

# NATIONAL ACTION PLAN

## AUSTRALIA

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Canberra



ACTING PRIME MINISTER

CANBERRA

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Australia is committed to the universal enjoyment of human rights. Australia considers that the protection and promotion of human rights is the responsibility of all States, irrespective of political and economic systems, and that the application of human rights standards constitutes a legitimate subject for international scrutiny. The fundamental objective of Australia's pursuit of improved standards of human rights is to safeguard the dignity and to improve the well-being of the individual. Australia recognises that the long term benefit of this pursuit is the development of higher standards of international behaviour, which enhances regional and global peace and security. The protection and promotion of human rights, in both the international and domestic arena, is thus accorded high priority by the Australian Government.

The proposal for the formulation of National Action Plans was endorsed by the World Conference on Human Rights and is one of the recommendations included in the *Vienna Declaration*. Australia considers that the National Action Plan is a practical measure by which States could improve their observance of human rights standards, taking their own individual circumstances as the starting point.

Australia's National Action Plan is a clear statement of Australia's commitment to the protection and implementation of human rights at a national level. It is the first such plan of action undertaken by a State and represents a comprehensive attempt to pull together the strands of government policy relating to the observance of human rights and social justice in Australia. The document identifies the challenges ahead and possible future action to be taken by the Australian Government.

I hope that Australia's National Action Plan will be a useful guide to other States in the preparation of their own National Action Plans, and that this document will increase awareness of Australia's human rights policies and the challenges we face in promoting and protecting human rights.

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# PREAMBLE

## The Australian System of Government

Australia's national, state and territory governments are structured according to a parliamentary system of government known as "responsible government" or the "Westminster system" of government. This means that the government is formed by the majority group of the elected representatives of the people in the lower house of Parliament. The national Parliament is a bicameral one, consisting of a lower house of Parliament called the House of Representatives and an upper house called the Senate.

The main features of Australia's federal system of government are contained in the Commonwealth of Australia Constitution. The Federation of Australia was established under the *Commonwealth of Australia Constitution Act (1900)*, an act of the Parliament of the United Kingdom which became operative on 1 January 1901. Amendments to the Constitution require the approval at a national referendum of both a majority of Australian voters in a majority of the States of Australia and a majority of voters overall.

The Constitution reflects the division of government activity into three areas: the Parliament, which makes laws; the Executive Government, which is responsible for administering these laws; and the courts which interpret the laws. It sets out the powers and basic law governing these areas, it defines the relationship between the Federal Government and the State Governments and also, to some extent, between the Federal Government and Australian citizens. The constitutional validity of laws and acts of the Executive is determined by the High Court, which is Australia's supreme judicial body and which is itself established by the Constitution.

As a consequence of Australia's federal constitutional system, legislative, executive and judicial powers are shared or distributed between the various Federal institutions and the six States — New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania (the former colonies) — and two internal self governing Territories. In each of these political units there is: a parliament elected by the people; an executive, responsible to that parliament, formed by the majority party or parties in parliament; and an independent judiciary.

In addition to the States, there are two Australian Territories. The Australian Capital Territory and the Northern Territory, which are both internal Territories, are self-governing and may be regarded as standing in substantially the same position as a State of Australia. A third territory — Norfolk Island — has limited legislative and executive government to enable it to run its own affairs to the greatest practicable extent.

The Federal Government retains the power to legislate for all the Territories and is responsible for the administration of the non-self governing territories. The

Jervis Bay Territory is the only non-self governing Territory internal to the mainland. There are three inhabited non-self governing Territories external to the mainland. They are:

- The Australian Antarctic Territory;
- Cocos (Keeling) islands; and
- Christmas Island.

Three further external territories are uninhabited:

- The Territory of Ashmore and Cartier Islands;
- The Coral Sea Islands Territory; and
- The Territory of Heard Island and McDonald Islands.

### **Implementing Human Rights Obligations in a Federal System**

The implementation of Australia's international treaty obligation is effected by the respective constitutional powers and arrangements of the Federal, State and Territory Governments. The Constitution does not expressly confer on the Federal Parliament specific or general powers to legislate concerning human rights. There is no reference in the Constitution to international law or to its place in the Australian legal system. The Federal Parliament, however, does have an expressed power under the Constitution to legislate with respect to 'external affairs'. The High Court of Australia has confirmed that this includes the power to legislate for the implementation of treaty obligations entered into by Australia.

Exercise of this federal power alone, however, would not be an adequate or efficient means for Australia to give effect to its international obligations. Much of the public infrastructure within Australia is at the State level, including a substantial portion of the Australian legal system. Consequently, the States exercise responsibility in many matters of relevance to the implementation of human rights.

The Federal Government, in general, relies on States to give effect to international treaties where the particular obligation assumed affects an area of particular concern to the States and where it is also consistent with the national interest and the effective and timely discharge of Australia's treaty obligations. Such an approach avoids unnecessary duplication of infrastructure and expenditure.

The Federal and State Governments have adopted a cooperative approach towards the implementation of Australia's international obligations which is given expression in the *Principles and Procedures for Commonwealth-State Consultation on Treaties*. Under these procedures, prior to Australia becoming a party to any international agreement of significance to the States, consultations are held in an effort to secure agreement on the manner in which the obligations incurred should be implemented. The States are also closely involved in the preparation of reports to international bodies on the implementation of treaties and there are well established channels of communication between the Federal and State Governments to ensure that Australia can discharge its international responsibilities in a timely manner. A Standing

Committee of the Federal Attorney-General and the Attorneys-General of the States and Territories has been in operation for many years and human rights issues form a regular item on its agenda.

Except in rare cases, the process of consultation has been effective in meeting Australia's obligations under international human rights instruments. Where problems have arisen or in the case of prolonged delay on the part of a State or Territory Government it remains open to the Federal Government to take the necessary action to ensure that Australia gives effect to those obligations.

The universal enjoyment of human rights remains a matter of fundamental importance for Australia. As such, Australia accords a high priority to the promotion and protection of human rights, both internationally and domestically. This is a position based on the belief that the universal observance of the rights and principles embodied in the *Universal Declaration of Human Rights* and the other major international human rights instruments would result in a more just international order, from which the prosperity and security of all nations and individuals would benefit. In seeking to advance human rights through its foreign and domestic policies, the Australian Government subscribes to the view that human rights are *inherent*, that is, they are the birthright of all human beings: *inalienable*, insofar as they cannot be lost or taken away; and *universal* in that they apply to all persons, irrespective of nationality, status, sex or race. Australia rejects the view that there is any hierarchy of human rights.

### **Australia's Human Rights Policy**

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

**Features of Current Policy**

Since 1945, Australia has been a strong supporter of the United Nations human rights standard-setting role. It was one of the earliest adherents to the first UN human rights treaties, having been, for example, the second State to ratify the *Convention on the Prevention and Punishment of the Crime of Genocide* and the third in the case of the *Convention relating to the Status of Refugees*. Australia is a party to nineteen of the major UN instruments in the human rights field (see Appendix A). It is not a party to the following UN human rights instruments —

- *The Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (the Migrant Workers' Convention)*;
- *The International Convention on the Suppression and Punishment of the Crime of Apartheid*; and
- *The International Convention against Apartheid in Sport*.

Australia has ratified 53 Conventions out of a total of 125 which have been adopted by the International Labour Organisation (ILO) and which are still current and open to ratification, (see Appendix B)

**Challenges** The Government has made a commitment to increasing and accelerating Australian ratifications, focussing in particular on possible ratification of ILO Conventions which protect human rights, such as freedom of association. One of the difficulties in doing this arises from the Federal nature of Australia's system of government. As discussed in the preamble, ratification of international instruments may often require compliance at Federal and State levels.

Australia has not ratified *ILO Convention No.169 (Indigenous and Tribal Peoples in Independent Countries)*, and no decision has yet been taken by the Government as to its suitability for ratification. Consultations with Aboriginal and Torres Strait Islander organisations have been concluded with the Aboriginal and Torres Strait Islander Commission (ATSIC) Board of Commissioners recommending that the Australian Government ratify the Convention. Further information on State and Territory compliance is required. [See also F (i)]

**Proposed National Action**

The Government recently identified 33 ILO Conventions as suitable for ratification, five of which have since been ratified. The Government will actively pursue ratification of the remaining 28 Conventions, by consulting with the States and Territories and progressively removing impediments to compliance.

The Conventions on which this proposed action will be taken include a number dealing with human rights and freedoms of association —

- *No. 97 Migration for Employment (Revised), 1949*;
- *No. 141 Rural Workers' Organisations, 1975*;
- *No. 143 Migrant Workers (Supplementary Provisions), 1975*;
- *No. 151 Labour Relations (Public Service), 1978*; and
- *No. 154 Collective Bargaining, 1981*.

To consider ratification of *ILO Convention No.169*.

To consider ratification of the *UN Convention on the Protection of the Rights of All Migrant Workers and Their Families*.

