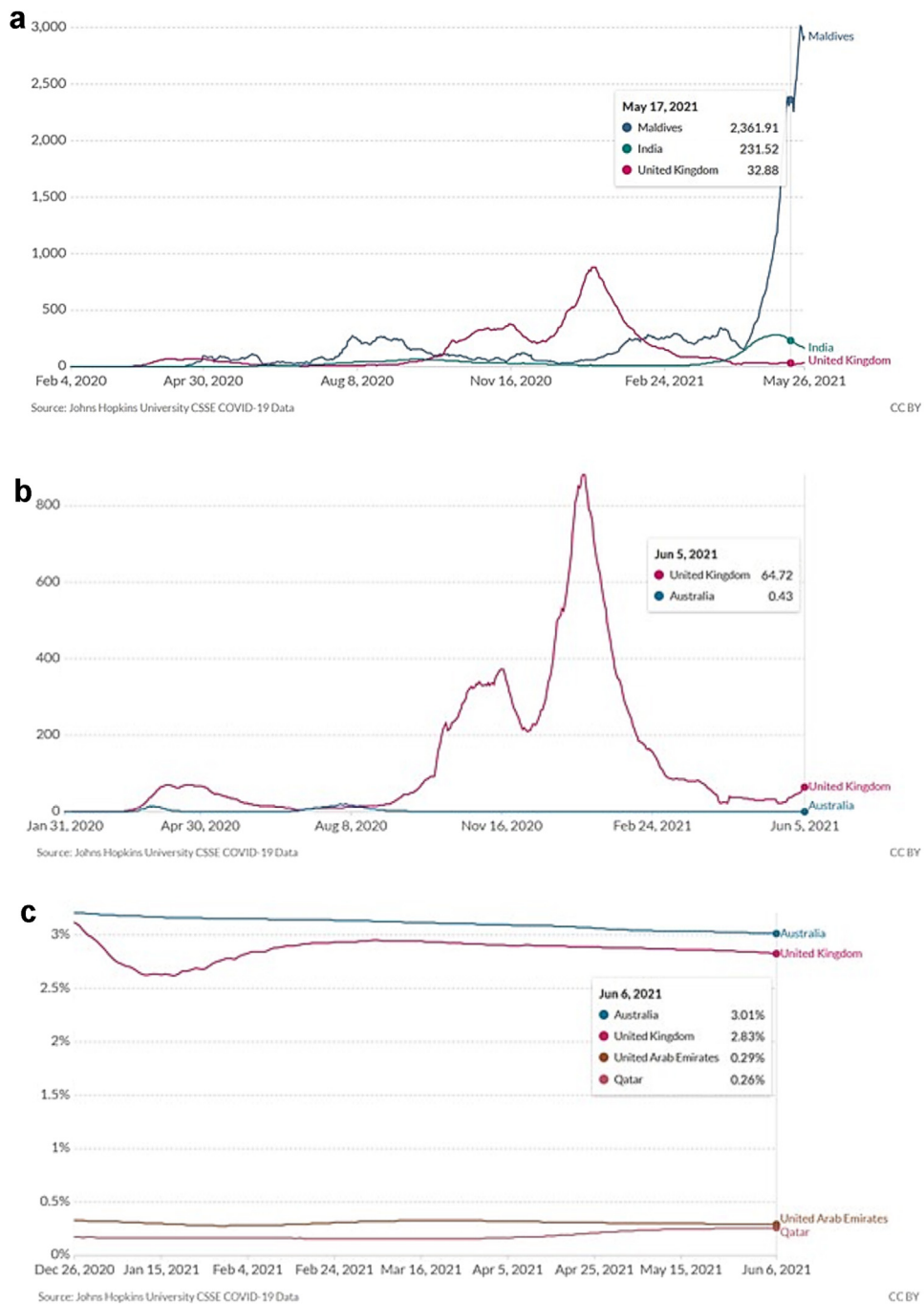
As per 9-9-2021, the two most populous states, NSW and VIC, are in full lockdown, with ongoing prohibition to leave home if not for purchasing groceries or get vaccinated, and curfews are imposed in Sydney and Melbourne from 9 pm to 5 am. The efficacy of the lockdowns in Sydney and Melbourne appears quite questionable, as the number of cases has been growing steadily rather than reducing since now almost 3 months in Sydney.

While antiviral therapies are practically prohibited, vaccinations are progressing much slower than other countries of similar GDP per capita. In the list by ourworldindata.org, Australia is ranked 92nd in the world with a percentage of fully vaccinated only 30.51% [21] with many supposed to be about same advanced countries have already surpassed 70%.

The Victorian government is now promoting a "vaccinated economy", saying the proof of double vaccination will now be the price of entry [22], ignoring the fact that many countries are already moving further towards boosters because of the efficacy of vaccines reducing in time and against variants [23,24].

### The way forward

The deliberations by the Australian federal and state government regarding the movement of citizens demonstrate the lack of any respect for the rights of the ordinary citizens onshore or offshore, as well as ignorance of best practices in Covid-19 prevention and treatment. Only the action of the international community may bring to an end the Australian anomaly, as it happened with the international movement opposing the South African apartheid system.



