



*Human Rights and Equal
Opportunity Commission*
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Human Rights and Equal Opportunity Commission

Annual Report
2007-2008

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**Human Rights and Equal
Opportunity Commission**
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**Human Rights and Equal
Opportunity Commission**
www.humanrights.gov.au

18 September 2008

The Hon. Robert McClelland MP
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 the period ending 30 June 2008, pursuant to section 45 of the Human Rights and Equal Opportunity Commission Act 1986. The report has been prepared in accordance with the requirements of section 70 of the Public Service Act 1999.

Yours sincerely,

The Hon. John von Doussa QC
President
Human Rights and Equal Opportunity Commission

Human Rights and Equal Opportunity Commission

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2007-08 Milestones

- Ms Elizabeth Broderick was appointed as Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination on 10 September 2007 for a five year term. Ms Broderick succeeded President John von Doussa, who had been acting in the position since 4 November 2006.
- The Human Rights and Equal Opportunity Commission (HREOC) 1997 *Bringing Them Home* Report was a landmark document which played an important part in two major developments in Indigenous affairs during the reporting period: the National Apology to the stolen generations and the government's commitment to the *Statement of Intent to Close the Gap*.
- During 2007-08, three national Indigenous Legal Advocacy courses, of which HREOC is the copyright holder, were re-accredited for a five year period: the Certificate III, Certificate IV and the Diploma courses. These are the only courses in Australia that provide training to Indigenous legal advocates.
- HREOC welcomed the commencement of the government's investigation into captioning and media access with the release of a discussion paper by the Department of Broadband, Communications and the Digital Economy in April 2008. HREOC also welcomed the inclusion of a trial of electronically assisted voting for people with a print disability in the 2007 Federal Election. HREOC also participated in consultations for the initial five year review of the *Disability Standards for Accessible Public Transport*, the report of which is currently being finalised for submission to the Attorney-General and the Minister for Infrastructure.
- HREOC launched the *Same Sex: Same Entitlements* Inquiry Report at the end of the preceding reporting period. On 30 April 2008, HREOC welcomed the government's announcement that discrimination against same sex couples and their children would be removed, not only from the 58 laws identified in HREOC's report, which deal with financial and workplace related benefits, but from at least 40 additional pieces of legislation that discriminate in other areas.
- An investigation began into areas of concern for sex and gender diverse individuals, which flowed directly from the *Same Sex: Same Entitlements* Inquiry. The conclusion of the reporting period saw the investigation focussing on the ability of gender diverse people to change identity documents such as birth certificates, passports and drivers licences.

- During the reporting period, HREOC implemented its *Community Partnerships for Human Rights Program*, a National Action Plan funded set of initiatives that aim to assist the achievement of social inclusion for Australia's Muslim communities and to help decrease marginalisation and discrimination on the basis of race or religion. Under one of these initiatives, the *Community Police Partnership Project*, 19 partnerships between police and Muslim communities were announced in April 2008. These partnerships aim to work with young Muslim Australians and law enforcement agencies to help address discrimination and vilification.
- The Sex Discrimination Commissioner conducted a nationwide Listening Tour. The objective of the tour was to hear directly from people all around Australia about the key themes of: economic independence of women; balancing work and family across the life cycle; and freedom from discrimination, harassment and violence. The findings from the Listening Tour will be published early in the next reporting period.
- HREOC implemented *Mature Workers Mean Business*, a print media and web-based public awareness campaign that promotes the benefits of employing mature age workers.
- HREOC continued its most substantial international program through the *China-Australia Human Rights Technical Cooperation Program* (HRTC), which is an integral part of Australia's annual inter-governmental Dialogue on Human Rights with China. HREOC also participated in the annual *Vietnam-Australia Dialogue on International Organisations and Legal Issues*, including Human Rights.
- HREOC contributed to policy development and legislative review through the many submissions made during the reporting period. Submissions were made on a range of issues including the Northern Territory National Emergency Plan, the *Stolen Generations Compensation Bill 2008*, development of a new national Indigenous representative body, employment and disability, adoption of a federal charter of rights, multiculturalism, the Australian Citizenship Test, the new proposed *National Employment Standards* and paid maternity, paternity and parental leave.
- Between 1 July 2007 and 30 June 2008, the President reported to the Attorney-General on two matters under the *Human Rights and Equal Opportunity Act 1986* (Cth).
- During the reporting period, HREOC was involved as intervener in four matters. Commissioners were granted leave to appear as *amicus curiae* in three unlawful discrimination cases.
- Each year HREOC hosts seminars on current issues of interest in domestic and international human rights law. Three Human Rights Law seminars were held in 2007-08.
- During the reporting period, HREOC's Complaint Information Service dealt with 18 765 enquiries, a 32 per cent increase in comparison with the average number of enquiries received over the past four years and a 13 per cent increase in comparison with the number of enquiries received in the previous reporting period.

