

*Human Rights Australia*



*Annual Report 1987-88*

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# **Annual Report 1987-88**

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**Human Rights Australia**

21 December 1988

The Hon. Lionel Bowen MP  
Deputy Prime Minister  
& Attorney-General  
Parliament House  
Canberra ACT 2600

Dear Attorney-General

I have pleasure in presenting the Annual Report of the Human Rights and Equal Opportunity Commission for 1987-88, pursuant to sub-section 45(1) of the Human Rights and Equal Opportunity Commission Act 1986.

Yours sincerely

A handwritten signature in dark ink, appearing to read "Chris Sidoti", written on a light-colored rectangular piece of paper.

Chris Sidoti  
Secretary

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# Human Rights and Equal Opportunity Commission

The Human Rights and Equal Opportunity Commission was established by the Commonwealth Parliament under the Human Rights and Equal Opportunity Commission Act 1986 and commenced operations on 10 December 1986.

## Objective

The Commission's objective is to promote the acceptance and observance of human rights and equal opportunity in Australia by developing public awareness of these rights through public inquiries, community education and complaint resolution. It is anticipated that greater public awareness of human rights issues will eventually lead to the elimination of discriminatory practices.

The programs designed to meet the Commission's objectives are described in later sections of this report.

## Charter

The Commission is a permanent independent statutory authority with responsibility for the following Acts of Parliament:

- Human Rights and Equal Opportunity Commission Act 1986
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984

These Acts give force to the following International Instruments to which Australia is a party:

### *Human Rights and Equal Opportunity Commission Act*

- International Covenant on Civil and Political Rights
- Declaration of the Rights of the Child
- Declaration on the Rights of Mentally Retarded Persons
- Declaration on the Rights of Disabled Persons
- International Labour Organisation Convention 111 Concerning Discrimination in Respect of Employment and Occupation

### *Racial Discrimination Act*

- International Convention on the Elimination of All Forms of Racial Discrimination



### *Sex Discrimination Act*

- International Convention on the Elimination of All Forms of Discrimination Against Women

## **Commissioners**

The Human Rights and Equal Opportunity Commission Act provides that the Commission consist of a President, a Human Rights Commissioner, a Race Discrimination Commissioner and a Sex Discrimination Commissioner. All appointments to membership of the Commission are made by the Governor-General. Members are appointed on the recommendation of the Government in their own right, not as representatives of organisations or bodies.

Commissioners are responsible for handling complaints on behalf of the Commission within their respective spheres, as well as performing a public representational role in respect of the legislation they administer and on behalf of the Commission as a whole.

### **President**

The Hon. Justice Einfeld was appointed as President of the Commission on 10 December 1986. The position is a part-time one. Justice Einfeld is a Judge of the Federal Court of Australia.

### **Human Rights Commissioner**

Brian Burdekin was appointed Human Rights Commissioner on 10 December 1986. The Human Rights Commissioner has responsibilities in the areas covered by the International Instruments which are incorporated in Federal law in the Human Rights and Equal Opportunity Commission Act. He is also the executive head of the organisation,

responsible for the day to day administration of the Commission.

### **Race Discrimination Commissioner**

Irene Moss was appointed Race Discrimination Commissioner on 10 December 1986. The Race Discrimination Commissioner administers the Racial Discrimination Act on behalf, of the Commission and exercises certain statutory powers of inquiry, conciliation and settlement of race discrimination complaints under the Act.

### **Sex Discrimination Commissioner**

Pamela O'Neil held this position from the establishment of the Commission on 10 December 1986 until February 1988. Ms O'Neil had been Sex Discrimination Commissioner since the commencement of the Sex Discrimination Act in 1984 under the former Human Rights Commission.

Quentin Bryce AO, who had previously been the Commission's Regional Director in Queensland, was appointed Sex Discrimination Commissioner in December 1987 and took up her appointment in February 1988.

The Sex Discrimination Commissioner administers the Sex Discrimination Act on behalf of the Commission and exercises certain statutory powers of inquiry, conciliation and settlement of sex discrimination complaints under the Act.

## **Functions**

The functions of the Commission are detailed in sections 11 and 31 of the Human Rights and Equal Opportunity Commission Act. Broadly, these functions are:

- to review Commonwealth legislation for any inconsistency with

human rights or for any discriminatory provision which nullifies or impairs equality of opportunity or treatment in employment or occupation;

- to inquire into any act or practice that may be inconsistent with or contrary to any human right, or which may constitute discrimination under the Act;
- to investigate, conciliate and settle complaints about infringements of human rights and discrimination;
- to propose laws that should be made or action which should be taken by the Commonwealth on matters relating to human rights and discrimination;
- to promote an understanding, acceptance and public discussion of human rights, and of equality of opportunity and treatment in employment and occupation;
- to undertake and co-ordinate research and educational programs for the purpose of promoting human rights and equality of opportunity and treatment in employment and occupation, and to co-ordinate any such programs undertaken on behalf of the Commonwealth;
- to examine any new or existing international instruments relevant to human rights and advise the Government whether they are consistent with the instruments which Australia has already ratified Or incorporated in federal law.

## **Powers**

The Commission is given certain powers by the enabling legislation in order to carry out its functions effectively.

Under the Human Rights and Equal Opportunity Commission Act, the Commission has power to:

- report to the Minister on any matter which arises in the course of performing its functions;
- conduct an inquiry as a result of a complaint in writing, when the Commission is requested to do so by the Minister, or when the Commission considers it desirable;
- decline an inquiry as a result of a complaint;
- require certain persons to furnish information, produce documents or appear before the Commission to give evidence;
- give directions prohibiting the disclosure of the identity of a person in certain circumstances where that person is involved in the process of providing information, a document, evidence or a submission to the Commission or an authorised person acting on behalf of the Commission;
- require evidence to be given on oath or affirmation;
- delegate all or any of the Commission's powers (except the power of delegation);
- work with and consult appropriate persons, government organisations and non-government organisations;
- with the approval of the Minister, establish advisory committees to advise the Commission in relation to the performance of the Commission's functions;
- intervene, with leave of the court, in legal proceedings involving human rights matters;
- formulate guidelines to prevent government acts or practices that infringe human rights; and

- perform inquiry, conciliation, reporting, educational and other functions in relation to the Discrimination (Employment and Occupation) Convention, 1958 (International Labour Organisation Convention 111). These functions were previously performed by the National and State Committees on Discrimination in Employment and Occupation.

Under the Racial Discrimination Act the powers of the Commission include the power to:

- inquire into any alleged unlawful act of racial discrimination following the receipt of a complaint in writing or when it appears to the Commission that a person has committed an unlawful act under the Act, and to endeavour to effect a settlement of the matter by conciliation (this power is exercised through the Race Discrimination Commissioner);
- decline to inquire into a complaint about an unlawful act for various reasons;
- make an interim determination pending completion of the inquiry into the matter which is the subject of complaint;
- inquire into and make a determination in respect of a matter referred to it by the Race Discrimination Commissioner;
- institute proceedings in the Federal Court for an order to enforce a determination; and
- delegate its powers under the Act to certain persons.

Under the Sex Discrimination Act the powers of the Commission include the power to:

- inquire into an alleged unlawful act

of discrimination on the basis of sex, marital status or pregnancy following receipt of a complaint in writing or when it appears to the Commission that a person has committed an unlawful act, and to endeavour to effect a settlement of the matter by conciliation (this power is exercised through the Sex Discrimination Commissioner);

- decline to inquire into a complaint about an unlawful act for various reasons;
- make an interim determination pending completion of the inquiry into the matter which is the subject of the complaint;
- inquire into and make a determination in respect of a matter referred to it by the Sex Discrimination Commissioner;
- institute proceedings in the Federal Court for an order to enforce the determination;
- grant an exemption from the operation of specified provisions; and
- delegate its powers under the Act to certain persons.

The Commission, when conducting inquiries into complaints, and the Commissioner, when inquiring and conciliating in relation to a complaint, may exercise powers of compulsion in respect of giving of evidence, and production of documents and information.

## **The Minister**

The Minister responsible to Parliament for the Human Rights and Equal Opportunity Commission is the Attorney-General, the Hon Lionel Bowen MP.

The Attorney-General has the following powers under the Human Rights and Equal Opportunity Commission Act:

- to make, vary or revoke an arrangement with the States for the performance of functions relating to human rights or to discrimination in employment or occupation;
- to declare, after consultation with the States, an international instrument to be an international instrument relating to human rights and freedoms for the purposes of the Act;
- to request the Commission to report to him on certain matters;
- to establish one or more advisory committees to advise the Commission in relation to the performance of its functions; to report to the Attorney-General on Australia's compliance with the provisions of the International Labour Organisation Convention 111; and to advise him in respect of certain national

policies relating to equality of opportunity and treatment in employment and occupation.

The Attorney-General also has the power to issue to the Commission a certificate certifying that the disclosure of certain information or the disclosure of the contents of certain documents would be contrary to the public interest.

Under the Racial Discrimination Act, the Attorney-General may:

- appoint persons to participate in inquiries and determine the terms and conditions of their appointment (including the termination of any such appointment);
- refer any matter to the Commission for inquiry as a complaint;
- authorise provision by the Commonwealth of assistance to persons who are parties to proceedings before the Commission under certain circumstances.

He has the same powers under the Sex Discrimination Act.

# Research and Legislative Review

## Research

*... undertake research ... on behalf of the Commonwealth, for the purpose of promoting human rights ...*

Section 11(1)(h) HREOC Act

The Commission attempts to act as a catalyst in relation to human rights issues and concerns within the Australian community. By undertaking practical and targeted research the Commission is assisted in formulating realistic strategies and recommendations.

The period from 1 July 1987 to 30 June 1988 saw the implementation of a significant research program and the development of a set of priorities for future work.

The research program of the Commission derives partly from interaction with the Conciliation and Legal sections. In addition, staff frequently consult with members of other government and non-government agencies in order to gain a wide understanding of issues under consideration.

The major focus of research during the year was the Inquiry into the Social and Material Needs of the Residents of New South Wales-Queensland Border Towns (the Toomelah Inquiry) and the commencement of the Inquiry into Homeless Children. (These are dealt with in greater detail in a later section on public inquiries).

Preliminary research into the issue of Aborigines and the Criminal Justice System continued in July 1987. Subsequently, however, the Government announced a Royal Commission headed by the Hon. Justice James Muirhead. The Commission welcomed this announcement as a more effective means of addressing the issue and as one which reflected the preference of Aboriginal people involved. The Commission made a submission to the Minister for Justice, Senator Tate, regarding proposed guidelines for police and prison authorities to prevent Aboriginal deaths in custody.

The Commission regards human rights issues affecting Aboriginal people as a high priority. This was reflected in a number of Commission initiatives and activities in 1987/88.

The Commission contributed to a number of Commonwealth and State

Government inquiries. It made a submission to the Queensland Government's review of its prison system. Amongst other things, the submission addressed the issue of Aboriginal prisoners in some detail. At the federal level, the Race Discrimination Commissioner made a submission to the inquiry by the House of Representatives Standing Committee on Aboriginal Affairs into the Effectiveness of Support Services for Aboriginal and Islander Communities.

The Commission's 'Toomelah Inquiry' published its report in June 1988 after taking evidence in Goondiwindi, Boggabilla, Toomelah and Sydney during the preceding twelve months.

Arising from the 'Toomelah Inquiry', preliminary work was commenced on a national research project on the supply of water to Aboriginal Communities. The project is due to produce a report and recommendations in 1989-90.

In April 1987, the Commission appointed an Aboriginal person to the position of Aboriginal Policy Advisor. The Policy Advisor provides regular advice to the Commission on a range of human rights issues involving Aboriginal people and communities.

The Commission has taken an active role in issues relating to immigrants of non-English speaking background. The Commission made a submission on selected topics to the Committee to Advise on Australia's Immigration Policies (CAAIP) and also made considerable input to the Legal Sub-Committee that drafted the new model Migration Bill. Papers on the topic of overseas qualifications were presented at the Economics of Immigration Conference in Adelaide in December 1987 and at the National Ethnic Health

Policy Conference in Adelaide in April 1988.

The 'right to an interpreter' in all police and court related matters is now under review within the Commission and contact has been made with all relevant State and federal government departments to collect information on their current policies and practices. The need for measures to counteract incitement to racial hatred has emerged as an area of major concern and work continues on the options that are available and viable.

The continuing review and proposed amendment of the Sex Discrimination Act has encompassed the continuation of work on the amendments proposed by the Attorney-General's Department in respect of exemptions under the Act in relation to superannuation. The Commission has now commenced work on the review of the exemptions that relate to insurance.

Guidelines in relation to discrimination on the basis of pregnancy have been drafted and they will be published as soon as the process of widespread consultation is completed.

A submission was made to the Queensland Task Force on Domestic Violence: this submission focused on the human rights aspects of the problem of domestic violence.

A report on 'Accommodation Models for People with Severe Physical Disabilities' was prepared for the Commission by a consultant located in Queensland. The report was subsequently used as the focus for a workshop held in Brisbane.

The Commission has also looked at the federal Disability Services Act 1986 and is undertaking work in the area of further disability legislation.

Other areas of work for the Commission's research staff have included:

- a submission to the Commission of Review into Corrective Services in Queensland;
- comments on the Commonwealth Department of Health's Discussion Paper on AIDS;
- a submission to the Review of Medical Standards and Procedures for Appointment/Employment in the Australian Public Service;
- continuing consultation regarding the implications of the Sex Discrimination Act for mixed sport in schools for children under twelve years of age.

## Legislative Review

*... examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments ... are inconsistent with or contrary to any human right ...*

Section 11(1)(e) HREOC Act

*... on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to human rights ...*

Section 11(1)(j) HREOC Act

The Commission's jurisdiction to remedy discrimination and breaches of human rights arising from legislation is limited because of the provisions in

the Acts it administers. It has therefore concentrated on a review of its own legislation, commencing with a review of the Racial Discrimination Act. It has under consideration several areas in which amendment may be recommended, the major areas being the lack of an express prohibition of indirect discrimination in the Racial Discrimination Act; the requirement that discrimination must be the dominant purpose of the act or practice complained of; whether there is a need to make express provision to eliminate racial harassment in the workplace; and whether the Act should govern incitement to racial hatred. Recommendations on each of these areas are being prepared.

While the Commission's express functions only allow for examination of enactments proposed by the Commonwealth or a Territory other than the Northern Territory (See Section 11(1)(e) and definition of 'enactment' in Section 6 of the Human Rights and Equal Opportunity Commission Act), the Commission has been asked to consider the human rights aspects of several Bills introduced into the Northern Territory Assembly. The Commission was very concerned about the amendments introduced by the NT Police Administration Amendment Bill (Serial 33), the Bail Amendment Bill (Serial 34), and the Criminal Code Amendment Bill (Serial 35), especially in relation to the impact that the proposed amendments (which allow for detention of persons for a reasonable time without being brought before the Judiciary and without being charged) would have on the Aboriginal communities in the Northern Ter-



ritory. However, as the Commission did not have any statutory function to comment on the Bills, it decided to maintain a review on the operation of the legislation, once enacted, by way of complaints made under the Racial Discrimination Act.

At the request of the then Northern Territory Chief Minister the Commission commented on a proposed Domestic Violence Bill. The introduction of the Bill has caused some comment so that its passage through the Assembly has been adjourned.

## Intervention

*... where the Commission considers it appropriate to do so, with the leave of the court ... intervene in proceedings that involve human rights issues ...*

Section 11(1)(o) HREOC Act

During the year the Commission received many requests to intervene in various judicial proceedings. All requests, with two exceptions, were declined. The Commission resolved to intervene in the following matters:

### *Aldridge -v- Booth and Others (Federal Court)*

Ms Aldridge had been awarded \$7,000 by the former Human Rights Commission by way of compensation and damages on 4 November 1986. Ms Aldridge then took proceedings in the Federal Court in Brisbane to have this determination enforced. The Commission resolved to intervene as this was the first matter to proceed to the Federal Court under Section 82 of the Sex Discrimination Act. On 30 May 1988

Spender J. ordered that the respondent pay \$7,000 to Ms Aldridge.

### *In re a Teenager*

On 7 June 1988 the Commission sought and was granted leave to intervene in a Family Court hearing involving the proposed sterilisation of an intellectually disabled child. On an application of the next friend of the child an injunction was granted, preventing such an operation being performed until the matter could be dealt with by the Family Court. In particular this case raised the issues of the rights of the child, the rights of the intellectually disabled and other human rights issues.

