
AUSTRALIA



Human Rights and Equal Opportunity Commission

Report to the Meeting of the
→
Asia Pacific Forum of National
→
Human Rights Institutions
→

Kathmandu, Nepal

February 2004

Summary of Commission activities since the last meeting of the APF Forum of National Human Rights Institutions

Commission Members

In April 2003, the term of Professor Alice Tay, President of the Human Rights and Equal Opportunity Commission expired and the Hon. John von Doussa, Q.C. was appointed President on 1 May 2003 for a five year term. At the time of his appointment Justice von Doussa was a Judge of the Federal Court of Australia, an appointment he has held since 1988.

During her term as President, Professor Tay was a very strong supporter of the Asia Pacific Forum of National Human Rights Institutions and has maintained her interest in the Forum's activities. She sends her best wishes to Forum members for a successful conference.

Dr Sev Ozdowski, OAM is the Human Rights Commissioner and acting Disability Discrimination Commissioner. He was appointed in December 2000 for a five year term.

Dr William Jonas, AM was appointed April 1999 for a five year term as the Aboriginal and Torres Strait Islander Social Justice Commissioner. He is also acting Race Discrimination Commissioner.

Ms Pru Goward, Sex Discrimination Commissioner, was appointed in July 2001 for a five year term.

Annual Reports

HREOC has been involved in a substantial number and a wide range of activities since the last APF Forum of NHRI Meeting in November 2002. The bulk of the activity is documented in the Annual Reports of the Commission and is available on the Commission website at www.humanrights.gov.au.

Copies of the Annual Reports which contain full details of the complaint handling and legal functions of the Commission can be obtained by contacting the Publications Officer, Human Rights and Equal Opportunity Commission, GPO Box 5218, Sydney NSW 2001, or by email publications@humanrights.gov.au.

An information sheet is attached to this report which explains how to join the Commission's electronic mailing lists in order to receive up to date information about Commission activities and publications.

1. National Inquiry into Children in Immigration Detention

The Report of this Inquiry is currently being finalised. The Human Rights Commissioner, Dr Ozdowski expects that the report will be tabled no later than the May parliamentary sittings of 2004. Once the Report is tabled, a *Guide to the Findings and Recommendations of the Inquiry into Children in Immigration Detention* will be released to the public.

A short background to the Inquiry is as follows: The Inquiry was announced on 28 November 2001. It received 345 submissions, including 70 confidential submissions.

Submissions have taken a variety of forms, including tapes, drawings, and poetry as well as detailed commentary by organisations representing detainees, human rights and legal bodies, members of the public, religious organisations, state government agencies and a range of non-government policy and service-providing groups. Most of the public submissions where an electronic copy was available have been placed on the Commission's website.

The Inquiry visited all immigration detention facilities in Australia between January 2002 and December 2002.

Over 2002 the Inquiry conducted 27 focus groups with children, parents and some other ex-detainees now living in Sydney, Melbourne, Perth, Adelaide and Brisbane on temporary protection visas. Those focus groups were also conducted on the understanding that the identity of the refugees would be protected.

Between May 2002 and August 2002, the Inquiry held hearings in Melbourne, Perth, Adelaide, Sydney and Brisbane to allow members of the community, state government agencies, NGOs and former Australasian Correctional Management (ACM) staff, amongst others, an opportunity to provide further information and evidence to the Inquiry. The Inquiry heard from more than 60 individuals and groups in the public hearings. The transcripts are on the Commission's website.

The Inquiry also heard evidence from more than 20 individuals and groups in "in camera" hearings. Several of those witnesses subsequently agreed to make their evidence public.

In December 2002 the Inquiry heard evidence from the Department of Immigration Multicultural and Indigenous Affairs (DIMMIA) and ACM on various issues. The transcripts of those hearings are also available on the Inquiry's website. After those hearings had concluded, the Commission commenced writing a draft of the report.

2. National Paid Maternity Leave

A Time to Value: Proposal for a national paid maternity leave scheme, a paper by the Sex Discrimination Commissioner, Pru Goward was released in December 2002. The Paper proposed a national scheme of paid maternity leave entirely funded by government, available to women in the paid work force at the time of the birth of the child. An estimate of \$213 million in 2003-04 offset against other savings in tax payments was the figure estimated by the Independent Centre for Social and Economic Modelling to fund the scheme.

The paper's recommendations were based on the national round of Australia wide consultations with employers and employer groups, unions, women's groups and the general community during 2002. Over 250 written submissions were received from these groups.

Commissioner Goward continues to promote the recommendations of the paper to the government in the media, in public speaking engagements and informal consultations.