- HREOC received 2 077 complaints in 2007-08, a 28 per cent increase in comparison with the average number of complaints received over the past four years and a 17 per cent increase in comparison with the number of complaints received in the previous reporting period.
- The Complaint Handling Section finalised 93 per cent of matters within 12 months of lodgement, 48 per cent of finalised complaints were conciliated and 74 per cent of all matters, where conciliation was attempted, were successfully resolved. These figures represent a significant increase on the rate of conciliation of finalised complaints over the previous reporting period.
- In 2007-08, HREOC issued 154 media releases and alerts. The President and Commissioners had 20 opinion pieces published in major metropolitan newspapers across Australia and conducted hundreds of media interviews.
- In August 2007, the HREOC website was redesigned in order to provide: a common navigation and style across the site; improved accessibility and usability features; improved comprehension by using plain English to revise existing content; new sections; and improved interactivity through the use of on-line blogs and video and audio downloads.
- During 2007-08, there were approximately 11 195 404 page views and 73 246 868 hits on the HREOC website. This equates to 3 728 515 unique visits.
- During 2007-08, there were 939 141 page views of HREOC's on-line human rights education resources, which are widely used by educators, both nationally and internationally.
- In addition to all HREOC publications being available on HREOC's website, over 66 000 publications were dispatched in hard copy during 2007-08.
- The most popular publications were *The Human Rights Commission's Complaint Process*, *Face the Facts*, *The Good, the Bad and the Ugly: Design and Construction for Access* and the general *Human Rights and Equal Opportunity Commission* brochure.

Statement from the President

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**The Hon. John von
Doussa QC**, President,
Human Rights and Equal
Opportunity Commission



As a record, the Annual Report of the Human Rights and Equal Opportunity Commission (HREOC) is a testament to the vital role that our Commissioners and staff play in promoting and protecting human rights. In that light, the 2007-08 reporting period has seen a number of significant national developments in Australia that have provided high profile validation for these efforts.

The human rights of Indigenous Australians

I had the immense privilege of being at Parliament House in Canberra on Wednesday 13 February 2008 when the historic National Apology to the stolen generations was made by the Prime Minister. This moment was cause for great celebration and pride at HREOC, not only because it was official acknowledgement of the gross violations of fundamental human rights caused to Indigenous Australians by the separation of their children from their families and culture in the past, but because an apology was one of the recommendations of our 1997 *Bringing Them Home* Report. It was also a source of pride for HREOC that Aboriginal and Torres Strait Islander Social Justice Commissioner and Acting Race Discrimination Commissioner, Tom Calma, delivered the official response to the Prime Minister's apology on behalf of the stolen generations.

As I said on the day, however, the apology is only one step on the journey to reconciliation, which still has a long way to go. It is now a time for action. It is imperative that all governments in Australia work to eliminate the gap between the life advantages of non-Indigenous and Indigenous

Australians, with particular priority given to addressing the pressing issues of health, housing, education and employment.

