NATIONAL ACTION PLAN

1995 UPDATE

(a) Indicate the United Nations or regional human rights instruments Australia intends to ratify and outline concrete steps by which this objective is to be achieved.

Convention on the Elimination of All Forms of Discrimination

Australia took action to meet its obligations under Article 4(a) of the Convention on the Elimination of All Forms of Discrimination (CERD) by introducing legislation addressing the incitement of racial hatred. Article 4(a) states:

> *States shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof*

Work on redrafting racial vilification legislation was completed in 1994 following community consultations held in 1993 to gauge public reaction to the Racial Vilification Bill (1992), which lapsed following the proroguing of Parliament on the calling of the March 1993 Federal Election.

The redrafted legislation, the Racial Hatred Bill (1994), originated in three major inquiries which found gaps in the protection provided by the Racial Discrimination Act (1975). The National Inquiry into Racist Violence, the Australian Law Reform Commission Report into Multiculturalism and the Law, and The Royal Commission into Aboriginal Deaths in Custody all favoured an extension of Australia's human rights regime to explicitly protect the victims of extreme racism.

The Bill was intended to close a gap in the legal protection available to the victims of extreme racist behaviour, and to provide a safety net for racial harmony in Australia as both a warning to those who might attack the principle of tolerance and an assurance to their potential victims.

The Bill was passed by the House of Representatives on 16 November 1994. It was introduced to the Senate on 28 November 1994 and referred to the Senate Legal and Constitutional Legislation Committee for report by 7 March 1995. In the Committee's report, the majority recommended that the Bill be enacted as introduced.

The Bill as introduced to the Parliament sought to amend the Crimes Act (1914) to provide for three criminal offences. However, the criminal offence

provisions were deleted by the Senate during the Committee stages of debate on 24 August 1995.

The remaining provisions of the Bill were passed without amendment by the Senate. They created a civil prohibition against racial hatred by inserting new sections 18B to 18E into the Racial Discrimination Act (1975) to make it unlawful for a person to do an act, otherwise than in private, if:

- the act is reasonably likely in all the circumstances to offend, insult, humiliate or intimidate another person or group of people; and

the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.

- On 31 August 1995 , Australia agreed to accept the Senate's amendments so that Australians gained the benefit of the remaining provisions of the Bill. Importantly this provides an avenue of complaint to the Human Rights and Equal Opportunity Commission.

The Racial Hatred Act (No 101 of 1995)

. Came into effect on 13 October 1995.

Convention on the Prevention and Punishment of the Crime of Genocide

Australia has not as yet accepted the assumption that specific legislation is necessary in order to fulfil Australia's obligations under the Convention. The approach until now has been that common law and criminal code of States and Territories provide adequate punishment for acts prohibited by the Convention on the Prevention and Punishment of the Crime of Genocide.

This approach accords with the practice of most other State parties to the Genocide Convention, and has not put us in breach of our obligations under the Convention.

Convention on the Rights of the Child

It has been suggested that Australia should introduce legislation which incorporates the Convention on the Rights of the Child (CROC) into domestic law.

In Australia, the CROC is implemented through a range of law and practice at both the Commonwealth and State and Territory level. A thorough review was undertaken of Australian law and practice before Australia ratified the Convention to ensure that they conformed with the Convention.

In addition, the CROC has been declared to be an international instrument relating to human rights and freedoms for the purposes of the Human Rights and Equal Opportunity Commission Act 1986. The effect of the declaration is to extend the statutory functions of the Human Rights and Equal

Opportunity Commission to issues relating to children. This means that a person can lodge a complaint with HREOC if they consider that there has been a breach of the CROC. HREOC can also enquire into whether Commonwealth acts or practices are inconsistent with the Convention. It can also report to the Attorney General on action that should be taken by the Commonwealth on matters relating to human rights.

Convention on the Protection of the Rights of All Migrant Workers and Their Families

Australia has not ratified the Convention on the Rights of All Migrant Workers and Their Families. The matter has been examined closely by the Departments of Immigration and Ethnic Affairs, Social Security, Human Services and Health and Employment, Education and Training which all raised a number of substantive objections to ratification. An Inter-Departmental Committee is still examining the issue.

ILO C.97 Migration for Employment, 1949

The Commonwealth complies with the Convention. Consultations have taken place with the State and Territory governments with a view to establishing their compliance with its provisions.

New South Wales agreed to ratification on 13 November 1994. The Northern Territory agreed to ratification on 2 June 1995 and the Australian Capital Territory agreed to ratification on 9 November 1995.

ILO C.141 Rural Workers' Organisations, 1975

The Commonwealth complies with this Convention. New South Wales agreed to ratification on 8 November 1994 and Queensland on 23 November 1995. Victoria, Western Australia and South Australia are reviewing their law and practice in lights of their new industrial relations legislation, but do not anticipate any difficulties establishing compliance.

ILO C.143 Migrant Workers (Supplementary Provisions), 1975

No further progress has been made towards ratification.

ILO 151 Labour relations (Public Service), 1978

New South Wales has concerns that its legislation does not comply with this Convention. Discussions have taken place between New South Wales and the federal Department of Industrial Relations to address these concerns.

ILO C.154 Collective Bargaining, 1981

Discussions have taken place between the federal Department of Industrial Relations and the States to resolve concerns about compliance.

(b) Indicate Australia's intention to accede to complaints mechanisms provided for in human rights instruments

Communications under CERD, CAT and ICCPR

- As of February 1996 the Australia had been officially notified by the United Nations of eleven communications under the Optional Protocol. Australia had also been notified of two communications under the CERD. No communications have been received under the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT).
- In 1993 the Attorney-General's Department produced a pamphlet on individual complaints mechanisms which focused on the procedure under the first Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). In 1995 the Section continued to distribute the pamphlet on request to individuals and at conferences and meetings together with copies of the United Nations fact sheet. The Departmental pamphlet contains a copy of the model communication, the UN Fact Sheet includes a copy of the Covenant and the Committee's Rules of Procedure.. To increase the knowledge of the new complaints procedures amongst indigenous peoples the Attorney-General's Department contributed $5, 000 and participated in a conference on international human rights law and indigenous peoples held in Sydney in June 1995. The conference was organised by a coalition of aboriginal organisations and the University of New South Wales. The majority of participants were indigenous people.

In order to assist individuals who wish to lodge a communication with the UN Committees, the Department provided financial assistance to the Optional Protocol Network to fund administrative support and the production of a regular newsletter to provide information on the Optional Protocol procedure and recent developments in case law. The Optional protocol Network is a network of legal practitioners and international law experts to provide advice and assistance to individuals free of charge.

(c) Indicate human rights treaty reservations Australia intends to remove

- Australia submitted its instrument of ratification CEDAW to the UN on 28 July 1983 and the Convention entered into force for Australia on 27 August 1983. Australia's instrument of ratification contained two reservations: the first related to the introduction of maternity leave with pay or with comparable social benefits; the second related to the employment of women in combat and combat related duties in the Australian defence force.

Maternity Leave

Australia's reservation regarding maternity leave relates to Article 11(2), which has two components: a) leave must be provided; and b) leave must attract pay or a comparable social benefit.

ILO C.103 Maternity Protection (Revised), 1952

ILO C.103 provides for cash and medical benefits while on maternity leave, and states that the employer shall not be liable for the cost of such benefits.

Currently, the principal legislation underpinning Australia's federal industrial relations system is the Industrial Relations Act 1988 (the Act). One of the objects of the Act is to help prevent and eliminate discrimination on the basis of, inter alia, sex, marital status, pregnancy and family responsibilities.

Further, the Act provides a minimum entitlement to unpaid parental leave for up to 52 weeks (on a shared basis) to care for a newborn child (regulations make similar provisions for adoptions.) All workers (irrespective of federal, State or non award coverage) who have worked for their employer continuously for 12 months or more are entitled to parental leave.

An employee who takes parental leave is, in most circumstances, entitled to return to the position he or she held before the leave was taken.

Further in the spirit of *ILO C.103,* a means-tested Maternity Allowance, paid through the social security system, became available from 1 February 1996. The payment equivalent to six weeks of Parenting Allowance can be paid to eligible women regardless of whether they are in the workforce immediately prior to the birth of their baby.

While the federal Industrial Relations Act (1988) and the introduction of the Maternity Allowance bring Australia closer to compliance with the Convention, other impediments still exist which prevent Australia from ratifying including:

the Act requires a 12 month period of continuous service with the same employer before a woman becomes eligible for maternity leave, whereas the Convention does not make allowance for qualifying periods;

Australia has no provision for paid 'nursing breaks'.

Australian Defence Forces

• Australia has a reservation to CEDAW and Article III of the Convention on the Political Rights of Women (CPRW) in relation to service in the armed forces. In domestic legislation, the Sex Discrimination Act (1984) has had, until recently, an exemption for women serving in combat and combat-related duties. In 1990 this was changed to exempt women only from those defined as "combat duties", that is for example, Infantry, Armour, Artillery and Engineers in the Army. Further changes took place in 1992 and as a result 99°/0 of positions in the Navy and Airforce and 87% of positions in the Army are now open to women.

(d) Pledge Australia to submit overdue reports to treaty bodies or pay outstanding contributions

Under the ILO Constitution, countries must provide reports to the ILO in respect of both unratified (Article 19) and ratified (Article 22) Conventions.

- Of the reports required under the six core international human rights treaties, three of the reports (those under the ICCPR, the CAT and the CROC) are prepared by the Attorney-General's Department. The Report under the CEDAW have been prepared by the Office of the Status of Women. The Department of Foreign Affairs and Trade is responsible for the reports under the Convention on the CERD and the ICESCR.

CROC report

- Australia's report under the CROC was tabled in the Australian Parliament on 21 December 1995 and despatched to the United Nations Committee on the Rights of the Child on the same day. This report is the first report by Australia under the convention, which came into force for Australia on 16 January 1991.

- The report was sent to interested groups and individuals concerned with the protection of children as well as libraries across Australia. Copies of the report are available from the International Human Rights Section of the Attorney-General's Department and will soon be made available on the Internet at the Attorney-General's homepage :
  http: / /www.agps.gov.au / client /agd

- The Australian section of Defence of Children International, an international organisation having consultative status with the UN in the area of children's rights, has been given financial assistance to coordinate a non-government report.

