

**Seventh Annual Meeting of the Asia Pacific Forum of
National Human Rights Institutions
Monday 11 – Wednesday 13 November 2002, New
Delhi**

**Forum members report
Australia - Prof Alice Erh-Soon Tay**

Dear colleagues,

The Human Rights and Equal Opportunity Commission's work of the past year has been dominated by the school-based education program, legal work and other responses to domestic human rights concerns, such as the detention of asylum seekers, legislative responses to terrorism, racism and racial hatred and women's rights.

However, its broader focus remains on its core objectives – education and promotion of human rights, conciliating anti-discrimination and human rights complaints; human rights compliance; and policy and legislative development. The Commission continues to monitor social justice and native title rights for indigenous Australians.

Education about human rights and discrimination is central to the Commission's activities, especially the online education program. It is an area of the Commission's work that the federal government has been very keen to support.

Australians are big users of information technology. In 1998, about 42 % of households had a computer and schools increasingly use computers as a teaching resource and tool. Although we try to keep in mind the very real risk that use of this technology favours well-funded private schools over public schools and may increase the gap between information rich and information poor, access to computers has enabled the Commission to expand the material it delivers online.

In 2001-2002, the Commission developed a structured human rights education program for teachers of upper primary and

secondary students. The program includes the Youth Challenge education module that teaches about racial discrimination, sex discrimination and disability discrimination.

The Commission has also developed a series looking at “current issues” in human rights, including the history of forced removal of Indigenous children from their families (the release of a feature film *Rabbit Proof Fence* sparked renewed debate about the legacy of these removals) and paid maternity leave for women (an issue the subject of a lot of public debate in Australia and the focus of Sex Discrimination Commissioner Pru Goward’s work this year).

We have been extremely fortunate in being able to use sophisticated information technology to enable students and teachers to watch segments of a video case study online. Even so, teachers without access to this technology can buy the video from HREOC and use the hard copy material downloaded from our website.

The material is presented in ways relevant to the learners. It is based on discussion and the exchange of ideas and values. It is used to develop a wide range of skills (including literacy and numeracy) because it is linked to a range of learning areas. And - it is aimed at all students regardless of their learning styles and abilities.

The program is promoted widely among teachers and, to encourage use of the material, the Commission has made suggestions about where the material can link to the curricula in each State and Territory.

The Commission’s Legal section has had an extremely busy year, making use of its power to intervene in court cases that relate to or may impact on human rights. The Commission has well-defined guidelines for seeking leave of the court to intervene in cases. The case must relate to human rights or discrimination issues under relevant legislation. The issues should be significant and not peripheral to proceedings. The arguments should not duplicate those made by other parties to the proceedings. For full details of the guidelines, please refer to the Commission’s website.

Over the past year, the Commission has been granted leave to intervene in nine matters involving issues of the human rights of

asylum seekers (including unaccompanied minors), native title and the rights of transsexuals under the Marriage Act.

One high profile court intervention with which you may be familiar is that involving the MV Tampa, a Norwegian cargo vessel that rescued 433 asylum seekers from their sinking boat. The Australian Government prevented the Tampa from landing at the Australian Territory of Christmas Island in August 2001 and the resultant parliamentary debate over asylum seeker policy led to changes to the law to excise Australia territories such as Christmas Island from the Migration Act. The effect of this action was to prevent asylum seekers who land in these territories from claiming refugee status. In the meantime, the Federal Government made arrangements with the island of Nauru to take the asylum seekers from the Tampa, putting them out of Australian jurisdiction.

The Commission has intervened in a number of cases that relate to migration law and the rights of asylum seekers and has made a number of public statements about these issues.

At this time, it is conducting a National Inquiry into Children in Immigration Detention. The Inquiry is examining whether Australia as a nation is meeting its international human rights obligations to the children of asylum seekers and the unaccompanied children detained in facilities around Australia (especially the Convention on the Rights of the Child).

More than 300 written submissions, evidence from public hearings in five Australian States, (including oral testimony from experts) focus groups with ex-detainee children and young people and the evidence of immigration authorities and operators of detention centres will inform the Commission's final report due early next year.

Cyber-racism – the increasing use of information technology highways and byways to peddle race hate - is also under scrutiny. The Commission is examining ways of stopping its reach and impact and of ensuring the authorities that regulate the Internet are well aware of and following Australian laws on racial hatred.

A symposium on racial vilification over the Internet was hosted by the Commission in late October. A leading EU expert on cyber-

racism, Prof Henrik Kaspersen provided valuable insight into the way Europe was tackling the insidious problem.

Women's rights have also been a major focus. The Commission has released a paper on paid maternity leave that has generated a wide-ranging debate around the country. The debate has ranged from women's equal rights to Australia's declining fertility rate. A final report is due in mid-December.

As you are no doubt aware, Australia has become increasingly concerned about domestic security in the wake of terrorist attacks in New York and Bali. Although the Commission understands the desire for greater vigilance it is concerned about the potential consequences of inappropriate reactions. In particular, I am concerned about the erosion of human rights and civil liberties for people in our own nation, about the hardening of hearts towards asylum seekers and about racial and religious scapegoating in the wake of these attacks. It is something the Commission will need to pay particular heed to in the months and possibly years ahead.

As I noted in the Commission's Annual report this year, threats of terrorism – whether real or imagined – have the potential to compromise the rights of people under the claim of protecting national sovereignty. At times of uncertainty and suspicion, from threats within or without, the rights of the truly vulnerable in our own countries are at real risk of being ignored. The impulse for justice is an easy sacrifice to mass apprehension.

Thank you.