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

Features of Current Policy Australia acceded to the *First Optional Protocol to the International Covenant on Civil and Political Rights* on 25 September 1991. The Protocol came into force for Australia on 25 December 1991.

On 28 January 1993 Australia lodged declarations with the United Nations under —

Article 22 of the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*:

- Article 21 of the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*,

A specialist Optional Protocol Unit has been established within the Attorney-General's Department to allow Australia to respond in a timely fashion to requests from the Human Rights Committee concerning communications made by individuals. The Unit will provide the focal point for all communications made under the Protocol and the other complaint mechanisms —

- The Unit aims to deal with communications in a timely and efficient manner and to work towards resolving issues which come before the human rights treaty bodies for consideration.

Challenges Ahead To respond in a timely fashion to requests from treaty bodies for information on communications —

To work cooperatively with States in dealing with complaints which arise from State jurisdiction and may place Australia in breach of its human rights obligations....

- Where a communication to a United Nations treaty body concerns a State or Territory it will be necessary to work with the Government of that State or Territory to resolve the issue.

To improve the complaint procedures available to deal with issues involving the violation of women's rights. Currently relatively few complaints about

violations of women's human rights are brought under existing mechanisms and there is no complaints mechanism under the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW).

To establish an effective and efficient means of informing all Australian citizens regarding the availability and the nature of the complaint mechanisms —

- In this regard, particular consideration will need to be given to the dissemination of this information to target groups, including Aboriginal and Torres Strait Islander peoples and women.

**Proposed National Action**

The Federal Government is currently negotiating with the States and Territories to settle cooperative arrangements for dealing with communications under the UN complaint mechanisms. Such arrangements should ensure that communications are approached in a cooperative and positive manner.

Play a key role in international efforts to establish an appropriate and effective individual complaints mechanism for the CEDAW, with appropriate extension of meeting time for the CEDAW Committee. Any individual complaints mechanism should —

- be limited to specified articles of the Convention if it is to achieve substantial support, for example through, an optional protocol which concentrated on articles 1 and 2 (legislative obligations) and other specific articles such as 9, 15 or 16;
- consider the desirability of empowering CEDAW to appoint rapporteurs to investigate specific violations of the Convention; and
- be closely linked with the proposed Special Rapporteur on Violence Against Women so that information obtained by the Special Rapporteur is available to assist the effective functioning of a complaints mechanism —

- not work against efforts to have women's human rights issues dealt with more effectively by mainstream human rights bodies;

The Optional Protocol Unit of the Federal Attorney General's Department is currently preparing a pamphlet on the Protocol and individual complaint mechanisms under other human rights instruments. This pamphlet will be distributed widely —

- The Attorney General's Department will also consider funding an university human centre to increase access to treaty body decisions.



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

Australia currently Has reservations to the following instruments —

**Features of Current Policy**

" *The International Covenant on Civil and Political Rig/Us* (ICCPR) — Articles 10 (2) (a) & (b) and 10 (3), 14 (6) and 20. regarding the segregation of people held in custody, the mechanisms for the payment of compensation for wrongful conviction and the incitement of certain kinds of hatred;

" *The International Convention on the Elimination of All Forms of Racial Discrimination* (CERD)—Article 4(a), regarding the promotion of ideas or activities;

- *The Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) — Article 11 (2), regarding maternity leave;
- *The Convention on the Political Rights of Women* (CPKW)— Article 1H, regarding recruitment to, and service in, the Defence Forces; and
- *The Convention on the Rights of the Child* (CROC) — Article 37 (c), regarding the separation of adults and children when imprisoned.

The full text of the reservations and declarations are in Appendix C.

**Challenges Ahead**

Reservations to Article 10(2) (a) & (b) and 10(3) of the ICCPR and Article 37(1) of CROC —

- \* Due to Australia's demographic and geographical features it is difficult to achieve the total segregation of accused and convicted prisoners and children or juvenile prisoners from adult prisoners. Furthermore the Australian Government remains convinced that it is appropriate to allow the responsible authorities discretion to determine whether it is beneficial for a child or juvenile to be imprisoned with adults. However the Government is committed to achieving the goal of separation of accused and convicted prisoners.

Reservation to Article 14 of ICCPR —

- Administrative procedures are available in all Australian jurisdictions to provide compensation for miscarriages of justice in the circumstances envisaged in the ICCPR.

Reservation to Article 20 of the ICCPR and Article 4(a) of CERD —

- To date the Government has not been in the position to remove the reservation to these articles. Legislation relating to racial vilification was introduced into the House of Representatives on 16 December, 1992. The legislation lapsed when the House was dissolved for the 1993 federal elections. The Government is currently considering submissions and responses to the draft Bill, and the most appropriate legislative response to racial hatred laws for each Australian jurisdiction. Once that process is completed the Government will be then in the position to examine the question of the removal or modification of the reservations to these articles; and
- New South Wales, Queensland, Western Australia and the Australian Capital Territory have legislated to prohibit racial vilification.

Reservation to Article 11 (2) of CEDAW —

- To date, the Government has not been in a position to remove the existing reservation given full implementation would require the introduction of maternity leave with pay or with comparable social benefits throughout the country.
- Maternity leave with pay is provided for most women employed by the Federal Government. The Northern Territory, Australian Capital Territory and New South Wales public service also offer some paid maternity leave, subject to qualifying periods. Paid maternity leave has been available to Victorian public servants, however the current State Government has introduced legislation to remove maternity leave for new employees;
- Unpaid maternity leave is available to all women employed in NSW and to women employed under Federal, and some State, industrial awards. Most maternity leave in the private sector is unpaid; and
- Social Security benefits subject to income tests are available to women who are sole parents.

Reservation to CEDAW and Article III of CPKW —

- Women are now able to serve in all positions in the Australian Defence Force (ADF) other than direct combat positions. It is likely that the Government will remove the exclusion from combat related duties, and restrict the exemption from the *Sex Discrimination Act 1984* for combat duties to a more limited range of duties essentially involving hand-to-hand combat. These changes will open up almost 90 per cent of all positions in the ADF to women.

## Proposed National Action

Article 10(2)(a)&(b) and 10(3) of the ICCPR and Article 37(1) of CROC —

- The Australian Government will review the reservation to Article 10(2) (a) of the ICCPR during 1994. This review will look at progress made in the light of changes to the prison systems resulting from the Royal Commission into Aboriginal Deaths in Custody. [See also F(i)]

Reservation to Article 20 of the ICCPR and Article 4(a) of CERD —

- Three recent major inquiries, the National Inquiry into Racist Violence, the Australian Law Reform Commission's reference into Multiculturalism and the Law, and the Royal Commission into Aboriginal Deaths in Custody have made recommendations concerning the need to legislate in relation to racist violence and racial vilification; and
- racial vilification legislation is currently under consideration by the Federal Government. The Attorney-General, in consultation with the Minister for Foreign Affairs, will review the terms of Australia's reservation to Article 20 once that process is complete.

Reservation to Article 1 ] (2) of CEDAW —

- The National Women's Consultative Council and the Federal Office of the Status of Women will convene a seminar on paid maternity leave to further stimulate policy debate on these issues; and
- the Government is committed to considering implementation of *ILO Convention 103 on Maternity Protection*, which calls for at least 12 weeks of paid maternity leave to be made available to women in paid employment. Such ratification would have obvious implications for the reservation to CEDAW. [See also F (ii)]

Reservation to CEDAW and Article III of CPRW

- In light of the policy changes within the ADF, the Office of the Status of Women will hold discussions with relevant departments with a view to narrowing or removing these reservations prior to Australia's presentation of its second periodic report on the implementation of CEDAW.

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

The Australian Government recognises the importance of the reporting obligations imposed by the various United Nations human rights instruments. In compiling its reports every effort is made to present a comprehensive and accurate picture of the situation throughout Australia. A complete list of all Conventions requiring regular reports as well as details of the reporting cycle is in Appendix D.

Australia has a good record for being limely in providing reports on the implementation of treaty obligations to the International Labour Organisation.

Australia meets its financial obligations to the United Nations and specialised agencies in full and on time.

Australia's federal system means that in order to report comprehensively it is necessary to provide information from nine jurisdictions. This is an extremely resource intensive activity. Consultation with NGOs during the preparation of the reports is also important and once again, requires significant resources. There have been delays in the submission of some reports to human rights treaty bodies and at times, consultations with non-government organisations (NGOs) has not been sufficient.

Australia welcomes the recommendations of the 1993 Alston Report on *Effective Implementation of international Instruments on Human Rights* for strengthening the UN human rights treaty monitoring system. A major challenge is to have these recommendations adopted. Areas of priority include the following recommendations —

- \* the provision of advisory services for States with reports overdue by two years; removing States' immunity from scrutiny when no reports have been lodged; listing overdue States in resolutions; and providing incentives to States which do report;
- \* designating a single unit at the national level to coordinate report preparation; and
- \* reducing the number of treaty bodies, production of a single global report and the use of specifically tailored reports.