ICCPR & CAT reports

Australia's third report under the International Covenant on Civil and Political Rights (ICCPR) is near completion. A final draft of the report has was completed by the Attorney-General's Department in 1995 and is being circulated to relevant Departments and community groups for comment prior to submission to the Human Rights Committee later this year. Similarly, Australia's second report under the CAT will be prepared for submission during 1996.

ICESCR report

The report under ICESCR was due in June 1994. In 1995 the Department of Foreign Affairs and Trade allocated additional temporary staff resources to work on the report and the process of compiling and editing contributions

from relevant agencies is underway. It is envisaged that the report will be submitted to the Committee on Economic, Social and Cultural Rights in June 1996.

CERD report

Australia is due to submit a combined 10th and 11th report on the International Convention on the Elimination of All Forms of Racial Discrimination in October 1996. The report will update issues of concern raised in the 9th report which was considered in 1994

Australia's reporting processes

Internationally, Australia continues to play an active role in promoting greater effectiveness of the UN treaty body system including support for recommendations contained in the interim report of the Independent Expert Professor Philip Alston. In 1995, Australia co-sponsored resolutions on this matter at both the UN Commission on Human Rights and the UN General Assembly and undertook consultations amongst Asia-Pacific members of CHR in support of a more effective UN treaty body system and universal ratification of UN human rights instruments. Although Australia has maintained a good record in its reporting obligations by providing reports on time, and which are as full as possible, there have been gaps in the reports because of the failure of some constituent jurisdictions to provide contributions in time or at all.

(e) Develop targets for Australia in the area of economic, social and cultural rights and indicate progress towards their achievement, for example:

(i) the right to work

Throughout 1995, Australia protected the right to work in accordance with Article 6 of the International Covenant on Economic, Social and Cultural Rights through a National Training Reform Agenda, the Accord Agreement (1993-1996) and the Social Justice Strategy.

(ii) the right to just and favourable conditions of work and to form and join trade unions

Following amendments in 1993, the Industrial Relations Act (1988) now provides for -

equal remuneration for men and women workers for work of equal value, based on *ILO Convention No. 100*, Equal Remuneration, (1951) and the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);

a system of minimum wages, based on *ILO Convention No. 131*, Minimum Wage Fixing, (1970);

parental leave for men and women workers with newly born or adopted children, based on ILO Convention No. 156, Workers with Family Responsibilities, (1981); and

prohibition of and remedies for unfair dismissal, based on *ILO Convention No. 158, Termination of Employment*, (1982).

The legislation provides for the right to strike, in appropriate circumstances, while an agreement is under negotiation.

Further changes to the Industrial Relations Act (1988) came into effect on 15 January 1996. Under the amendments, all unfair dismissal claims will start in the Australian Industrial Relations Commission, rather than the Industrial Relations Court of Australia.

The Commission will conciliate to help the parties reach a settlement. It will also be able to arbitrate to settle a claim, if both parties agree that it should do so.

A claim will only be referred to the Industrial Relations Court of Australia if conciliation is unsuccessful, and the parties do not agree to arbitration. It is expected that the majority of claims will not need to be referred to the Court.

- The Court must decline to hear a claim where the employee is protected by State laws which genuinely satisfy Australia's international obligations under *ILO Convention No.158.*

(iii) protecting the right to social security

- All payments and services made or provided by the Department of Social Security (DSS) are non-discriminatory in the broad sense, with entitlement based upon income, assets and residence tests.
- The following information summarises the more important changes which have taken place to DSS programs and services since the last update.

General Comments.

It is recognised that poverty is a relative concept, whereby individuals on low incomes may not have access to the same goods and services, nor ability to participate in the same range of activities, as individuals with higher incomes. Because poverty is a complex concept, and non-cash factors such as access to government services and family support are also important in determining living standards, Department of Social Security (DSS) has not endorsed any specific measure of poverty.

However, the Department is undertaking several major research projects designed to explore issues such as the most appropriate ways of assessing the living standards of low income groups and the adequacy or otherwise of social security payments. Examples of such research include:

The Adequacy Project which involves research into approaches to measuring the adequacy of the Department of Social Security (DSS) payments. The project encompasses developing, testing and piloting a survey instrument to assess the incidence of deprivation among DSS clients and to explore the relationship between levels of relative deprivation and other factors, for example DSS payment rates, duration of dependence, education and location. This research also includes developing comprehensive and contemporary Budget Standards for Australia.

The Community Research Project, which is examining the potential of new and innovative community based services to enhance the living standards of people on low incomes. The key research elements of this project include:

a Community Information Network (CIN), which will test the effectiveness of a computer based information and communication system in improving particular aspects of the living standards of people on low incomes. A primary aim of the network is to ensure free public access to information technology (IT) and communication and to develop IT utilisation skills amongst people on low incomes; and

a Community Research Project (CRP), designed to test the ability of local, community based activities and services to improve the living standards of people on low incomes. The primary focus of the research is on the provision of services and products by and/or for low income earners, thus emphasising the self-help, community based and self-sustaining nature of

the services. CRP is being implemented in eight designated locations around Australia.

• The Customisation Payments Project, which is examining the methods of better meeting DSS customer needs by providing greater flexibility in the way payments are made. It explores the possible approaches to providing variable payment arrangements and analyses the delivery mechanisms.

The Payment Structure Review, which aims to simplify basic payment structures and develop a system that enables income support to be tailored to meet customer needs. This involves analysing the existing payment structure, examining possible reforms which would simplify the system of income support for people of workforce age, increasing equity and making the income support system more flexible in meeting individual needs.

Action in 1995 to Redress Inequities in Australian Society

Parenting Allowance

Parenting Allowance was introduced from 1 July 1995. The allowance is available to partners of income support recipients, partners of low income earners and partners with low personal income, where there are dependent children aged under 16 years. The maximum rate of payment is $280.20 a fortnight.

The measure is designed to improve full- time work incentives for unemployed couples with children and to provide low income partnered people with children a choice about the level of their workforce participation. It ensures that low-income couples with children continue to be better off financially with one member in full-time work than are those couples in which both parties are in receipt of income support.

Maternity Allowance (MA)

Maternity Allowance was announced in the 1995-96 Budget and became available from 1 February 1996 for babies born on or after that date.

It is intended to assist families with the costs incurred at the time of the birth of a new baby, (including forgone income from the mother not being able to participate in the paid workforce around the time of the birth).

MA is payable as a non-taxable lump sum to families who meet the residence and means tests for Family Payment. It also is payable in respect of infant adoptions, each child in a multiple birth and when a baby is stillborn or dies shortly after birth.

Assistance to the Aged

- A major emphasis in 1995 was placed on the provision of a broader range of client services to inform people more comprehensively of the range of options open to them in retirement and reduce confusion about social security arrangements. These measures included:

  - greater help to clients through Teleservice Centres and easier access to the Financial Information Service (FIS) through the allocation of an additional 73 FIS officers, with a particular emphasis on providing more retirement planning information to the rural community;

  - simplified re-grant procedures for people reapplying within 3 months after their entitlements or Commonwealth Seniors' Health Card were cancelled or rejected because of income or assets;

  - improved advice and introduced automatic assessment of interest from bank, building society and credit union accounts; and

  - a new information product for those entering, or considering entering, a nursing home, hostel or other accommodation. This booklet has been distributed through key Government and community organisations;

- Assistance for Youth

  - Many young people have been helped to move towards independence by DSS Youth Service Units which have been established in areas with concentrations of unemployed and homeless youth.

- Assistance for Homeless People

  Both young and older homeless people, people with psychiatric disabilities and women escaping domestic violence may be less likely to access the support that the Department provides or to maintain continuity of payments than most groups of potential customers. The 1994-95 Budget established 33 Community Service Officer positions across Australia to service homeless customers in familiar environments such as hostels, refuges and drop-in centres and to provide services to community organisations.

- Assistance for the Unemployed

  The Department's package of assistance for the unemployed, announced as part of Australia's White Paper on Employment Growth, *Working*

Nation, has been in place since July 1995. The DSS initiatives were designed to address problems in the unemployment payment system as a result of current and emerging labour market trends and social changes.

The major income support initiatives introduced under *Working Nation* included:

A simpler and fairer income test designed to ensure that unemployed people will always be financially better off by increasing their hours of work. It recognises the importance of the potential contribution of part-time and casual work to people's employment prospects. Under the new arrangements unemployed people are able to earn $30 per week before losing any income support (the $30 free area). They will lose 50 cents in the dollar of extra income between $30 and $70 per week, then 70 cents for each dollar after that. People will continue to be allowed to build up unused free areas under the earnings credit initiative introduced in March 1995.

- The new income testing arrangements also encourage customers to maximise their income potential, replacing a system in which people lost a dollar of allowance for every dollar of extra income that they earned over a relatively modest range.

- New income test arrangements applying to couples encourage both partners to take advantage of part-time and casual employment opportunities. It is a recognition that past assumptions that only one member of a couple will be looking for work while the other member remains economically dependent are no longer consistent with the economic and social realities of the 1990s.

- The replacement of the joint income test with the Partner income test means that each member of an unemployed couple will be able to earn $30 before their income is affected losing only 50 cents of each dollar of additional income between $30 and $70 per week and 70 cents for each dollar over that amount.

- (Previously the income test was applied to the unemployed couple jointly). Income received by one partner only starts to affect the other partner's allowance when the working partner loses all entitlement to unemployment payment. The non-working partner's allowance then will be reduced by 70 cent for each additional dollar of income earned.

- This reform package has provided a highly targeted income supplement for low-wage workers, as one partner can be engaged in low-paid full-time or part-time employment while the other partner may retain eligibility for an income support payment. It

ensures that low income families gain additional income support, so the family's total income will be increased.

Partner Allowance and Wifes' Pension are dependency-based payments that gradually are being phased out. The new measures (above) mean that most people will be able establish a personal entitlement to income support rather then relying on a partner's eligibility. The change to an individualised payment system means that a female member of a couple, in particular, need no longer rely on decisions by her spouse as to how income support payments are used.

