



ASIA PACIFIC FORUM
ADVANCING HUMAN RIGHTS IN OUR REGION

APF Member 'Bare Facts'

Australia

Updated February 2014

Introductory Comments

The Asia Pacific Forum of National Human Rights Institutions ('APF'), established in 1996, is the leading regional member-based human rights organisation in the Asia Pacific.

This member's profile focussing on Australia's NHRI is part of a series of profiles which provide information about the core features and functions of each of the APF's member institutions.

Australia was a founding member of the APF in 1996. Australia became a member of the International Coordinating Committee of National Human Rights Institutions in 1999.

The information contained in this profile reflects the NHRI's response to a Members' Profile Questionnaire sent to all APF member institutions in 2012.

Foundation

Australia's NHRI, the Australian Human Rights Commission (AHRC) was established by the Australian Human Rights Commission Act 1986 (Cth).ⁱ

The AHRC has a national jurisdiction.

Composition

The AHRC has 8 members including the President. The members, known as Commissioners are: the Sex Discrimination Commissioner, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Age Discrimination Commissioner, the National Children's Commissioner, the Disability Discrimination Commissioner, the Race Discrimination Commissioner and the Human Rights Commissioner.

The current members are drawn from professional backgrounds in NGOs, academia, law and Parliament.

Application, Selection and Appointment process

The Australian Human Rights Commission Act 1986 (Cth) establishes the application, selection and appointment process for members of the AHRC.

Vacancies are advertised in the national press and on the Australian Public Service website and nominations for members are accepted from the Government and Civil Society.

Financial autonomy

94% of the AHRC's annual budget of US\$ 20 million comes from the Australian Government. The founding law requires the Government to provide funding but also permits the AHRC to raise funds from other sources.

Personnel

The total number of staff in the AHRC is 139.

A Workplace Diversity Program is in place to encourage pluralistic staff composition. The present staff is made up of: women (74.6%), Indigenous people (3.5%), people with disabilities (9.7%), aged below 25 (5%), median age (39 years) and non-English speaking background (20.2%).

The percentage of men and women at each level is:

1. Commission: 50% men and 50% women;
2. Senior Staff: 26% men and 74% women;
3. Junior Staff: 23% men and 77% women.

Working methods

The members of the governing board meet formally every 6-8 weeks and informally every fortnight.

The AHRC has dedicated specialist thematic units and advisory bodies are established from time to time for specific projects.

Mandate

The AHRC has a legal mandate to:

1. Make recommendations to the government, Parliament and other competent bodies on matters concerning:
 - a. Proposed legislative or administrative provisions, and
 - b. Suggested amendments to existing legislation.
2. Report without restriction:
 - a. On the national human rights situation, on specific matters or through thematic reports,
 - b. On violations of any human rights,
 - c. Its opinions and recommendations.
3. Promote and advocate for the:
 - a. Harmonization of national laws and practices with Australia's international obligations,
 - b. Implementation of recommendations of international human rights mechanisms,
 - c. Ratification of international human rights instruments.
4. Engage with the International human rights system by:
 - a. Contributing to the State's periodic treaty body reports,
 - b. Expressing opinion on the State's reports to the UN treaty bodies,
 - c. Cooperating with the UN and its agencies, regional institutions and the NHRIs of other countries.
5. Conduct public education and awareness raising by:
 - a. Assisting with human rights teaching and researching,
 - b. Carrying out public awareness activities.

The AHRC conducts visits to Australia's immigration detention facilities in order to monitor conditions in these facilities. The Commission's aim is to ensure that conditions meet internationally accepted human rights standards.

The acts and practices of intelligence agencies are specifically excluded from the mandate of the AHRC.

Powers

Complaint handling and investigation

The AHRC has the following powers to investigate complaints:

1. To receive and investigate complaints;
2. To conduct investigations on its own initiative;
3. To compel information from any person necessary for assessing situations falling with the AHRC's competence;
4. To obtain any information and any document necessary for assessing situations falling with the AHRC's competence;
5. To make recommendations to the competent authorities;
6. To protect witnesses from victimisation;
7. To recommend, but not provide, compensation;
8. To intervene or assist in court proceedings related to human rights.

The AHRC also has the following powers to handle individual complaints:

1. To seek an amicable settlement through conciliation or mediation;
2. Inform complainants of their rights, of available remedies and promote access to these;
3. Transmit complaints to any other competent authority;
4. Ensure that communications to and from the NHRI remain confidential.

The AHRC is not permitted to receive complaints against Australian Intelligence Agencies.

OPCAT

The AHRC is not a formally designated National Preventative Mechanism under the OPCAT.

Relationship with State and Civil Society

The AHRC can directly report to Parliament but Government bodies are not formally required to respond to the AHRC's resolutions, reports or recommendations.

The *Australian Human Rights Commission Act 1986* (Cth) provides the AHRC with the capacity to establish formal relationships with Civil society. The AHRC has developed formal relationships with civil society that result in regular engagement via advisory body consultations, regular or institutionalised meetings and engaging with CSO's on thematic issues and in conducting inquiries.

Accreditation

The AHRC was last reviewed by the ICC in May 2011 and has an ICC A accreditation status.

ⁱ Formerly called the *Human Rights and Equal Opportunity Commission Act 1986*.