## Exemptions

There have been several applications for exemptions under Section 44 of the Sex Discrimination Act during the reporting period. Only one application has been successful, that of the Broken Hill Associated Smelters, for a period to 23 February 1989. Any extension of the exemption was made conditional upon certain requirements being met.

## Financial Assistance

Four requests for financial assistance have been received, three under Section 83 of the Sex Discrimination Act and one under Section 25ZB of the Racial Discrimination Act. The Commission has declined to recommend to the Attorney-General payment in respect of one application under Section 83 of the Sex Discrimination Act.

In addition the Commission has had two requests for financial assistance



before the Federal Court, one under Section 84 of the Sex Discrimination Act and one under Section 25ZC of the Racial Discrimination Act. Clearly the applicants have been confused as to

the correct procedure for making such applications. Parties are not required to refer the matter to the Commission and must apply directly to the Attorney-General.

# Public Inquiries

*... inquire into any act or practice that may be inconsistent with or contrary to any human right ...*

Section 11(1)(f) HREOC Act

The Commission regards public inquiries as a valuable means of involving the community in human rights issues. An inquiry brings the community into direct contact with the Commission, provides a channel for the public to voice their views and opinions about human rights problems and possible solutions, and draws attention to some of the crucial areas of concern in our society.

During the period under review, the Commission allocated a significant proportion of its resources to the following public inquiries:

## **Inquiry into the Social and Material Needs of the Residents of New South Wales-Queensland Border Towns (Toomelah Inquiry)**

The Commission announced a public

inquiry in May 1987 with the following terms of reference:

1. To inquire into and report on the social and material situation of persons in Goondiwindi, Boggabilla and Toomelah and identify the social and material needs of these and nearby communities.
2. In particular to inquire into and report upon the extent to which any problems or deficiencies identified have been caused by inadequate educational and/or employment opportunities and/or other facilities and the existence of the Queensland-New South Wales border between the town of Goondiwindi and the other two towns.
3. To investigate and report on the state of community relations in Goondiwindi, Boggabilla and Toomelah and the way in which problems identified can be resolved among these and nearby communities.
4. To report on the impact of community relations on the social and material needs of these communities.
5. To recommend to all relevant per-

sons and/or authorities, steps which might be taken to resolve the identified problems of these communities.

The Inquiry was conducted by the President of the Commission, the Hon. Justice Einfeld, assisted by Sir James Killen and Ms Kaye Mundine.

Public hearings were held from 27 to 30 July 1987 at Boobera Lagoon, Bogabilla, Toomelah and Goondiwindi and on 7 December 1987 in Sydney. Oral evidence was taken from seventy-four witnesses and one hundred and nineteen written submissions and exhibits were received.

The Aboriginal community of five hundred people at Toomelah quickly became the focus of the Inquiry. The appalling living conditions endured by them included substandard and overcrowded housing, a grossly inadequate water supply and lack of properly functioning sewerage system. Rains regularly isolated the community due to the inadequacy of access routes. Ill-health among community members, especially children, was serious and endemic. Post-primary education was deficient and unemployment was chronic. The Inquiry focused on the causes and remedies of this situation.

The Inquiry's Report, *Toomelah Report: Report on the Problems and Needs of Aborigines Living on the NSW-Queensland Border*, was launched at Toomelah on 15 June 1988. Several specific recommendations were directed to individual authorities. More general recommendations addressed the overall situation uncovered by the Inquiry, namely that inter-government conflict and bureaucratic inertia were responsible for the situation at Toomelah, and probably at many other Aboriginal communities

throughout New South Wales and, possibly, Australia. On the release of the Report, a workshop was conducted for the Toomelah community to discuss the findings and recommendations made by the Inquiry.

To date, a number of significant developments have occurred at Toomelah. The Federal Department of Aboriginal Affairs has reported that a new bore to supply adequate water has been sunk and funding for the repair of the internal reticulation system has been approved; the New South Wales Department of Housing is building eight new houses at Toomelah; and the Moree Plains Shire Council has initiated, in co-operation with Federal and State Government departments and Aboriginal organisations at Toomelah and Bogabilla, a project for the development of a detailed social plan for the future development of Toomelah.

Copies of the *Toomelah Report* are available from the Commission.

## Homeless Children Inquiry

After giving detailed consideration to a background report on the problems faced by children and young people (under eighteen) who are homeless in Australia, the Commission decided to undertake an Inquiry. It was felt that a number of the basic human rights contained in the International Declaration of the Rights of the Child were being breached and that an Inquiry would extend the information available on the magnitude and complexity of this problem. It was intended that the outcomes would be practical recommendations about the ways that the needs of these young people could be met.

The terms of reference of the Inquiry are as follows:

1. To inquire into and report on the effectiveness of existing programs and services involved in, and the development of alternative responses to, addressing the needs of homeless children and young people.
2. To review earlier reports on the needs of homeless children and the action taken by relevant authorities in response thereto.
3. To identify the problems experienced by homeless children and young people in obtaining public housing or private rental accommodation.
4. In accordance with the United Nations Declaration of the Rights of the Child, to inquire into and report on the rights of homeless children and young people to protection from neglect and exploitation, including the availability of income support and their access to legal advice and representation.
5. To recommend the steps which should be taken by all relevant persons and authorities to resolve the identified problems of homeless children and young people.

The Inquiry was widely publicised in

the national and State media and submissions were invited from the public and from relevant government, welfare and community organisations. The first hearings were held in Sydney in October 1987, followed by Queensland, the ACT, Western Australia, Victoria, Tasmania, Northern Territory and regional centres in New South Wales. At the time of writing, the Inquiry had heard from over three hundred witnesses and received one hundred and twenty written submissions.

The public hearings have been supplemented by independent research into specific aspects of the problem: for example, the legal framework relevant to juvenile offenders, a group that is prominent amongst the homeless where there is a high rate of crime; a study of one hundred homeless youth in Queensland and New South Wales; a study into the incidence of youth homelessness; and a study that focuses on the economic costs to society of not providing effective services for homeless young people.

The Commission is investigating this issue thoroughly. The focus on children could call for nothing less and will be an ongoing hallmark of the Commission's work.

# Complaint Handling

*... endeavour by conciliation to effect a settlement of the matters that give rise to the inquiry ...*

Section 11(1)(f) HREOC Act

Over the past year, conciliators in the Commission's central and regional offices and agencies around Australia continued to investigate and conciliate many hundreds of complaints brought under the three federal Acts. Conciliation involves bringing two disputing parties together to reach a mutually satisfactory agreement. It is an informal, confidential and comparatively low-cost dispute resolution mechanism. Successful outcomes were reached in each of the three jurisdictions (discussed in detail below), and the conciliation approach to dispute resolution continued to demonstrate its effectiveness. In reviewing the Commission's activities in this area over the past year, it is interesting to note a number of significant general developments which occurred in complaint handling at both an administrative and policy level.

## **Administering and Managing the Caseloads**

At an administrative level, the overriding priorities were to clear the inherited backlogs in complaints and to ensure streamlined, efficient and effective complaint handling procedures were adopted. Several mechanisms were developed to achieve these objectives. New centralised administrative procedures were finalised and routine monthly reporting procedures were established in each office for information on complaints on hand, new complaints received, and complaints closed. To assist in managing caseloads, especially in regard to monitoring time frames, a bi-monthly report was also introduced summarising each complaint, noting the date received and the complaint's current status. These reports are monitored by the Chief Conciliator and forwarded to the relevant Commissioner for consultation and advice.

In the first half of the reporting year, efforts were made to finalise as many current complaints as possible which had been opened by the previous Commission. Many of these cases were

two and three years old and the conciliation team was anxious to prevent further delays. At the end of the year, in central office, there were only a handful of these complaints which remained unresolved. Clearly, the nature of some complaints means that many months may be needed for the matters to be resolved. However, the Commission has determined that six months should be the ideal time span for a complaint to have been investigated and either settled or referred for formal hearing. It should be noted that this compares favourably with typical processing times in Canada and the United States where the average time taken to investigate and settle a complaint is twelve months to two years.

### **A Computerised Data Base**

As noted in the 1986/87 *Annual Report*, a major initiative undertaken in the complaint handling area has been the computerisation of complaints data. By the end of the financial year, a pilot program had been developed and tested and all offices had been equipped with the necessary hardware. Training for conciliators on how to use the data base will be conducted in the coming months. As might have been expected, the pilot identified a number of areas requiring revision. Nevertheless, the program has enabled the provision of far more detailed data for this report than for the last.

## **Trends Emerging in Complaint Handling**

Over the past twelve months some significant trends have emerged in complaint handling generally which have challenged the skills, patience and

ingenuity of conciliators around the country. (Those issues which relate to a specific Act will be discussed separately below in the analysis of complaints brought under each Act.)

### **The Increasing Role of Lawyers**

A clear trend which emerged during the year was that respondents increasingly sought legal representation once a complaint had been made against them. The increasing role of lawyers in complaint handling should cause few, if any, problems although it should be noted that their involvement greatly increases the costs of the parties. However, given that conciliation is an alternative dispute resolution approach to problem solving and lawyers generally are trained in the traditional adversarial, confrontationist approach, it is not surprising that difficulties have resulted. With a number of notable exceptions, the majority of lawyers now entering this area appear to be still coming to grips with this relatively new legislation and the concept of conciliation. Their actions in cases over the past year also appeared to have been influenced by media reports on the very few cases which resulted in a public hearing and involved the payment of monetary settlements. Most laboured under the misapprehension that their clients would also inevitably face a public hearing. Some examples of the difficulties experienced by conciliators included lawyers advising their clients not to participate in interviews or conferences with conciliators and complainants, and not to provide documentation. Inevitably there were resulting delays in resolution and conciliators were sometimes reluctantly forced to make use of compulsory powers.

In an effort to provide lawyers with more information about the legislation and conciliation procedures, a number of successful seminars were held throughout the year. Conciliators and the Commission's community education team played an active role in these sessions and further seminars are planned next year. The Commission plans to have articles on the operation of its legislation and the conciliation process placed in legal journals, bulletins and newsletters.

### **'Policing' and Preventing Victimisation**

Each of the Acts administered by the Commission contains provisions protecting complainants from victimisation for having lodged a complaint. Happily, there have been very few cases reported to the Commission where complainants have claimed that victimisation has occurred. Nevertheless, in the few cases where claims of victimisation have been made, difficulties have arisen in following up those claims. The Commission is currently working on strategies with the Director of Public Prosecutions and the Australian Federal Police to streamline the enforcement of the victimisation provisions.

### **Commonwealth Government Respondents**

An additional factor which has challenged the routine complaint handling and conciliatory approach, and further contributed to delays in resolving complaints, concerns those cases where the respondent was a Commonwealth Government department or authority. Where the complaint was policy based, then conciliation, as it is usually conducted, was frequently not

appropriate in bringing about change. In such cases, the Commission usually gained success, particularly in the human rights area (see below), by adopting the normal administrative process of correspondence, submissions and meetings. These processes were, however, necessarily slow.

In cases involving individual grievances against a Commonwealth department as respondent, and where no policy issue was at question, conciliation was difficult. For example, there were lengthy delays in receiving written replies to complainant's allegations, and where it was necessary to call a conciliation conference, the departmental head usually nominated a delegate to attend on his behalf. The delegate invariably had no powers to make a final decision on settlement (especially where monetary compensation was sought). Consequently, delays occurred while proposed settlements were considered under usual departmental procedures.

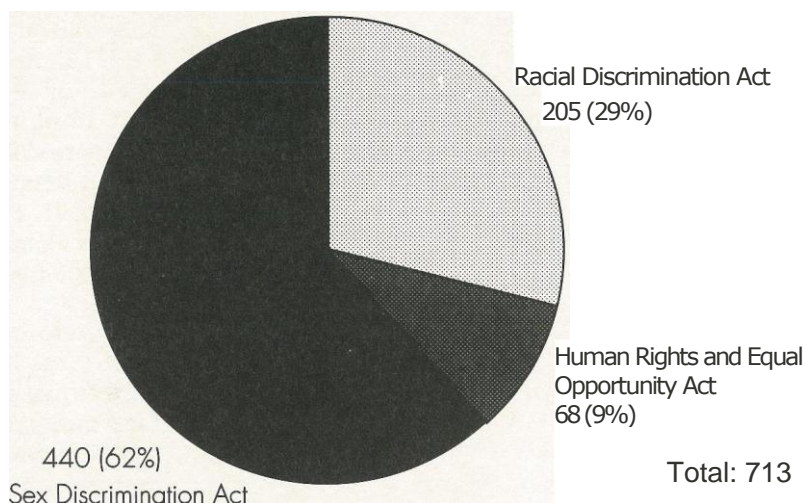
## **Overview of Complaints Received and Closed**

### **New Complaints Received**

Figure 1 below shows that a total of 713 new complaints which fell within the jurisdiction of the three Acts administered by the Commission were received in the reporting period. Complaints under the Sex Discrimination Act represented 62% of all complaints received, while the Racial Discrimination Act and the Human Rights and Equal Opportunity Commission Act represented 29% and 9% respectively of the remaining complaints.

Overall, the complaint figures appear to represent a substantial decrease in

Figure 1  
Total Number of Complaints Received Under  
the Acts 1/7/87 to 30/6/88



the number of new complaints lodged, if compared to previous years. There are several reasons for this including new recording procedures which now only register a 'complaint' as such when the matters raised fall within the jurisdiction of the legislation the Commission administers. The previous practice was to register all written requests for intervention as 'complaints' regardless of whether they ultimately were deemed to be within jurisdiction. In the Brisbane and Sydney offices of the Commission alone there were over 550 of this latter type of enquiry in this reporting period (*see separate heading following*).

The decrease in the number of new complaints was especially marked in respect of complaints received on behalf of the Commission by the New South Wales Anti-Discrimination Board and the Victorian Commissioner for Equal Opportunity.

### Complaints Closed

A total of 806 complaints were closed throughout the year (*see Table 1*). An analysis of the outcomes of the finalised complaints is shown in Figures 2, 3 and 4. From the data provided, it can be seen that the vast majority of complaints (83%) were successfully conciliated. Forty-three per cent of complaints closed were conciliated with a mutually agreed settlement, while 40% were settled because the complainant decided to withdraw the complaint. In central office there were a number of reasons for the decision to withdraw a complaint including: the complainant moved interstate; after discussion with a conciliator the complainant felt the complaint was not valid; or, in the face of a recalcitrant respondent, the complainant simply lost motivation. Fifteen per cent of complaints were finalised because the Commissioner or the delegate declined to take the case further on the grounds



that the case was unable to be substantiated.

Only 2.5% of all complaints closed were referred for a public hearing, confirming the cost-effectiveness and value of the conciliation mode of dispute resolution. Public hearings are a costly exercise, quite apart from the trauma involved for both parties to a complaint, and naturally enough all attempts are made to resolve matters without hearing. *(See below for further details of complaints referred for public hearing.)*

## Other Written Enquiries

As alluded to above, numerous other written enquiries were received, but within the new procedures adopted by the Commission, if, upon investigation, written enquiries raised matters which fell outside the Commission's jurisdiction, they were not registered as complaints. In the Commission's central office, there were 268 such enquiries and Table 2 summarises the areas within which they fell. The Brisbane regional office of the Commission received a further 304 such enquiries.