• These measures eliminate arrangements which effectively 'hid' female unemployment and will alleviate long term poverty among women by providing them with incentives to participate in the labour force. They also may provide women with improved and more equitable access to labour market program participation. Older women with no recent workforce experience will continue to be eligible for these non-activity tested payments. Those spouses with dependent children will be eligible to apply for the non-activity tested Parenting Allowance.

Assistance for the Disabled

The 1995-96 Budget announced several measures designed to enhance the Disability Reform Package vocational training scheme, and thus disabled persons' access to job opportunities.

The Budget also provided for an increase in the number of specialist DSS staff dedicated to providing case management services for people with disabilities.

Significant information and publicity products are made available in the languages of those most represented by the particular program. In June 1995, 17 of the Department's products were made available in a translated form. The number of community language versions of the Department's publication, Age Pension News, was increased from 12 to 15 languages.

(iv) the right to health

Developments in current policy

As identified in the National Action Plan, Australia has currently developed strategies to implement national health goals and targets in four health areas: cardiovascular disease, cancers, injury and mental health. The goals and targets identify particular population groups such as :

- Aboriginal and Torres Strait Islander peoples; [See also f(i)]

  migrants;

  rural communities; [See also f(x)] and

- the aged [See also f(viii)]

Australia has committed $482 million over four years from 1995 to improve specific indigenous health care services as part of the implementation of the second stage of the National Aboriginal Health Strategy. This complements other major initiatives aimed at improving the access of Aboriginal and Torres Strait Islander people to mainstream health services.

Minimum Pricing Policy

Under this policy, Australia subsidises pharmaceuticals to the level of the lowest priced brand. Suppliers of other brands are able to charge higher prices with the additional cost, or brand premium, being payable by the patient.

In order to allow patients to participate in decisions about which brands of medicine they take (especially where lower priced brands were available), Australia, on 1 December 1994, introduced a policy of brand substitution. Under this policy, pharmacists are able to substitute bio-equivalent brands except where vetoed by the prescriber. This policy has further encouraged the development of the generic industry in Australia and provided greater patient choice.

Cost-effectiveness evaluations

Since 1 January 1993, it has been a requirement for sponsors of pharmaceuticals to lodge cost effectiveness submissions with applications to list new drugs on the Pharmaceutical Benefits Scheme. This enables the Pharmaceutical Benefits Advisory Committee (Australia's independent expert advisory committee on subsidisation of pharmaceuticals) and Australia to assess value for money for products for which listing is sought.

Controls over retail pharmacy

A new agreement signed with community pharmacies in April 1995 covering the period to June 2000 continues the spirit of co-operation established during the first Agreement. The Agreement covers major areas including pharmacy restructuring, which is about providing a more efficient structure for the distribution of pharmaceuticals within a framework of community pharmacies, remuneration and new services proved by pharmacy.

The Agreement deals with the establishment of new pharmacies, relocations of existing approved pharmacists, recommendations on the payment of an isolated and remote pharmacy allowance to assist pharmacies in rural and remote areas, and payment of supplementary allowances for specific additional professional services by pharmacists.

Extension of concessions to superannuants

The Commonwealth Seniors Health Card (CSHC) gives non-pensioners of Age Pension or Service Pension age access to major health concessions provided by the Commonwealth Government.

Non-pensioner retirees are eligible for a CSHC. From 1 July 1994, retirees of Age Pension or Service Pension age who do not receive a Social Security or Veterans' Affairs pension but whose income is below the pension cut-off point, qualify for a range of free and concessional services including access to pharmaceuticals, hearing aids and dental care.

All concessional cardholders including those with a CSHC need pay only $2.70 (indexed) per Pharmaceutical Benefits Scheme (PBS) or Repatriation Pharmaceutical Benefits Scheme (RPBS) prescription item.

Cardholders are entitled to receive free approved prescription medicines for the rest of the calendar year once the safety net expenditure threshold of $140.40 (indexed) has been reached.

General Practice Reform Strategy

In the 1992/93 federal budget around $68m was allocated to the General Practice Reform Strategy. The budget for the strategy has now risen to $240m, in 1995-96, and the Strategy has led to some fundamental changes in the ways in which general practice is organised and financed.

The Strategy has a number of components, such as:

support for the formation of local groupings of GPs (called divisions of general practice), through which the GPs have become more involved in the local needs of the community. There are now around 120 divisions which cover the vast majority of Australia;

a program of incentives to encourage the recruitment and retention of GPs to work in rural and remote areas;

the introduction of a program which provides additional payments to those practices which can demonstrate that they have a strong patient focus. Payment levels are based on the extent to which each practice provides care for their regular group of patients. This means that it is in the interests of the practice to provide the best possible care for their patients so that patients attend that practice for the majority of their care rather than go to another practice. In this way the program provides disincentives for fast throughput;

the development of national standards for the accreditation of general practices;

support for appropriate training for GPs; and

an evaluation program.

Health of Indigenous Peoples.

Since the transfer of the Health and Substance Abuse program to the Department of Human Services and Health on 1 July 1995, ATSIC has been focusing on developing bilateral agreements with State/Territory governments in partnership with the former Department of Human Services and Health (DHSH). This emphasises the advocacy and monitoring role in health, which ATSIC assumed on the transfer of program responsibility.

An evaluation of the first five years of the National Aboriginal Health Strategy (NAHS) commenced in June 1994 and a report was given to the Minister in December 1994. Findings of the evaluation were that NAHS was never effectively implemented, it was grossly underfunded in rural and remote areas by all governments, that local community involvement and participation is critical to improving the quality of life, and health providers need to focus on outcomes and health gains rather than process of health care organisations and financing.

In 1994/95 Australia committed an additional $499 million over 5 years to address Aboriginal Health issues. $162 m of these additional funds are for the provision of health services and are to be allocated on the advice of the Ministers for Aboriginal and Torres Strait Islander Affairs and Human Services and Health. High priority has been give to public health infrastructure such as sanitation, housing and public utilities, as well as support for community health services.

While the health indices of Aboriginal and Torres Strait Islander people remain significantly lower than those for non-indigenous Australians, including a life expectancy 15-20 years lower, some available data indicate that the provision of better health care has contributed to significant

improvements in some areas over the past two to three decades (e.g., an overall decline in Aboriginal infant mortality rates). The factors that have contributed to the poor health status of Aboriginal and Torres Strait Islander people include socio-economic and cultural disadvantages, as well as inadequate provision of environmental health and infrastructure needs.

(e) Develop targets for Australia in the area of economic, social and cultural rights and indicate progress towards their achievement, for example:

(v) the right to education

Features of Current Policy.

- In 1995, development of the *Education Your Choice* Information Resource Package commenced. This package includes a video, booklets and posters which provide information regarding choices available to parents and students in remote areas. The initiative aims to outline the options of staying at home or going away to school to continue education and the implications involved with each option.

  The package was developed by the Queensland Department of Education through Open Access Support Centre and involved input from Aboriginal Education Consultative Groups (AEGGs) in Queensland, South Australia and the Northern Territory as well as education providers in those areas.

- Efforts were devoted to supporting the National Aboriginal and Torres Straight Islander Education Policy, implementing special initiatives for the advancement of Aboriginal and Torres Straight Islander languages and literacy; responding to the recommendations of the Royal Commission into Aboriginal Deaths in Custody and implementing the National Reconciliation and Schooling Strategy.

- The Higher Education Equity Program (HEEP) provides annual funding of

  over $5 million on the basis of institutions' equity plans.

  Particular emphasis has been given to progress in integrating equity into institutions' overall planning processes and to their achievements in terms of access, participation, and educational outcomes in addition to success and retention for the priority equity groups.

- The objective of the HEEP is to encourage Universities to develop appropriate strategies to improve the access and participation of students from groups under-represented in higher education. As a basis for action, the six identified equity groups were largely the same as the disadvantaged groups identified in the social justice agenda;

  Aboriginal and Torres Strait Islander people;

  women in non-traditional roles;

  people from non-English speaking backgrounds (NESB)

  people with disabilities;

  rural and isolated students; and

people from socio-economically disadvantaged backgrounds.

(vi) the right to a cultural life

Creative Nation

In 1994, Australia launched the first national cultural policy known as *Creative Nation.* The policy recognised that cultural life is central to the development of Australian society and to the enrichment of the Australian people. Its main elements were:

nurturing creativity and excellence,

enabling all Australians to enjoy the widest possible range of cultural experience,

preserving Australia's heritage.

promoting the expression of Australia's cultural identity including its great diversity, and

developing a lively and sustainable cultural industry, including those evolving with the emergence of new technologies.

Creative Nation also sought to support indigenous culture to provide new opportunities for the participation of indigenous Australians and greater awareness and appreciation by other Australians.

Through this policy, Australia reinforced the importance of culture as a central feature of life in Australia, and of fundamental importance to our future. Key challenges identified include:

the continued support of a diverse range of cultural activities, especially in regional and remote areas;

helping to achieve an environment in which the cultural industries can achieve sustainable markets both in Australia and overseas; and

encouraging the reflection of cultural values in government decision-making, in all areas and at all levels.

By taking account of the need for reconciliation between the indigenous and non-indigenous people of Australia, the policy has helped to lay the foundations for new partnerships between all sections of the community.

Protection and Return of cultural and intellectual property

Following the circulation in early 1995 of the issues paper, *Stopping the Rip-Offs*, published by the Attorney General's Department in consultation with ATSIC and the Australian Cultural Development Office, which brought to attention the limitations of the current legislation to protect intellectual property, a number of Federal Government agencies including the Attorney-General's Department and ATSIC have consulted with Aboriginal communities and

organisations to seek their views on what they believe should be incorporated into appropriate legislation to address the problem.

(vii) the right to an adequate standard of living with particular reference to housing

No Submission was forthcoming from the Department of Housing and Regional Development at the time of publication.

(f) Indicate legislation or administrative acts Australia has imposed or adopted which would advance human rights observance, for example by:

(i) protecting the rights of indigenous peoples

The Decade of the World' s Indigenous People

ATSIC has coordinated activities for the Decade on behalf of Australia and in 1995, established a National Advisory Committee composed of representatives of major national indigenous organisations.