**Figure 1.** (a) Rolling 7-day average of the daily new confirmed COVID-19 cases per million people of India, Maldives, United Kingdom. Returning citizens from the United Kingdom have never been explicitly prohibited to enter. Opposite returning citizens from India have been prevented from entry two weeks of May 2021, despite the percentage of positive cases was less than the contemporary value for the Maldives. (b) same parameter for the United Kingdom and Australia. The number of infections for Australia has been always negligible except about March 2020 and August 2020. Almost all the fatalities have occurred in the State of Victoria during the outbreak of August 2020. (c) the case fatality rate for Australia, the United Kingdom, the United Arab Emirates, and Qatar. Countries that use antivirals have much smaller case fatality rates than countries that do not use antivirals. The State of Victoria has an even larger case fatality rate of 3.99%. Images from ourworldindata [13].

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**Disclosure of interest**

The author declares that he has no competing interest.

**References**

- [1] <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/coronavirus-covid-19-restrictions/coronavirus-covid-19-advice-for-international-travellers>.
- [2] <https://www.7news.com.au/lifestyle/health-wellbeing/victoria-coronavirus-cases-stemmed-from-hotel-quarantine-staff-breaching-covid-19-rules-premier-says-c-1135069>.
- [3] Boretti A. Covid19 outbreak in Victoria, Australia update August 1. *Health Services Res Managerial Epidemiol* 2020;7, <http://dx.doi.org/10.1177/2333392820960350>.
- [4] <https://www.quarantineinquiry.vic.gov.au/>.
- [5] Hurst D. Australia to halve international arrival cap as Scott Morrison unveils four-stage Covid exit plan; 2021. <https://www.theguardian.com/world/2021/jul/02/australia-to-halve-international-arrival-cap-as-scott-morrison-unveils-four-stage-covid-exit-plan>.
- [6] Masters R. International passenger arrivals to be reduced by half to ease pressure on quarantine facilities; 2021. <https://www.9news.com.au/national/coronavirus-international-passenger-arrivals-to-be-reduced-by-50-percent-australia-news/cd07ca87-f003-49fc-baa4-9deefccb497f>.
- [7] <https://www.wsj.com/articles/australians-cant-get-home-but-tennis-players-fly-in-from-covid-19-hot-spots-11611145803>.
- [8] <https://www.smh.com.au/national/hotel-quarantine-exemptions-lay-bare-how-we-treat-rich-and-poor-20201223-p56pte.html>.
- [9] <https://www.abs.gov.au/statistics/industry/tourism-and-transport/overseas-arrivals-and-departures-australia/latest-release>.
- [10] <https://www.abc.net.au/news/2021-03-22/victorias-coronavirus-border-closure-sees-australians-stranded/100019138>.
- [11] <https://www.theguardian.com/australia-news/2021/may/06/australias-india-travel-ban-how-other-countries-are-managing-their-returning-citizens>.
- [12] <https://www.theguardian.com/sport/2021/may/14/australian-cricketers-set-to-return-from-maldives-once-india-travel-ban-lifts>.
- [13] <https://www.ourworldindata.org/explorers/coronavirus-data-explorer>.
- [14] <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>.
- [15] Meier BM, Habibi R, Yang YT. Travel restrictions violate international law. *Science* 2020;367(6485):1436.
- [16] <https://www.theguardian.com/australia-news/2019/mar/04/the-killing-times-the-massacres-of-aboriginal-people-australia-must-confront>.
- [17] Nogrady B. Trauma of Australia's Indigenous 'Stolen Generations' is still affecting children today. *Nature* 2019;570:423–4.
- [18] New South Wales Health, 2021. NSW Health interim guidance on use of antiviral and immunomodulation therapy in COVID-19; 2021. <https://www.health.nsw.gov.au/Infectious/covid-19/communities-of-practice/Pages/guide-antiviral-therapy.aspx>.
- [19] United Arab Emirates Department of Health, 2020. Updates of Comprehensive COVID-19 Guideline for the Use of Health-care Professionals in the Emirate of Abu Dhabi; 2020. <https://www.doh.gov.ae/-/media/7BD7B077D8F846B48A70-C5872902DD1C.ashx>.
- [20] Boretti A. Analysis of the Performances of the Covid-19 Therapeutic Approaches in the United Arab Emirates. *Signa Vitae* 2021;17(3):256–63.
- [21] <https://www.ourworldindata.org/covid-vaccinations>.
- [22] <https://www.abc.net.au/news/2021-09-06/daniel-andrews-vaccine-passport-double-vaccinated/100435606>.
- [23] <https://www.independent.co.uk/news/world/middle-east/covid-vaccine-israel-fourth-dose-b1915076.html>.
- [24] [https://www.gov.il/BlobFolder/reports/vaccine-efficacy-safety-follow-up-committee/he/files\\_publications\\_corona\\_two-dose-vaccination-data.pdf](https://www.gov.il/BlobFolder/reports/vaccine-efficacy-safety-follow-up-committee/he/files_publications_corona_two-dose-vaccination-data.pdf).

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