It was extremely encouraging when the government affirmed its commitment to the *Statement of Intent to Close the Gap* in Indigenous health inequality at the culmination of the Indigenous Health Equality Summit held in Canberra in March 2008. This partnership between the Australian government, Indigenous and non-Indigenous health experts and the reconciliation movement is a great step forward on the road to making health equality a reality for Indigenous Australians by 2030. I pay tribute to Commissioner Calma, who was a driving force behind the Summit and was instrumental in bringing the multitude of organisations together.

The release of the *Social Justice Report 2007* in late March provided a timely and specific blueprint for HREOC's input into the federal government's review of the Northern Territory Emergency Response. The Report, produced annually by HREOC through the Aboriginal and Torres Strait Islander Social Justice Commissioner, articulated a 10 point plan and outlined proposed changes to the Northern Territory intervention legislation so that it maximised protection of children and families, while respecting the human rights of Indigenous people and treating them with dignity.

Equality for same-sex couples and their children

Just prior to the commencement of the reporting period, on 21 June 2007, HREOC tabled its *Same Sex: Same Entitlements* Inquiry Report in Parliament. The report was the culmination of HREOC's 2006 inquiry which consisted of examination of federal legislation, submissions received in response to two discussion papers, public hearings, community forums, and consultation with federal government departments and agencies. It found that 58 federal laws denied same-sex couples and their children basic financial and work-related entitlements available to opposite-sex couples and their children.

So it was with great enthusiasm that Human Rights Commissioner Graeme Innes and HREOC welcomed the government's announcement on 30 April 2008 that discrimination against same sex couples and their children would be removed from, not only those 58 laws, but from more than 40 additional pieces of legislation that were found to discriminate in other areas. There has been much parliamentary debate about the way in which this outcome will be achieved. So, as we keenly observe this activity, it remains important for all of us to remember that Article 26 to the *International Covenant on Civil and Political Rights* provides that 'all people are equal before the law and are entitled without any discrimination to the equal protection of the law'.

Immigration detention

Throughout my term as President of HREOC, one of the great human rights issues Australia has had to grapple with has been that of immigration detention and its impacts on the human rights of detainees. Over this period, HREOC has been active in voicing its concern through issuing a major report about our Inquiry into children in immigration detention in 2004, *A Last Resort: A National Inquiry into Children in Immigration Detention*, consistently making submissions to a large number of parliamentary Inquiries, conducting annual immigration detention centre inspections, voicing concern about the 457 visa scheme and temporary protection visas, as well as pointing to the human rights abuses inherent in the so-called Pacific Solution.

On this front, 2007-08 has been revelatory. We have witnessed the end of Pacific Solution in February, with the closure of Nauru and the settlement of its last detainees – 21 Sri Lankan men – in Australia. The Federal Budget in May heralded the end of the Temporary Protection Visa system and, as our reporting period closed, the government announced proposals to reform the temporary skilled migration 457 visa regime. Together, these moves point to an Australia that is looking toward a future with a more compassionate attitude to people who are coming to our shores to escape fear and persecution.

Sex and age discrimination and work and family balance

In September 2007, I had the great pleasure of welcoming our new Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination, Ms Elizabeth Broderick. During the first ten months of her tenure, Ms Broderick made a great impact on the human rights stage. Her major initiative has been the very successful Listening Tour, which took her the length and breadth of Australia, talking to both women and men in metropolitan and regional areas. These discussions aimed to find out what issues are most important to Australians to progress economic independence for women, balancing work and family and issues of discrimination, harassment and domestic violence.

Prior to Ms Broderick's commencement, I had been acting as the Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination. Our *It's About Time: Women, Men, Work and Family* Final Paper was a result of community forums held around the country about work life balance and the issues of balancing paid work and unpaid family care responsibilities. The paper was launched in early 2007 and contained 45 broad ranging recommendations. In 2007-08 it has been heartening to see a number of these recommendations being reflected in government policy initiatives that are considering issues such as early childhood education, work and family balance and paid leave for new parents.