**Features of Current Policy**

**Challenges Ahead**

## Proposed National Action

To examine ways of streamlining the preparation of reports. The Federal Government is considering increasing the resources dedicated to report writing through the establishment of a national report writing unit. The unit would be responsible for coordinating and preparing reports to the various human rights treaty bodies.

To finalise Australia's first report under the *Convention on the Rights of the Child* as soon as possible. [See also F (iii)]

To finalise Australia's third report under the *International Covenant on Civil and Political Rights* as soon as possible.

To ensure that Australia's good record on providing reports to International Labour Organisation is maintained.

To secure the adoption of the recommendations in the Alston report on the means of strengthening the UN treaty monitoring system.

To ensure appropriate consultations with the NGO community in the preparation of Australia's reports.

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

### (i) the right to work

Unemployment in Australia as at November 1993 was 10.3 per cent of the workforce. Reducing unemployment and assisting the long term unemployed is the Federal Government's first priority.

Features Or  
Current Policy

Australia safeguards the opportunity to work in accordance with Article 6 of the *International Covenant on Economic, Social and Cultural Rights* through a National Training Reform Agenda, the Accord Agreement 1993-1996 and the Social Justice Strategy.

Industrial relations reform is central to the Accord Agreement 1993-1996 between the Federal Government and the Australian Council of Trade Unions (ACTU). The shared objectives are to achieve wage outcomes which enhance Australia's international competitiveness and provide a sound basis for sustainable economic recovery and employment growth —

- A primary focus is the devolution of authority to employers, employees and their unions at the enterprise level in a more decentralised and flexible approach to wages and working conditions within a framework of minimum standards.

The Social Justice Strategy provides for the closer integration of social and economic policy with the reduction of unemployment as the highest priority by —

- creating sustainable economic growth and "real" jobs;
- ensuring unemployed people are in a position to compete for those jobs; and
- ensuring that the costs of unemployment are distributed across the community, rather than borne solely by unemployed people.

The National Training Reform Agenda aims for the development of a vocational, education and training system which is efficient and responsive to the needs of industry, enterprises and individuals.

A Federal and State Ministerial Council determines national objectives, priorities and strategic directions implemented through the Australian National Training Authority.

Increased competitiveness of the unemployed in the labour market is being supported by labour market programs that provide training, help with job search, work experience and wage subsidies to employers —

- There are a number of measures designed to assist job seekers to gain access to long term employment. These include wage subsidies, job search assistance, mobility assistance, training assistance, community based employment and assistance for industries undergoing structural adjustment. Specialist programs exist for Aboriginal and Torres Strait Islander peoples, people with a disability, those of non-English speaking background, sole parents, women, youth and older workers. [See also F (i); F(ii); F(iv) and F (v)]

Existing Federal and State anti-discrimination legislation is intended to give equal access to opportunities to work, where those opportunities exist. [See F (iv)]

The Government actively promotes the employment of women. Women's participation in the labour force has increased since August 1983 due to strong growth in the labour force and part time and casual employment; and to social changes and supportive legislation such as the *Sex Discrimination Act 1984*. [ISccP(ii)]

**Challenges** To reduce unemployment through sustainable economic growth with particular **Ahead** attention to reducing the number of long-term unemployed by developing a comprehensive program for this purpose.

The challenges lie in bringing together the key elements of the reforms in vocational education and training, industrial relations and social and economic policy in reducing unemployment.

The Government strategy is to strengthen the workforce by —

- improving access to education and training for adult workers;
- the promotion of a cooperative approach to workplace bargaining underpinned by an effective safety net of minimum wages and conditions; and
- a comprehensive and fair child care policy which allows women to contribute to improving the skills and flexibility of the workforce.

## Proposed National Action

A high level Committee on Employment Opportunities has been commissioned to prepare a Discussion Paper. There will be extensive consultation and public discussion before the release of the Government's response in the form of a White Paper in the context of the 1994-95 fiscal Budget.

- Areas to be covered include changes in labour force participation, in (the types and location of jobs being created and lost, employment and education experiences of people with disability and the characteristics and location of unemployed, discouraged and underemployed workers.

**(e) Develop targets for Australia in the area of economic, social and cultural rights and indicate progress towards their achievement, for example:  
(ii) the right to just and favourable conditions of work and to form and join trade unions**

**Features of Current Policy**

The Australian Government's policy for reform of federal industrial relations legislation centres on protection of the rights of workers through —

- maintenance and strengthening of a safety net of protected minimum wages and conditions which are fair and appropriate to the work performed;
- the introduction of minimum entitlements legislation;
- the requirement that collective agreements between employers and employees do not disadvantage employees in terms of their package of terms and conditions of employment considered as a whole;
- oversight of minimum standards and collective agreements by an independent quasi-judicial body (the Australian Industrial Relations Commission); and
- the introduction of a number of other protections for employees on collective agreements including requirements that agreements are consistent with minimum entitlements provisions and that they do not discriminate on the basis of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinions, national extraction, social origin, sexual preference, age or physical or mental disability.

The Federal Government, as an employer, has developed and implemented strategies which have created an infrastructure for ensuring just and favourable working conditions and the rights of trade unionists within Federal public sector employment —

- examples of public sector employment conditions which facilitate just and favourable conditions of work include:
  - maternity and parental leave provisions;
  - permanent part-time work;
  - flexible working hours (flexitime); and
  - leave provisions such as bereavement leave; ceremonial leave for Aboriginal and Torres Strait Islander peoples and Staff Organisation (trade union) leave.

It is lawful in all Australian jurisdictions to form and join trade unions —

- trade union activity is recognised by Australia as a ground of discrimination under *ILO Convention No. III, Discrimination in Employment and Occupation*;
- the Human Rights and Equal Opportunity Commission (HREOC) has power to inquire into and attempt to conciliate in cases of alleged discrimination in employment based on trade union activity; [See also G]
- federal legislation currently prohibits employment detriment to an employee based on membership of a Federally-registered employee organisation; and
- the Federal Government is legislating to prohibit dismissal of an employee based on membership or non-membership of any trade union.

The Government provides assistance, under its Workplace Reform and Best Practice Program to encourage workplaces to pursue actively best and fairest work practices within their own workplaces. One of the requirements for assistance is effective consultation within the workplace.

The Department of Industrial Relations administers the Migrant Workers' Participation Scheme, which aims to increase migrant participation in workplaces and unions, in the context of the changing industrial environment. Other objectives include promotion of issues such as English language and literacy, and mechanisms for information, dissemination and consultation for migrants. [See also F (iv)]

**Challenges Ahead**

The Government aims to ensure that enterprise bargaining is available in all sectors of the economy including in non-unionised areas.

- Such agreements should be based on improving the productive performance of individual enterprises; and
- preserving an equitable base of consistent minimum rates of pay and conditions in arbitral awards will be critical to maintaining confidence in the fairness of the wages system.

A particular focus will be on ensuring that the interests of vulnerable workers, including workers with family responsibilities, women, persons whose first language is not English and young persons are taken into account in the negotiation and terms of enterprise and workplace agreements.

- The Government will also monitor the effect of the new arrangements arising from workplace bargaining on these workers and will consider the need to develop more flexible arrangements.

In the Federal public sector, enterprise bargaining is to be negotiated within the parameters of an Agreement between the Government and public sector unions —

- \* key features of this Agreement include the need for:
  - processes and outcomes be consistent with Australia's social justice objectives;
  - essential standards to be maintained; and
  - for there be no disadvantage to employees as a result of their union activities in establishing individual workplace agreements.

The Government will develop and implement strategies in the Federal public sector to address the needs of workers with family responsibilities through the development of terms and conditions of employment.

### Proposed National Action

The effective operation of trade unions will be improved by legislation providing immunity for trade unions from legal penalties arising from industrial action, in appropriate circumstances.

The Government will undertake a range of policy initiatives aimed at promoting just and favourable conditions of work. For example —

- To meet its obligations under *ILO Convention No 156, Workers with Family Responsibilities, 1981* the Australian Government has developed a strategy for implementing the Convention across its policies and programs and established a Work and Family Unit in the Department of Industrial Relations to oversee its implementation. The strategy encompasses action to:
  - promote attitudinal change to achieve a better balance between work and family;
  - remove discrimination against workers with family responsibilities;
  - enhance terms and conditions of employment to assist workers with family responsibilities;
  - improve access and incentives to employment for workers with family responsibilities;
  - ensure equal access to training and education for workers with family responsibilities; and

- improve community services and planning for workers with family responsibilities.

Initiatives are being considered to substantially raise the public profile of work and family issues and to promote the adoption of "family friendly" employment policies, as work and family has been identified as a central theme of the *United Nations International Year of the Family (1994)*.