ATSIC has also coordinatied an Inter-Departmental Committee made up of representatives of Australian Government agencies to assist with the planning of activities for the Decade.

Torres Strait Regional Authority

The Torres Strait Regional Authority (TSRA) was established on 1 July 1994 as a result of amendments to the Aboriginal and Torres Strait Islander Commission Act (1989) and operates within the framework of the ATSIC Act.

The aim of the TSRA was to give Torres Strait Islanders a greater say in how programs and services are delivered in the Torres Strait.

The TSRA's responsibilities include:

Deciding the funding level and type of programs in the Torres Strait area; Helping draw up and implement plans for improving the area;

Representing local people and advocating their interests;

Electing a Commissioner to the Aboriginal and Torres Strait Island Commission to represent the Torres Strait area; and

Producing an Annual Report on its activities.

The Draft Declaration on the Rights of Indigenous Peoples

. The Draft Declaration was finalised at the 11th session of WGIP. In its resolution 1995/32, the Commission on Human Rights established a working group to elaborate a draft declaration on the rights of indigenous peoples. The first session of this working group was held in November 1995, and was attended by representatives of ATSIC.

Royal Commission into Aboriginal Deaths in Custody (RCIADIC):

. State and Territory Governments and certain non-government organisations, as well as the Commonwealth, had a responsibility for implementing

relevant RCIADIC recommendations. Annual implementation reports have been prepared by each government.

ATSIC analyses each State or Territory report for compliance with commitments given and has taken steps at Ministerial and Commission levels to ensure that the implementation of recommendations is reviewed and discussed in the relevant Commonwealth-State/Territory forums of Ministers and officials.

The Commonwealth's 1993/94 annual implementation report, Three Years On, was tabled in Parliament in June 1995. All States/Territories have now prepared their own implementation reports.

Recommendation number 2 of the RCIADIC report called for the establishment of Aboriginal Justice Advisory Committees (AJACs) in each State and Territory to provide advice on Aboriginal perceptions of criminal justice matters. All States and Territories, except Tasmania, have established an AJAC or its equivalent. A function of the AJACs is to provide a focus at the State level for developing a network of monitoring activities which involve community members.

The Aboriginal and Torres Strait Islander Social Justice Commissioner and ATSIC have convened two national meetings of the Aboriginal Justice Advisory Committees (set up under the RCIADIC). This has provided the opportunity for Aboriginal representatives to raise with responsible State and Territory Ministers issues of concern, particular in relation to recommendations concerned with the criminal justice system and deaths in custody. Funding for such meetings has been provided by the Aboriginal and Torres Strait Islander Social Justice Commissioner and ATSIC.

Since 1992/93 ATSIC has provided significant funding to the States and Territories to help meet the costs of ensuring the involvement of indigenous community representatives in monitoring activities.

> $541,000 was allocated to State and Territory Governments in 1994/95 to maintain indigenous involvement in the monitoring processes.
>
> $500,000 was allocated to Regional Councils in 1994/95 aimed at ensuring that the Councils could determined their own priorities in relation to local and regional monitoring activities.
>
> $299,000 has been allocated for three research projects which were commissioned to enhance the monitoring aspect of the implementation process and to assess whether appropriate outcomes are being achieved.

ATSIC has also provided additional funds to indigenous peoples' organisations, some of whom have given particular attention to monitoring the implementation of recommendations (e.g., the Aboriginal Legal Service of Western Australia produced a report titled Striving for Justice, which

examined the State Government's report on implementation of RCIADIC recommendations).

Accurate representation of the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody is encouraged. It cannot be said that the Commonwealth has worked effectively with the States and Territories to implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

While the Aboriginal and Torres Strait Islander Social Justice Commissioner has provided some monitoring of the implementation of the recommendations, the resources of his Office have significantly confined the areas which he is able to effectively monitor.

Obligations to Indigenous Policy.

The Race Discrimination Commissioner released the Alcohol Report in 1995 which detailed mechanisms by which Indigenous communities could control the distribution of alcohol within their environment. Utilising the "special measures" provisions of the RDA the Report provided legally workable options that potentially enhance Aboriginal rights.

The Race Discrimination Commissioner, in conjunction with the Aboriginal and Torres Strait Islander Social Justice Commissioner, launched the Mornington Island Review Report in 1995. This report noted that the rate of improvement since the 1993 Report was far too slow and that much remained to be done, particularly in the area of negotiation between State Government and the community.

In May 1995 the Race Discrimination Commissioner commenced an examination of policies and legislation relating to the Community Development Employment Program (CDEP) to determine whether participants in this Indigenous employment program faced "adverse discriminatory consequences that are contrary to the human rights of participants in the CDEP".

(ii) protecting the rights of women

CEDAW was ratified by Australia in 1983. Australia's second report on implementation of CEDAW was submitted in June 1992 and an update in November 1993. In January 1994, Australia presented these reports to the CEDAW Committee as well as further responses to issues and questions.

The Commonwealth, in conjunction with the States and Territories has taken significant steps to implement legislation, policy and programs to protect and advance the status of women. These include:

- The Sex Discrimination Act 1984, which implements CEDAW.
- The Affirmative Action (Equal Employment Opportunity for Women) Act 1986 which requires employers to eliminate discrimination on the grounds of sex, marital status and pregnancy.

Amendments have been made to these Acts and others to further advance the status of women. These include:

The Sex Discrimination Act (1984) was amended in 1992 to cover new Federal awards relating to conditions of employment. A new definition of "sexual harassment" was inserted, so that a complainant will no longer have to establish disadvantage. Representative complaint provisions in the Act have been streamlined to allow an individual to initiate proceedings on behalf of a group of seven or more. Another amendment has allowed for complaints of victimisation under the Act to be conciliated by the Human Rights and Equal Opportunity Commission (HREOC). The amendment further strengthened the SDA by including a specific reference to "potential pregnancy" as ground for complaint of unlawful discrimination, clarifying and amending the test for indirect discrimination, amending the "special measures" provision of the SDA so that it encompasses not just measures to achieve equality of opportunity, but also measures to attain substantive equality. Additionally, if an action is a "special measure" it is not discriminatory (this is consistent with CEDAW Article 4) and strengthening the test for direct discrimination on the ground of pregnancy.

The Sex Discrimination Amendment Bill (1995) was passed by both Houses of Parliament and received Royal Assent on 16 December 1995. The amendments implement a number of recommendations of the Half Way to Equal report handed down in 1992 by the House of Representatives Legal and Constitutional Affairs Committee and of the Equality Before the Law: Justice for Women report of the Australian Law Reform Commission released in July 1994.

The amendments are:

- the insertion of a Preamble in the SDA incorporating both a recognition of the need to prohibit discrimination on the grounds of sex, marital status, pregnancy and potential pregnancy in the areas covered by the Act and an affirmation that all individuals are equal before and under the law, and have the right to equal protection and equal benefit of the law without discrimination on the grounds of sex, marital status, pregnancy and potential pregnancy;

- the insertion of potential pregnancy as a prohibited ground of direct and indirect discrimination under the SDA;

- the removal of the reasonableness defence from direct pregnancy discrimination so that it is no longer necessary for a complainant to prove that less favourable treatment on the ground of pregnancy was also unreasonable in the circumstances in order for the treatment to be discriminatory under the SDA;

- a simplified test for indirect discrimination which requires complainants to prove that an existing or potential requirement, condition or practice results in disadvantage to persons of one sex, of a particular marital status, or to persons who are pregnant or potentially pregnant and provides that respondents can prove the imposition or proposed imposition of that requirement, condition or practice was not discriminatory because it was reasonable in the circumstances;

- limiting the defence force exemption which allowed discrimination against women in connection with combat-related duties, to apply only to direct combat units;

- an amendment to the special measures provision to make clear that the purpose of those measures is to achieve equality by redressing historical and persisting disadvantage and not to permit discrimination.

The Human Rights and Equal Opportunity Legislation Amendment Act (No al 1992, amended the Sex Discrimination Act 1984 to prohibit an employee being dismissed on the grounds of family responsibilities consistent with Australia's commitment to *ILO Convention No 156.*

National Strategy on Violence Against Women

In relation to violence against women, as a priority, Australia works co-operatively with the State and Territory Governments to address the issue through legislation, policy and program delivery. The National Committee on Violence against Women released a National Strategy on Violence Against Women in 1992. The Strategy sets out Directions for Action relating to legislative reform, enforcement of existing laws, education and access to legal services.

The National Women's Justice Strategy

- The Justice Statement, announced in May 1995, provided funding to increase access to justice, national equity and equality before the law.

- The National Women's Justice Strategy is a core component of the Justice Statement. It includes:

  establishment of a network of women's legal services, (one in each State and Territory), special services for Aboriginal and Torres Strait Islander women, outreach services for country areas and toll free telephone access to each centre;

  a package of projects to address violence against women including a national pilot for children to be handed to a parent in an environment safe for them and their mothers, and research into alternative dispute resolution;

  increased legal aid funding for family law and civil matters;

  gender awareness training through the Family Court and Administrative Appeals Tribunal;

  .community education.

Australia also agreed to various other strategies to enhance the legal guarantees for women's human rights. These include:

considering reducing the number and scope of exemptions to the Sex Discrimination Act 1984 (SDA);

developing an education strategy to raise awareness of rights under the SDA for special needs groups such as indigenous women and women from non-English speaking backgrounds;

encouraging unions to act on behalf of their members;

assisting employers to improve the quality of affirmative action programs.

Some review of the exemptions under the SDA has occured in a number of contexts, including as a result of the recommendations of the ALRC under its equality before the law reference (referred to in detail below), and recommendations made in a 1992 report issued by HREOC.

Under its reference to examine women's equality before the law, the Australian law Reform Commission (ALRC) has recently produced three reports:

an interim report *Equality Before the Law- Women's Access to the Legal System* (March 1994) focused on difficulties women experience accessing the legal system, particularly to seek protection from

violence. This factor was identified by the ALRC as a major barrier to women's equality. The ALRC recommended establishment of a National Women's Justice Program.