All of these enquiries were carefully reviewed and responded to. In many cases it was necessary to request further information from the writer and when it was clear the Commission had no jurisdiction, every effort was made to refer the writers to other organisations as appropriate. It is important to note here that assessment of whether or not a matter falls within the Commission's jurisdiction relates simply and solely to the question of jurisdic-

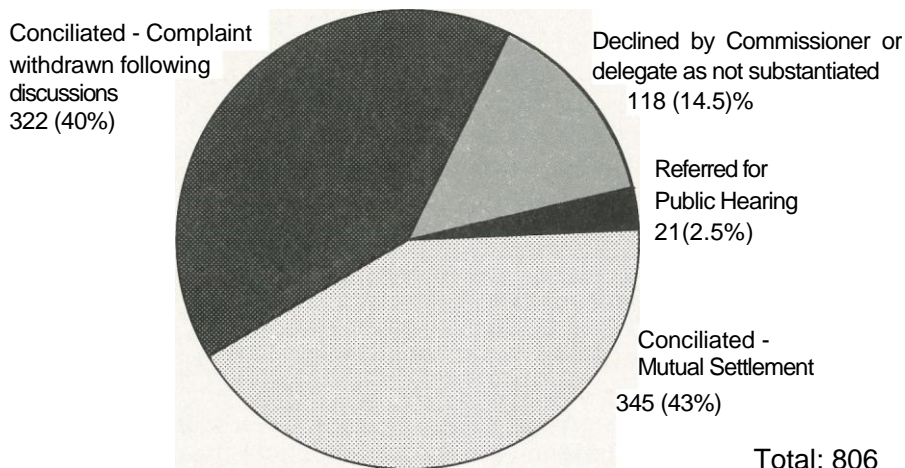
**Table 1**

### Complaints Closed - 1/7/87 to 30/6/88

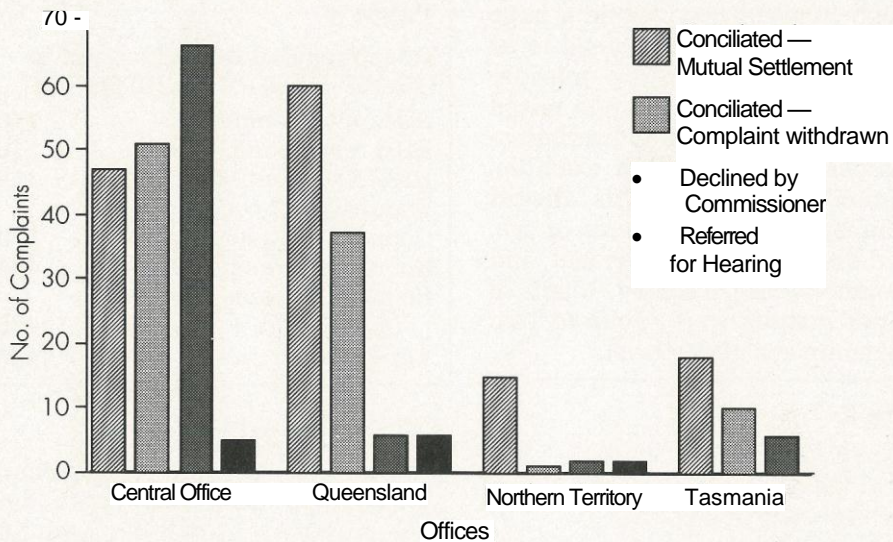
Central Office	167
Queensland Office	108
Tasmanian Office	30
Northern Territory Office	20
South Australia	192
New South Wales	143
Victoria	125
Western Australia	21
<b>Total</b>	<b>806</b>

**Figure 2**

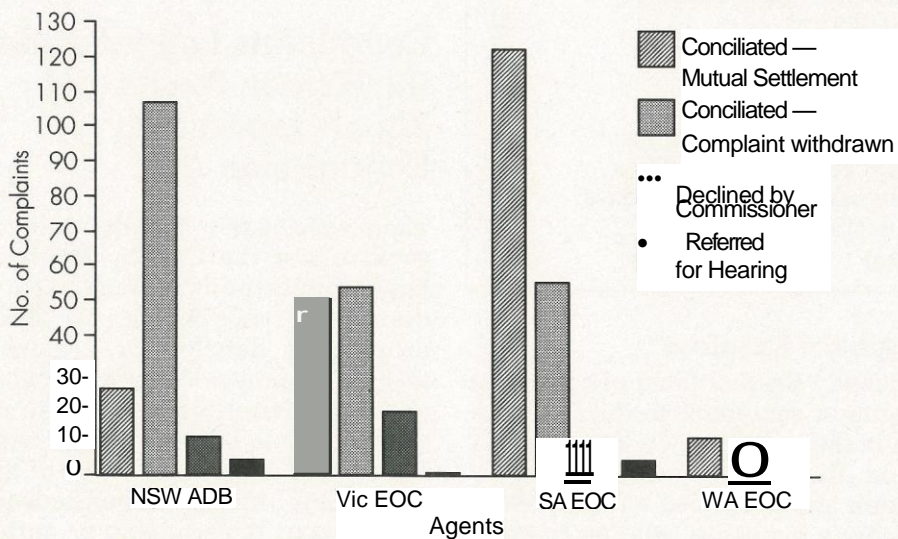
Outcomes of All Complaints  
Closed 1/7/87 to



**Figure 3**  
**Outcomes of Complaints Closed — HREOC Offices**  
**1/7/87 to 30/6/88**



**Figure**  
**Outcomes of Complaints Closed — HREOC Agents**  
**1/7/87 to 30/6/88**



tion, and not about whether the issues raised are likely to have merit. Assessment of whether there is substance to a complaint which is deemed to fall within jurisdiction only occurs after thorough investigation. While a large number of enquiries determined to be outside jurisdiction were misconceived, a significant proportion raised serious human rights and discrimination issues particularly, for example, in relation to prisoners' rights, alleged discrimination on the grounds of age, sex and disability in employment, and incitement to racial hatred. Many of the latter matters were inquired into and taken up at a policy level.

**Table 2**

**Written Enquiries Received in Central Office Not Covered by the Jurisdiction of the Acts**

— 1/7/87 to 30/6/88

Misconceived	58
Prisons/Prisoner's rights	5
Police/Legal System	25
Race related	26
Sex related	16
Employee/Industrial rights	36
Medical/Health/Disability matters	21
Immigration	15
Family Law	10
Age discrimination	8
Insurance/Compensation	8
Local government matters	5
Alleged civil rights breaches	10
Education	5
<b>Total</b>	<b>268</b>

**Telephone Enquiries**

Frequently the first point of contact in bringing a complaint to the Commission is the telephone. In the reporting period, the central office of the Commission alone received a total of 1806 telephone enquiries relating to complaint handling and a full-time En-

quiries Officer was appointed to provide advice and information as appropriate. Table 3 outlines the type of telephone enquiries received.

**Table 3**

**Telephone Enquiries Received in Central Office — 1/7/87 to 30/6/88**

SDA related enquiries	140
RDA related enquiries	116
HREOC related enquiries	119
Enquiries not covered by the Commission's jurisdiction	530
Requests for publications	444
Requests for general information	455
<b>Total</b>	<b>1806</b>

**Resource Implications**

Clearly there are significant resource implications in dealing with such large numbers of written and telephone enquiries which are about matters outside the Commission's jurisdiction. As mentioned above, uniform procedures were developed for use in the Commission's central and regional offices to deal with these.

**Complaints Lodged under the Human Rights and Equal Opportunity Commission Act**

There were 68 new complaints investigated under the Human Rights and Equal Opportunity Commission Act during the reporting period. Table 4 provides a detailed breakdown of these complaints. With the exception of the six complaints received in relation to the International Labour Organisation Convention 111, each of these complaints named Commonwealth Government departments or authorities as the respondent.

A considerable proportion of written enquiries received by the Human Rights Commissioner raised important human rights matters but did not fall within the jurisdiction of the legislation. Frequently, these cases were followed up at a policy level but they have not been recorded as formal complaints under the Act (*see Table 2*).

As noted in the previous annual report, although the Human Rights Commissioner has the power to delegate authority to investigate and conciliate complaints lodged under the Act, he chose not to delegate this authority to the Commission's State agents or regional offices. Consequently all complaints relevant to this Act in the reporting period were dealt with by the Commission's central office in Sydney.

Of the 68 complaints investigated, 27 cases related to the International Covenant on Civil and Political Rights, while 28 complaints related to the Declaration on the Rights of Disabled Persons. Seven complaints were based on the Declaration of the Rights of the Child, 6 related to ILO Convention 111 and no complaint was lodged in relation to the Declaration on the Rights of Mentally Retarded Persons.

The two most common areas of complaint were disability in employment (31) and immigration (26). In these areas, individual complaints raised a series of important policy issues which were followed up and often resulted in successful outcomes.

### **Immigration Complaints**

Of the immigration complaints in which the Human Rights Commissioner made representations to the Minister or his department, 90% resulted in a favourable decision for the complainant.

In addition to making representations on individual cases, however, the Commission met with the Secretary and senior officers of the Department of Immigration, Local Government and Ethnic Affairs (DILGEA) to discuss several relevant policy issues raised by complaints including, for example, the detention of children in migrant detention centres with no facilities for children and policies and procedures in relation to refugees. A new processing system for refugee applicants emerged from one of the cases in which the Commission successfully intervened. By attempting conciliation of complaints at this level, the Commission hopes to achieve a more wide ranging and efficient resolution of complaints than is possible with other methods.

In December 1987 the Commission made a submission to the Committee to Advise on Australia's Immigration Policies (CAAIP). The submission canvassed the need for reform of DILGEA's policy in relation to a number of matters including disabled applicants for migration. Many complaints received alleged that DILGEA had failed to distinguish between disability and health, and had rejected disabled applicants because of the discriminatory operation of the health standards. Recommendation 50 of the CAAIP report took account of the Commission's submission. It states:

*That infectious diseases continue to be taken as a basis for excluding immigrants but that immigrants with disabilities be assessed in the light of economic and family circumstances and taking into account the public health costs involved in their care and treatment.*

## **Disability in Employment**

Following the receipt of a number of complaints from government employees and applicants for appointment to the Australian Public Service alleging discrimination on the ground of disability, the Human Rights Commissioner made representations to both the Department of Community Services and Health and the Public Service Commission. A Review of Commonwealth Medical Standards and Procedures was subsequently established and the Commission prepared a comprehensive submission to that review.

Investigation of the complaints in this area revealed that there were inherent problems with the medical assessment procedures being used by the Commonwealth Medical Service and individual employing departments. The cases brought to the Commission also highlighted the problems of interpretation and misuse of the guidelines on medical standards contained in the Handbook for Medical Officers.

Each of the complainants in these cases had in common that:

- they had in the past been diagnosed as suffering from a mental illness, such as schizophrenia or manic depression;
- they had been applying for or working in clerical positions where there were no specific medical requirements associated with the job;
- where they had already been working in the public service, their probation reports were satisfactory (in some cases excellent); and
- they had all initially failed to satisfy the medical standards for permanent appointment to the Service.

Some complaints involved cases where people had failed to meet specific medical standards, e.g. eye-sight requirements.

The principal recommendation of the Commission's submission to the review was that there should be no mandatory requirement for a physical/medical examination as a prerequisite for permanent appointment to the Australian Public Service. Other recommendations stressed the need for applicants to be given more information about medical assessment procedures and to have the right to have such decisions reviewed. The Commissioner is continuing to discuss these recommendations with the Public Service Commission and the Department of Community Services and Health but at the time of writing no decision has been made by the Public Service Commission on whether to implement any of the recommendations.

It is encouraging to note, however, that as a result of the Commission's involvement in this area, programs are now being planned by the Commonwealth Department of Community Services and Health, the Merit Protection and Review Agency and the Public Service Commission to train medical officers and other senior departmental officers in disability and human rights issues. Conciliation staff have been invited to participate in this training which is considered to be a significant step forward in preventing further cases of discrimination. It is heartening to note that for several of the individuals who lost their jobs or could have lost their jobs as a result of discriminatory practices, employment was made secure as a result of the Commission's intervention.



**Table 4****Complaints Lodged Under the Human Rights and Equal Opportunity Commission Act 1986 - 1/7/87 to 30/6/88***Relevant United Nations Instrument*

International Covenant on Civil and Political Rights	27
International Labour Organisation Convention 111 Declaration	6
on the Rights of Mentally Retarded Persons Declaration of the	
Rights of the Child	7
Declaration on the Rights of Disabled Persons <b>Total</b>	28
	<b>68</b>

*Area of Complaint*

Employment	
Immigration	31
Access to Goods and Services	26
Education	4
Civil Rights in general	1
<b>Total</b>	6
	<b>68</b>

*Category of Complainant*

Males	42
Females	18
Group/Organisation	8
<b>Total</b>	<b>68</b>

**Complaints Lodged under the Sex Discrimination Act**

The majority of complaints received by the Commission throughout the year (62%) were lodged under the Sex Discrimination Act. This follows a trend set in previous years. For instance, in 1986, 80% of all complaints were lodged under the Sex Discrimination Act. Nevertheless it is interesting to note that, while still the largest area of complaints received, complaints dealt with under the Sex Discrimination Act appear to be fewer, proportionately, than in earlier years.

Table 5 provides a detailed breakdown of complaints lodged under the Sex Discrimination Act in the reporting year and it can be seen that, throughout Australia, a total of 440 new complaints within the jurisdiction of the

Act were received. (It is important to note here the discussion above on

new recording procedures, and also that many more additional complaints of sex discrimination would have been lodged under comparable State legislation in New South Wales, Victoria, South Australia and Western Australia.)

**Enquiries Received outside the Act's Jurisdiction**

Once again, within this area, numerous letters were received from people wanting to lodge complaints, but since the matters raised did not fall within the jurisdiction of the Act, they were not included as formal complaints. These enquiries often related to areas which were specifically exempt from the Act, for example, complaints from people who felt they were being discriminated against by the Social

Security Act 1947 and the Repatriation Act 1920. Others simply approached the Sex Discrimination Commissioner as a last resort in the face of difficult financial and other problems. The Sex Discrimination Commissioner replied to all such enquiries and appropriate referrals were made to other agencies where possible.

### **Complaints Received**

Of the 440 complaints received and investigated, the largest proportion (193 or 44%) were lodged under the general provision of sex discrimination. In comparison to previous years, this proportion of complaints represents a substantial decrease in complaints of this type. Significantly, complaints of sexual harassment in employment were the second most common type of complaint (121 or 28%) and these figures represent a substantial increase in complaints in this area. For example, in 1985-86, only 18% of complaints lodged under the Sex Discrimination Act were lodged on the grounds of sexual harassment. The Commission considers it unlikely that the increase in these types of complaints is indicative of an increase in the incidence of sexual harassment in the workplace. It is far more likely that, over time, community education programs, training at the work place, the Affirmative Action legislation and media coverage have all contributed to the fact that women are better informed about the provisions and, consequently, are now more likely to lodge a formal complaint. As in previous years, the typical sexual harassment complainant involved a young woman employed in a small business.

Complaints on the ground of marital status were the next most common

type of complaint (48 or 11%). These figures were largely comparable with previous years.

It was on the grounds of pregnancy, however, that there was the steepest and most significant increase in the proportion of complaints. Forty-one complaints were lodged on the grounds of pregnancy, representing 9% of all complaints lodged under the Sex Discrimination Act. In 1985-86 pregnancy complaints represented 5% of the total, while in 1986-87 they represented 2.4%. With such small raw numbers it is difficult to determine the true reasons for this increase. It is possible that more women are choosing to remain at work while pregnant and, as a result, they may be encountering biased employer practices. Certainly, in the cases dealt with in central office, complainants reported that they needed to remain at work for financial reasons. However, again, the increase in this type of complaint may merely indicate that more women are now prepared to make formal complaints rather than demonstrating an actual increase in the incidence of pregnancy discrimination per se.

Table 5 outlines the areas in which complaints under this Act were lodged. Seventy-seven per cent of all complaints were in the area of employment. This consolidates a trend over the past four years whereby increasingly this is the area where most sex discrimination complaints are made. The provision of goods, services and facilities represented 12% of complaints, a decrease in comparison to earlier years.

As reported last year, the Sex Discrimination Act is used by both men and women. The figures here show no marked changes in comparison to previous years with 86% of all com-

plaints lodged by women and 9% lodged by men. The remaining 5% were lodged as group complaints by associations or organisations. In most of these latter cases, trade unions lodged complaints on behalf of members who were affected by discriminatory work practices or policies. Two of these cases were referred to a public hearing in the last year.