Social cohesion

Social cohesion, with its emphasis on cultural, religious and racial understanding, has emerged as one of the most important philosophies in the achievement of social stability and strong community relations in the new century. To this end, HREOC has continued its endeavours to support Muslim and Arab communities in response to anti-Muslim prejudice and vilification. 2007-08 has been a fulfilling year for HREOC in this regard, with a number of projects being initiated under the *Community Partnerships for Human Rights Program*.

These projects have been developed and implemented by our Education and Partnerships Section, which was established in the Race Discrimination Unit in early 2007. HREOC has a particular focus in working with young Muslim Australians and addressing issues that relate to law enforcement and the administration of justice. In April 2008, in collaboration with the Australian Multicultural Foundation, we were able to announce 19 partnerships between Muslim communities and police around the country under the *Community Policing Partnerships Project*. Such projects are integral to building trust and relationships between Muslim communities and police at the local level and thus, social cohesion and community capacity. We look forward to further projects, dealing with freedom of religion and belief and the human rights of African Australians, which are set to be rolled out in 2008-09.

The rights of people with disability

During the previous reporting period, HREOC applauded the Australian Government for being among the first countries to sign the *Convention on the Rights of Persons with Disabilities* on the first day it opened for signature. During 2007-08, it has been gratifying to receive indication from the government that it intends to develop a new national Disability Strategy based on the Convention. This is to include development of a national strategy on disability and employment. Such a strategy was the principal recommendation of HREOC's *National Inquiry into Employment and Disability*, tabled in 2006.

Other government developments in the disability arena that have been welcomed by HREOC include the commencement of an investigation into captioning and media access, an inquiry into the issues faced by people with disability in using consumer electronics products and a trial of electronically assisted voting for people with a print disability during the 2007 Federal Election. HREOC also assisted the Australian Banker's Association in development of *Guiding Principles on Accessible Authentication*.

Policy development, international engagement and education

HREOC has contributed to policy development and legislative review of human rights issues through the many public submissions it has made during the reporting period. Through our Legal Section, we have intervened or appeared as *amicus curiae* in a number of significant matters before the courts. We launched the 2008 edition of the *Federal Discrimination Law* publication, complete with on-line version, and hosted three Human Rights Law seminars which were all extremely well attended. The high quality of these submissions and *Federal Discrimination Law* is self-evident and a great credit to the many staff members who contributed to their preparation.

Though our work is primarily concerned with the promotion and protection of human rights within Australia, HREOC engages internationally with the United Nations Human Rights Council in Geneva, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and the Asia Pacific Forum of National Human Rights Institutions (APF). This engagement is important to keep abreast of international human rights developments and best practice.

The Rules of Procedure for the Human Rights Council, which were settled in June 2007, established wide rights for National Human Rights Institutions to participate in the work of the Council and its subsidiary mechanisms. It is proposed that the burden of exercising these participation rights can be shared by increasing the capacity of the ICC to represent National Institutions in Geneva. In April this year National Institutions agreed to a new governance structure for the ICC, including its incorporation, to enable the employment of a full time Geneva representative. HREOC, in conjunction with the APF, is assisting the ICC to carry out these reforms.

In September 2007, HREOC assumed the Chair of the APF, and hosted its very successful Twelfth Annual Conference in Sydney which was attended by over 120 representatives of National Human Rights Institutions, the Office of the UN High Commissioner for Human Rights, and many NGOs.

HREOC has also continued an international education and training role, which centres mainly on agencies within the Asia Pacific region. Domestic violence, police conduct, prison management, investigation techniques and access to legal aid are

the sort of practical human rights issues in which we strive to assist. Two major international programs in which HREOC is involved are the *China-Australia Human Rights Technical Cooperation Program* and the *Vietnam-Australia Human Rights Technical Cooperation Program*.