Equality before the Law- Justice for Women released in July 1994. The Report builds on the recommendation to establish a national Women's Justice Program and makes recommendations for strengthening the Federal Sex Discrimination Act (1984), and addressing violence against women in the context of family law and immigration law. The May 1995 Commonwealth Government Justice Statement announced the establishment of a National Women's Justice Strategy- which responds to those ALRC recommendations dealing with access to justice. Additionally, some of the ALRC recommendations for strengthening the Commonwealth Sex Discrimination Act (1984) were addressed in amendments to the Act passed in December 1995.

Equality Before the Law- Women's Equality was released in January 1995. This report contains recommendations and discussion relating to gender bias in the law and the need for further protection of the right of equality before the law. The significant recommendations concern enactment of an "equality guarantee" to provide for equality before and under the law for women and men. It is envisaged by the ALRC that this legislative 'guarantee' would be contained initially in an Act of the Federal parliament, the ultimate aim being entrenchment in the Constitution of Australia.

During 1995, consultations occurred in relation to those recommendations of the ALRC not yet specifically addressed as indicated above.

Personal/carer's leave

The Australian Industrial Relations Commission handed down its decision in November 1995 in Stage Two of the Special Family Leave Test Case.

The decision allows employees to take up to five days paid leave to care for a member of their family or household who is ill. The leave is provided by allowing access to existing forms of leave including bereavement/compassionate leave, annual leave and sick leave. The AIRC also decided a range of measures to increase access to part time work and to ensure that part time work is provided on a fair basis including pro rata entitlements and access to training.

The *National Agenda for Women*

The National Agenda for Women, based on the Nairobi Forward Looking Strategies was released in 1988 as an agenda of Federal Government policy. After consultation

with the community and NG0s, Australia released Shaping and Sharing the Future: the New National Agenda for Women in February 1993. This document is the blueprint for government action and direction. The 1993 Agenda sets out challenges and proposed national action to advance the status of women.

(iii) protecting the rights of children

Australia lodged its National Program of Action (NPA), *Our Children, Our Future* with the United Nations in New York on 22 April 1994 after submitting an interim report in March 1992. The Program of Action commits Australia to meeting the goals of the World Declaration on the Survival, Protection and Development of Children by the year 2000.

The National Program of Action sets out ten challenges for Australia including:

- To implement and monitor the Convention of the Rights of the Child;

To pursue coordinated health policies and strategies which are responsive to the needs of all the children and young people of Australia;

To provide greater support for families and children, particularly where there is a disadvantage;

To ensure that Aboriginal and Torres Strait Islander children and their parents, particularly the mothers of young children, achieve significant improvements in their health, education and well being

To strengthen support for members of immigrant families, particularly women and children, to limit disadvantage resulting from settlement;

To enhance educational opportunities for children through programs which are more relevant and responsive to their needs;

To assist young Australians to enter the workforce by providing more responsive training and creating greater employment opportunities;

To target more of Australia's overseas aid efforts towards programs that will directly benefit women and children;

To develop accessible and consistent data on issues relating to children and institute monitoring strategies to maintain their relevance; and

To promote national coordination for development and implementation of policies and programs affecting children and young people.

The NPA submitted by Australia in 1994 was different to those submitted by other countries in 1992/93 as it contained the findings of extensive consultations conducted during the period. Australia has been commended for recognising and targeting areas of concern.

UNICEF has described Australia's NPA as a broad strategic plan, containing an overview of policies and services available to children and an outline of community views and appropriate approaches to address specific challenges.

National Prevention Strategy for Child Abuse and Neglect

Australia established the National Child Protection Council in 1991 to provide a national focus for the prevention of child abuse and neglect.

The National Prevention Strategy for Child Abuse and Neglect was formally announced in September 1993. It is a co-ordinated plan of action aimed at creating an environment which supports families and communities to meet their responsibilities to care for and protect children. The strategy was a joint Federal, State and Territory Government initiative.

The 1994-95 Federal Budget provided funding of over $12 million for the implementation of the Federal elements of the National Prevention Strategy, demonstrating Australia's commitment to securing better futures for Australia's children.

The National Prevention Strategy including a National Research Program, and community education initiatives. Linked to the National Research Program is the National Child Protection Clearing House, which is an interchange point for information, research and initiatives supporting work in preventing child abuse and neglect.

States and Territories have responsibility for specific and localised activities under the National Prevention Strategy, including direct services such as parenting programs, children's education programs, early intervention services and telephone help lines.

Female Genital Mutilation

In 1994 the Family Law Council released a report on Female Genital Mutilation in which it recommended the Australian Government undertake a two part strategy involving legislation and education to prevent the occurrence of female genital mutilation in this country. In its report, the Family Law Council noted Australia's obligations to work towards the prevention of female genital mutilation under several international declarations, conventions and protocols. These include the Convention on the Rights of the Child, the Universal Declaration of Human Rights, and the Declaration on Violence Against Women.

In the 1995-96 Federal Government Budget funding of just over $3 million was allocated for a National Education Program on Female Genital Mutilation to run over the next five years. The program aims to prevent the occurrence of female genital mutilation in Australia and to assist those women and girls living in Australia who have already been subjected to this harmful practice. States and Territories will implement culturally sensitive education programs and community based activities targeting affected communities and health and related workers who provide services to these

communities. National medical and psychosocial resources will also be developed.

Family Law Reform Progress

The Family Law reform Act (1995) was passed by Parliament on 21 November 1995. As was set out in the 1994 Update to the National Action Plan, one of the main features of the new Act is the resolution of disputes in relation to children and in particular that matters concerning children should be determined with the best interests of the child as the paramount consideration. The Act also replaces the concept of custody with 'parental responsibility'. Neither parent will have this responsibility to the exclusion of the other unless the court so orders.

(iv) protecting the rights of minorities

A law against offensive behaviour based on racial hatred was added to the Racial Discrimination Act on 13 October 1995 by the Racial Hatred Act (1995). HREOC has established a complaints handling mechanism to receive complaints under this ground.

On the occasion of the twentieth anniversary of the Racial Discrimination Act the Race Discrimination Commissioner has commenced a comprehensive review of the Act to create a more effective and accessible means of challenging racial discrimination in Australia. The areas which will be addressed by the review include systemic discrimination, collective rights, special measures, cultural appropriateness of the current legislative regime, effective remedies and enforcement, the conciliation framework and the means by which to enhance effective dispute resolution.

In 1995 the Race Discrimination Commissioner launched the annual State of the Nation: A Report on People of Non-English Speaking Backgrounds. The 1995 Report focused on the areas of employment, education and training, the criminal justice system, and health. The Report also followed-up on recommendations made by the National Inquiry into Racist Violence on policing and it also monitored developments on public housing and residential care for the elderly of non-English speaking background.

. A video entitled Accents are Everywhere, co-produced by the Public Service Commission and the Race Discrimination Unit, was launched in 1995 by the Race Discrimination Commissioner and the Commonwealth Public Service Commissioner. The video focused on attitudes towards accents and communication styles as a source of discrimination and was aimed at managers and supervisors within the public and private sectors.

(v) protecting the rights of people with a disability

The Commonwealth Disability Strategy was adopted in November 1995 and provides a plan of action to improve access by people with a disability to Federal government programs, services and facilities. It is fully compatible with the Standard Rules.

Australia signed the proclamation of the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region and has contributed to the Asian and Pacific Decade 1993-2002 by:

contributing funds to ESCAP for projects in the region;

providing around $A300,000 to enable the hosting of the 1994 World Congress of Disabled Peoples' International

providing funding assistance to enable the work of the Australian President of the World Blind Union.

Work has proceeded on standards that might be applied to public transport in the context of the Disability Discrimination Act (1992).

(vi) protecting the rights of people with HIV/ AIDS

In order to ensure a supportive legislative environment as part of Australia's response to the HIV pandemic, the work of the HIV/AIDS Implementation Working Group (established in September 1993) has continued. Its mandate is to oversee implementation of the recommendations of the Legal Working Party, Intergovernmental Committee in AIDS (November 1992) and also to monitor compliance and review the guidelines of the Privacy and HIV/AIDS Working Party (September 1992).

During 1995 the IVVG commissioned a consultant to write an Issues Paper reviewing the Life Insurance and Superannuation Codes of Practice which was released in November 1995.

A Status Report has been prepared by the IWG which assesses in detail what action has been taken on the Legal Working Party's recommendations. During late 1995 its content was checked and amended in consultation with State and Territory Attorneys- General and Health Departments.

The Privacy Guidelines are in the process of being reviewed by the IWG, following consultations with the Privacy Commissioner's Office and key privacy contact officers in Commonwealth agencies.

Professor Feachem's Evaluation of the Second National HIV/AIDS Strategy, Valuing the Past. Investing in the Future (September 1995), recognised the importance of a supporting the legal environment to the success of the National HIV/ AIDS Program. The Report made a number of recommendations relating to legal issues and discrimination, including reviewing the effectiveness of the IWG and possible establishment of a new national intersectoral body to consider continuing legal reform issues, funding of legal services and legal education specialising in HIV/ AIDS. It also recommended that ant-discrimination remain a priority are for education, and that the Human Rights and Equal Opportunity Commission and State/Territory anti-discrimination grievance bodies enhance their "fast-tracking" mechanisms for complainants with life-threatening illnesses.

(vii) protecting the rights of the mentally ill

Mental Illness Inquiry

The final report of the National Inquiry into the Human Rights of People with Mental Illness (the Report) conducted by HREOC was tabled in Parliament and publicly released on 20 October 1993.

Since its release, the findings and recommendations of the Report have received extensive community support, with the reaction from the mental health sector and the general public being extremely supportive. They were also well reported in the media. This increase in public awareness about mental illness has been parallelled at the practical level by significant responses to the Report from both government agencies and non-government organisations.

Initiatives from Commonwealth, State, Territory and local governments in response to the Report have included additional expenditure of almost $500 million. Funds allocated under these initiatives continue to be directed towards public awareness campaigns, service delivery, research, the development of standards and legislative change.