## Policy Issues Arising from Sex Discrimination Complaints

### Guidelines on Pregnancy Discrimination for Employers

It was apparent from investigating and conciliating pregnancy complaints

**Table 5**

#### Complaints Lodged Under the Sex Discrimination Act 1984 - 1/7/87 to 30/6/88

<i>Ground Of Complaint</i>	<i>Central Office QLD</i>		<i>NT</i>	<i>TAS</i>	<i>NSW VIC</i>		<i>SA</i>	<i>WA</i>	<i>Total</i>	<i>%</i>
Sex	10	24	5	6	15	31	91	11	193	44
Sexual Harassment	4	21	3	8	11	17	57		121	28
Sex & Sexual Harass.	2	5		4	3				14	3
Marital Status	8	5		2	6	4	18	5	48	11
Pregnancy	4	7	1	3	2	14	10		41	9
Other		1	1		9		12		23	5
<b>Total</b>	<b>28</b>	<b>63</b>	<b>10</b>	<b>23</b>	<b>46</b>	<b>66</b>	<b>188</b>	<b>16</b>	<b>440</b>	<b>100</b>
<i>Area of Complaint</i>										
Employment	25	59	10	17	35	58	129	5	338	77
Accommodation		1	-			-	1	-	2	.5
Goods/Services/Fac.	3	3	-	2	8	5	20	11	52	12
Clubs			-	2	1	2	32		37	8
Commonwealth										
Law Programs							<b>1</b>		1	0
Education					1	1			2	.5
Application Forms			-	1					1	.25
Land							1		1	.25
Advertising			-	1			3		4	1
Other					2				2	.5
<b>Total</b>	<b>28</b>	<b>63</b>	<b>10</b>	<b>23</b>	<b>46</b>	<b>66</b>	<b>188</b>	<b>16</b>	<b>440</b>	<b>100</b>
<i>Category of Complainant</i>										
Male	6	6	-	1	6	4	9	5	37	9
Female	21	57	10	18	40	62	162	10	380	86
Group/Association	1		-	4		-	17	1	23	5
<b>Total</b>	<b>28</b>	<b>63</b>	<b>10</b>	<b>23</b>	<b>46</b>	<b>66</b>	<b>188</b>	<b>16</b>	<b>440</b>	<b>100</b>
<i>Category of</i>										
Commonwealth	10	2	2	6	11	18	17	5	71	16
Other	18	61	8	17	35	48	171	11	369	84
<b>Total</b>	<b>28</b>	<b>63</b>	<b>10</b>	<b>23</b>	<b>46</b>	<b>66</b>	<b>188</b>	<b>16</b>	<b>440</b>	<b>100</b>



that employers were generally very poorly informed about their obligations and responsibilities to pregnant employees or applicants for positions who were pregnant. The area is a confusing one and covers complex occupational health and safety issues, maternity leave provisions and both Commonwealth and State legislation. Ignorance about pregnancy, with the equation of pregnancy with ill-health, in particular, seemed to abound. To assist employers with the provision of accurate, clear and comprehensive information, and in an attempt to fill the knowledge gap and hopefully prevent further complaints of pregnancy discrimination, the Sex Discrimination Commissioner with assistance from the conciliation team commenced work on a set of guidelines for employers on pregnancy and work. The guidelines will be distributed in the coming year. With several other organisations, and as part of the settlement of individual complaints, conciliators in the Commission's central office worked with management to produce appropriate personnel policies for pregnant employees.

### **Training to Prevent Sexual Harassment**

Throughout the year conciliators were invited on numerous occasions to speak to groups about the investigation and conciliation of sexual harassment complaints. The majority of requests came from Commonwealth Government departments conducting training as part of their EEO programs for sexual harassment contact officers. Departments included the Department of Community Services and Health, the Customs Service, the Australian Taxation Office and the Department of Administrative Services. The Commission will continue to provide this ser-

vice as part of its community education strategy where resources permit.

### **Access to Complaint Mechanism by Immigrant Women**

Analysis of the ethnicity of female complainants under the Sex Discrimination Act established that women of non-English speaking background (*prima facie*, a group most likely to be at risk of discrimination on the grounds of both sex and race) rarely lodged complaints. It appeared that there were a number of possible reasons for this. However, the dominant factor which emerged from consultations with various women's groups was that women of non-English speaking background seemed to lack any knowledge of the legislation in the first place. This was not surprising given the language barriers which exist for such women. Consequently, it was decided that a pilot multi-lingual radio information project should be undertaken to inform immigrant women about their rights under each of the Acts administered by the Commission (*see section on Promotion of Human Rights and Equal Opportunity*). The pilot project will be undertaken in a number of community languages in two cities.

### **Complaints Lodged under the Racial Discrimination Act**

A total of 205 new complaints were lodged under the Racial Discrimination Act during the reporting period (*see Table 6 for details*). Despite the new recording procedures, this represents only a slight decrease in numbers in comparison to last year's figures (224). In fact, once the new

procedures are taken into account, the figures could be interpreted to show that there was a real increase in race complaints over the past year.

Once again, employment was the dominant area in which complaints were lodged. Forty-eight per cent (48%) of all race complaints were employment related with complainants commonly alleging that work was denied, promotion prevented or the general conditions of employment were less favourable than for other employees, simply because of the complainants' colour or ethnicity. These types of complaints were frequently the most difficult to investigate and conciliate. Complainants rarely complained of overt discrimination. Instead, the alleged discrimination was inevitably covert and obviously, as a result, difficult to substantiate. The provisions of 'dominant reason' in the Act (Section 18) had to be applied and, in many cases, the variables involved in employment decisions were so complex that it was not possible to substantiate a significant number of these types of cases and consequently, the Commissioner declined to intervene further. This issue is being pursued in the Commission's review of the Act.

A significant number of cases which were declined by the Race Discrimination Commissioner as lacking in substance were taken to a public hearing at the complainants' request. The legislative difficulty was again encountered and the cases generally failed.

The second and third most common areas in which new race complaints were lodged were the provision of goods and services (24%), and access to places and facilities (17%) respectively.

An analysis of the ethnicity of complainants in Table 6 shows that there were equal proportions of Aboriginal

complainants and complainants of non-English speaking background. The figures here are particularly significant, however, when ethnicity of complainants is viewed in conjunction with State of origin. The overwhelming majority of complaints made by Aborigines were made in Queensland (46%). Since Queensland also recorded by far the highest number of complaints in the area of provision of goods and services, and very few complaints were made by people of non-English speaking background there, it is safe to assume that Aboriginal complaints in Queensland continue to relate to the most basic rights and are much more likely to be overt cases of discrimination.

Queensland recorded the highest number of race complaints overall when compared to other States. However, in the absence of State race discrimination legislation in Queensland, caution should be exercised in assuming that this is an accurate indicator of the comparative incidence of race complaints around Australia.

As in previous years, men were far more likely than women to lodge race complaints. In the reporting period, 61% of complaints were lodged by men and 30% by women. The remaining 9% were lodged as group complaints by associations or organisations.

## **Policy Issues Arising from Race Discrimination Complaints**

Several major policy issues emerged from the investigation of race complaints. The section on Research elsewhere in this report covers in more detail some of the issues particularly affecting Aboriginal people. In addi-

**Table 6**

**Complaints Lodged Under the Racial Discrimination Act 1975 - 1/7/87 to 30/6/88**

	<i>Central Office</i>	<i>QLD</i>	<i>NT</i>	<i>TAS</i>	<i>NSW</i>	<i>VIC</i>	<i>SA</i>	<i>WA</i>	<i>Total</i>	<i>%</i>
<i>Area of Complaint Access</i>										
and facilities	3	1	5	1	7		17	1	35	17
Land/Housing										
Accommodation	1	6			5	1	2		15	7
Provision of Goods										
and Services	9	26	4	1	1	6	1	1	49	24
Employment	16	12	7	2	22	17	18	4	98	48
Advertising/Media	-			3			1		4	2
Incitement to										
Unlawful Acts			1			-	1		2	1
Education	-			-	1	1		-	2	1
<b>Total</b>	<b>29</b>	<b>45</b>	<b>17</b>	<b>7</b>	<b>36</b>	<b>25</b>	<b>40</b>	<b>6</b>	<b>205</b>	<b>100</b>
<i>Complainant's Ethnicity</i>										
Aborigines	11	37	13	2	6	-	12	-	81	40
Non-English										
Background	18	8	4	4	13	18	18	2	85	41.5
English Speaking										
Background				1	2	7	10	3	23	11
Association					-			1	1	.5
Not Recorded					15				15	7
<b>Total</b>	<b>29</b>	<b>45</b>	<b>17</b>	<b>7</b>	<b>36</b>	<b>25</b>	<b>40</b>	<b>6</b>	<b>205</b>	<b>100</b>
<i>Category of Complainant</i>										
Female	11	14	4	-	14	6	11	2	62	30
Male	16	27	10	6	16	19	26	4	124	61
Group Organisation		4	3	1	-		3	-	13	6
Not Recorded		-	-	-	6	-	-	-	6	3
<b>Total</b>	<b>29</b>	<b>45</b>	<b>17</b>	<b>7</b>	<b>36</b>	<b>25</b>	<b>40</b>	<b>6</b>	<b>205</b>	<b>100</b>

tion, the section on Promotion of Human Rights and Equal Opportunity details the work on the pilot Race Relations in the Workplace project which partly resulted from the difficulties experienced in dealing with race complaints in employment. Once again, immigrant women were much less likely than men to use this jurisdiction and the pilot Immigrant Women's Project also referred to in the section on Promotion is an attempt to redress this deficiency.

However, a most important issue which emerged from complaint handling in the race area was the inadequacy of the legislation in relation to some controversial issues, namely, racial harassment in employment and the lack of jurisdiction on incitement to racial hatred. The Race Discrimination Commissioner has requested the legal and conciliation teams to work together to produce a submission on possible amendments to the Act to redress these inadequacies.

Following the release of the Toomelah Report the Commission received complaints from several other Aboriginal communities throughout Australia concerning the lack of an adequate water supply. The Commission will be conducting further research into this issue in the coming months.

## **Other Work Carried out by Conciliators**

In addition to the complaint handling functions, conciliators in the Commission's central and regional offices participated in a number of other important activities. On numerous occasions, conciliators participated as speakers in training programs and seminars on discrimination and the Commonwealth legislation in which they gave talks on complaint handling procedures and role of the conciliators. Conciliation staff, furthermore, worked closely throughout the year with the research, legal and community education staff by actively participating in a range of tasks on a team basis.

Conciliators, along with other Commission staff, have taken part in a number of field trips to rural and remote Aboriginal communities in order to investigate matters of concern to those communities.

## **Sample Cases and Remedies**

The following are brief summaries of typical cases investigated and conciliated by the Commission over the past year. Because of the confidentiality

provisions in the legislation some details, not of material significance, have been changed to protect complainants and respondents from identification. Naturally names have been omitted.

### **Case 1**

An apprentice chef complained under the Sex Discrimination Act that she had been sexually harassed by her master chef. The behaviour allegedly took the form of repeated unwanted touching and requests for sexual favours. The complainant claimed that as a result of the harassment, she had suffered physically and emotionally. She decided to resign and her employer assisted in having her apprenticeship transferred to another employer. The complaint was successfully conciliated with the employer agreeing to pay the complainant an amount of money by way of compensation.

### **Case 2**

A Chilean man complained under the Human Rights and Equal Opportunity Commission Act that his parents and sister had been refused migrant entry to Australia because his sister had a hearing impairment. The complainant was a political refugee and claimed his parents and sister had been threatened in their home by armed men who accused them of being communists and questioned them about the activities of their sons in Australia. The complainant's sister had been refused migrant entry because she failed to comply with the Commonwealth Government's immigration health standards. The complaint was resolved following an inquiry by the Human Rights Commissioner with the family being accepted under the Special Humanitarian Program.

### **Case 3**

A man with overseas scientific qualifications equivalent to a Master's degree and experience as a veterinary scientist was employed by a government department. Eleven months after his appointment his employment was annulled on the ground that his work performance was unsatisfactory. In his complaint under the Racial Discrimination Act, the complainant alleged that his supervisor had discriminated against him because of his ethnic origin and overseas qualifications. By setting unreasonable time limits within which he was required to complete assignments and by placing undue emphasis on spelling and grammatical errors in his written work, the employer was alleged to have contravened the Act. The complainant has been unemployed since the annulment and is seeking re-instatement to a different branch of the department. The Commission is continuing its investigation into the complaint.

### **Case 4**

The complainant lodged a complaint in mid 1987 alleging that he was discriminated against on the grounds of disability by his employer, a federal government department. He had sat the clerical entrance test to join the Australian Public Service and had indicated at the time that he wished to be considered for a special placement on the grounds of disability. The complainant had previously been diagnosed as suffering from a manic depressive illness. He commenced employment in mid 1986 with the department and was referred for a medical assessment to the Commonwealth Medical Service. Following an adverse assessment by the Commonwealth Medical Officer, the complainant submitted a report from his

own doctor that stated his illness was well controlled and he was unlikely to suffer further episodes. The departmental delegate, nevertheless, accepted the Commonwealth Medical Officer's recommendation and advised the complainant that his appointment would be terminated. As part of the investigation of the complaint, a meeting was held with the parties and officers of the Commission at which it was agreed that the complainant should be referred to a specialist for an assessment of his fitness for work. The specialist subsequently advised him that he met the medical standard and this recommendation was endorsed by the Commonwealth Medical Officer. The departmental delegate accepted this new advice and the complainant was advised that he would be appointed as a permanent officer.

### **Case 5**

A young woman made a complaint that she was dismissed from her employment a few months after informing her boss that she was pregnant. According to the complainant, the employer had stated the reason for the dismissal was that he wished to settle a new person into the position prior to the company's busy period and he was concerned about her continuing to work whilst pregnant. When the complaint was discussed with the employer he maintained the complainant's work had deteriorated since her pregnancy, e.g. leaving early, reading books, magazines etc. and this was the reason for her dismissal. In a voluntary group conference the matter was resolved by the employer making a financial settlement, stipulating that there was no admission of liability and that the complainant was to return a reference which was provided on her termination.

### **Case 6**

A complaint was made by a female factory worker alleging sexual harassment by her supervisor. This involved staring at her and making rude and offensive suggestions of a sexual nature. She complained to the Commission. When the complaint was discussed with the manager of the firm, he immediately issued written instructions to all staff that such behaviour was unlawful and would not be tolerated. In an informal group conference led by the conciliator, the matter was resolved when both the supervisor and manager apologised to the woman who had made the complaint.

### **Case 7**

A young woman with relevant job experience and qualifications applied for a position on a construction site. She was told that women would not be considered for the job under any circumstances. The call was then abruptly terminated. The woman made a complaint to the Commission some time later. A conciliator from the Commission contacted the company and discussed the issue. As the position the woman applied for had been filled, the company agreed to interview the woman for a similar position on another site also operated by the company. An undertaking was also made not to discriminate against applicants on the basis of their sex.

### **Case 8**

Two Torres Strait Islanders went into a hotel and ordered two beers. The bar manager advised them that he was not able to serve them. When they called for the manager, he stated that some of 'their people' had caused trouble in a hotel the previous day, and that they therefore would not be served. The

two men lodged a complaint under the Racial Discrimination Act. When contacted by Commission officers, the publican did not contest the facts of the matter and offered to apologise to the two men after the provisions of the Act were explained to him. The complainants sought compensation for the humiliation which they had suffered. Following discussions between a conciliator and the parties, the matter was settled upon payment of an amount of money as compensation and the provision of a written apology by the publican to the two men.

### **Case 9**

An Aboriginal man with a fair skin colour approached a real estate agent to rent an apartment. Agreement was reached with the agent and the man returned later with his wife and children (all of whom had dark complexions) to collect the keys and make payment of the bond. The agent then maintained he had made an error and the apartment was no longer available for lease. The man complained of race discrimination and on investigation it was established that the apartment had not been leased until two days after the Aboriginal man had approached the agent. The case was eventually settled after the agent found the family alternative accommodation and paid the equivalent of the bond.

### **Case 10**

A Bangladeshi man complained that he had been discriminated against on the grounds of race when he had telephoned the police for assistance with a dispute he was having with his landlord. He alleged the police did not intervene even when the owners began throwing his possessions out of the house. He also felt that the police were

not interested in listening to his side of the dispute. As the complainant stated that his main aim in bringing the complaint was to make the police aware of the needs and feelings of migrants it was agreed that a conciliation conference would be held where the parties could meet to discuss the incident. While the police accepted that there may have been a misunderstanding about the role they could have played when the complainant called them to his house, they agreed that the matter could have been handled with greater sensitivity. A conciliation conference was held at which the police officers explained to the complainant that they did not intend to discriminate against him on the grounds of race and that the reason they had been unable to assist him at the time was because no law had been breached. The complainant reiterated his views of the events and his feelings at the time, but accepted that the matter had been resolved and no further action was necessary.