The Government is developing a package of legislation (Industrial Relations Reform Bill 1993 which will come into effect on 30 March 1994) to ensure that it has in place an effective framework to support a fair and flexible system of workplace bargaining, based on International Conventions to which Australia is a party. This legislation will provide for —

- equal pay for men and women workers for work of equal value, based on *ILO Convention No 100, Equal Remuneration, 1951* and the *UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*;
- a system of minimum wages, based on *ILO Convention No 131, Minimum Wage Fixing 1970*;
- parental leave for men and women workers with newly born or adopted children, based on *ILO Convention No 156, Workers with Family Responsibilities 1981*; and
- prohibition of and remedies for, unfair dismissal, based on *ILO Convention No 158, Termination of Employment, 1982*.

In the context of a March 1993 Accord between the Government and the Australian Council of Trade Unions, the Government will consider legislation to protect other internationally recognised standards, such as annual leave, maternity leave and hours of work.

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

Features of Current Policy

In Australia, social policy encompasses a range of individual, yet interrelated, policy and program areas including income support, health, housing and a range of community support services including child care and the care of the aged. This particular view of social policy has been a major influence in recent years in the development of social policies, programs and administrative practices-

Australia's first national payment was an age pension that began in 1909. It replaced state based pension schemes and was the start of the national social security system in Australia. With the world recession in the 1930s, unemployment benefits were introduced. Gradually other benefits were introduced so that in 1947, the *Soda! Security Act* covered payments for the aged, unemployed, widows and maternity allowances as well as a funeral benefit and sickness benefits. The present Department of Social Security commenced in the 1970s and expanded the range of benefits to include payments for handicapped children, single mothers and family payments. As all funds for social security payments are allocated from the Government's annual budget and are funded from general taxation revenue, Australia's national social security system is non-contributory.

The social security system in Australia forms a vital part of the Government's Social Justice Strategy. It provides income support through the Department of Social Security to people and families who are without an adequate income for reasons such as age, disability, unemployment or sole parenthood. It also provides the framework to support access to employment for those with the ability to participate in the work force. In addition, the Government provides direct services and funding for other services to such groups as Aboriginal and Torres Strait Islander peoples, children with a disability, aged people and migrants. The Government also provides, through the Department of Veterans' Affairs Benefits and Health Programs, a range of benefits including service and disability pensions, and medical treatment.

For further details of the Australian Government's social security scheme, see Appendix E.

Australia's first comprehensive national policy on retirement income (1989) was built on the principles of adequate age pension to provide a guaranteed minimum rate of pension, supplemented by private savings such as superannuation. In 1992, another principle was added — mandatory private savings through a superannuation guarantee charge.

In relation to retirement incomes, the Government's fundamental policy objective is to ensure that aged persons are able to maximise their income from

private sources, while ensuring that dependence on Government income support is reduced. Indeed, the Government aims to reduce the number of age pensioners and increase the number of private pension recipients. [See also F (viii)]

National policies and programs now in place are designed to be flexible and responsive to demographic, economic and social circumstances for the present and the future. The common purpose is that Government assistance maximises the opportunities for people to participate, as fully as possible, in the economic and social life of society.

Australia is recovering from a severe economic recession with associated social consequences. Australia is also faced with demographic changes over the next decade which include increasing labour force participation of women, increasing proportions of sole parent and other non-traditional family structures, and the ageing of its population.

The Government will have to meet the needs of a high number of welfare recipients for the foreseeable future. At the same time, the Government will continue to pursue active strategies which will be adjusted to suit the economic and labour market conditions which are likely to prevail through the 1990s.

Australia's ageing population means that retirement incomes will continue to be a major focus for the Government. It remains committed to maintaining the adequacy of the age and service pension and will also be considering options for better integration of the taxation and social security systems in order to reduce the complexity for retirees.

The Government will also examine the link between the age and service pensions and superannuation, as well as other issues such as the long term impact of Government policies on the level of retirement savings and on the distribution of retirement income benefits.

Current income support provisions for married couples within the Australian social security system are based upon the model of a male breadwinner and dependent spouse. However, the pattern of female labour force participation (in particular that of married women) has changed substantially since the 1940s when these dependency-based payments were introduced. These changes in women's labour force participation over recent decades pose a challenge to the Australian Government to ensure that its social security policies remain consistent with the changing roles of men and women, both in the family and in the paid workforce.

Challenges Ahead

## Proposed National Action

The Australian Government will continue to develop and refine its Social Justice Strategy to redress inequities in Australian society and to achieve a fairer distribution of economic and social resources among all Australians —

- This will also involve the recognition that services and programs must be responsive to the increasingly diverse nature of Australian society, particularly to Australians of non-English speaking backgrounds and Aboriginal and Torres Strait Islander peoples. [See also F (iv)]

In relation to improving the access of individuals to social security payments, the Government will continue to improve its service to clients.

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

### (iv) the right to health

Australia's health policy aims for a high quality healthcare for all Australians which is affordable to both the nation and the individual.

### Features of Current Policy

The cornerstone since 1984 has been a national system of subsidies for health care known as "Medicare" which guarantees all Australians access to quality medical care and pharmaceutical products at reasonable charges and provides universal access to hospital care at no charge —

- "Medicare" is financed with general taxation revenue, including a health care levy. This form of financing ensures that individuals contribute according to their capacity to pay; and
- voluntary private health insurance co-exists with Medicare but its role is limited and it is regulated by the Federal Government.

The health status of Australians is relatively high compared with other countries. However, there is still room for significant improvement. The Federal Government is currently developing strategies to implement national health goals and targets in four health areas: cardiovascular disease, cancers, injury and mental health. The goals and targets identify particular population groups such as —

- Aboriginal and Torres Strait Islander peoples; [See also F (i)]
- migrants;
- rural communities; [See also F (x)] and
- the aged. [See also F (viii)]

A national food and nutrition policy was developed and launched in September 1992 with the aim of improving health and reducing the preventable burden of diet-related early death, illness and disability among Australians, especially those groups in the population most at risk of poor nutrition —

- The fundamental aim of the policy is to "make healthy food choices, easy choices". It has a clear mandate to promote public health and achieve social justice for all Australians. This includes a focus on community consultation to ensure the elimination of all possible barriers to good nutrition.

The National Drug Strategy has been developed to provide a policy framework at the national level for policies and programs on alcohol and other drug abuse in the community. The Strategy is a joint program of all Australian governments, co-ordinated by a Ministerial Council on Drug Strategy.



**Challenges** In regard to medical and hospital treatment, the challenges include containing **Ahead** costs in the context of an ageing population and meeting rising community expectations coupled with the rapid growth of new technologies. It also involves ensuring an equitable spread of health care service, in particular, for rural and remote communities and disadvantaged groups and achieving a better balance between curative and preventive health interventions and expenditure.

All programs must meet the challenge of pursuing agreed goals, maintaining accepted standards and ensuring participation of target groups, particularly those which are disadvantaged or at risk —

- Continual monitoring of programs must be carried out so that they can be evaluated, modified and adjusted.

A national medical and health research infrastructure must be maintained and supported to address numerous goals, including inequalities in health status between different population groups.

### Proposed National Action

The Government will build on the foundations of "Medicare" to improve access to services, their quality and appropriateness. Future strategies will include structural changes and incentives to improve efficiency.

Specific action includes —

- restructuring the way general practice is organised and financed;
- restructuring the Pharmaceutical Benefits Scheme through the introduction of selective generic pricing and cost-effectiveness guidelines and reduction in the number of retail pharmacies, as well as extending concessions to superannuants;
- providing incentives to develop alternatives to acute hospital care such as early discharge programs and post-acute care, and extending palliative care to enable patients who need hospital level health services to be cared for in familiar and comfortable settings;
- strengthening other components of the system such as primary health care and home and community based care;
- developing research and peer review processes to establish best practice guidelines to assist the medical profession to make cost effective clinical decisions, taking account of the needs of patients;
- expanding health promotion and illness prevention programs and services as a complementary approach, with the promise of producing long-term savings and better health outcomes;

- establishing a new Dental Health Scheme for pensioners and Health Care Card holders to enable earlier treatment; and
- introducing further measures to reduce waiting lists for public patients by allowing public patients to be treated in private hospitals and supporting measures to enable better use of resources in public hospitals.

Many national actions are proposed in the health services area. The following examples are illustrative of a few of these Government initiatives:

- a core set of educational resources providing accurate and current information on alcohol and drug issues will be developed for use by the community;
- the government will implement the Food and Nutrition Policy; and
- the Breast Cancer Screening Program aims to screen 1.7 million women over 40 years old by 1995/96 and to continue to offer screening every two years.

A five year strategic plan is being developed to implement goals and targets and to work towards a reduction in morbidity and mortality from injury. The major focus is on particular population groups such as Aboriginal and Torres Strait Islander peoples, rural communities, the elderly and children. [See also F(i); F(x); and F(vii)]

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

**Features of Current Policy** Under the Australian Constitution, State and Territory Governments have the major responsibility for the provision of education. State and Territory legislation requires that all children between the prescribed ages of 6 and 15 (in Tasmania, until 16 years) must attend either a government school, or some other educational program approved by the Government.