3. The Sex Discrimination Amendment (Pregnancy and Work) Bill 2003

This amendment implementing Recommendations 36, 37 and 43 of the *Pregnant and Productive: It's a right not a privilege to work while pregnant* report, received Royal Assent in 2003. The amendments, make it clear that discrimination on the basis of breastfeeding is a form of unlawful sex discrimination; that it is unlawful to ask women for information about pregnancy or potential pregnancy in job interviews; and that requests for medical information about a woman's pregnancy or potential pregnancy may only be sought for legitimate reasons such as occupational health and safety purposes.

4. Analysis of Sexual Harassment Complaints to HREOC

In collaboration with the Complaints Section of the Commission, the Sex Discrimination Unit conducted an analysis of sexual harassment complaints finalised in 2002. A paper entitled *A Bad Business: Review of Sexual Harassment in Employment Complaints 2002* was launched by the Sex Discrimination Commissioner in November 2003.

The paper, along with several fact sheets, case studies, the Commission's media release, and launch speeches are available on the Commission's website.

The Sex Discrimination Commissioner has also commissioned the Gallup Organisation to conduct a telephone survey on the incidence of sexual harassment in the community.

A package of materials drawing upon this survey and the complaints data will be released in March 2004, together with the updated *Sexual Harassment: A code of practice*. A series of posters have will also be released as part of the package.

5. Trafficking in women – see separate report

6. National Indigenous Legal Advocacy courses

In January 2004 approximately 100 Indigenous people were expected to have enrolled as students in the National Indigenous Advocacy Courses (NILAC). These courses which have been developed on behalf of HREOC are designed to provide Indigenous people with the skills and knowledge to work in a legal environment.

The Tropical North Queensland Institute of TAFE have entered into a licensing agreement to deliver the National Indigenous Legal Advocacy Courses. The courses are currently being taught in the Torres Strait region, primarily to Indigenous family

violence workers. Tranby Aboriginal College and the Institute for Aboriginal Development have made applications to use the courses which are currently being finalised. A number of inquiries have also been received about the courses, and it is anticipated that there will further licensed trainers in the coming months.

Copies of the overview of the course and full details are on our website.

7. Draft Declaration on the Rights of Indigenous Peoples

Commissioner Jonas attended the Commission on Human Rights Working Group on the Draft Declaration on the Rights of Indigenous Peoples in Geneva in September 2003. This was the ninth session of the working group. While there was considerable movement towards consensus on a number of issues, the working group again failed to provisionally adopt any provisions of the Draft Declaration. This leaves one year of the working group process to go, with uncertainty as to whether (and if so, how) consideration of the draft Declaration might continue beyond next year.

While in Geneva the Commissioner attended the Committee on the Rights of the Child General Day of Discussion on Indigenous children. The Day of Discussion is a mechanism of the Committee to further consideration of particular issues being faced in the implementation of the Convention on the Rights of the Child. The Commissioner made three submissions to the Committee for the day of discussion. The Committee has recently issued its recommendations from the day, which will inform the consideration of periodic reports under the Convention as they relate to Indigenous children.

The Commissioner has released three submissions (on the web) which he made to a workshop convened by the United Nations High Commissioner for Human Rights where experts from around the world considered issues related to Indigenous peoples contact with the criminal justice system.

8. Customary law workshop

In November the ATSIJJC Commissioner co-hosted a workshop with the International Law Association (Australian Branch) on the recognition of Aboriginal Customary Law. The papers are available on the Commission's website.

9. Development and Indigenous Land: a Human Rights Approach

A joint publication with Griffith University was launched in May 2002 called *Development and Indigenous Land: a Human Rights Approach*. It contains principles developed by a forum held in Alice Springs last year on resource development on Indigenous land.

10. Isma – Listen: National consultations on eliminating prejudice against Arab and Muslim Australians

The Race Discrimination Commissioner launched this project in March 2003. Since that time, consultations have been held in Perth, Alice Springs, Brisbane, Sydney, Adelaide, Canberra, Melbourne, Shepparton, Cobram, and Adelaide, and a number of other

areas. Consultations, meetings and focus groups have been held with state equal opportunity commissions, police services and other state agencies, including with the NSW Department of Education and Training and the NSW Community Relations Commission. Consultations have also been held with community organisations such as the Muslim Women's National Network, Islamic Council of NSW, Al Zahra Muslim Women's Group and the Arabic Workers' Network.