## Commission Hearings

The Commission continues to settle by conciliation most complaints lodged under the Sex Discrimination Act and the Racial Discrimination Act. Of all complaints received, only 2% are referred for hearing. Many of those are then settled immediately prior to or during the course of the hearing. The following are some of the more significant matters that proceeded to a Commission hearing during the year under review.

*Australian Public Service Association -v- The Commonwealth* (Sex Discrimination Act)

The Australian Public Service Association (APSA) brought an action on 22

January 1988 on behalf of five of its members, once employed by a former authority of the Commonwealth (the Export Finance and Insurance Corporation) and currently employed by the Australian Trade Commission, under section 5(2) and section 14 of the Sex Discrimination Act. APSA alleged that the discrimination of its members occurred within three main categories - permanent status, the Housing Loan Subsidy Scheme and Superannuation Fund. The Commission dismissed the complaint.

*Kiel -v- Weeks* (Sex Discrimination Act)

Ms Kiel lodged a complaint of sexual harassment under section 28 of the Sex Discrimination Act. The matter was heard on 27 November 1987. The complaint was found to be substantiated and the respondent was ordered to pay \$5,500 by way of compensation and damages.

*Aston -v- Queensland Ambulance Brigade* (Sex Discrimination Act)

On 23 October 1987 a preliminary hearing was held to determine the Commission's jurisdiction to entertain the complaint of Ms Aston which had been lodged under section 14 of the Sex Discrimination Act. In the decision, handed down on 26 November 1987, the respondent's objection to jurisdiction was upheld and the complaint was dismissed.

*Administrative and Clerical Officers' Association -v- The Commonwealth* (Sex Discrimination Act)

The Administrative and Clerical Officers' Association (ACOA) lodged a complaint under the Sex Discrimination Act concerning the terms and administration of the Maternity Leave (Commonwealth Employees) Act 1973. The matter was listed for hearing on 15 April 1988 at which time



submissions were called as to the proper form the Inquiry should take. Decision reserved.

*Maynard -v- Neilson and Cerny*  
(Racial Discrimination Act)

The Commission awarded the complainant \$5,000 by way of compensation and damages. The complainant sought enforcement of the determination in the Federal Court. On 27 May 1988 the Federal Court dismissed the application on the basis of fresh evidence produced to the Federal Court which had not been made available to the Commission.

## Other Referred Matters

*Hercules -v- Department of Defence*  
(Racial Discrimination Act)

The matter was heard on 17-22 December 1987 and 18 January 1988 and the complaint was dismissed.

*Whitfield -v- Smith and Others*  
(Racial Discrimination Act)

The hearing commenced on 9 December 1987 and was settled during the hearing.

*Gaffing -v- Darwin City Council*  
(Racial Discrimination Act)

The hearing into the complaint was

held on 20-23 June 1988. The matter settled on 23 June 1988 on terms not to be disclosed.

*Hamilton -v- Cut Price Stationer,*  
(Wholesalers) Pty Ltd and Wilson (Sex  
Discrimination Act)

The complainant alleged that she had been dismissed because of her pregnancy. The hearing was held on 23 and 24 June 1988. Complaint was withdrawn on 24 June 1988.

*Nankervis -v- French* (Sex  
Discrimination Act)

The matter was listed for three days of hearing to commence, 18 June 1988. Terms of settlement were handed up on 18 June 1988.

*Murray -v- The Southport RSL*  
(Sex Discrimination Act)

The matter was settled on the day of the hearing (16 December 1987).

*Ellenbogen -v- Commissioner of  
Taxation* (Racial Discrimination Act)

A complaint was lodged under the Racial Discrimination Act, it was declined under section 24(4) and referred for hearing under section 24(5). The matter went to hearing on 5 November 1987 and the decision handed down on 22 January 1988. The complaint was dismissed.



# Cooperative Arrangements with the States

*The Minister may make an arrangement with a Minister of a State for.., the performance on a joint basis of any functions of the Commission...*

Section 16(1)(a) HREOC Act

As noted in the last annual report, the Commission continued the arrangements entered into by the former Human Rights Commission with the Governments of New South Wales, Victoria, South Australia and Western Australia for the performance on a joint basis of human rights work in those States. Those arrangements were renewed during 1987/88.

The object of the cooperative arrangements is, as much as is possible given the constitutional and jurisdictional problems, to avoid duplication in the provision of services.

The States involved in the cooperative arrangements have their own anti-discrimination legislation and administrative bodies to administer that legislation. By delegating certain of its

powers to the State bodies concerned, the Commission is able to make use of the expertise available in those bodies to handle complaints arising under Commonwealth legislation.

The administrative bodies taking part in the cooperative arrangements are:

- Anti-Discrimination Board in New South Wales
- Commissioner for Equal Opportunity in Victoria
- Equal Opportunity Commission in Western Australia
- Commissioner for Equal Opportunity in South Australia

At the time of writing, reports on the activities of the participating States on behalf of the Commonwealth were not available. However, details of the complaints received by each State body and their outcomes for the year appear in the previous section of this report.

Commonwealth funds appropriated for cooperative arrangements in 1987/88 totalled \$1.1m.

# Promotion of Human Rights and Equal Opportunity

*... promote an understanding and acceptance, and the public discussion, of human rights in Australia.*

Section 11(1)(g) HREOC Act

One of the key responsibilities of the Commission is to conduct programs of public or 'community' education in order to promote awareness and understanding of human rights issues.

In a market place crowded with messages and opinions, this is no simple task, so the messages the Commission wants to communicate must be framed clearly and delivered effectively. It is essential that the messages delineate those actions or practices which are required or prohibited by law and also indicate what is desirable in terms of the broad principles expressed in the Universal Declaration of Human Rights and the various international instruments in which that Declaration finds expression.

Given the relatively modest budget and staffing resources the Commission is able to dedicate to public education, a key principle underlying the Commission's approach in this area is the need for cooperative action with other

organisations, government and non-government.

There is also a significant contribution to public education from such Commission activities as public inquiries, reports of hearings of complaints, the work of the conciliation team, public addresses by Commissioners, publication of research findings and submissions to various government inquiries in related areas.

Until October 1987, the Commission had only one part-time consultant working on public education. Much of her time was spent on establishing the basis for school-level projects and in working with staff of the research, media, conciliation and administrative units on some special initiatives in community education, for example about race relations and communication with women of non-English speaking background. The Commission now has the equivalent of three full-time workers in community education.

## Congress 1987

The National Human Rights Congress, organised by the Commission in Syd-

ney from 25 to 28 September 1987, brought together some three hundred delegates from federal and state agencies and non-government organisations, as well as parliamentarians, jurists, academics and other interested parties, to hear addresses and hold discussions on a very wide range of human rights and equal opportunity issues.

The Congress was opened officially by the Deputy Prime Minister and Attorney-General, the Hon. Lionel Bowen MP.

Each session of the Congress had a specific theme. The sessions began with keynote speakers addressing the Congress in plenary. Concurrent workshops followed in which various sub-themes were developed.

The first session, 'Equality before the Law', was addressed by the Hon. Justice Kubulan Los, Judge of the Supreme Court of Papua New Guinea, and the Hon. Justice Michael Kirby, President of the New South Wales Court of Appeal.

On day two of the Congress, the theme 'The Human Rights Jigsaw' focused attention on the balancing of various human rights issues. The keynote speakers were the Hon. Justice John Wallace, Chairman of the Human Rights Commission of New Zealand, and Deputy President Robyn Layton of the Administrative Appeals Tribunal.

'The Right to Shelter' was a major theme of the third day. Addresses were given by Bishop Peter Hollingworth, Chairman, Committee of Non-Government Organisations for the International Year of Shelter for the Homeless, and Ms Lois O'Donoghue, Chairperson of Aboriginal Hostels Limited.

Aboriginal people's rights were con-

sidered in sessions on 'Aborigines and the Criminal Justice System' and 'Indigenous People's Rights — Recent International Developments and their Significance for Australia'. Speakers at the first of these sessions were Mrs Sally Thomas SM, Chief Magistrate for the Northern Territory; Dr Paul Wilson, Assistant Director Australian Institute of Criminology; Dr Christian Alexander, New South Wales Ministry of Aboriginal Affairs; and Chief Inspector Bill Galvin, Officer in Charge Police Community Relations Branch, New South Wales Police Department.

At the session on indigenous people's rights, the speakers were Professor Garth Nettheim, Human Rights Centre, University of New South Wales; Ms Marcia Langton, Central Land Council, Northern Territory; Mr Tony Simpson, New South Wales Aboriginal Land Council; and Mr Paul Coe, New South Wales Aboriginal Legal Service.

Geoffrey Robertson of ABC TV's 'Hypotheticals' fame was the moderator for a session in which the Human Rights Commissioner, Mr Brian Burdekin, and Mr Ron Castan, QC debated with Professor Geoffrey Blainey and Mr S.E.K. Hulme, QC on the topic 'The Constitution and Individual Rights'.

The final day of the Congress began with consideration of the topic 'Economic Equity and Human Rights'. Keynote speakers were Mr Geoff Allen, Director, Business Council of Australia; Professor Bettina Cass, Director, Social Security Review; and Mr John Halfpenny, Secretary, Amalgamated Metal Workers Union.

The Congress concluded with the theme 'Developments in Equal Opportunity Law and Practice'. Speakers included Ms Laurie Alsop of the Disability Advisory Council of Australia;

Ms June Williams, Western Australian Commissioner for Equal Opportunity; Ms Josephine Tiddy, South Australian Commissioner for Equal Opportunity; and Ms Carmel Niland AM, President of the New South Wales Anti-Discrimination Board.

The next national human rights congress is to be held in Melbourne in September 1989.

## **Establishment of Full-time Program**

In October 1987, two full-time consultants were engaged to plan and implement a broad program of public education and to continue with initiatives already undertaken. One of their first tasks was to help co-ordinate activities for Human Rights Week, 4 - 10 December and judging and presentation for the Human Rights Medal and Awards.

## **Human Rights Week**

Human Rights Day, 10 December each year, marks the adoption of the Universal Declaration of Human Rights on that day in 1948.

To focus public attention on the Declaration and its significance, the Commission in 1987 arranged a number of activities around Australia in the week leading up to Human Rights Day and on the day itself. State government bodies and non-government organisations also arranged activities to mark the occasion.

The Commission's regional offices in Queensland, Tasmania and the Northern Territory sponsored various events.

In Queensland, radio programs about

disability, made in conjunction with the Australian Broadcasting Corporation, were broadcast throughout the State. Banners with human rights messages draped the main street of Brisbane.

A colloquium in Brisbane on 8 December, chaired by Human Rights Commissioner Mr Brian Burdekin, featured addresses on schizophrenia, homeless children and disability issues. The President of the Commission, the Hon. Justice Einfeld, delivered the inaugural Human Rights Address, in which he spoke about the plight of prisoners in the 'black hole' underground cells at Brisbane's Boggo Road Gaol. Very shortly after, the Premier of Queensland announced his Cabinet's decision to close the notorious cells.

In Tasmania there were special events in Hobart and Launceston. These included displays in Hobart by the Tasmanian Aboriginal Centre and other groups and a civic luncheon for Human Rights Week, hosted by the Lord Mayor of Hobart, with the President of the Commission as guest of honour. In Launceston there were special activities in the Mall and the Commission was represented at official functions by Ms Irene Moss, Race Discrimination Commissioner.

In the Northern Territory, the Hon Justice Asche, Chief Justice of the Northern Territory Supreme Court, addressed a Human Rights Day luncheon.

There was a range of activities in the other States also.

In Adelaide, several organisations collaborated with South Australians for Racial Equality to organise a conference on the topic 'Race Relations in Multicultural Australia' and Amnesty International organised a candle light-

ing ceremony, speeches and the showing of videos on prisoners of conscience.

In Perth a forum was held on the subject 'The Australian Asian Connection — Retrospect and Prospect', with Professor Lakasiri Jayasuriya as guest speaker. Support for the forum was provided by the United Nations Association of Australia, LAWASIA (WA), the International Law Association and Amnesty International Perth Lawyers' group.

Amnesty International was active in Melbourne, where Amnesty's work and human rights issues were promoted throughout Human Rights Day on radio and television.

On 7 December in Sydney, Their Excellencies the Governor-General Sir Ninian Stephen and Lady Stephen hosted a Human Rights Week reception at Admiralty House. There was also a hearing in Sydney of the Inquiry into the Social and Material Needs of the Residents of Goondiwindi, Bogga-billa and Toomelah, presided over by the Hon. Justice Einfeld.

The highlight event of Human Rights Week was the presentation by the President and Commissioners of the Human Rights Medal and Human Rights Awards. This event took place at the Raoul Wallenberg Gardens in the eastern Sydney suburb of Woolahra.

Human Rights Day 1988 will mark the 40th Anniversary of the signing of the Universal Declaration of Human Rights. The Commission is planning special events to commemorate that anniversary. With assistance from the Commission, the United Nations Association of Australia will co-ordinate a range of activities in each State and Territory.

## **Human Rights Medal and Awards**

### **The Human Rights Medal**

The Commission has established the Human Rights Medal to be presented annually in recognition of outstanding personal endeavour in the cause of human rights. The choice of recipient, after open nomination, is made by an independent panel. Judges in 1987 were Justice Elizabeth Evatt, Mr David Hill, Mrs Mollie Missen, Dottore Paolo Totaro, Professor Eric Willmot and Professor Brian Wilson.

The Medal is designed and made by Melbourne-based Michael Meszaros, an international award-winning medal designer and sculptor.

In 1987, the Medal was presented to Ms Rose Colless OAM, for her outstanding work for the Aboriginal and Torres Strait Islander people in far North Queensland.

Rose Colless, an Aboriginal woman, was born in 1928 and left school in Grade 7. Active in housing and other activities to support her people, Ms Colless has worked intensively for over fifteen years in drug and alcohol rehabilitation for Aborigines and Torres Strait Islanders. For over eleven years she has been Manager of the Aborigines and Islander Alcohol Relief Service Limited in Cairns. She has also worked for the Department of Social Security, the Aboriginal and Torres Strait Islander Legal Service and the Queensland Department of Aboriginal Advancement.

Rose Colless runs a meal service in the parks of Cairns and caters for local homeless Aborigines. Her OAM was awarded in 1984.

## The Human Rights Awards

The 1987 Human Rights Awards honoured achievements in literature, film and the media, in the promotion of understanding and public discussion of human rights issues in Australia.

The distinctive crystal awards were designed and made by South Australian glass artist, Pavel Tomecko.

Recipients of the awards, after open nomination, were decided by independent judging panels. For literature the judges were Mr Claudio Alcorso, Ms Nancy Keesing and Mr Angelo Loukakakis. Film judges were Ms Anne Deveson, Mr John Hinde and Mr Ben Lewin and the media awards were judged by Mr Phillip Adams, Mr Creighton Burns, Ms Mary Delahunty and Mr George Negus.

The three awards for literature were won by Aboriginal writers. These were: Western Australian Sally Morgan for her autobiographical study *My Place*; Queensland historian Bill Rossler for *Dreamtime Nightmares*, in which Aboriginal men and women tell their experience of life and work on the cattle stations of the North; and Western Australian poet and playwright Jack Davis for his play *No Sugar*, illustrating the struggle of family life for Aborigines in Western Australia in the 1930s.

The film award went to David Noakes for the documentary *How the West was Lost*, a moving account of the struggle of black station workers in Western Australia and the 1946-50 strike for better conditions.

The media awards went to:

- John O'Grady for the television drama series *Mother and Son*, portraying a woman suffering from

senile dementia and her interaction with her family;

- Iain Gillespie for the television documentary *Suzie's Story*, the personal account of a Sydney family whose lives are devastated by the AIDS virus;
- Ros Bowden for her series of six radio documentaries *Being Aboriginal*, in which Aboriginal people explain how they are communicating their people's history within their own communities; and
- Paul Rea for his series of articles *A Struggle for Natural justice: Australian and New Zealand Victims of Nazi Persecution*.

The Commission takes this opportunity to record its appreciation of the dedication and voluntary commitment of time and expertise by the Medal and Award judges.

Following consideration of advice from the literature panel, the Commission has determined that in 1988 the literature category will be re-designated as 'literature and other writing'.

## Schools Program

In undertaking projects relating to school level education, the Commission recognises firstly that in the development of curriculum for government and non-government school systems and independent schools across Australia, a range of positive initiatives have been taken in areas of concern to the Commission. Examples abound in such areas as non-sexist education, Aboriginal studies and multicultural studies.

