

Chapter 8:

Human Rights

Statement from the Commissioner

I am thrilled to be the new Human Rights Commissioner, continuing the good work of Dr Sev Ozdowski and beginning a new range of projects.

In the last six months of Dr Ozdowski's term as Human Rights Commissioner, he completed two important projects.

Firstly, Dr Ozdowski finished a detailed research project into discrimination in employment against people with a criminal record. The research had a very practical focus. It looked at the difficulties faced by people who had served their time in prison and who were looking to participate in society once again. It also looked at the dilemmas faced by employers deciding whether to hire someone with a criminal record. The results of the research were guidelines for employers and for people with a criminal record to help them all navigate this very uncertain area of law. There has been great demand for those guidelines by both employers and community groups.

Secondly, Dr Ozdowski launched the *Rights of Passage* report which describes how Australia's youth perceive human rights in the twenty-first century. The report is the result of extensive consultation with young people in Australia. It also reflects some of the views expressed in the many entries to the *Human Writes* essay competition and the *Rights in Perspective* art competition.

Both these projects highlight the importance of talking directly to people about the problems they face and the views they have, so that the Commission's work properly reflects current human rights issues in Australia. Dr Ozdowski was committed to raising the level of public discussion about human rights in Australia and to keeping the government accountable. I intend to build on those foundations during my term.

For one, I will continue to support the *Rights in Perspective* art competition and *Human Writes* essay competition. What better way



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to continue engaging children in Australia in a dialogue about human rights? This year we are working with the Australian Red Cross to try and spread the reach of this initiative.

Within days of starting my term I began work on the National Inquiry into Discrimination against Same-Sex Couples regarding Financial and Work-Related Entitlements – *'Same-Sex: Same Entitlements'*.

National inquiries are an extremely important device in pursuing the Commission's agenda. They allow us to explore national issues in a detailed and sustained manner and to obtain input from a range of groups and individuals around the country. The Commission is then able to reflect these views, as well as to compile relevant research into a report to Parliament and make recommendations for change.

We launched the *Same-Sex: Same Entitlements* Inquiry in April 2006 and we have already had an overwhelming response from the public. Even at this early stage of the project, it is abundantly clear to me that discrimination against gay and lesbian couples has had an enormous impact on so many Australians who just want to be treated in the same way as their heterosexual neighbours.

Another important way of raising the profile of human rights in Australia is by participating in discussions about law reform. Some of those discussions take place in the context of Parliamentary inquiries examining new bills. Other discussions occur in the context of inquiries about existing legislation by law reform commissions and similar bodies. In the first half of 2006, the Human Rights Unit has written seven submissions to various Parliamentary Committees and other bodies. And we have concentrated on converting those submissions into a form that the media can use – either by doing media interviews or by submitting opinion pieces – so that the human rights message is spread beyond the walls of Parliament House, Canberra.

Immigration detention and the treatment of asylum seekers and refugees in Australia will continue to be a focus for me. While there have been some improvements over recent years, there is still much work to be done. I have started consultations with community groups and will be visiting immigration detention centres in the year ahead.

During the first six months of my term I have come to realise how challenging the job of Human Rights Commissioner is going to be. The term 'human rights' encompasses so many different issues and there is no legislative instrument other than the *Human Rights and Equal Opportunity Commission Act* itself, which neatly sets out the human rights problems facing Australians.

So, my role as Human Rights Commissioner is to explain the importance of universal human rights, identify the relevance of those human rights to all people in Australia and to come up with practical ways to protect and promote those rights. Not an easy task, but I look forward to the challenge.

National inquiries

***'Same-Sex: Same Entitlements'* – National Inquiry into Discrimination against Same-Sex Couples regarding Financial and Work-Related Entitlements**

On 3 April 2006, the Commission launched the National Inquiry into Discrimination against Same-Sex Couples regarding Financial and Work-Related Entitlements – *'Same-Sex: Same Entitlements'*. A Discussion Paper, Background Brief, Guide to Submissions and Terms of Reference were published on the same day.

The purpose of the Inquiry is to make sure that all Australian couples have the same financial and work-related benefits and entitlements under law, whether or not those couples are made up of two women, two men, or a man and a woman.



The Inquiry has three goals. Firstly, to identify all the Commonwealth, State and Territory laws that exclude same-sex couples from financial and work-related entitlements available to heterosexual couples.