Education legislation and practice in Australia are based on the principle of equality of access to all levels of education. Accordingly the Federal Government has a variety of special programs in place to encourage the participation of children who are educationally disadvantaged because of a disability, poverty, geographic isolation, socio-economic circumstances or non-English speaking or Aboriginal and Torres Strait Islander background.

Education in government schools is free. Financial assistance is available for low income families to meet costs for textbooks and transport.

About 28 per cent of all children attend private schools. Many of these are linked to religious organisations and function in parallel with government schools. Private schools charge fees, but normally receive financial assistance from the government according to need —

- The proportion of children attending private schools has risen in recent years. All private schools are registered with the relevant education department of the State or Territory and are subject to regular inspection. The conditions require that minimum education standards are met, that they follow official guidelines and that the schools have satisfactory premises.

Children who live in remote areas and children with physical, intellectual or social disabilities are exempt from compulsory attendance. Correspondence and other forms of distance teaching are provided for children in remote areas. Special Education services are provided for children with a disability. Federal financial assistance is provided for children in remote areas and for children with a disability.

In 1989 a set of common and agreed national goals for schooling were developed. The first three national goals are specifically relevant to improving access to and participation in education of all children —

- to provide an excellent education for all young people, being one which develops their talents and capacities to full potential, and is relevant to the social, cultural and economic needs of the nation;

- to enable all students to achieve high standards of learning and to develop self-confidence, optimism, high self-esteem, respect for others, and achievement of personal excellence; and
- to promote equality of opportunities, and to provide for groups with special learning requirements.

The Federal Government, has a National Strategy for Equity in Schooling (NSES) which will provide a genuinely national framework of objectives, goals, targets and outcomes. The NSES will encompass all the schools' equity and social justice programs so that by 2001 all Australian children will be sharing fairly in the rewards of a quality education.

The National Policy for the Education of Girls in Australian Schools is a comprehensive national policy dedicated to improving schooling and its outcomes for girls. It aims to raise awareness of the educational needs of girls, to provide equal access to and participation in appropriate curriculum, to provide supportive school environments and to ensure equitable resource allocation. [See also F (ii)]

The National Aboriginal and Torres Strait Islander Education Policy (AEP) was jointly developed by the Commonwealth and States and Territories and represents a cooperative effort to develop more effective processes for the education of Aboriginal and Torres Strait Islander peoples. A major purpose of the AEP is to achieve broad equity between Aboriginal and Torres Strait Islander peoples and other Australians in access to, participation in and outcomes from all forms of education. [See also F(ii) and Appendix H]

Since 1988, massive funding increases have been injected into Australia's publicly financed higher education system. The number of Federal-funded, equivalent full-time student places in the sector has grown by 75,000 to 375,000 in 1993.

A related national objective is the broadening of participation in higher education. Recognising that certain groups have been historically disadvantaged in gaining access, the Federal Government in 1990 established specific objectives, strategies and targets, to provide the framework for enhancing the participation of Aboriginal and Torres Strait Islander peoples, women in non-traditional areas of study and postgraduate studies, people from non-English speaking backgrounds, people with a disability, people from rural and isolated areas, and people from socio-economically disadvantaged backgrounds. Each institution now has as part of its educational profile an equity plan and an Aboriginal and Torres Strait Islander strategy.

Opportunity for financially disadvantaged and geographically isolated students to participate in post-compulsory education is equalised by the AUSTUDY scheme and for people of Aboriginal or Torres Strait Islander origin, by the ABSTUDY scheme. These schemes provide means tested income support to support young people: to complete their secondary education and go on to further study.

The Open Learning Initiative, established in 1993, extends the national policy of facilitating and widening access by offering opportunities for high-quality education to significant numbers of Australians who because of employment commitments or other circumstances would normally find it difficult to participate in higher education.

**Challenges Ahead** The Australian Government is committed to a national collaborative approach to education. This involves the continued development and implementation of a national curriculum framework which takes into account the educational needs of all students and reflects the Federal Government's social justice policies. This involves—

- improving the participation and achievement of students who are disadvantaged as a consequence of socio-economic circumstances, geographic location or a disability;
- providing an educational environment that develops self discipline and respect for the rights of others and is conducive to maximum learning;
- providing better support services and structures;
- maximising the competency and efficiency of teachers; and
- facilitating the transition of students from primary to secondary schooling, from one school system to another and better informing students about the range of options available.

- responding to the relevant recommendations of the Royal Commission into Aboriginal Deaths in Custody;
- implementing the National Aboriginal Languages and Literacy Strategy, which provides for specific initiatives for the advancement of Aboriginal and Torres Strait Islander languages and literacy; [See also Appendix H] and
- implementing the National Reconciliation and Schooling Strategy, which provides for specific schooling strategies which promote the reconciliation process between Australia's indigenous and non-indigenous people. [See also F (i)]

The Australian Government will consult institutions on ways of retaining and enhancing the commitment to equity in the higher education system, including mechanisms for strengthening support structures and facilities for targeted groups.

### Proposed National Action

The Australian Government will seek to address existing inequities in opportunity for targeted sectors of the Australian community including women.

Implement the draft National Strategy for Equity in Schooling (NSES) which—

- sets concrete targets in the area of educational rights and outlines the performance measures for their achievement;
- proposes a time frame of the end of the decade for meeting those targets; and
- clearly identifies appropriate action for each of the disadvantaged target groups.

The Australian Government will continue its support for the National Aboriginal and Torres Strait Islander Education Policy focussing on—

**(c) Develop targets for Australia in the area of economic, social and cultural rights and indicate progress towards their achievement, for example:**  
**(vi) the right to a cultural life**

**Features of Current Policy** The Government recognises that culture is an integral part of life. It is reflected in the lives of all Australians, and it is the vital and current representation of the nation's identity.

While it is not the Government's role to define Australian culture or set parameters on its nature and character, it does have a responsibility to help create an environment which allows Australia's cultural life to flourish and develop to its fullest potential. It also has a responsibility to ensure that we are able to maintain and develop the distinctively Australian nature of our culture.

The principles which guide policy include

- access and participation;
- valuing our heritage; and
- promoting a viable industry.

Government assistance to artists and arts organisations is provided primarily through grants made by the Australia Council. Artists are supported through Government legislation and regulation such as copyright and lending right laws and through organisations such as Art bank. The Government through its cultural portfolio directly funds training institutions of excellence such as the Australian Film, Television and Radio School, the National Institute of Dramatic Art and the Australian Ballet School.

The importance of our heritage is recognised through institutions such as the Australian Heritage Commission, the National Library, the National Gallery, the National Museum of Australia, the Australian National Maritime Museum and the National Film and Sound Archive.

In the areas of broadcasting, film and television, Government policies include primary support for ABC radio and ABC and SBS television. Industry development is provided through the Australian Film Finance Corporation, the Australian Film Commission and the National Interest Program of Film Australia. Regulation also provides for minimum levels of Australian content

Children's interests in the electronic media are addressed through legislation requiring minimum children's program standards and through the Australian Children's Television Foundation.

For details of Australia's indigenous culture, see F (i).

Recognising the increasing significance of the cultural dimension of Australian society, the Government believes it is important to make a clear statement of its and policy objectives in this field.

**Challenges Ahead** role

In his speech at the opening of Parliament on 4 May 1993, the Governor General confirmed the Government's commitment to a review of the Federal Government's role in Australia's cultural life. A Cultural Policy Statement is currently being developed to provide a ten year framework which will —

- identify fundamental objectives which will guide policy; and
- clarify the Commonwealth's role and responsibilities vis-a-vis other levels of government, cultural organisations, the business community and individual practitioners, performers and consumers.

The aims of the Statement are to —

- establish cultural values firmly and irrevocably in the mainstream of government decision-making, in all areas and at all levels;
- assist the Commonwealth to better coordinate its diverse range of cultural activities, with a particular emphasis on improving access to cultural pursuits, especially in more remote areas;
- create an environment, including delivery mechanisms, which provides greater stability in arts funding and encourages excellence, creativity and innovation; and
- provide effective support to the cultural industries, assisting them to achieve a greater level and to realise their potential to contribute to Australia's economic development both in Australia and overseas.

It is hoped that the effect of the Policy will be to strengthen national unity and understanding by ensuring that Australians have access to the total diversity of Australian cultural life. By taking account of the need for reconciliation between the indigenous and non-indigenous people of Australia, the Policy will help lay the basis for new levels of understanding and partnerships between all sections of the Australian community.

### **Proposed National Action**

The preparation and submission of a Cabinet proposal to endorse the Policy Statement.

**(e) Develop targets for Australia in the area of economic, social and cultural rights and indicate progress towards their achievement, for example:  
(vii) the right to an adequate standard of living with particular reference to housing**

**Features of Current Policy** The Australian Government is committed to improving the housing and living conditions of Australian residents and the economic efficiency, social equity and environmental sustainability of cities and regions.

All Australians should have access to affordable, adequate and appropriate housing (a key component of the Australian Government's Social Justice Strategy).