Further, in view of the variety of systems of school governance and approaches to curriculum develop-

ment between States and systems, the Commission has not attempted to develop any 'all purpose' curriculum materials in human rights education. Rather, the policy of the Commission with regard to school level education projects is to negotiate specific cooperative projects with individual systems.

In the period under review, two such projects were commenced. one in Tasmania and the other in New South Wales. Both are in the government school sector.

The Tasmanian project involves seven schools, ranging from primary through to senior secondary, in various education regions. Each participating school is examining one of the seven international human rights instruments for which the Human Rights and Equal Opportunity Commission is responsible and developing an understanding of how that document relates to the Australian context. Each of the schools will prepare a report on its findings and those reports will be consolidated into a single report. The project will be completed by the end of 1988.

Participating schools have entered enthusiastically into this project and various imaginative approaches to the examination of the documents have been developed by teachers and students.

The New South Wales project involves a different approach to the field of human rights studies. In this project, a group of classroom teachers was brought together for intensive workshops to examine approved curriculum in the areas of non-sexist education, Aboriginal studies and multicultural education, with a view to developing ways in which these can be taught more effectively. There

is a strong emphasis on making as much use as possible of existing curriculum materials, and to this end a teacher was deployed before the first workshop to establish what materials were already available.

A tangible outcome of the project will be a simple format resource manual which will enable teachers throughout the State to benefit from the work done by the teachers participating in the workshops.

The New South Wales project will also be completed by the end of 1988.

## **Immigrant Women Project**

Immigrant women of non-English speaking backgrounds are consistently identified as a group in the community which has special difficulty in becoming aware of the provisions of Australian discrimination law and of the resources available to those who believe they are suffering discrimination.

These women face a double burden of race discrimination and sex discrimination.

After consultation with a range of women's organisations and government agencies, the Commission, in co-operation with the Federal Office of Multicultural Affairs, and the Special Broadcasting Service, has initiated a pilot project to communicate with migrant women of non-English speaking backgrounds about their rights under the Sex Discrimination Act and the Racial Discrimination Act.

The project will use as a primary means of communication a series of community announcements, to be broadcast during specific language programs on the Special Broadcasting

Service's Radio 2EA (Sydney) and 3EA (Melbourne). For the pilot project phase, the messages will be broadcast in three languages — Spanish, Turkish and Khmer. The messages will focus on employment-related issues, such as dismissal on the grounds of pregnancy, and will also refer to access to services such as accommodation.

Prior to the radio announcements, a printed information kit will be distributed to community organisations and to agencies involved in the delivery of services to ethnic communities, so that those likely to be asked about the announcements will be able to provide further information.

The pilot project will be evaluated, with the intention of developing a more extensive national project in a wider range of community languages.

## **Race Relations in the Workplace**

With the implementation of the Human Rights and Equal Opportunity Commission Act in December 1986, the functions of the former National Committee on Discrimination in Employment and Occupation were transferred to the Commission. Complaints and community education about discrimination in the workplace were thus to be handled through the normal machinery of the Commission and its agents in the States.

In the year under review, the Commission held discussions with a number of parties about suitable approaches to community education about discrimination law as it affects people in their places of work. One of the concerns the Commission wished to address in this area was that the Race Discrimina-

tion Commissioner was regularly informed by ethnic community organisations that discrimination on the ground of race was widely experienced, although instances of such discrimination were not highly represented in the Commission's complaints statistics.

The Commission was aware of valuable initiatives to promote harmonious relations in workplaces, such as the National Labour Consultative Council's excellent publication, *Managing a Multicultural Workforce*, and the efforts of a number of major employers, in both the government and private sectors, to develop and promote equal opportunity programs. At the same time, the Commission felt that it would be useful to undertake some projects to advance the understanding of workers and management about how racial discrimination functions in the workplace and about practical steps which can be taken to overcome or at least limit its effects.

The Office of Multicultural Affairs agreed to collaborate with the Commission in developing public education projects in this area.

The Commission hopes that, through such co-operative projects and the initiatives of other concerned parties, race relations will come to be seen more clearly as an essential issue in the employment agenda, for employers and employees as well as for academic theorists. Further, the Commission takes the view that when the community understands better the various ways in which racial discrimination can operate in the workplace and the deleterious effects it can have on industrial relations and individual job satisfaction, any short term convenience which certain practices are believed to offer will be seen to be out-



weighed by longer term considerations.

More specifically, the Commission believes that the implementation of equal opportunity programs and the elimination of discriminatory practices on the grounds of race or ethnic origin will come to be seen as worthwhile in terms of job satisfaction, productivity and profitability.

In the period under review, two pilot projects were commenced, one in New South Wales and one in Queensland. Each involved a consultant working with management and employees of a medium sized private sector company, at a specific work site, to examine personnel practices, including recruitment, and to work co-operatively to develop improved procedures and manuals of operation.

The Commission is also helping the Victorian Ethnic Affairs Commission to hold a National Conference in Melbourne, in December 1988, on the human rights of immigrant workers.

Negotiations were also underway to hold a two day symposium on race relations in the workplace, early in 1989. The symposium will bring together leading practitioners and academics in industrial relations, together with people expert in ethnic affairs. The papers and proceedings of the symposium will be published.

Discussions have been held with representatives of the Australian Council of Trade Unions, the Confederation of Australian Industry and the Business Council of Australia, to establish a basis for continuing consultation and advice on possible future public education projects in the race relations area.

## **Publications**

The primary aim of the Commission's publications program is to produce material which will help raise awareness of human rights issues, in the community generally and among opinion leaders. As a national, government-funded body, the Commission is also able to help disseminate information nationally and even internationally about the work of State anti-discrimination and equal opportunity bodies and the work of the many — largely voluntary — non-government bodies active in the human rights area.

The publications program is intended to include also a range of documents for more specialised readerships, for example the publication of papers from conferences and symposia on specific human rights issues.

### **Newsletter**

In February 1988 the Commission published the first issue of its newsletter, *Human Rights Australia*. 20,000 copies were distributed nationally to organisations and individuals known or considered to have an interest in human rights issues.

It is intended to develop the newsletter as a quarterly publication. Organisations and individuals interested in receiving the newsletter on a regular basis will be included in the mailing list.

### **Brochures**

A series of brochures was commenced. The first brochures were *What are Human Rights?*, a plain English summary of the seven international human rights instruments, and *Your Guide to the Human Rights and Equal Opportunity Commission*.

In preparation are brochures on:

- the Sex Discrimination Act and Sexual Harassment in Employment;
- Complaints and Conciliation Procedures;
- the Racial Discrimination Act
- Guidelines for Advertisers
- Guidelines for Real Estate Agents and Landlords
- the Human Rights and Equal Opportunity Commission Act.

From complaints and enquiries it is evident that the law regarding discrimination on the grounds of pregnancy and especially dismissal of pregnant women from employment is both little understood and regularly breached. Accordingly, a priority publication for production in the latter part of 1988 is a detailed guidelines booklet on this subject.

Information on the foregoing subjects may also be produced in community languages to assist people of non-English speaking backgrounds.

### **Occasional Papers**

Commissioners are regularly engaged in giving addresses to various audiences. These addresses draw on current research and other information which may not be widely available. The Commission intends to publish them as part of a series of occasional papers for distribution to interested parties. Addresses to seminars, colloquia and conferences organised by the Commission will also be included in the occasional papers series.

### **Reports**

Similarly, the findings of public inquiries will be published, such as the *Toomelah Report* and the report of the national inquiry into homeless children.

### **Desktop Publishing**

The Commission's computer facilities were expanded by the acquisition of hardware and software for desktop publishing. This will assist in the publication of occasional papers and other documents.

### **Contact Database and Mailing Lists**

The effective dissemination of Commission publications requires the establishment and maintenance of an accurate and appropriate list of contacts. The range and diversity of the Commission's responsibilities call for a well-structured mailing list, so that publications and other communications — for instance, notices of conferences — are delivered effectively.

Accordingly, the Commission engaged a consultant to conduct a complete audit of its needs in this area and to advise on the establishment and maintenance of a contact database, including up-to-date mailing addresses and telephone numbers. Elimination of duplication and out-of-date addresses was seen as a priority task, with long term implications for savings in mailing costs and improved effectiveness of communication.

### **Colloquia and Seminars**

An important part of the Commission's public education program is organising relatively small scale colloquia and seminars on specialised topics.

Because of the Commission's own limited staffing resources considerable value has been gained by organising such events on a cooperative basis with other organisations, especially in the non-government area.

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In the year under review, seminars on issues of human rights and law were held for lawyers in Brisbane and Sydney. Plans were underway for seminars or colloquia on several topics, including race relations in the workplace, schizophrenia and disability.

## **Human Rights Exhibition 1989-90**

During the year, the Commission commenced the development of concepts for a major touring exhibition on human rights as a means of bringing human rights issues to the awareness of the community in a way which publications, seminars and conferences could not achieve.

Following discussions with the Executive Director of the International Cultural Corporation of Australia (ICCA), the Commission requested the State Museum of Victoria to undertake a preliminary study on how such an exhibition would be prepared. The Museum of Victoria was asked at the same time to consider whether it would be willing to prepare and manage the exhibition.

With financial assistance from the Commission, the Museum retained a curator to work on this project.

The Victorian Commissioner for Equal Opportunity accepted an invitation to join a consultative committee for the study, together with a representative of the Human Rights and Equal Opportunity Commission and the Executive Director of the ICCA.

By June 1988 the study was well advanced and the feasibility of the exhibition, subject to finance, was established to the satisfaction of the committee.

The brief for the exhibition envisages two 'versions', one a major exhibition to be mounted initially in the Museum of Victoria, and the other a smaller, easily transportable display to travel to suburban and regional venues. The major exhibition, after its stay at the Museum of Victoria, would travel to other State and Territory Capitals around Australia.

The viability of the exhibition depends upon significant financial support from Commonwealth and State Governments and from the private sector. Without such support, it cannot proceed.

## **Media Liaison**

In June 1987 the Commission appointed a Media Adviser to be responsible for media and press liaison. The media strategy of the Commission has been extended and expanded in order to reach sections of the community where the work of the Commission was hitherto unknown. Extensive links have been forged with the electronic and print media which has firmly established the Commission as a reliable source of comment in the human rights spectrum.

The Homeless Children Inquiry, which has sat in every State in Australia, received extensive media coverage, highlighting the plight of homeless children and generating community awareness which will hopefully pave the way for change.

Likewise the Inquiry into the Social and Material Needs of the Residents of Goondiwindi, Boggabilla and Toomeah received extensive media coverage which has resulted in greater public awareness of the problems facing Aboriginal communities in Australia.

# Coordination and Consultation

## Non-Government Organisation Programs

*... for the purposes of the performance of its functions, the Commission may work with and consult appropriate persons, governmental organisations and non-governmental organisations ...*

Section 15 HREOC Act

A diverse range of non-government organisations (NGOs) is involved in advocating the adoption and implementation of human rights in Australia, and there are many concerned with the development of respect for human rights law internationally. In order to maximise the impact of Commission programs, close cooperation and consultation with these organisations is necessary.

The Commission is finalising a detailed strategy for its program of activities with NGOs. This has been developed after individual discussions with a number of key national peak organisations, and subsequently through broader consultation meetings. While the strategy has been developed, a number of meetings and

projects consistent with it have been undertaken. These include:

- Consultation with NGOs concerned with the international observance of human rights law.

A meeting was held on the evening of 19 April 1988 attended by representatives of ten national organisations and a number of interested individuals. Various proposals for the observance of the 40th Anniversary of the Universal Declaration of Human Rights and the need for cooperation on promotion of human rights were discussed, together with lengthy discussion on the Commission's future consultation program.

- Consultation with NGOs concerned with domestic human rights issues.

Seventeen peak organisations covering the disability, ethnic, Aboriginal, youth, sex discrimination, age discrimination, child welfare and general social welfare fields attended a meeting in Canberra on 6 June 1988. The meeting involved a detailed briefing by each Commissioner on proposed areas of work in 1988-89, and discussion of areas of cooperation and consultation between the Commission and these organisations. A draft of the Corn-

mission's consultation policy was endorsed by the meeting and a number of invitations for more detailed follow-up discussions with particular organisations arose from the meeting.

- Briefing on the progress of the Draft Convention on the Rights of the Child

The consultation meeting on 6 June 1988 was followed in the afternoon by a briefing for NGOs on the progress of the Draft Convention on the Rights of the Child, and a discussion of the possible implications for Australian children if Australia was to ratify it. Commissioner Burdeldn spoke on the negotiations on the Convention in Geneva; Mr Robert Nestsdale, National Director of UNICEF, Australia, spoke on the role of NGOs in the development of the Convention; Ms Penny Ryan of Community Child Care Cooperative spoke on the implications on Commonwealth children's services; and Mr Morn i Young, Director of the Association of Children's Welfare Agencies, spoke on the implications for state child welfare and juvenile justice systems. Arising from this briefing, a group of NGOs has formed to promote the adoption of the Draft Convention in Australia.

### **Joint Projects**

Three joint projects between the Commission and NGOs were commenced:

- A research project to be managed by AAMR, the National Association on Intellectual Disability, in conjunction with Australia's Council on Disability (ACROD) and Disabled Peoples International (Australia) (DPI). The purpose of the research is to identify the areas of need for

federal legislation to protect the rights of people with disabilities.

- A community education project with the United Nations Association of Australia to establish a program of activities among NGOs in each State and Territory to mark the 40th Anniversary of the Universal Declaration of Human Rights.
- A project with the Federation of Ethnic Communities Councils of Australia to seek the views of national ethnic community organisations on the Commission's programs and on the human rights aspects of the report of the Committee to Review Australia's Immigration Policy.

In addition to meetings with representatives of national NGOs, Commissioners and staff have undertaken meetings with State-based NGOs and attended a number of NGO conferences and seminars.

### **International Contacts**

During the year, the Commission extended its international cooperation with the United Nations Human Rights Centre in Geneva and a number of other Human Rights Commissions and Centres.

The Human Rights Commissioner participated in Australian delegations at the Working Group on the draft Convention on the Rights of the Child and at the United Nations Commission on Human Rights in Geneva in January/February 1988 and in the delegation reporting on Australia's compliance with the International Covenant on Civil and Political Rights in New York in April 1988.

The Commission received visits from the President of the New Zealand Human Rights Commission, Justice Wallace, and the Director of the Danish Centre for Human Rights, Mr Lars Adam Rehof. The Commission also had direct contact with the Netherlands Institute of Human Rights and with Commissions and Centres in Canada and Scandinavia.

The Commission considers the development of these international contacts important to its work in extending international human rights law and practice and in promoting Australia's own observance of these laws through its own institutions. It looks forward to continuing close contact with such comparable organisations in the United Nations and in other countries.

# Corporate Services

1987-88 is the first full year of operation of the Human Rights and Equal Opportunity Commission. The Commission's Annual Report for 1986-87 covered the period 10 December 1986 to 31 July 1987 and reports on the Commission's developmental phase. It is therefore difficult to draw direct comparisons between the Commission's performance in 1987-88 and that of 1986-87. What is clear, however, is that significant productivity gains have resulted from the establishment of the Commission.

The Human Rights and Equal Opportunity Commission was established on 10 December 1986 to replace the former Human Rights Commission. A pre-condition to the establishment of the new Commission was a reduction of approximately \$2m or 30% in outlays on human rights activities in the Attorney-General's portfolio. At the same time the Commission was given a considerably wider charter.

The major management challenge facing the Commission in its formative period, including the year under review, has been to meet its additional responsibilities with a 40% smaller

staff than that of its predecessor. Multi-skilling of staff has been an important linchpin in this process as well as the creation of a technologically advanced office environment. Also important to the process has been the recruitment of a highly qualified and professional staff.

At the end of the reporting period, 90% of the Commission's staff positions had been filled. Now that the major recruitment task is complete, greater emphasis will be given to training. The quest for even greater efficiency and productivity will be an important feature of the Commission's management strategy over the coming year.

The Commission has adopted a corporate strategy which is designed to maximise scarce resources and enable the most cost effective service provision possible. Performance indicators have been developed to measure the effectiveness of the Commission's management strategy. Further details appear on following pages.