Education is one of the statutory requirements of HREOC. During 2007-08, our education activities have advanced considerably as we continue to develop curriculum-linked human rights education resources specifically for use in upper primary and secondary schools and with a dedicated focus on provision of on-line resources through our website.

Complaint handling and budget

At home, complaints and enquiries are a significant part of the day-to-day work of HREOC. Managing this facet of our work is an enormous task that is essentially the machine room of our organisation. The year under review has seen an increase in the workload of the Complaints Handling Section of approximately one third in the volume of both enquiries and complaints. It is a great credit to the Section that it has completed 93 per cent of all matters within 12 months, and has significantly increased to 48 per cent the number of matters that are resolved through conciliation.

In April this year, as part of the wind back of Work Choices, HREOC suffered a withdrawal of ongoing funding that had hitherto supported fourteen staff in the Complaints Handling Section. These staff members had been engaged to handle the increase in complaints that HREOC received after the unfair dismissal laws were changed under Work Choices. Although the funding was withdrawn, the number of complaints being received continues to grow. In exercise of my statutory role I decided that the loss of funding should be shared across all aspects of HREOC, and not confined to cuts in the operations of the Complaints Handling Section. As a result, it has been necessary to cut the funding of every Unit in HREOC by 14.5 per cent. It is most regrettable that this will inevitably curtail the work programs of each of the policy units and impact on the allocated timeframes for complaints.

Looking to the future

This annual report will be my last, as my term as President of HREOC soon comes to an end. As my term ends, we are seeing a rapidly emerging set of human rights challenges in the response Australia and the world takes to climate change. Border protection has been an issue that has challenged us in response to the global threat of terrorism. Yet the sheer volume of people that will be displaced as sea levels rise, will present even greater challenges to us all in the future.