Many programs and initiatives are directed towards achieving an adequate standard of housing. These include access to housing that is secure, affordable and suited to their needs, whether they are home buyers, public housing tenants or renters in the private sector. These programs include:

- provision of funds to the State and Territory Governments to assist people, particularly low to moderate income earners to access affordable and adequate housing; and
- provision of rent assistance to low income renters in the private rental market.

For information on housing programs for Aboriginal and Torres Strait Islander peoples, see F(i).

**Challenges Ahead** The first comprehensive review of housing and urban policy in Australia since 1944 has recently been completed. The two-and-a-half-year review, known as the National Housing Strategy, submitted its final report in December 1992, proposing an agenda for housing and urban reform to take Australia beyond the year 2000,

The final report, "National Housing Strategy: Agenda for Action", provided the basis for the set of policies announced by the Federal Government in the 1992-93 Budget.

The Budget identified several housing challenges facing Australia, based on the work of the Strategy, including —

provision of greater choice in light of projected changes to population structure;

setting of higher targets of efficiency and innovation in the housing and land industries; and

improvements in the management of the environmental effects of growth of Australian cities.

### **Proposed National Action**

The Housing Statement in the 1992-93 budget set out the first steps and the foreseeable targets for implementing a comprehensive agenda for housing and urban reform over the next several years. These have been built on in the recent 1993-94 Budget Statement.

New programs and initiatives directed at achieving housing and urban policy objectives include —

- the Community Housing Program which will broaden and strengthen the community housing sector;
- the Social Housing Subsidy Program which will contribute towards the cost of borrowing for the provision of the public equity component of shared home ownership and other rental accommodation for low and moderate income earners;
- the Housing Choices Strategy which will highlight the range of housing choices that are available for older people who want to live independently and close to family, friends, services and facilities;
- the Youth Housing Strategy which will examine the housing needs of young people who live independently and which will set clear goals and objectives for the improvement of housing options for young people;
- an information and community education program which will inform rental market tenants and landlords of their rights and obligations;
- improvements to housing affordability through increases in rent assistance provided through the Department of Social Security; and
- the National Urban Development Program and its components (Local Area Management, 'Green Street', Housing Industry and Urban Futures) which involve the cooperation and involvement of all levels of government, industry and the community to achieve national urban development and housing industry reforms.

**Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example by: protecting the rights of indigenous peoples**

**Features of Current Policy** The Government's long term objective is for Aboriginal and Torres Strait Islander peoples to have sufficient economic and social independence to enjoy to the full their rights as Australian citizens and in accordance with accepted international human rights principles. To this end, Government services are being progressively adapted and expanded to redress Aboriginal and Torres Strait Islander disadvantage, and special programs are being introduced which recognise the unique circumstances, history and identity of Aboriginal and Torres Strait Islander peoples.

The broad directions of Commonwealth Government policies find expression in two recent major pieces of legislation — the *Aboriginal and Torres Strait Islander Commission Act 1989* and the *Council for Aboriginal Reconciliation Act 1991*.

The objectives of the *Aboriginal and Torres Strait Islander Commission Act 1989* are "in recognition of the past dispossession and dispersal of the Aboriginal and Torres Strait Islander peoples and their present disadvantaged position in Australian society" —

- to ensure maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of government policies that affect them;
- to promote the development of self-management and self-sufficiency among Aboriginal and Torres Strait Islanders;
- to further the economic, social and cultural development of Aboriginal persons and Torres Islanders; and
- to ensure co-ordination in the formulation and implementation of policies affecting Aboriginal persons and Torres Strait Islanders by the Commonwealth, State, Territory and local governments, without detracting from the responsibilities of State, Territory and local governments to provide services to their Aboriginal and Torres Strait Islander residents."

The Preamble to the *Council for Aboriginal Reconciliation Act 1991* records, as reasons for the Council's establishment —

*Cove on 26 January 1788;*

- many Aborigines and Torres Strait Islanders suffered dispossession and dispersal from their traditional lands by the British Crown;
- to date, there has been no formal process of reconciliation between Aborigines and Torres Strait Islanders and other Australians;
- by the year 2001, the centenary of Federation, it is most desirable that there be such a reconciliation; and
- as a part of the reconciliation process, the Commonwealth will seek an ongoing national commitment from governments at all levels to co-operate and to co-ordinate with the Aboriginal and Torres Strait Islander Commission as appropriate to address progressively Aboriginal disadvantage and aspirations in relation to land, housing, law and justice, cultural heritage, education, employment, health, infrastructure, economic development and any other relevant matters in the decade leading to the centenary of Federation, 2001".

For details of Federal, State and administrative legislation regarding Aboriginal and Torres Strait Islander peoples, see Appendix F.

Federal policy in Aboriginal and Torres Strait Islander affairs is premised on the concepts of self-management and self-determination. The Government firmly believes that Aboriginal and Torres Strait Islander peoples should have increased control over their own affairs. The *Aboriginal and Torres Strait Islander Commission Act 1989* gave Aboriginal people an unprecedented role in Federal decision making affecting their lives and thus a greater capacity to determine their own futures. This is achieved through elected regional councils with the Aboriginal and Torres Strait Islander Commission (ATSIC) being the peak council.

The Federal Government is supported in its commitment to protecting the human rights of indigenous Australians through a National Commitment endorsed by State and Territory Governments To Improve Outcomes for indigenous Australians. The national commitment to improved outcomes in the delivery of programs and services for Aboriginal Peoples and Torres Strait Islanders defines guiding principles for the delivery of services and programs, defines roles and responsibilities of the Federal, State and Territory Governments, sets national objectives and outlines a framework of planning and funding to achieve the objectives.

In 1992, the Government appointed an Aboriginal as the Aboriginal and Torres Strait Islander Social Justice Commissioner within the Human Rights and Equal Opportunity Commission (HREOC). The Social Justice Commissioner holds an independent Commission to monitor the exercise and enjoyment of human rights by Aboriginal and Torres Strait Islander peoples and to report to the Federal Attorney-General. The function of the Commissioner includes the

making of recommendations as to action which should be taken to ensure the improvement of the human rights of indigenous Australians.

**Employment** For Aboriginal and Torres Strait Islander peoples, particularly those living in remote areas, the maintenance of important elements of culture and religion and the continuing strong links to land often preclude economic integration into mainstream labour markets. Remote and rural communities have a limited capacity to generate income independent of government sources. Proportionately higher numbers of the Aboriginal and Torres Strait Islander population live in areas where employment opportunities are at best limited, experiencing long term decline or virtually non-existent —

- The Aboriginal Employment Development Policy (AEDP) is a comprehensive policy under which all of ATSIC's employment and economic development programs are conducted. Introduced in 1987, the AEDP aims to achieve indigenous employment and income equity, in line with the wider Australian community, by the year 2000. [See also E (i)]

**Health** The health indices of Aboriginal and Torres Strait Islander peoples are significantly lower than those for the wider Australian population. In 1993, mortality rates are at least two and half times those of the total population and life expectancy is some 15-17 years less than the total population. The factors that have contributed to this situation are substantial social and economic disadvantage, cultural isolation, political oppression, dispossession and the experience of widespread, extreme and pervasive discrimination. Promoting the health of indigenous Australians to a level commensurate with that of the wider Australian population is central to the National Aboriginal Health Strategy —

- State and Territory Forums as well as ATSIC's Regional Councils, the National Council for Aboriginal Health and State/Territory Tripartite Forums provide mechanisms for proper consultation and local decision making on issues such as health. These arrangements have facilitated the improved participation of Aboriginal and Torres Strait Islander peoples in health policy and service delivery. [See also E (iv)]

**Education** Aboriginal and Torres Strait Islander peoples experience considerable educational disadvantage. The number of Aboriginal and Torres Strait Islander peoples in higher education has increased and in 1991, 62 percent of them were

- In 1991, in order to improve the situation for Aboriginal and Torres Strait Islander peoples, all higher education institutions were required to develop Aboriginal and Torres Strait Islander education strategies.