## Attorney-General's Department

The Commission is grateful to the Attorney-General's Department for the valuable services it provides to the Commission in Sydney, Brisbane, Hobart and Darwin in the areas of final accounts processing and payment of salaries as well as for its general support and assistance.

## Finance and Budget

For the purpose of program budgeting, the Human Rights and Equal Opportunity Commission appears in the Attorney-General's portfolio as a sub-program of the program entitled 'Law Related Services to the Community'. For convenience, the Commission's work is further broken down into the

following seven areas which form the main section headings in this report:

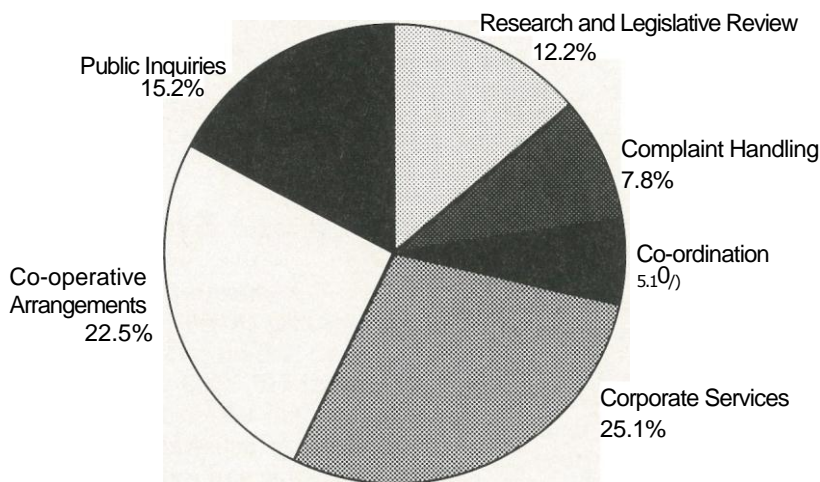
- Research and Legislative Review
- Public Inquiries
- Complaint Handling
- Cooperative Arrangements with the States
- Promotion of Human Rights and Equal Opportunity
- Coordination and Consultation
- Corporate Services

Figure 5 provides a breakdown of the Commission's expenditure in each of the above areas. The figures include salary costs as well as running costs.

### Performance Indicators

The Commission's corporate strategy provides for the development of a yearly work plan to coordinate activities and ensure that corporate goals are met.

**Figure 5**  
**Expenditure by Program Element -**





Performance indicators include:

- Success rate in meeting the work-plan on time and on budget
- Average length of time taken to settle complaints
- Unit cost of service delivery
- Success rate in having recommendations to government implemented.
- Level of community awareness of Commission's programs.

### Financial Statement

An expenditure statement for 1987-88 appears at Table 7. It will be seen that total outlays amounted to \$4.901m and total staff years to 51.

**Table 7**

#### Expenditure Statement 1987-88

##### Outlays and Staffing

<i>Outlays</i>	<i>Estimate</i>	<i>Actual</i>
	<i>\$122</i>	
<i>Special Appropriations</i>	.309	.299
<i>Appropriation Bill No.1</i>		
Salaries	1.474	1.467
Admin Expenses	2.217	2.214
<i>Appropriation Bill No.2</i>		
Payments to States	1.100	.824
Capital Equipment	.100	.097
<b>Total Appropriation</b>	<b>5.200</b>	<b>4.901</b>
<i>Staffing</i>	<i>Estimate</i>	<i>Actual</i>
	<i>Staff Years</i>	<i>Staff Years</i>
	54	51

structure appears at Figure 6 and the staffing profile at Table 8.

**Table 8**

#### Staffing Profile at 30 June 1988

<i>Classification</i>	<i>Males</i>	<i>Females</i>
Level 4	<b>1</b>	
Level 2	<b>1</b>	<b>1</b>
PLO		<b>1</b>
ASOC 8	<b>1</b>	3
SLO		1
ASOC 7	2	6
ASOC 6	1	6
Librarian Class 2		1
ASOC 5	3	1
ASOC 4	1	3
ASOC 3	2	3
Library Officer Grade 2		1
ASOC 2		8
ASOC 1	<b>1</b>	<b>1</b>
<b>Total</b>	<b>13</b>	<b>36</b>

As stated earlier, multi-skilling of staff has been afforded a high priority in the Commission's staff management policy, which accords with the recommendations of the Office Structures Review. In fact, the Commission was well down the track of multi-skilling before the Office Structures Review was completed. An important feature of the multi-skilling policy has been the development of a fully networked information and word processing system to which all staff have access.

## Staffing

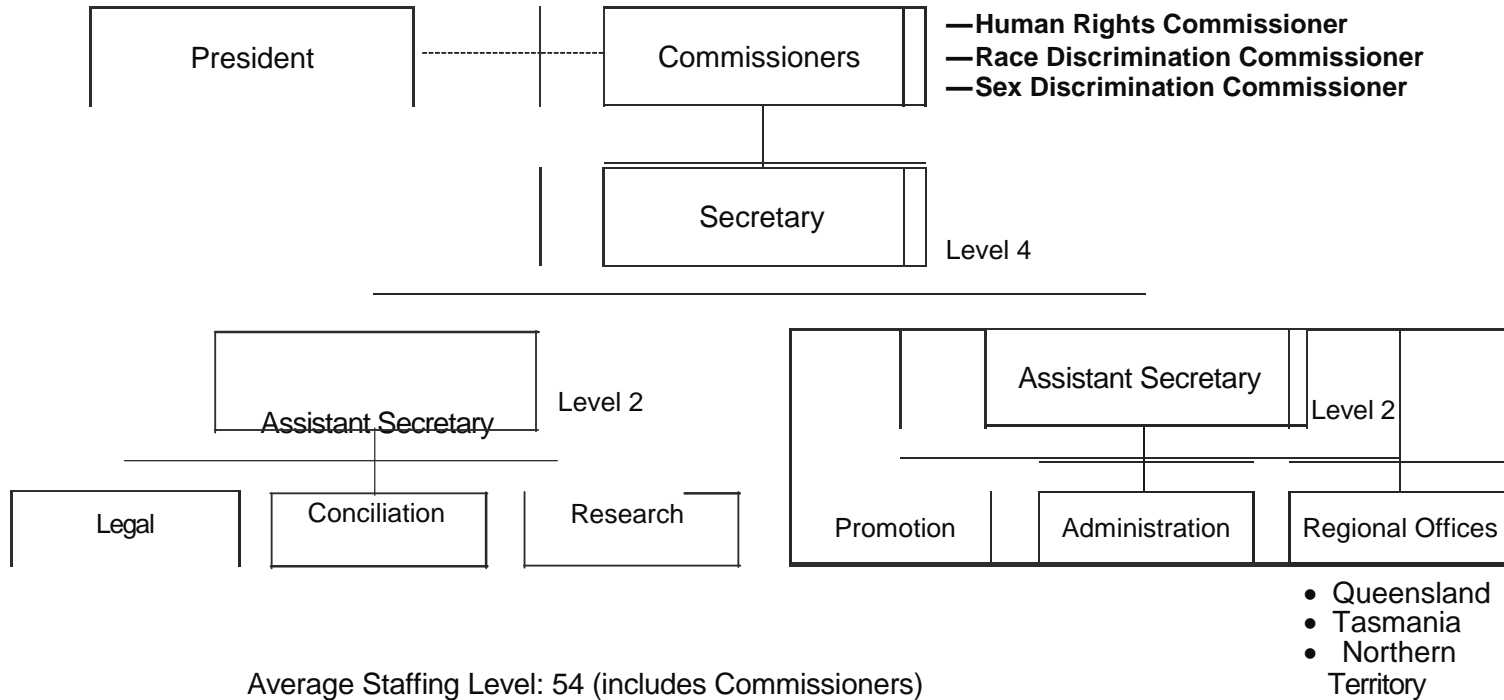
The Commission is staffed under the Public Service Act 1922 and has an average staffing level of 54, which includes three Holders of Public Office (i.e. the Human Rights Commissioner, Race Discrimination Commissioner and Sex Discrimination Commissioner). The Commission's establishment

## Computer Systems

The Commission's Automatic Data Processing (ADP) strategy has centred on the development of its Hewlett Packard HP 3000 distributed processing system which is used for integrated word processing and data processing, storage and retrieval.

The major applications either avail-

**Figure 6**  
**Structure of Human Rights and Equal Opportunity Commission**



able during the year or close to completion were:

- word processing, electronic mail and desk management facilities
- complaint statistics database
- registry management system
- financial accounting and funds management system
- desktop publishing facility
- access to external legal research and bibliographical databases

Work will continue during the coming year on developing the following applications:

- statistical data bases
- library management system
- project management system
- access to international human rights databases

Training of staff in the use of the various computer systems is integral to the Commission's multi-skilling staff policy.

At the time of writing, most staff had been provided with desk-top terminals and had undergone varying degrees of training in the use of the various systems. Training will continue on both an ad hoc and specialised basis according to individual requirements.

## **Library Services**

The Commission's Library in the Sydney office contains a collection of some 6500 monographs, 1000 journal and law report subscriptions, legislation of the Commonwealth, States and Territories and reference material. It is the most comprehensive human rights library in Australia. The majority of the collection was previously held in

the office of the former Human Rights Commission in Canberra and it has been a major task to relocate it. Library staff have devoted a considerable amount of time during the year to unpacking the collection, renewing subscriptions and ordering missing issues from previously cancelled subscriptions. Some 500 new monographs have been acquired during the year.

The library has access to SCALE, CURS and AUSTRALIS databases and will soon be a 'search and products customer' of Australian Bibliographic Network (ABN).

The library is open to the public by appointment for reference use only. A coin operated photocopying machine is provided.

## **Accommodation**

During the reporting period, the Commission completed the move of its Sydney headquarters to new and permanent accommodation at the American Express Building, 388 George Street. Planning also commenced for the relocation of the Brisbane and Hobart offices and preliminary discussions commenced regarding the relocation of the Darwin office. Further details appear below.

### **Queensland**

Plans have been developed to relocate the Queensland Regional Office from Level 15 MLC Building in the central business district of Brisbane to the ground floor of 187 Melbourne Street, South Brisbane. The new office will be situated near trains, buses and street parking. The location, particularly the street level frontage, will allow high level exposure of the Commission to the public as well as ease of access.

The new office design will also be more functional and effective than the present cramped accommodation allows.

### **Tasmania**

In April 1988, the Tasmanian Regional Office was relocated from the Law Courts Building in Davey Street Hobart to The Galleria in Salamanca Place. The Commission's offices in the Law Courts building were interspersed with other Attorney-General's Department offices and that proved difficult for staff to function efficiently. The new office at Salamanca Place allows staff to operate as a functional unit. Relocation of the office has provided for improved service and easier access for the public.

### **Northern Territory**

The Northern Territory Regional Office in Darwin's National Mutual Centre is to be relocated to make way for an expanded Federal Court and Family Court registry. Plans are under way to relocate the office to more suitable premises in Darwin. As with the Brisbane and Hobart moves, the emphasis will be on ease of access for the public and efficient design of the office.

## **Industrial Democracy**

The Consultative Council of the Attorney-General's Department and portfolio agencies (including this Commission) continued to meet every three to four months throughout the year. The main thrust of the Council's program was occupational health and safety issues, office structures implementation, training and staff appraisal schemes. Union officials who participated included representatives from

the Australian Government Lawyers Association (AGLA), the Administrative and Clerical Officers' Association (ACOA), the Federated Clerks Union (FCU), the Professional Officers' Association (POA), Australian Journalists' Association (AJA) and the Australian Public Service Association (APSA).

The main industrial democracy mechanism used by the Commission is staff participation at Section and Branch Meetings, Senior Staff Meetings (including participation of Regional Offices), and Commission Meetings to which staff have an input via project proposals.

In addition to these meetings, staff are consulted as required on pertinent issues such as training and the introduction of office technology.

The Commission continues to participate in the industrial democracy network for small agencies as well as its involvement in the industrial democracy facilitators' network.

## **Occupational Health and Safety**

The Commission continued to place a high priority on occupational health and safety issues during the year. Some of these issues included the following:

- **Smoke-free work environment:** In line with the Australian Public Service requirement, the Commission gradually introduced a smoke-free work environment with a complete smoking ban effective from 1 March 1988.
- **Accommodation:** The Commission's Sydney office was designed to allow an easy operational flow of staff with special attention given to

the ambient environment. Plans for future relocations will also pay special attention to this aspect of the fitout.

- **Furniture and Fittings:** The Commission gives high priority to the use of ergonomic furniture. Staff whose duties involve greater than 20% keyboard work are to undergo eye tests as a matter of procedure.

To date, no compensation claims have been lodged by staff largely as a result of the implementation of these preventive measures.

## Staff Training

The Commission recognises that its staff is its most valuable resource and considerable importance is attached to encouraging staff to undertake development activities. It also recognises the special skills of its staff and supports the policy of staff assisting other agencies in training courses where possible.

A survey was conducted among staff and management to ascertain staff training needs. The main areas of training which were highlighted as a result of this survey were:

- **Computer based courses:** The Commission and staff placed a high priority on obtaining computer literacy. Consequently extensive in-house and external computer courses were held throughout the reporting period.
- **Legal, research and conciliation:** Staff in these areas wished to continue their training through courses which were directly relevant to the Commission, e.g. conflict resolution training, continuing legal education on human rights issues and legal procedures. These requirements

were met through staff attendances at appropriate seminars, external and in-house courses.

- **Personnel and Public Service Courses:** Administration staff attended sessions in various Public Service procedures. These courses were mostly sponsored by other Commonwealth agencies providing training in areas such as administrative law, classification skills, industrial democracy, specialist library training, archiving, equal employment opportunity etc.
- **General Requirements:** Courses which were commonly requested by staff in all Branches of the Commission included courses in management, supervision, time management, and induction.

## Staff Exchanges

The Commission has gained international status in training through the staff exchange scheme. The scheme was initiated through an invitation by the United Nations Centre for Human Rights in Geneva when it invited the Commission to select a staff member to conduct research at its Geneva headquarters on international human rights issues. The Commission considers that this is not only an excellent opportunity for its staff to gain valuable experience on the international front, but also an opportunity for staff to promote Australia and its work in relation to human rights.

Conversely, a student from Columbia University in the United States, spent some two months with the Commission. The Commission not only gained the services of the student involved but there was a valuable exchange of views and ideas on human rights methodologies as applied in the two countries.

### **Student Traineeships**

The Commission accepted the placement of a trainee under the Australian Public Service Youth Traineeship Scheme. The Scheme was designed to provide an opportunity for 16-17 year olds who have not completed Year 12 to gain work experience and develop skills which will help them compete effectively in the labour market. The trainee was given training in all aspects of administration and, at the end of the six months training period, she was offered a full time placement with the Commission.

The Commission also provided work experience in its Tasmanian Regional Office for two Aboriginal trainees. Both worked closely with the Regional Director on issues affecting local Aboriginal and ethnic groups. One of the trainees remains in the Tasmanian Office.

### **Office Structures Implementation (OS!)**

The Agreement between Government and ACOA, APSA and FCU (Tax Office Branch) to an integrated office structure was ratified by the Conciliation and Arbitration Commission on 17 December 1987. The Agreement was designed to increase productivity through broadbanding of classifications and reducing restrictive work practices thus resulting in improved career opportunities for staff.

The impact of the OSI on the Commission was not as significant as that in most other agencies. Commission offices were already automated and management policy emphasised flexibility in staff duties. However, the duties of staff such as receptionists, stenographers and secretaries will be

redesigned to ensure keyboard duties do not exceed 50% of workload.

The Commission will continue its policy of staff mobility and training to ensure staff improve their skills and retain their flexibility. For staff, this policy should result in a healthier work environment, improved career prospects and job satisfaction.

### **Equal Employment Opportunity**

#### **Status of EEO Program and Objectives**

The Commission adopted the former Human Rights Commission's EEO program which was highly accredited by the then Public Service Board. Subsequently, the Public Service Commission issued advice of a change of emphasis in its requirements for agencies' EEO programs to give greater weight to an agency's actions and outcomes. As a result, the Commission is in the process of redrafting its program to take account of this new emphasis.

The EEO objective focuses on monitoring staff profile and staffing practices and conducting appropriate staff training. The objective aims to develop and maintain fair practices in personnel operations and training, to address the specific career and developmental needs of target group members, to develop information systems and to improve understanding of EEO throughout the Commission.