During this reporting period, New South Wales, South Australia and the Australian Capital Territory have all amended their mental health acts to bring their legislation closer in line with Australia's obligations under UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care. Mental health legislation has received attention or is under review in all other States and Territories. At the national level a model uniform law has been developed by the Australian Health Ministers Advisory Council National Working Group on Mental Health Policy.

Reconvened Mental Illness Inquiry

In December 1994 HREOC reconvened the Inquiry for public hearings in Victoria. In addition to the public hearings the Inquiry called for written submissions.

The reconvened hearings focused on the provision of services with particular attention to:

the circumstances in which medication is provided in private hotels, hostels, boarding houses or other non-specialist facilities where individuals affected by mental illness reside

the adequacy of services for especially vulnerable or disadvantaged groups (including individuals who are homeless, those with dual or multiple disabilities, the elderly, the young and those from non-English speaking backgrounds)

the participation of non-government agencies in policy formulation and program planning for people affected by mental illness, and

whether there had been any intimidation, coercion, detriment or disadvantage suffered by any individuals or organisations advocating on behalf of the mentally ill or criticising the adequacy of existing programs or services.

The report of the reconvened Inquiry was completed and tabled in Parliament in December 1995. The evidence for the Report was taken at a time when Victoria's mental health system had entered a period of radical reform. On a policy level, the Inquiry acknowledged that, in principle, Australia's reform agenda is potentially of great benefit to people with mental illness, as well as to their carers and the community. However, the evidence raised serious concerns about the manner in which the reforms were being implemented.

The Inquiry found that, despite higher per capita spending on mental health than in other states and territories, Victoria's mental health system is not meeting the demands placed on it. The situation is placing extreme stress on the community sector, service providers and those caring privately for people with mental illness. A primary concern linking the Inquiry's recommendations is the need to close the gap between Australia's stated policies and their implementation.

The Human Rights Commissioner has sought the Victorian Government's response to the report.

In March 1991, the Australian health ministers adopted the National Mental Health Statement of Rights and Responsibilities. The Statement outlines the responsibilities of the Federal and State and Territory governments in relation to mental health, and establishes a framework for the rights and responsibilities of people with a mental health problem or mental disorder.

In December 1991, the United Nations General Assembly passed a resolution adopting the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care. The Australian Government was actively involved in drafting these principles, which aim to safeguard the rights of people with a mental illness and to promote positive outcomes for all users of mental health services.

Both the 1991 Statement and the UN Resolution are reference points for the National Mental Health Policy, which identifies the need for consistent legislation, and the National Mental Health Plan, which outlines strategies to guide implementation of the Policy. The Policy and Plan were endorsed by all Australian Health Ministers in May 1992 and, together with the Australian Health Ministers' Statement of Rights and Responsibilities, comprises the National Mental Health Strategy.

- The central objectives of the National Mental Health Policy have been to:

  expand community based mental health services, and reduce in size or close stand alone psychiatric institutions;

  - integrate mental health services with general health services, and other community services; and
  - introduce mechanisms to protect the rights of people with mental illness.

  Under the policy, responsibility for mental health service delivery remains a State and Territory responsibility. However, the Commonwealth Government has assisted financially in implementing the Strategy.

- The key components of Commonwealth funding to implement the National Mental Health Strategy are:

  reform and incentive funding to assist the States and Territories to restructure mental health services;

  National Projects funding to support projects of national significance to encourage innovation and accelerate mental health reform; and additional assistance for mental health research.

  Considerable progress has been made towards implementing the National Mental Health Strategy. The main achievements have been:

  ensuring that States and Territories work to integrate mental health services with other health services;

  providing financial assistance to the States and Territories to accelerate reform initiatives such as reducing reliance on stand alone and hospital based services and expanding community based services;

  - employing additional after hours crisis staff, setting up transitional employment services, and employing more rural mental health workers;
  - establishing a National Community Advisory Group on mental health to allow consumers of mental health services and their carers direct input into mental health policy decisions;

  developing model mental health legislation which is consistent with United Nations Principles for the Protection of Persons with Mental Illness; and

developing a national community awareness program to address negative community attitudes towards people with a mental illness and reduce the stigma and discrimination attached to mental illness.

The Disability Discrimination Act (DDA) also covers psychiatric, physical, intellectual, sensory, neurological, or learning disabilities. [See also F(v)] Unlawful discrimination under the DDA includes direct and indirect discrimination and makes discrimination on the grounds of disability unlawful. In addition, harassment of a person on the grounds of disability is specifically made unlawful by the DDA in employment, education, and the provision of goods and services.

The Human Rights and Equal Opportunity Commission conducted a National Inquiry concerning the Human Rights of People with a Mental Illness (the Burdekin Report);

The report of the Inquiry, published in October 1993, focuses on critical areas such as:

inpatient and community treatment and care of people affected by mental illness;

the rights of carers;

the special needs of particularly disadvantaged groups;

accommodation;

employment;

professional training and education;

community education;

research;

prevention and early intervention; and

the reform of mental health and related legislation.

An interdepartmental committee of Commonwealth officials was established in 1993 to develop a response to the report of the Inquiry which was outlined in Working Together: Mental Health Federal Budget Initiatives 1994-95. Similar response documents were also released by most State and Territory Governments. The Commonwealth interdepartmental committee was reconvened in August 1995 to improve intersectoral links and address major cross-portfolio mental health issues such as those relating to youth suicide and the mental health needs of Aboriginal and Torres Strait Islander peoples.

(viii) protecting the rights of the elderly

In December 1995 the Attorney-General's Department and the Human Rights and Equal Opportunity Commission held a forum on the legal needs of older people.

A Commonwealth Age Discrimination Taskforce has been established to consider the development of age discrimination legislation. As a result of the deliberations of the Taslcforce and in line with Australia's obligations under the *International Labour Organisation Discrimination (Employment and Occupation) Convention 1958,* the Federal Government abolished compulsory retirement in Commonwealth public sector employment.

A national aged care Consumer Information Strategy has been developed to ensure that older people, and the community as a whole, have useful information about the care available in nursing homes and hostels and for the recipients of Community Aged Care Packages. Information on the rights of consumers of those services will be a focus of this strategy.

A Community Awareness Strategy has also been developed to complement legislated User Rights requirements of service providers with wider educational and attitudinal change strategies aimed at service providers, consumers and their families and the community more generally. This strategy includes the promotion of positive images of older people.

The Older Australians Advisory Councils have been established to provide advice and information to the Federal Minister responsible for aged care about the health, care and well-being of older Australians. The Councils consult widely with older people through public meetings, speaking to organisations, inviting speakers to Council meetings and by meeting with older people in the general community.

The United National proposals for identifying priorities and targets for ageing have been adopted as the framework for the healthy ageing and well-being discussion paper which has been circulated widely in the community and aged care and consumer peak organisations as well as government departments and agencies. The discussion paper presents a strategy for promoting healthy ageing and well-being to the community at large.

(ix) ensuring there is no discrimination on the basis of sexual orientation

Since the previous update on the National Action Plan, Victoria has joined Queensland, South Australia and New South Wales in passing legislation to prohibit discrimination on the basis of sexual orientation in the key areas of employment, accommodation and the provision of other goods and services.

The Industrial Relations Act (1988) (the IR Act) contains provisions which address the issue of discrimination on the basis of sexual preference.

It is part of the principal object of the IR Act to help prevent and eliminate discrimination on grounds including sexual preference.

The Australian Industrial Relations Commission (AIRC) must review all awards every three years to, inter alia, remove discrimination on the basis of any of the grounds specified in the objects of the IR Act, including sexual preference:

The AIRC is not to certify or approve the implementation of agreements which discriminate on the basis of, inter alia, sexual preference.

An employer is prohibited from terminating the employment of an employee on the basis of, inter alia, sexual preference

Parliament legislates to override provisions of the Tasmanian Criminal Code that violate human rights

A complaint was lodged with the United Nations Human Rights Committee under the First Optional Protocol to the ICCPR on 25 December 1991 by Mr. Nicholas Toonen in relation to *s. 122(a) and (c)* and *s. 123* of Tasmanian Criminal Code which criminalise some forms of consensual sexual activity. The Tasmanian provisions prohibit certain forms of sexual activity between males and females and all forms of sexual intercourse between males. In examining the Tasmanian provisions, the Human Rights Committee found that they violated the rights to privacy (Article 17 of the ICCPR).

The Human Rights Commissioner also reported to the Attorney-General on the provisions of the Tasmanian Criminal Code. This report was subsequently tabled in Parliament on 23 August 1994. The Human Rights Commissioner concluded that they were inconsistent with the right to privacy (Article 17); the right to non-discrimination in the exercise of the right to privacy (Article 2.1); and the right to equality before the law and equal protection of the law (Article 26).

The Human Rights Commissioner recommended that these provisions of the Tasmanian Criminal Code be immediately repealed by the Tasmanian Government. The Commissioner further recommended that, if the Tasmanian Government would not take this action, then the relevant

provisions of the Tasmanian legislation should be overridden and invalidated by appropriate Federal legislation.

Parliament subsequently passed legislation, the Human Rights (Sexual Conduct) Act (1994), which provides that sexual conduct between consenting adults shall not be subject to any arbitrary interference with privacy. The offending provisions of the Tasmanian Criminal Code would be open to challenge as inconsistent with and contrary to federal human rights law and therefore inoperative under *s. 109* of the Australian Constitution.

Australia has continued to support moves internationally to eliminate discrimination on the basis of sexual orientation through statements in both 1994 and 1995 at the Commission on Human Rights.

(x) protecting the rights of rural and isolated people

Australia recognises that continuing and long term efforts are required to meet the particular health care needs of the residents of rural and remote Australia.

The distinctive health needs of rural and remote Australians are recognised in the National Rural Health Strategy (NRHS), endorsed by Health Ministers in 1994.

The NRHS provides a framework for the provision of health services throughout rural and remote areas of Australia, and whilst recognising that many rural health issues share a common basis and require a national response, the Strategy is sufficiently flexible to meet the diversity of local needs and circumstances of rural communities throughout Australia.

The goals of the NRHS are consistent with the objective of ensuring social justice for all rural Australians, including a fair distribution of resources and equitable access to essential services.