Secondly, to document the impact of those laws on same-sex couples by collecting stories from people who are affected by the laws.

Thirdly, to make recommendations to the federal government about how to amend the laws to eliminate that discrimination.

The Inquiry methodology includes a call for public submissions, public hearings and community forums, and consultation with non-government organisations, community groups, government and State and Territory Equal Opportunity Commissions and Anti-Discrimination Boards.

As at 30 June 2006, the Inquiry had received 340 written submissions. The public hearings and community forums will take place between July and October 2006.

Following the close of the submission and consultation processes, the Inquiry will prepare a report containing findings and recommendations.

A webpage on the Commission's website – www.humanrights.gov.au/samesex/ – provides updated information about the Inquiry and its progress, as well as links to any of the submissions made to the Inquiry.

Monitoring and adhering to human rights

Immigration Detention, asylum seekers and refugees

Monitoring the conditions of immigration detention facilities and the rights of immigration detainees, asylum seekers and newly arrived refugees continues to be a priority for the Commission.

Between October and November 2005, Commissioner Ozdowski visited the Perth, Maribyrnong and Baxter immigration detention facilities. Each of those visits was followed up through correspondence with the Department of Immigration and Multicultural and Indigenous Affairs (as it was then).

Commissioner Innes continues to engage with the Department of Immigration and Multicultural Affairs (as it is now) and will be conducting visits in the next reporting year, amongst other activities.

Discrimination in employment on the grounds of criminal record

On 11 November 2005, the Attorney-General launched *On the Record – Employer Guidelines for the Prevention of Discrimination in Employment on the Basis of Criminal Record*.

The Guidelines provide practical information about the rights and responsibilities relating to discrimination in employment on the basis of criminal record in the context of the *Human Rights and Equal Opportunity Commission Act 1986*.

In recent years, the Commission received a significant number of complaints from people alleging discrimination in employment on the basis of criminal record. The complaints indicated a great deal of misunderstanding by employers and people with criminal records about discrimination on the basis of criminal record.

In August 2004 the Human Rights Commissioner commenced a research project to examine more closely the extent and nature of this discrimination, to clarify the rights and responsibilities of employers and employees, and to consider measures which may be taken to protect people from this form of discrimination.

In December 2004 the Commissioner issued a *Discussion Paper on Discrimination in Employment on the basis of Criminal Record*, calling for submissions. These submissions, together with a series of consultations on the issue of criminal record discrimination, highlighted further the need for practical guidance for employers and employees in this area. The Guidelines launched by the Attorney-General on 11 November 2005, are a result of this research and consultation process.

For ease of reference, the Commission also published a short document outlining some *Key Points* from the Guidelines.

In addition, an *Information Brochure on Discrimination in Employment on the Basis of Criminal Record* was published for people with a criminal record and their advocates, covering similar issues as the Guidelines, but from a job applicant or employee perspective.

The materials can be accessed from the website at: www.humanrights.gov.au/human_rights/criminalrecord/on_the_record/

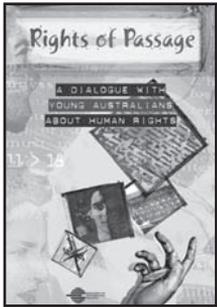
Submissions to Inquiries

Submissions to Parliamentary and other inquiries are an important tool for the education and promotion of human rights both to the government and the community as a whole.

Between January and June 2006, the following submissions were prepared by the Human Rights Unit:

- Submission to the Commonwealth Senate Finance and Public Administration Committee regarding the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005. See www.humanrights.gov.au/legal/submissions/electoral20060309.html.
- Submission to the Commonwealth Parliamentary Standing Committee on Public Works regarding *Villawood Immigration Detention Centre Redevelopment*. See www.humanrights.gov.au/legal/submissions/villawood.html.
- Submission to the Senate Legal and Constitutional Legislation Committee on the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006. See www.humanrights.gov.au/legal/submissions/migration20060522.html.
- Submission to the Joint Standing Committee on Electoral Matters regarding an *Inquiry into Civics and Electoral Education*. See www.humanrights.gov.au/legal/submissions/electoral_civics.html.
- Submission to the Australian Law Reform Commission Discussion Paper No. 70, *Sentencing of Federal Offenders*. See www.humanrights.gov.au/human_rights/index.html#submissions.
- Submission to the NSW Parliamentary Committee on Children and Young People's *Inquiry into Children, Young People and the Built Environment*. See www.humanrights.gov.au/human_rights/index.html#submissions.
- Submission to the Family Law Council regarding its *Discussion Paper on Relocation*.