The Aboriginal Education Policy (AEP), developed in consultation with Aboriginal and Torres Strait Islander peoples, aims to increase participation in and outcomes from all levels of education for indigenous Australians to a level

commensurate with the wider Australian community. The AEP is underpinned by Federal legislation —

- ATSIC assists Aboriginal and Torres Strait Islander communities meet their development needs and aspirations through the provision of relevant training. In addition, ATSIC protects the right to education of Aboriginal and Torres Strait Islanders through the provision of policy advice on matters related to education and language issues. [See also e (v) and Appendix H]

Aboriginal and Torres Strait Islander peoples have rich and distinctive cultures, the recognition and celebration of which has grown apace over the past decade, both at the national and international level. They are cultural forms unique to Australia. **Culture**

The reinforcement of Aboriginal cultural identity and respect for Aboriginal and Torres Strait Islander heritage, and the removal of prejudice, is fundamental to social justice and reconciliation. The Australian Government through ATSIC recognises the significance to Aboriginal and Torres Strait Islander peoples of their cultural life, their relationship to land, their cultural heritage and the importance of cultural property. Preservation and protection of Aboriginal and Torres Strait Islander cultural property, sites of significance and the acquisition, the management and ownership of such property is ensured by the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

Land plays a fundamental role in Aboriginal and Torres Strait Islander culture, and the provision of secure title to land is a precondition to social justice for Aboriginal and Torres Strait Islander peoples. **Land**

Aboriginal housing, particularly in rural and remote areas is grossly inadequate. **Housing**

Federal Government funds are provided to both State and Territory Governments and ATSIC for the provision of housing and infrastructure. Low interest housing loans are also provided for Aboriginal and Torres Strait Islander peoples. [See also E (vii)]

In 1991, the Northern Territory and all State Governments commissioned a Royal Commission in Aboriginal Deaths in Custody (RCIADIC). The RCIADIC represents the most comprehensive and critical examination of the social conditions of indigenous Australians —

**Law and Justice**

- The Report of the RCIADIC found that Aboriginal and Torres Strait Islander peoples are over-represented in custody at a rate 29 times that of the general community. The major factor contributing to their over-representation was their disadvantage and unequal position in Australian society —

- the Federal Government supported the implementation of 338 out of the 339 recommendations of the Report and along with State and Territory Governments has sought to act to rectify the disadvantages faced by Aboriginal and Torres Strait Islander peoples and
- there has also been a detailed regime of accountability put in place to ensure that all levels of government are held accountable in the years ahead for giving continuing effect to the Royal Commission's recommendations.

In 1991 the Human Rights and Equal Opportunity Commission completed a National Inquiry into Racist Violence. The Report of the Inquiry made a number of recommendations in relation to the elimination of racist violence in the workplace which have been supported in principle by the Federal Government,

The Government's Access and Equity Strategy aims to ensure that Australia's indigenous peoples share with other Australians equal access to government services and equal consideration in policy making. [See also F(iv)]

**Challenges Ahead** To ensure that policy direction and priorities are determined by the Aboriginal and Torres Strait Islander communities themselves.

**Employment** To reduce the marked disparity between indigenous and non-indigenous rates of unemployment. The current trend in unemployment rates in the Aboriginal and Torres Strait Islander community indicate that Aboriginal and Torres Strait Islanders experience an unemployment rate of approximately four times the national average rate.

The provision of employment opportunities for Aboriginal and Torres Strait Islander peoples where there are limited, restricted or no opportunities remains a challenge for Government and ATSIC.

To improve the employment prospects for young Aboriginal and Torres Strait Islander peoples whose long term work force expectations are lower than those of the Australian community

To provide a co-ordinated approach to the introduction and implementation of a nationally consistent set of awards which are equitable and appropriate to the operations of Aboriginal and Torres Strait Islander organisations.

**Health** Major challenges are to reduce morbidity and mortality rates and to improve indigenous health status to a level at least comparable to the broader Australian community. To ensure that Aboriginal and Torres Strait Islander peoples —

- achieve equity in access to adequate and appropriate health services commensurate with their level of need;

are able to participate in a process of intersectoral collaboration which reflects the partnership principle inherent in the National Aboriginal Health Strategy,

There is a need to ensure that Aboriginal and Torres Strait Islanders have equitable access to education, including the right to have a culturally appropriate education.

**Education**

To ensure that Aboriginal and Torres Strait Islander peoples enjoy an adequate standard of basic community infrastructure such as housing, water, sewerage and waste disposal services,

**Housing**

The volume, scope and variety of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody are a continuing challenge for timely implementation by Federal, State and Territory Governments. Further, continuing efforts need to be made to improve cooperation and co-ordination among levels of Federal, State and Territory Governments and between Government and Aboriginal and Torres Strait Islander peoples to progressively and systematically address Aboriginal and Torres Strait Islander disadvantage.

**Law and Justice**

To work for the adoption of an appropriate Draft Declaration on the Rights of Indigenous Peoples and to ensure the active participation of indigenous groups in the process of consideration through the relevant UN multilateral forums.

The Government is considering ratification of the *ILO Convention 169(1989) on Indigenous and Tribal Peoples in Independent Countries*. [See also A]

The Government has commenced the process of gathering data on racism and considering the best means of implementing the recommendations made by the National Inquiry into Racist Violence, in consultation with the Human Rights and Equal Opportunity Commission, State and Territory Governments and union and employer peak councils.



## Proposed National Action

The Government has introduced the Native Title Bill that constitutes a "special measure" under the *International Convention on the Elimination of all Forms of Racial Discrimination (CERD)* and the *Racial Discrimination Act 1975*. The legislation will —

- provide for the establishment a National Native Title Tribunal to determine the existence of native title;
- enable the validation of past grants which may have been issued invalidly because of the existence of native title and the Racial Discrimination Act or other legislation; and
- set out the circumstances in which grants may be made in future over native title land including negotiation rights for native title holders.

A social justice compensation package, including a land acquisition fund will also form part of the Federal Government's response to the High Court decision on native title.

The Government will proceed through further amendments to the *Aboriginal and Torres Strait Islander Commission Act 1989* to establish a Torres Strait Regional Authority as a further enhancement of the principle of self-determination for Australia's indigenous peoples and recognising the geographic and cultural integrity of the Torres Strait Islander region.

The Government will work with the States and Territories to implement recommendations of the Royal Commission into Aboriginal Deaths in Custody at relevant Ministerial and senior officials' forums, through the annual report of the Social Justice Commissioner of the Human Rights and Equal Opportunity Commission on a "State of the Nation" report and the annual reporting by the ATSIC Monitoring Unit on the monitoring and implementation of the recommendations.

The Government will develop a strategy aimed at eliminating racist violence in the workplace in consultation with the Human Rights and Equal Opportunity Commission, the Office of Multicultural Affairs, State and Territory Governments and peak councils representing employers and unions.

The Government will continue to work in cooperation with ATSIC and State and Territory Governments to address the problems arising from the socio-economic disadvantage experienced by Aboriginal and Torres Strait Islander peoples. This includes such measures as —

- key National Aboriginal and Torres Strait Islander Health Goals and Targets will be taken up in the process of developing strategic plans to implement national health goals and targets for all Australians; and

- the National Commitment To Improved Outcomes in the delivery of services to Aboriginal Peoples and Torres Strait Islanders, endorsed by the Council of Australian Government.

The Government will continue its involvement in, and support for the United Nations Working Group on Indigenous Populations, (WGIP) and in particular, the finalisation of the Draft Declaration on the Rights of Indigenous Peoples. The Government will continue to support aspirations for Aboriginal and Torres Strait Islander self-determination.

The Government will actively support and promote both nationally and internationally the *UN Decade of the World's Indigenous People*.

The development and implementation of a national policy on the protection and return of cultural property, the focus of which is likely to be the return and protection of skeletal remains held in collecting institutions in Australia and overseas.

**(f) Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example by:**  
**(ii) protecting the rights of women**

**Features of The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, ratified by Australia in 1983, and the 1985 Nairobi Forward-looking Strategies, have provided major focuses for improving the status of women. The Australian Government adopted the first "National Agenda For Women" in 1988, one of the purposes of which was to incorporate the Nairobi Forward-looking Strategies into domestic policy. It has served as the Government's primary policy document for improving women's status.

In February 1993, the Government released "Shaping and Sharing the Future: New National Agenda for Women 1993-2000". In preparing the "New National Agenda for Women", the Australian Government consulted women in the community and representatives of women's organisations.

The Australian Government has taken a number of legislative steps to improve the status of women as well as implementing policies and programs, often in conjunction with the States and Territories, to protect and advance the rights of women. These include the *Sex Discrimination Act 1984* and the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986* —

- [The *Sex Discrimination Act* provides the legal framework for the Government's policies and programs for the elimination of discrimination on the grounds of sex, marital status or pregnancy. It implements the CEDAW.
- [The *Affirmative Action (Equal Employment Opportunity for Women) Act 1986* requires employers to eliminate discrimination against women through the development of affirmative action programs. The Act covers all private sector employers, unions, community organisations, non-government schools and group training schemes with more than 100 employees and all higher education institutions. Sanctions for non-compliance are naming in the annual report to Parliament and ineligibility for government contracts.

An Australian Parliamentary report made several recommendations on legislative changes required to advance the equality of women. Changes to the provisions of sex discrimination legislation were implemented through the *Sex Discrimination and Other Legislation Amendment Act 1992*. Changes include —

- the *Sex Discrimination Act 1984*, the *Human Rights and Equal Opportunity Act 1986* and the *Racial Discrimination Act 1975* have been amended to allow complaints of victimisation brought under those Acts to be conciliated by the Human Rights and Equal Opportunity Commission

(HREOC). Previously, victimisation could only be prosecuted as a criminal offence;

- the extension of the *Sex Discrimination Act 1984*, to cover new federal awards relating to conditions of employment;
- representative complaint provisions of the *Sex Discrimination Act*, the *Racial Discrimination Act* and the *Disability Discrimination Act 1992* have been streamlined thereby allowing an individual to initiate proceedings on behalf of a group of seven or more;
- a new definition of "sexual harassment" has been inserted into the *Sex Discrimination Act*. A complainant will no longer be required to establish disadvantage; it will be sufficient that the complainant was offended, humiliated or intimidated by the behaviour in question and that it was reasonable to feel that way; and
- the *Human Rights and Equal Opportunity Legislation Amendment Act (No. 2) 1992*, amended the *Sex Discrimination Act 1984* to prohibit an employee being dismissed on the grounds of family responsibilities consistent with the Government's commitment to *ILO Convention No. 156 — Workers with Family Responsibilities*.