In support of the NRHS, a range of other initiatives are continuing to address the specific needs and circumstances of health care providers in rural and isolated communities. For example, the Rural Health Support, Education and Training Program (RHSET) funds a wide range of projects to increase the educational opportunities and other support health workers need to help them provide effective and accessible health services for rural people.

In addition, in order to remove or reduce disincentives to rural medical practice Australia has maintained support for the General Practice Strategy Program which includes the General Practice Rural Incentives Program, Better Practice Program and Divisions and Project Grants Program components. Support also continues for the Royal Australian College of General Practitioners Training Program.

To more strongly focus on better health outcomes for indigenous people, the Commonwealth has transferred responsibility for indigenous health to the Department of Human Services and Health (HSH).

An Office of Rural Health was also established within HSHin 1995.

(xi) strengthening democratic institutions

The Australian Electoral Commission's (AEC) community awareness programs have a strong focus on providing assistance to groups with special needs. These include Australians of non-English speaking background, Aboriginal and Torres Strait Islander peoples and first time voters:

> Specially trained field officers operate throughout Australia, working with Aboriginal and Torres Strait Islander communities to more fully inform them about the processes of electoral enrolment and voting and to facilitate their involvement in the electoral process.
>
> On-going information is produced in community languages to assist people from non-English speaking backgrounds. At election time extensive use is made of non-English language media to ensure that key information in relation to enrolment and voting is available to people who may not have access to mainstream (English language) media. Special efforts are made to ensure that the staffing of polling places reflects the local community, for example by recruiting bi-lingual polling officials.
>
> A number of public awareness programs target young people, both while they are at school and in their early years of independent adulthood as first time voters.

During 1995 the AEC continued to enhance voting services for electors. A significant enhancement is the legislative provision for the automatic dispatch of ballot papers to those electors who are registered general postal voters living in remote locations and who are not able to attend a polling place to cast a vote. General facilities, such as mail services, in remote locations are infrequent resulting in time delays for the recipient of postal voting materials. The new provision will overcome time delays experienced by these electors, thus ensuring that their ballot papers are received in a timely manner for the scrutiny of votes.

With respect to the pledge to contribute as an active member of the Electoral Assistance Information Network of the UN:

Australia, through the AEC, in concert with DFAT and AusAID, has contributed to multilateral electoral assistance through the United Nations Electoral Assistance Information Network and the Commonwealth Secretariat. Australia has also cooperated with the independent Washington-based International Foundation for Election Systems.

The most important development in international electoral networks in the period of this report was the foundation of the International Institute for Democracy and Electoral Assistance (International IDEA) in February 1995. Australia was one of the fourteen founding states which established the

Stockholm based centre, and which share information and provide assistance on the electoral, and related democratic, processes.

With respect to the pledge to continue to provide institutional support to developing country democracies as part of our international assistance program.

Australia will continue to promote good governance through activities funded under the aid program, including technical cooperation activities undertaken by the Australian Electoral Commission, as well as broader activities aimed at strengthening democratic institutions and processes.

In late 1995 the AEC established a new special unit, the Research and International Services Section, to advance and coordinate its international involvement in this area. The main areas of Australia's activities have been South East Asia, the South Pacific and Africa.

In 1994 and 1995 AEC staff worked, generally as part of UN or Commonwealth missions, in: South Africa, Malawi, Ethiopia, Uganda, Mozambique, Namibia and Cambodia. Work included election observation, providing technical assistance, and evaluation of programs.

(xii) incorporating international human rights instruments into domestic law and practice

The Industrial Relations Act (1988) gives effect or further effect to a number of international conventions including *ILO C. 100, the Equal Remuneration Convention, 1951, ILO C. 111, the Discrimination (Employment and Occupation) Convention, 1958, the UN Convention on the Elimination of All Forms of Discrimination Against Women, and the UN International Covenant on Economic, Social and Cultural Rights.*

The Act also includes the following provisions which apply to workers who do not have adequate entitlements established through award coverage or State legislation:

minimum wages *(ILO Convention No. 131);*

equal remuneration for work of equal value without discrimination based on sex. *(ILO Conventions Nos. 100, 111* and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women);

protection in cases of termination of employment *(ILO Convention No. 158);*

the right to 12 months shared unpaid parental leave *(ILO Convention No. 156 and ILO Recommendation No. 165).*

The minimum entitlements legislation does not undermine existing State arrangements where these provide fair and effective protection for employees. However, the legislation does provide some protection for employees in States where State award protection is not retained.

In addition, the Australian Industrial Relations Commission (AIRC) must take account of the principles embodied in the Sex Discrimination Act (1984), Racial Discrimination Act (1975), the Disability Discrimination Act (1992) and *ILO C. 156 the Workers with Family Responsibilities Convention, 1981.*

It is part of the principal object of the Act to help prevent and eliminate discrimination on the basis of sex, race, colour, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin. Other anti-discrimination provisions contained within the Act include:

the AIRC is required to review all awards every three years to, inter alia, remove discrimination on the basis of any of the grounds identified in the principal object of the Act *(s. 150a)* the AIRC is not to certify or approve agreements which contain provisions which discriminate on any of the grounds identified in the principal object of the Act *(s. 170md);* and

an employer is prohibited from terminating the employment of an employee on the basis of any of the grounds identified in the principal object of the Act *(s. 1704f).*

In Appendix C, amend Privacy Act (1986) to Privacy Act (1988).

(xiii) lifting states of emergency

There were no states of emergency declared by the Australian Government during the period covered by this report.

(xiv) protecting the rights of refugees and asylum seekers

Provision of training and information to refugee decision makers

In 1995 the Department of Immigration & Ethnic Affairs (DIEA) had responsibility for assessing the claims of refugees and asylum seekers, and continued to provide as a high priority appropriate training and relevant information to refugee decisions. Determination procedures were structured to ensure open decision-making and to maintain procedural fairness for all applicants.

Detention

The Joint Standing Committee on Migration conducted an inquiry into detention practices relating to unauthorised arrivals. It tabled its report, Asylum, Border Control and Detention, in Parliament on 2 March 1994. The report broadly supported Australia's position on the detention of unauthorised boat arrivals. Australia has accepted most of the JSC's recommendations and the Department is proceeding with their implementation. (A response to the report was tabled in October 1994).

In September 1995 Australia acted to implement its final outstanding commitment given in response to the Joint Standing Committee on Migration's 1994 Report on detention by enacting an amendment to the Migration Act (1958) to give the Minister a non-compellable discretion to declare some unauthorised arrivals in detention an eligible non-citizen and thus create eligibility to apply for a bridging visa to allow release from detention. The discretion had enabled the Minister to declare a person otherwise ineligible for a bridging visa to be eligible where:

an unauthorised border arrival has been in immigration detention for more

than six months following application for a Protection Visa;

there has been no primary decision on that application; and

it is in the public interest to make the determination.

Refugee Law Guidelines

In 1995 the DIEA had created a detailed, operational guide for Departmental officers involved in refugee decision making, called the Refugee Law Guidelines. The Guidelines:

provide a comprehensive legal analysis of relevant Australian case law on:

refugees and, where there is no Australian case law on a particular refugee

issue, of international Court or Tribunal decisions or expert commentary;

- are regularly updated to ensure that all refugee decisions taken in Australia are made with regard to applicable, current law; are the first Australian text of its kind on the topic of refugee law and

– helps to ensure that Australia's protection under the Refugees Convention is available to all genuine refugees.

Promotion of the 1951 Convention and 1967 Protocol relating to the Status of Refugees

Australia has continued to work closely with UNHCR in the promotion of the 1951 Convention and 1967 protocol relating to the Status of Refugees. In July 1995, DFAT tasked 18 missions in South, East and South-East Asia to make representations to States which have not yet done so, to accede to the 1951 Convention and the 1967 Protocol. These were the FSM, Kiribati, Marshall Islands, Nauru, Bangladesh, Bhutan, Burma, India, Indonesia, Laos, Malaysia, Singapore, Sri Lanka, Thailand and Vietnam. Information packs on the Convention and its Protocol were prepared and made available to all these countries.

(g) Set out steps by which Australia would establish and/or strengthen a national institution for the promotion of human rights

In considering the review of the operations of the Human Rights and Equal Opportunity Commission (HREOC), in 1995, Australia has decided upon the following key reforms:

simplification and consolidation of human rights legislation into a single Act;

determination of unconciliable complaints by the Federal Court which will establish a Human Rights Registry within the Court;

- a new management structure for HREOC with the creation of a new position of full-time President as the Chief Executive; and

a separate statutory office for the Privacy Commissioner.

Australian Human Rights Centre

In its 1995 Review of Australia's Efforts to Promote and Protect Human Rights, the Joint Standing Committee on Foreign Affairs, Defence and Trade recommended that the Australian International Development Assistance Bureau [AusAID] undertake a feasibility study, including a full evaluation of funding options, of the proposal by ACFOA to establish a human rights centre for dialogue and cooperation in Australia as part publicly funded and part privately funded non-government institute. In responding to the report, it was decided that in 1995, insufficient funds were available to investigate the establishment of such an institution.

(h) Specify steps by which Australia would strengthen cooperation with and between regional and international human rights organisations

Assistance to National Institutions

The Australian Human Rights and Equal Opportunity Commission (HREOC) has firmly supported measures to increase the effectiveness of United Nations and regional machinery for the promotion and protection of human rights. In this context, HREOC supports the development and operation of regional human rights organisations, recognising that they can play an important role in standard setting and institution building.

The Asia-Pacific remains the only region that does not presently enjoy the benefits of a regional human rights system. The Australian Government and HREOC have supported the formation of a system for the region along the lines of models existing in other regions.

The Commission considers that the most effective way to meet the objective of a regional human rights instrument and associated mechanisms is to continue actively and effectively to promote and assist in the establishment of national human rights institutions in the region. Over several years the Commission, in cooperation with AusAID and DFAT, has assisted other governments to promote the international observance of human rights and in encouraging the establishment of Human Rights Commissions at national and regional levels, particularly in the Asia-Pacific region.