Education and promotion of human rights



Rights of Passage: Young People and Human Rights Dialogue

On 29 November 2005, Commissioner Ozdowski launched *Rights of Passage – A Dialogue with Young Australians about Human Rights*.

Rights of Passage provides current information about young people's perceptions of their enjoyment of human rights in Australia. The purpose of the report was to inform future education initiatives, especially for young people in the school environment.

The research phase for the *Rights of Passage* project included:

- a national survey distributed to 1050 young people in 26 high schools and youth centres in all states and territories, of which 437 (41.6%) were returned
- focus groups conducted in 16 schools and youth centres in New South Wales, Queensland and South Australia and the Australian Capital Territory with 160 participants aged between 11 and 19
- a literature review undertaken by a research consultant, Dr Stephen Bochner, (Visiting Professor, School of Psychology, University of New South Wales, Sydney)
- a national art and essay competition (see below)

The findings documented in *Rights of Passage* indicate that human rights knowledge depends on the experiences of the individual and varies with demographic differences. As a general principle therefore, human rights education programs should be tailored to the developmental and personal characteristics of the target audience.

The findings also demonstrate that young people find it difficult to navigate the wealth of information on human rights-related topics, and require greater guidance at the school level. Activity-based education programs, such as 'hands-on' anti-bullying strategies, allow the culture or the values espoused by the school to filter from the top down. Young people are much more likely to respond to the 'do as I do' approach. This highlights the need for human rights education programs targeting youth to provide support to the educators as well as the students.

Finally, the lack of knowledge about some key human rights issues in Australia, such as the way in which domestic legislation protects rights, or of social issues such as Indigenous disadvantage, suggests that additional human rights education campaigns are needed.

Rights of Passage is available online at: www.humanrights.gov.au/human_rights/rights_of_passage/

Competitions for Young People: *Human Writes* Essay Competition and *Rights in Perspective* Art Competitions

As noted above, as part of the *2005 Dialogue with Young Australians* about Human Rights, the Commission launched the *Human Writes* essay competition and *Rights in Perspective* art competition.

The Commission received close to 150 entries in total. Both the essay and art competitions had a junior (10–14 years old) and senior (15–18 years old) category, with a winner and a runner-up in each of those categories.



The winners and runners-up were announced by the Human Rights Commissioner on 29 November 2005, in conjunction with the launch of *Rights of Passage – Dialogue with Young Australians about Human Rights*. The winners received an iPod Mini or digital camera and the runners-up were both given a \$50 CD or book voucher.

The national art and essay competitions have been identified as an effective way to increase positive engagement on human rights with educators and young people. The Commission relaunched the competitions in March 2006. Winners of the 2006 competitions will be announced by December 2006.

Speeches and consultations

A selection of public addresses made by each Human Rights Commissioner during 2005–06 is listed below. Some speeches can be accessed on the Commission's website at: www.humanrights.gov.au/speeches/human_rights/index.html

Commissioner Innes

The Human Rights and Equal Opportunity Commission and the Protection of Human Rights at the Federal Level Address at the ANU Conference on Australian Bills of Rights: The ACT and Beyond, Canberra, 21 June 2006

Launch of the *Same-Sex: Same Entitlements* Inquiry, Sydney, 3 April 2006

Commissioner Ozdowski

Democracy, Human Rights & Social Issues *Human Rights, Mental Health & Anti-Terror Laws in Australia*, Mitchell Theatre, Sydney Mechanics School of Arts, Sydney, 2 December 2005

Launch of *Rights of Passage*, Sydney, 29 November 2005

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UNAA National Action Plan Forum, Hobart, 4 November 2005

What a Bill of Rights could deliver for Australia, Don Chipp Foundation Defending Democracy Public Forum, NSW Parliament, Sydney, 19 October 2005

The Human Rights and Equal Opportunity Commission and Immigration Detention, UNICEF, Sydney, 24 August 2005

Children in Immigration Detention – Recent Developments, Sydney Leadership Forum, Parramatta Town Hall, Parramatta, 6 July 2005