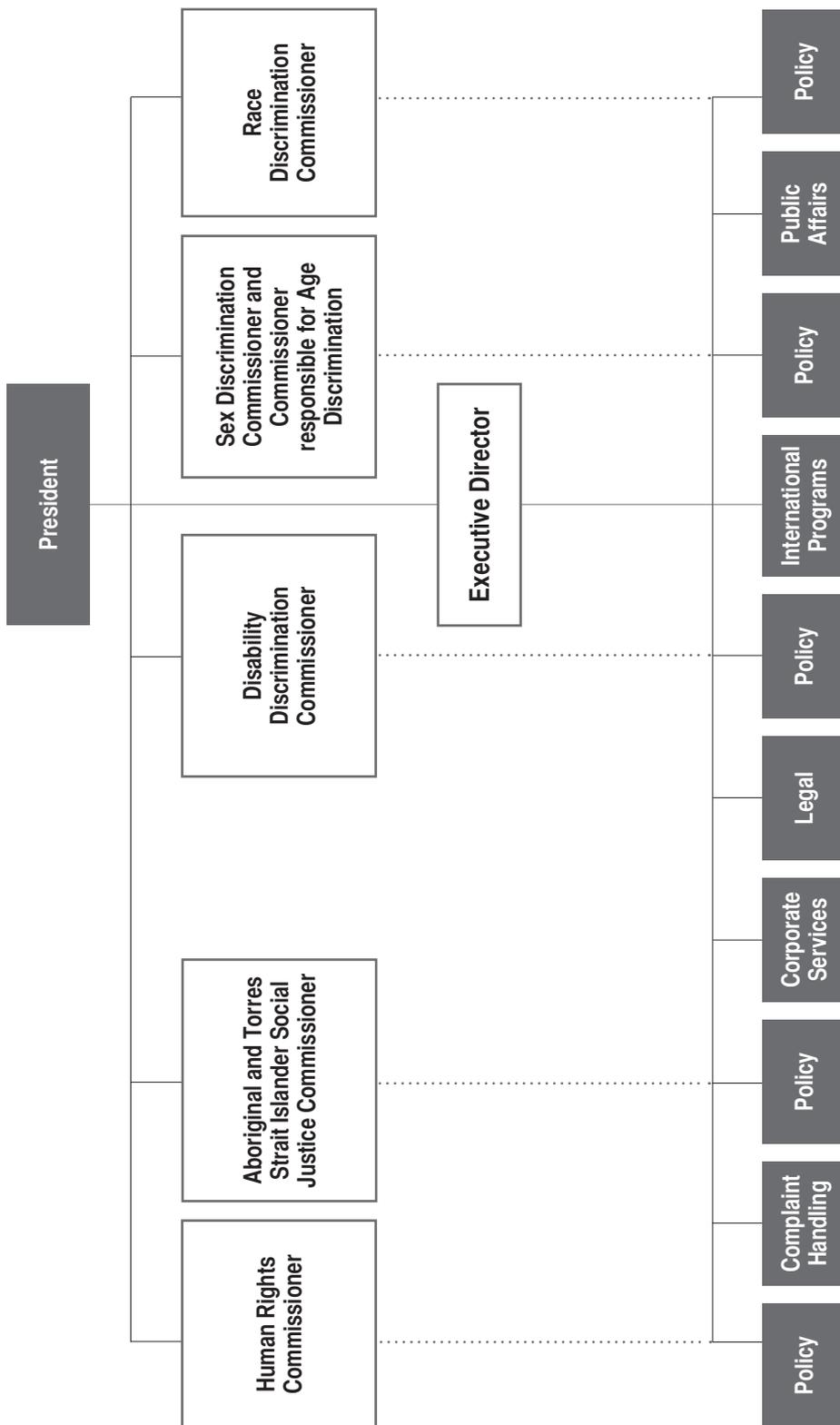
The conclusion of my term as President is also occasion for me to acknowledge the immense expertise, professionalism and dedication with which the staff and Commissioners at HREOC undertake their work. My experience of this commitment and enthusiasm was reinforced greatly at the culmination of HREOC's strategic planning process, the HREOC 21 Summit held over two days in February and attended by all staff, as well as a number of important external stakeholders. As a cohesive team, we worked extremely hard to reshape our way forward into the future so that HREOC can deliver on its strategic human rights objectives even better than it has in the past. It is a matter of regret to me that I leave as budget restraints are seriously limiting the research and policy initiatives that could otherwise be undertaken to enhance the understanding and enjoyment of human rights in Australia and our near Pacific neighbours.

Once again, I express my admiration for the skills and dedication of the staff of HREOC. It has been a privilege to work with them throughout my tenure as President. And finally I wish my successor every success in carrying on the work of the Commission.

A handwritten signature in black ink, appearing to read "John von Doussa". The signature is fluid and cursive, with a large initial "J" and "D".

John von Doussa QC

Figure 1: The Human Rights and Equal Opportunity Commission organisation chart



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Chapter 1

The Human Rights and Equal Opportunity Commission

1.1 VISION

Human Rights: Everyone, Everywhere, Everyday

1.2 MISSION

Leading the promotion and protection of human rights in Australia by:

- making human rights values part of everyday life and language;
- empowering all people to understand and exercise their human rights;
- working with individuals, community, business and government to inspire action;
- keeping government accountable to national and international human rights standards;
- securing an Australian charter of rights.

We do this by:

- listening, learning, communicating and educating;
- being open, expert, committed and impartial;
- fostering a collaborative, diverse, flexible, respectful and innovative workplace.

1.3 HREOC21

On 14 and 15 February 2008, HREOC held a planning summit at Jones Bay Wharf, Pyrmont Point in Sydney, entitled HREOC21. The 21 refers to the number of years that have passed since HREOC was established by an act of federal Parliament in 1986.

The summit was the culmination of an intensive consultation process, which involved discussions with HREOC staff and with external stakeholders, such as media, community organisations, educators and government representatives. The objective of the summit was to initiate a HREOC-wide strategic planning process by creating a refreshed vision for HREOC's future and a concrete plan of action that would make the vision happen.