#### **EEO Resources**

The Assistant Director Administration (ASO 7) carries the duties of EEO Coordinator reporting to the Director and the Assistant Secretary Management on all aspects of EEO. The Office

Managers in the regional offices (ASO 7 in Tasmania and the Northern Territory, and ASO 8 in Queensland) have EEO responsibilities as part of their duties.

As with other small agencies, the duties carried out by the officer responsible for EEO represent a small proportion of the total duties of that officer.

### **Consultative Mechanisms**

Issues relating to EEO form a part of the usual consultative framework of the Commission. For further details refer to the earlier section headed Industrial Democracy.

### **EEO Data Base**

The Commission to date has relied on manual handling of EEO statistics. However with the routine automation of various aspects of its operations, the EEO data base is listed as a priority objective in the coming financial year.

### **Statistical Data**

The tables at the end of this section show the representation of the four EEO target groups in the Commission. The pattern of occupations and levels at which the target groups of women, people of non-English speaking background, Aborigines and Torres Strait Islanders are employed compares favourably with that of the Service as a whole. The Commission engaged the services of a consultant (himself severely physically disabled) to undertake research and conduct a workshop on accommodation for severely physically disabled persons.

### **EEO-related Grievances**

There were no EEO related grievances against the Commission in the reporting period (or since its establishment in December 1986) either lodged with

an outside agency or with the Commission itself.

### **Major Priorities and Achievements in 1987-88**

These included the following:

- modifying the EEO Program of the former Human Rights Commission to suit this Commission
- ensuring EEO principles were upheld in the implementation of the office structures review
- monitoring the progress and special needs of staff in the target groups
- linking into the network of EEO coordinators primarily on a regional basis but where necessary with the Canberra 'central office' network
- including EEO sessions in induction courses
- providing the appropriate training courses for all staff with particular attention to target groups
- provision/improvement of facilities where possible for people with disabilities
- providing training and talks to other agencies within the Commonwealth, State agencies, professional bodies and private companies on EEO issues such as:
  - sexual harassment
  - EEO and disability
  - race discrimination
  - EEO in the workplace
  - EEO for managers
  - discrimination in the mental health services
  - pregnancy discrimination
  - culture and discrimination in the workplace
  - role play for lawyers in conflict resolution

### **Monitoring and Evaluation**

The activities undertaken to achieve

**Table 9****Representation of EEO Groups within Classification Levels As at June 1988**

<i>ASO classification and equivalent</i>	<i>Total No. of staff</i>	<i>Women</i>	<i>IVESB1</i>	<i>IVESB2</i>	<i>ATSI</i>	<i>PWD</i>
ASOC 1-2	8	6 (75%)	2 (25%)	1 (12.5%)	1 (12.5%)	1 (12.5%)
ASOC 3-4	4	2 (50%)	1 (25%)	1 (25%)	1 (25%)	
ASOC 5-6	10	6 (60%)				
ASOC 7-8	15	11 (73%)	2 (13%)	2 (13%)	1 (7%)	
SES L 1-2	2	1 (50%)				
SES L 3-4	1					
SES L 5-6 and above	3	2 (67%)		1 (33%)		
<b>Total</b>	<b>43</b>	<b>31 (72%)</b>	<b>5 (12%)</b>	<b>5 (12%)</b>	<b>3 (7%)</b>	<b>1 (2%)</b>

**Table 10****Representation of EEO Groups within Occupational Groups as at June 1988**

<i>Occupational group</i>	<i>Total No. of staff</i>	<i>Women</i>	<i>NESB1</i>	<i>IVESB2</i>	<i>ATSI</i>	<i>PWD</i>
SES and Commissioners	6	3 (50%)		1 (17%)		
ASO and related Professional	34	22 (65%)	5 (15%)	4 (12%)	3 (9%)	1 (3%)
	3	3 (100%)				
<b>Total</b>	<b>43</b>	<b>28 (65%)</b>	<b>5 (12%)</b>	<b>5 (12%)</b>	<b>3 (7%)</b>	<b>1 (2%)</b>

Key:  
 NESB1 Persons born overseas  
 NESB2 Australian born with parents born overseas  
 ATSI Aboriginal or Torres Strait Islander  
 PWD Persons with a disability

EEO objectives are monitored through monthly reports of all sections of the Commission and through continuing activities (e.g. particular training courses, checking composition of selection panels) and one-off projects.

The main evaluation of success occurs through the outcome of training and development programs and the devel-

opment of officers in the target groups. An advantage of being a small agency, and with the EEO Coordinator having



other management duties, is that that officer is in a position to take an eclectic view by having some responsibility also for OSI, staff development, recruitment, industrial democracy, occupational health and safety, and accommodation matters.

### **Priorities for 198889**

Staff development and training will continue to be a major activity in the Commission particularly in view of the implementation of the office structures agreement.

Subject to resources, Commission staff will continue to assist other agencies in their training requirements.

It is envisaged that an independent computer based personnel management system will be initiated which will provide EEO statistics and other personnel information without relying on manual systems.

The development of an EEO Program to comply with the new Public Service Commission guide lines will also be given a high priority.

### **Further Information**

Further information can be obtained from the EEO Coordinator in the Commission's Central Office in Sydney.

## **Access and Equity**

Along with other federal government agencies, the Commission was required to draw up an access and equity plan. Access and equity plans outline measures taken by agencies to ensure that government services and programs are fully accessible to migrants.

The Commission's access and equity plan outlines initiatives the Commission has taken to ensure equity in the

provision of its services particularly to people of non-English speaking background. This includes publications about the Commission's services in other languages, access to interpreters and specific programs aimed at advising non-English speaking people of their rights in relation to the legislation the Commission administers. Further information on these programs appears in the section on Promotion of Human Rights and Equal Opportunity. The Commission's plan also includes cross-cultural training for its staff, close consultation with government and non-government organisations involved in multicultural activities, and routine monitoring and evaluation of services provided to target groups, including maintenance of statistics on ethnicity and other indicators in relation to complainants. Details on the outcomes of the various programs described elsewhere in this report will be provided in the next annual report.

## **Regional Offices**

### **Queensland**

The staffing of the Queensland Office of the Commission was restructured early in 1988. Permanent appointments were made to the new positions of Deputy Regional Director, Conciliator and Enquiries Officer in February and March 1988. The existing positions of Office Manager, Aboriginal Liaison Officer, Registry Clerk and Receptionist were also filled on a permanent basis early in 1988.

The former Regional Director, Ms Quentin Bryce was appointed Sex Discrimination Commissioner on 23 February 1988. The position of Regional Director remained unfilled at 30 June 1988. Mr Bruce Henry was

Acting Regional Director from 5 April 1988.

The Queensland Office with its small staff faces a difficult task in servicing the State of Queensland. This task was made more difficult during the year by staff changes and staff shortages due to the normal delays in recruiting and appointing staff to the restructured positions.

The conciliation caseload of the Queensland office remained very heavy throughout the year. The increase in cases from outside the Brisbane region can be seen in the field trips undertaken by conciliation staff. Conciliators had casework which required travel to Townsville, Cairns, Mt Isa, Palm Island, Rockhampton, Cooktown, Bundaberg, Cherbourg, Murgon, Maryborough, Caboolture, Toowoomba, Dalby and the Gold Coast. These field trips continue to be the Commission's major way of servicing Queensland regional centres.

The extensive travel required of conciliators in the Queensland office placed a great strain on the limited resources of the office. As at 30 June 1988, 53 (48.6%) of the office's 109 current conciliation cases were from outside Brisbane. The breakdown of those cases is as follows:

South East corner (other than Brisbane)	11
Central Queensland	4
Western Queensland	8
North-West Queensland	2
North Queensland	24
Far North Queensland	4
<b>Total</b>	<b>53</b>

In addition, the Aboriginal Liaison Officer undertook liaison trips to Cherbourg, Murgon, Bribie Island, Maryborough, Woorabinda, Moira, Clermont, Goondiwindi, Rockhampton, Toowoomba, Warwick, Dalby, Charle-

vine, Hopevale, Wujal Wujal, Roma, Cunnamulla, Townsville, Mt Isa, Julia Creek, Doomagee, Bundaberg and Mitchell. He attended the opening of the Royal Commission into Aboriginal Deaths in Custody in Brisbane and assisted this Commission's Toomelah Inquiry.

Community education is also an important aspect of the work of the Queensland office. There was a constant demand for speakers and staff spoke to groups from schools, TAFE Colleges, Sporting Clubs, Service Clubs, TUTA, Trade Unions, Commonwealth Government Departments and employer organisations in addition to organisations such as the Real Estate Institute of Queensland and the Institute of Professional Secretaries. Topics covered included the role of the Commission, the Sex Discrimination Act, Sexual Harassment, and the Racial Discrimination Act.

In keeping with its role in the promotion of human rights generally, the Queensland office organised a colloquium on Human Rights as part of the celebration of Human Rights Week in December 1987. Submissions were made to Queensland Government inquiries into domestic violence and the prison system.

## **Tasmania**

The Commission's Hobart office was relocated to new offices in Salamanca Place. The new office was officially opened by Commissioner Bryce early in 1988. In her opening remarks, Commissioner Bryce commented on the need for regional representation from the Commission in order to provide an immediacy of contact for Tasmanians. The new offices have enabled the public to gain better access to the Commission as well as enabling a consolidation of resources and easier

identification of both its role and location.

The staffing situation in Tasmania has fluctuated over the year. A new Regional Director was appointed in February 1988. Ms Vicki Buchanan replaced Mr Nabil Kazemi who returned to the Attorney-General's Department. The filling of the office assistant position has been of enormous assistance in stabilising work pressure in the office. In addition, the office gained the services of an Aboriginal trainee. This appointment has been enormously beneficial for communications with the Aboriginal community in Tasmania. The office also appointed a part time consultant to assist with the planning and coordination of events during Human Rights Week in December.

Community education has continued to be a feature of the Commission's role in Tasmania with staff speaking at a wide range of seminars, meetings and public forums. Organisations and private companies are using the office to obtain information which has direct bearing on their operations and personnel practices in line with human rights legislation. The media also seeks constant clarification of local issues which may relate to human rights questions under consideration in the community.

The focus of the community education role this year was Human Rights Week which involved a wide range of activities held around the State to highlight local concerns with issues covered by federal human rights legislation. The malls in both Hobart and Launceston hosted a range of activities from street theatre to rock concerts, featuring the theme of Human Rights and Homelessness. Many non-government agencies contributed to these awareness raising

exercises by contributing displays and exhibitions focusing on the theme.

The office continued to liaise with other Commonwealth and State agencies and to give support to training programs where possible. The office contributed to specific issue courses for federal government agencies relating to anti-discrimination legislation, particularly where this related to policy practices.

Tasmania received a number of visits from Commissioners, in particular Commissioner Moss and Commissioner Burdekin. Commissioner Moss spent considerable time with the Tasmanian Aboriginal community and talking to local immigrant groups. Commissioner Burdekin was involved in the Homeless Children Inquiry and its Tasmanian sittings. He also met with a wide range of community groups, particularly those interested in the Rights of the Child and the Rights of the Disabled.

The Tasmanian complaint load continues to grow, with the majority of complaints falling under either the Sex Discrimination Act or ILO 111. Pregnancy dismissals and sexual harassment are still causing grave concern in employment areas, and this is reflected in the number of complaints received.

The Commission has been actively involved in a pilot program in Tasmanian schools concentrating on the international instruments relating to human rights. Interest in the development of the program is widespread in the educational community.

Numerous field trips have been undertaken to support the work of the Commission, including to the Bass Strait Islands, the North and North West coasts. Regular visits have been made

to Launceston in an effort to provide a focal point for the community on a regular basis. Isolated communities have benefited by on-the-spot complaint handling, dissemination of information and an understanding of the work of the Commission.

### **Northern Territory**

The Northern Territory regional office services an area of 1,346,200 square kilometres, comprised of vast open spaces with widely separated urban centres, and hundreds of small isolated communities.

The Territory represents about a sixth of the land mass of Australia, but has less than three-quarters of one percent of the Australian population.

The twin problems of extreme climatic conditions and huge distances between centres pose special problems in conducting an effective public education program, and other government agencies at both Commonwealth and Territory level assist in the distribution of literature and information regarding the Commission's role and activities.

The assistance and support to the office by both government and non-government agencies is appreciated.

'Networking' is vital to the regional office's function.

The Territory is essentially multi-cultural, with twenty three percent of the population being born overseas, and a further twenty-two percent being Aborigines or Torres Strait Islanders.

This year two permanent staff members were appointed — Ms Dawn Lawrie as Regional Director with Ms Rhonda Carpenter providing invaluable secretarial support.

Besides the conciliation of complaints and the public education program the

regional office submitted specific reports to central office on a range of issues including race discrimination, sex discrimination, homeless children, and the intellectually disadvantaged.

The Regional Director addresses each police recruit intake, as well as Aboriginal, migrant and special interest groups on a regular basis.

As people become more aware of the application of the Human Rights and Equal Opportunity Commission Act, Racial Discrimination Act and Sex Discrimination Act the scope and workload of the region is increased.

It is pleasing to note much of the feedback is positive, with people realising both their rights and responsibilities. The most common complaint received under the Racial Discrimination Act continues to be denial of goods and services, or accommodation, while there has been an increase in complaints under the Sex Discrimination Act concerning women wishing to enter non-traditional occupations.

### **Freedom of Information**

Briefly, the Freedom of Information (FOI) Act generally provides public access to government documents and allows the public to alter information on personal files if it is incomplete, incorrect or misleading.

The Commission received seven FOI requests during the reporting period. Most of these were from complainants or respondents seeking access to documents contained in complaint files. Whilst the Commission received a small number of FOI requests when compared with larger agencies, it incurred considerable cost in satisfying those requests.

## FOI Statistics for 1987/88

Requests on hand from 1986-87	1
Requests received	7
Access granted in full	3
Access granted in part	4
Total amounts collected	\$296
Non-staff costs directly attributable to FOI	\$1,000
Staff time spent on FOI* 400 hours	
Equivalent staff salaries	\$7,350

\*includes time spent on handling requests, producing Section 8 and 9 statements, staff training etc.

## Developments in FOI

The Commission has continued to monitor Commonwealth FOI developments through its participation in regional seminars and practitioners' forums conducted at regular intervals by the FOI Unit of the Attorney-General's Department. In view of the special requirements of agencies dealing with a small number of requests, the Commission is sponsoring a seminar specifically on this issue in addition to the next forum of FOI practitioners from all agencies.

## Categories of Documents

The Commission maintains the following categories of documents:

- **Administration:** matters including personnel and recruitment, accounts, general administration files, documents and registers, registry and library records and indices;
- **Conciliation:** matters including the investigation, clarification and resolution of complaints;
- **Legal:** matters including legal documents, opinions, advice and representations;
- **Research:** matters including research papers in relation to complaints, existing or proposed legisla-

tive practices, public education, enquiries and other relevant issues;

- **Operational:** including files on formal inquiries;
- **Reference Materials:** including press clippings, survey and research materials, documents relating to conferences, seminars and those contained in the library;
- **Policy:** including minutes of meetings of the Commission, administrative and operational guidelines.

## Printed Material

The Commission has the following printed material available to the public:

- *Annual Report 1986/87*
- Human Rights Congress Papers 1987 (price \$40.00 per set)
- *Toomelah Report*
- Newsletters
- Various brochures

## FOI Procedures

Initial enquiries concerning access to Commission documents should be directed to the FOI Officer by telephoning (02) 229 7600 or by writing to:

Secretary  
Human Rights and Equal  
Opportunity Commission  
GPO Box 5218  
SYDNEY NSW 2001

## Facilities for Access

Facilities for examining documents and obtaining copies are available at the Commission's offices as follows:

Level 24  
American Express Building  
388 George Street  
SYDNEY  
Telephone: (02) 229 7600

Ground Floor

187 Melbourne Street

SOUTH BRISBANE \*

Telephone: (07) 844 6099

Level 3 The Galleria

33 Salamanca Place

HOBART

Telephone: (002) 23 8511

Level 8 National Mutual Centre

9-11 Cavenagh Street

DARWIN

Telephone: (089) 81 1668

Business hours of the Commission are 9.00am to 5.00pm Monday to Friday inclusive. The telephone switchboard is staffed at all times during business hours.

\*From 1 October 1988