Latvia

From 24 July to 8 August, at the request of the United Nations and the Latvian government, the Human Rights Commissioner led an international mission which undertook a detailed assessment of the need for mechanisms for the protection and promotion of human rights in Latvia.

After consideration of a comprehensive report prepared by the mission for the Government of Latvia, the Prime Minister of Latvia announced that the Government would establish an independent national human rights institution (modelled closely on HREOC) and develop a National Action Plan on Human Rights.

Since the establishment of the Latvian human rights institution, HREOC has provided further training and development assistance. A former Secretary of HREOC and the current Public Relations Manager have provided "hands on" training and advice regarding the establishment, operation and functions of the Latvian human rights institution.

Papua New Guinea

From 6 to 7 October 1994, at the request of the United Nations and the Papua New Guinea (PNG) Government, representatives of the Commission

participated in a seminar on the establishment of a national human rights institution for PNG. The PNG government was represented by the Minister for Justice, the Chief Justice, the Chief Ombudsman and various government officials.

As a result of this seminar and subsequent discussions, the PNG government has now decided to establish a national human rights commission.

Indonesia

From 24 to 26 October 1994, at the request of the United Nations and the Indonesian Government, representatives of the Commission participated in the United Nations/Indonesian Second National Workshop on Human Rights.

One important outcome of the workshop was the signing of a memorandum on technical cooperation and assistance between Indonesia and the United Nations Centre for Human Rights.

From 8 to 9 November 1994, representatives of the Commission participated in a joint seminar with the Indian National Human Rights Commission (NHRC).

The two Commissions identified the distribution of human rights literature, staff exchanges and the development of regional human rights mechanisms as areas of future cooperation.

Russia

In December 1994, the Australian Human Rights Commissioner, at the request of the Russian Human Rights Commissioner and the Russian Federation, attended a meeting in Moscow concerning the establishment and development of human rights machinery.

A Memorandum of Understanding was signed by the two Human Rights Commissions for the provision of technical assistance, information and staff expertise. In addition, the Russian Federation is continuing negotiations with the Australian government regarding the development of a Memorandum of Understanding between the two countries on this issue.

Philippines

In February 1995 the Commission hosted a delegation of 20 persons from the Philippines Commission on Human Rights (CHR) and provided an interactive training program over two weeks on human rights and anti-discrimination legislation. The program was devised to further co-operation and communication among human rights institutions, particularly in the Asia-Pacific region.

The training program's primary aim was to equip the CHR delegation with practical and theoretical knowledge of HREOC's activities and experiences in the field of human rights and anti-discrimination legislation and its possible applicability to the Philippines.

Third International Workshop of National Institutions for the Protection and Promotion of Human Rights

From 18 to 21 April 1995 representatives of the Commission attended the Third International Workshop of National Institutions for the Protection and Promotion of Human Rights held in Manila.

The Commission presented three major items at the meeting - Regional Arrangements in the Asia-Pacific; a Protocol concerning the Sexual Exploitation of Children; and a Program of Action on Disability. The final outcomes of the workshop, in the "Manila Declaration and Recommendations", reflected the Commission's recommendations on these items. In particular, strong support was expressed for the establishment of a regional arrangement between the national institutions of the Asia-Pacific region.

Asia-Pacific Regional Seminar on Human Rights Education

In December 1995 the Commission was represented at an Asia-Pacific Regional Seminar on Human Rights Education organised by the Philippines Commission on Human Rights. The seminar brought together representatives from a number of governments and national institutions in the region. It furthered the commitment to joint activity at the regional level.

Other activities

In addition to HREOC's activities in our region, a number of overseas delegations have visited Australia to examine HREOC's operations. These have included delegations from Japan, Sri Lanka and South Africa.

Australia, through the Human Rights and Equal Opportunity Commission, has actively sought to encourage the development of national institutions in the Asia-Pacific region and has provided finance to the UN Voluntary Fund for Technical Assistance to assist in this task.

Australia's long term objective is the development of a regional human rights arrangement in the Asia-Pacific. At the Asia-Pacific workshop on human rights issues in Seoul in August 1994, governments represented agreed to a step-by-step approach in establishing regional human rights machinery. They also recognised the important role of national institutions in the implementation of human rights at the national level.

The position of UN High Commissioner for Human Rights was set up in 1994 to develop coordination between the various UN agencies on human rights

as well as to integrate human rights activities in peace keeping and humanitarian assistance operations. Australia fought hard for the appointment of a High Commissioner for Human Rights and has consistently supported the development of his role as the head of the UN human rights system and in coordinating human rights activities in the UN. The first incumbent, Mr. Jose Ayala Lasso, visited Australia in April 1995 as a guest of the Commonwealth.

(i) Define a programme of human rights information and education, including in school curricula and the workplace for Australia

Australia established an Interdepartmental Committee to develop a national programme of action for human rights education in line with the recommendations of the United Nations Plan of Action for the Decade for Human Rights Education 1995-2004.

In June 1994, the Prime Minister established a Civics Expert Group to develop a strategic framework for a non-partisan program of public education on civics and citizenship issues.

(j) Set out a programme of education and training for Australian personnel directly responsible for the protection of human rights

General Human Rights Education

AusAID and DFAT have commenced joint training programs for staff on human rights issues to foster greater knowledge about the role of human rights in foreign policy and development cooperation.

Human Rights training for DFAT and AusAID officers was introduced in a pilot form in 1994 in recognition that human right knowledge and expertise cannot be confined to officers working directly on human rights matters but are an important skill for all officers including those on overseas postings. Efforts in 1995 were concentrated on using the experience developed in the pilot course to design a flexible course which is suitable for a range of participants from DFAT and AusAID. Modules were also be designed with a view to possible participation in the course by officials of other Government Departments. The aim of the revised course is to provide officers with a sound understanding and awareness of human rights issues and government policy in this area.

The new Human Rights Training Course was launched on 22 - 23 February 1996. The course covers a range of issues including the nature and history of human rights; human rights and Australian foreign policy; the UN human rights system; and the domestic aspects of human rights including the rights of indigenous peoples. It is expected the course will be offered at least four times a year.

DIEA also continues to provide relevant training to its overseas officers. Training is provided to all Australia based officers prior to overseas service on refugee issues, those officers who will be posted to major refugee processing centres receive additional briefing on refugee issues.

(k) Set out steps aimed at strengthening the independence of the judiciary in Australia

Australia released a Justice Statement in early 1995. As yet no action has been taken on this paper.

(1) Indicate steps by which Australia may facilitate the activities of non-governmental organisations in the human rights field

The Department of Foreign Affairs and Trade Human Rights Fund is important in promoting the observance of human rights overseas. The objective of the Human Rights Fund is to provide assistance directly to organisations, preferably Non-Governmental Organisations in other countries, involved in the promotion and protection of human rights. Unfortunately, in an environment of across-the-board restraint in expenditure, it has not been possible to increase the size of the Fund. In 1995 it remains at $100,000.

I) Indicate steps by which Australia may facilitate the activities of non-governmental organisations in the human rights field

The Department of Immigration and Ethnic Affairs (DIEA), continues to provide funding to a number of non-governmental organisations in the asylum seeker field. DIEA provides funding to the Australian Red Cross Society for the financial assistance and limited health care of asylum seekers in financial need.

DIEA also has contracts in place with a number of organisations, among them the Refugee Advice and Casework Service in New South Wales and Victoria, for the provision of application assistance for asylum seekers in detention and asylum seekers in greatest need in the community.

DIEA also administers the Community Refugee and Special Humanitarian Program entrants. The scheme provides assistance and guidance to voluntary groups who are registered with DIEA and who assist refugee families to settle in Australia. (DIEA)

DFAT/NGO consultations have been held regularly providing a forum for an exchange of views on human rights and Australia's activities in this area.

The UN working group on "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms" is continuing.

The UN Fourth World Conference on Women, which was held in Beijing in September last year, adopted a Platform for Action which serves as a guide for international and national policies on the advancement of women. Australia is currently in the process of compiling a draft report on strategies for implementing the Platform for Action with a view to having a final report completed by the end of 1996.

Education in Treaties Process

In 1994 the Department of Foreign Affairs and Trade published a revised edition of the Negotiation, Conclusion and Implementation of International Treaties and Arrangements, a handbook for the information of officials at all levels of government. The Department of Foreign Affairs and Trade, in consultation with the Attorney-General's Department and the Department of the Prime Minister and Cabinet, has also prepared an information kit on treaties, setting out a full description of the consultation process with States and Territories and other interested groups.

(m) Provide financial assistance to other countries in the area of civil and political rights.

Australia has provided assistance in the establishment and strengthening of human rights machinery in a number of Asia-Pacific countries through our contribution to the UN Voluntary Fund for Technical Cooperation and through bilateral activities.

AusAID has increased the level of support for activities aimed at promoting the realisation of civil and political rights in developing countries.

(n) Identify steps Australia could make towards the strengthening of the Centre for Human Rights.

At the 1993 World Conference on Human Rights in Vienna, Australia argued strongly for the United Nations to devote the financial resources necessary for strengthening human rights activities. Since then, Australia has continued to argue in the UN Commission on Human Rights and at the UN General Assembly, for a greater proportion of the UN budget to be devoted to human rights.

In addition to increased financial resources for UN human rights machinery, Australia has strongly encouraged the UN to provide the administrative, managerial and staff resources required by the UN Centre for Human Rights to carry out its core functions as the focal point for the human rights activities of the UN, and has supported reform efforts currently underway in the Centre. Australia has urged the Centre for Human Rights to strengthen its management so that it can operate more efficiently and effectively.

In keeping with the high priority Australia has placed on the need to ensure that adequate resources are made available for strengthening the operation of the UN human rights system and the importance of effective national human rights institutions, financial support has been provided to the UN for the creation of the position of Special Adviser to the UN High Commissioner for Human Rights on National Human Rights Institutions.

In 1995, Australia did not disburse additional assistance to Voluntary Fund of the Centre for Human Rights because of difficulties in disbursing funds provided earlier. We did however examine enhancing the size and operation of the Human Rights Fund which could incorporate assistance to other funds operated by the Centre for Human Rights. Recommendations on this matter will need to be considered by the Government.