In addition, a team from the Centre for Cultural Research at the University of Sydney has been commissioned to investigate the experiences of discrimination and vilification encountered by Sydney and Melbourne Arabs and Muslims and their experiences negotiating existing complaints procedures

Empirical research

About 1,000 copies (Arabic and English versions) of a survey for Arab and Muslim Australians in NSW and Victoria were distributed by RDU. The survey asks:

- Have you experienced any racism, abuse or violence since 11 September 2001?
- If so, where? How often? Who was involved?
- Did you formally complain about this experience or report it to anyone?
- If not, why not? If so, were you satisfied with the response?

Surveys have been returned to date and at a number of people agreed to a personal interview. University of Western Sydney researchers from the Centre for Cultural Research have conducted around 20 interviews in Sydney and 20 in Melbourne.

Isma Newsletter

The Isma newsletter is published regularly on the web and by email. The newsletter reaches some 375 people and organisations by email and more than 200 others in hard copy.

The report of the consultations has been completed and planning is underway for this to be published in late March 2004.

11. Face the Facts publication

The third edition of *Face the Facts* (the most popular Commission publication) was published online and print versions in 2003. The booklet addresses some of the prevailing myths about immigration, refugees and asylum seekers and Indigenous peoples by presenting the facts in a straightforward manner.

12. Face the Facts education module for teachers and students

The module accompanies the updated version of *Face the Facts*. It forms part of the 'Information for Teachers' series. The activities in this module link with a range of key learning areas in relation to prevailing myths concerning immigration, refugees and asylum seekers and Indigenous peoples.

The resource is for junior and senior high school students across all states and territories. Teaching notes, student activities and worksheets are provided, plus a range of recommended online resources and further reading. It is available on the Commission website.

13. Proposed international convention on disability and human rights

Commissioner Ozdowski attended a regional workshop held in Bangkok from 14-17 October as part of the process towards an international Convention on human rights and disability. The workshop made substantial progress on a draft text (the first of the regional workshops to do so and move beyond discussion of principles) but also highlighted how much work remains to ensure that a Convention adds as much value as possible to existing instruments and machinery.

HREOC is part of a working group established the United Nations Ad Hoc Committee on the convention and Dr Ozdowski is conducting "expert" workshops in March 2004 which look at the latest draft text and a latest contribution made by the Australian Government as the basis for discussions.

14. Productivity Commission Review of the Disability Discrimination Act

The Productivity Commission (PC) released a draft report on its review of the DDA on October 2003. HREOC is participating in consultations on the report prior to the release of a final report in April 2004.

In brief, the PC assesses the DDA as having net economic and social benefits for the Australian community, with benefits outweighing costs and limited impact on competition. Its assessment of the effectiveness of the DDA - as having achieved substantial progress in some areas such as public transport and access to buildings but less success in other areas, in particular employment and discrimination against people with intellectual or psychiatric disabilities - is consistent with the assessment we published in March this year of the first ten years of the legislation.

Many though not all of the proposals in the report for making the legislation more effective are consistent with suggestions made in HREOC's submissions. While the PC makes suggestions for improving the administration of the legislation, overall it endorses the approaches HREOC has taken to using the powers and resources available. The PC's call for further consideration of how best to meet costs of achieving equal access and participation for people with disabilities is also welcome.

15. Access to Premises

Work on the draft Regulation Impact Statement (RIS) on the proposed Premises Standard is almost complete and the package of material for public comment, due to take place during February 2004. This package will be very substantial including the RIS, draft Premises Standard and proposed changes to the Building Code of Australia and the relevant referenced Australian Standards. It is intended that wherever possible short summary material will be available for those who do not want to comment on the technical detail. The public comment period will include public awareness sessions around Australia.

16. Assistance animals

A discussion paper to progress consideration of possible needs for legislative or regulatory action to give better definition to rights and responsibilities in this area has been released for consultation and a report submitted to the Attorney-General (AG). The AG has indicated that he will consider the recommendations in the context of a broader response to legislative reform issues which may arise from the Productivity Commission inquiry.

17. Education

Access to information for people with print disabilities continues to be an important area of involvement for the Disability Rights Unit.

The Steering Committee that the Commission established jointly with the Australian Vice-Chancellors' Committee (AVCC) in 2002 has made pleasing progress in addressing information access issues as they relate to university students who are blind, vision-impaired, or who have another print disability.

The Roundtable represents the first time in Australia that such a diverse and influential group has been assembled to develop ways of enhancing access to materials by people with print disabilities, and it serves as a model for future cooperation in this area.

18. Telecommunications

A high level industry and consumer forum on telecommunications was convened by the Disability Discrimination Commissioner in 2003 and the record is on the web.

19. Captioning

A valuable meeting of the Cinema Captioning committee took place in August 2003 during which a number of strategies for extending and refining the current captioning program were discussed. Discussion included looking at ways to provide better promotion of the program; cinema advertising and ways of including more cinemas in more parts of Australia. HREOC will be following up on a number of issues in consultation with industry and the disability sector.

20. New Commission brochures

1. Revised *The Human Rights and Equal Opportunity Commission* brochure.
2. *Social justice and human rights for Aboriginal and Torres Strait Islander peoples*.
3. *What are human rights?* An overview of the role of the Human Rights Commissioner.

21. Education Modules

Bringing them Home (BTH) – Online education module for secondary schools and upper primary teachers and students

This very substantial educational resource was launched at the Human Rights Awards on 10 December 2003. It is based on the stories, findings and recommendations in *Bringing them Home* the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families and on the history of forcible separation which have impacted on the lives of Indigenous Australians.

It also provides a well researched update on how governments and the community have responded to the reports recommendations. Similar to other HREOC educational resources *Bringing them Home* is linked to all state and territory curricula.

A CD of the resource is being distributed widely to educators and the community together with advertisement in key educational magazines.

22. New School *Youth Challenge* Seminars and resources

Youth Challenges Seminars for high school students and teachers with a focus on *Sexual Harassment in Schools* have been held Townsville, Brisbane, Western Australia, and South Australia during 2003. Further seminars will held in Darwin, Melbourne, Sydney, Wollongong and Canberra during March/April 2004. A 12 page sexual harassment study unit in *Studies* magazine was distributed to all secondary schools in Australia in the second week of August 2003 and the video hypothetical and a Students Activities Booklet is distributed to all teachers who attended the Challenges.

All the Challenges have been evaluated and responses from students who attended the Challenges, show for example a minimum of 75% of students felt that their understanding of sexual harassment issues and their ability to discuss sexual harassment issues was now 'very good' 'or excellent'.

23. HREOC Website – www.humanrights.gov.au

The site is maintained on a daily basis to provide the most up to date information about all the Commission activities and other human rights related matters. It also delivers online human rights education programs for teachers and students. There were 4.57 million page views in the year 2003-03 which equates about 39 million hits on the site.

24. Electronic Mailing Lists

There are over 14,000 subscribers to HREOC's electronic mailing lists which cover 10 different areas of HREOC's work. In this way the Commission keeps people informed of current development. If you are not on one of lists you to easily join. Details of how to subscribe are provided on the attached sheet.

25. Human Rights Medal and Awards

The annual Human Rights Awards ceremony was held in Sydney on 10 December 2003, Human Rights Day. The Awards celebrate the outstanding work of individuals and organisations in the promotion and protection of human rights in Australia. Awards are presented in the categories of Law, Community, Arts Non-Fiction, Television, Radio, Print and the Human Rights Medal.

26. Human Rights Delegations

The Commission regularly hosts visits from National Human Rights Institutions and other groups including Parliamentary delegations. During 2002-2003 the Commission received delegations from the National Human Rights Commission of Korea, the New Zealand Human Rights Commission, and the Mongolian Human Rights Commission, as well as Parliamentary delegations from the United Kingdom (UK Joint Committee on Human Rights) Ireland, Thailand and Iran. Other delegations included politicians with an interest in human rights from the Philippines, Indonesia, Thailand and representatives from Non government organisations located in Indonesia and Vietnam.

27. Human Rights Dialogues

The Australian government has conducted an annual human rights dialogue at senior officials' level with China since 1997. Since 1999 the Human Rights and Equal Opportunity Commission has been invited to attend and participate in the dialogue discussions. The Commission has also been contracted to design and manage a program of technical cooperation with China. The program, which has been implemented progressively since 1998, aims to assist key Chinese government and non-government organisations to better promote and protect human rights.

Australia also commenced a human rights dialogue with Vietnam in July 2002. The second round of the dialogue was conducted in June 2003 and was followed by a week long visit by officials from key GOV agencies to Australian government and non-government organisations that promote and protect the rights of Australians. It is expected that the third round of the dialogue, expected around the middle of 2004, will discuss the possibility of commencing a program of technical cooperation in human rights. The Commission has participated in both dialogues with Vietnam.

In December 2002 Australia and Iran commenced a human rights dialogue. The discussions were followed by a study visit to Australia by officials of the Islamic Human Rights Commission of Iran. The visit was managed and hosted by the Commission. Dates for a second round of the dialogue with Iran have not yet been agreed.