Australia's second report on implementation of the CEDAW was submitted in June 1992. The report will be examined by the Committee on the Elimination of Discrimination Against Women in 1994. A supplementary report on initiatives taken between submission and consideration is being prepared.

Women's opportunity to participate in development and enjoy their rights are strongly influenced by their educational opportunities. There is a National Policy for the Education of Girls in Australian Schools and there has been increased educational attainment by girls of school age. School retention rates for girls for the two years of non-compulsory schooling are now higher than those for boys. In December 1992 the National Action Plan for the Education of Girls 1993-97 was endorsed. [See also E (v)]

**Education**

The Government has introduced a number of programs to counteract the disadvantages experienced by women. Apprenticeships and other training and study in non-traditional areas are actively encouraged for female school leavers.

Many women from non-English speaking backgrounds are qualified and skilled workers in their country of origin, but because of language difficulties, cultural differences or non-recognition of qualifications, their education does not contribute to their advancement in Australia —

- the Adult Migrant English Program assists immigrants to achieve a level of social proficiency in language. Flexible learning arrangements.

ranging from formal courses, home tutoring and distance learning programs, as well as support services such as child care have contributed to high participation rates (55.5 per cent) by women.

**Work Force Participation and Economic Status**

In the last two decades there has been increased participation by women in the work force, and increasing rates of pay relative to men's. However, the average weekly earnings of women working full time were still only 84 per cent of their male counterparts in 1992.

Australian Government policy has been focussed on addressing various impediments for women to their full participation in the workforce including: sex segregation of the Australian work force, sexual harassment, problems of occupational health and safety, insufficient access to child care and paid maternity leave, lack of superannuation coverage, and a lack of provision for workers with family responsibilities or acknowledgement of the employment patterns of women of child-bearing age. [See also E(i) and E(ii)]

In addition to the legislation already cited, the *Maternity Leave (Commonwealth Employees) Act 1973*, the *Public Service Reform Act 1984*, *Affirmative Action (Equal Employment Opportunity for Women) Act 1986* and the *Human Rights and Equal Opportunity Act 1986*, address some of these issues. Reducing the gender segregation in the labour force is a priority of the Australian Women's Employment Strategy, which has been endorsed by the Federal and State governments.

Affordable and accessible child care is crucial in enabling women to participate in the paid workforce or in the community. Federal Government child care policies aim to improve the supply of child care services and to ensure that child care is affordable for low and middle income families —

- The Government also recognises that the cost of child care is a legitimate expense for families incurred in earning an income. From 1 July 1994, families will be able to claim a cash rebate for their work related child care costs.

The average economic status of Aboriginal and Torres Strait Islander women is considerably lower than that of most groups within the Australian population. Aboriginal and Torres Strait Islander women have a lower level of formal education than the general population, and tend not to re-enter the work force after child-bearing. However, Aboriginal and Torres Strait Islander women are now taking a greater role in employment, assisted by formal training programs. Government mechanisms to address employment disadvantages of Aboriginal and Torres Strait Islander women include —

- the establishment of the Office of Indigenous Women in the Aboriginal and Torres Strait Islander Commission;
- child-care programs where the Aboriginal and Torres Strait Islander children are a priority group;

- the Aboriginal and Torres Strait Islander Employment Development Policy, aimed at increasing employment opportunities and economic independence for Aboriginal and Torres Strait Islander people, including women; and
- the Community Development Projects. In 1992-93, women represented 36 per cent of those participating in the Community Development Projects which provide productive part-time employment and an alternative to continued reliance on welfare benefits. [See also F(i)]

Rural women have restricted labour market opportunities and access to services although on average they have higher labour force participation rates than urban women but on average lower incomes. However, young rural women have lower work force participation rates than young urban women, because there are fewer job opportunities available and because they are more likely to bear children at a younger age. A number of government programs are aimed at meeting the special needs of rural women, for example —

- the Federal Government runs a program of fourteen multi functional child-care centres. The services provided include long-day care, regular part-time care, occasional care, outside school hours care and vacation care, as well as mobile services. [See also F(x)]

**Maternity leave**

Unpaid maternity leave has become widely available to Australian women employees since 1979, and has now been inserted in all major Federal awards and a substantial majority of State awards.

Work towards eliminating violence against women is a major priority for the Government. The Federal Government works cooperatively with the State and Territories to address the issue of violence against women through legislation, policy and program delivery. **Violence Against Women Territory**

The National Committee on Violence against Women released a National Strategy on Violence Against Women in 1992. The Strategy sets out Directions for Action relating to legislative reform, enforcement of existing laws, education and access to legal services and service provision, including training of services providers. It is currently being considered by the Federal, State and Territory governments. [See also I]

**Health**

The goal of the National Women's Health Program is to improve the health and well being of women in Australia with a focus on those most at risk and to encourage the health system to be more responsive to the needs of women.

The objective of the Program is to provide funding for primary health care services for women, focusing on the seven priority health issues identified in the National Women's Health Policy, including —

- reproductive health and sexuality;
- health of aging women;
- emotional and mental health;
- violence against women;
- occupational health and safety;
- health needs of women as carers; and
- health effects of sex role stereotyping on women.

The Program targets all Australian women, and especially those who suffer inequality of access to health services due to economic disadvantage, cultural inappropriateness or geographic or linguistic isolation. [See also E fiv)]

**Challenges Ahead** While *de jure* equality has largely been achieved, *de facto* equality is still a considerable way off. Priority action includes implementation of the strategies contained in the new National Agenda for Women, the Australian Women's Employment Strategy and the National Strategy on Violence Against Women.

The need to ensure that continuing advances are made in the key areas affecting women and that national machinery for women remains appropriate and relevant to changing circumstances led to a review of Government policy advising mechanisms on the status of women in May 1993. The review report was submitted to the Prime Minister on 18 October 1993 and recommended *inter alia* a greater focus on policy advising and on international activities including meeting Australia's obligations under international instruments. Priority areas over the next two years will be —

women and public life, with particular emphasis on involvement of women in decision-making; and

## Proposed National Action

The Federal Government has agreed to pursue the following strategies to enhance the legal guarantees for women's human rights —

- consider reducing the number and/or scope of exemptions to the *Sex Discrimination Act*;
- develop and implement an information strategy to address the needs of women from non-English speaking backgrounds and Aboriginal and Torres Strait Islander women, and raise their awareness of their rights under sex discrimination legislation;
- encourage unions to use the Act on behalf of their members, and develop appropriate training and education material with unions to inform workers of their rights, including the effects of indirect discrimination;
- continue to raise and maintain awareness among equal employment opportunity practitioners, unions, advocates, industry and the community about developments in sex discrimination law;
- assist employers to improve the quality of affirmative action programs through a range of measures such as benchmarking, identifying performance indicators, best practice examples and cost benefit models; and
- increase community and workplace awareness of the benefits of affirmative action.

More generally, the New National Agenda for Women sets out the Government's commitments to enhancing the status of women through a wide range of policies and programs. For example the Government has undertaken to —

- develop and implement legislation for unpaid parental leave to ensure that all Australian employees have access to unpaid parental leave;
- amend the *Industrial Relations Act* to require the Australian Industrial Relations Commission (AIRC) to take account of the principles embodied in *ILO Convention 156, Workers with Family Responsibilities, 1981*;
- produce an information and discussion paper and resource material relating to the incidence and successful management of part-time employment; and
- support the development of international labour standards on part-time employment in the form of a Convention supported by a Recommendation.

The New National Agenda for Women has, among its other objectives, promotion of women's access to and participation in decision-making proc-

esses in the employment and industrial relations arena —

- Working Women's Centres will be established to advise and assist women on workplace issues, especially on enterprise bargaining and access to training.

Women from non-English speaking backgrounds form a very diverse group, but tend to occupy a distinctly disadvantaged position on the work force. Strategies have been implemented by the Australian Government to address the disadvantages faced by immigrant women wanting to enter the labour force. In April 1993, the Migrant Services Section was formed within the Department of Employment, Education and Training (DEET). The major task of the Section is to develop a strategy to improve services to non-English speaking background clients.

Other measures already in place or in train to assist in improving women's economic status include —

- legislation to protect employees' minimum entitlements:
  - proposed legislation will give effect to the International Labour Organisation Conventions dealing with minimum wages, parental leave, equal pay and redundancy; and
  - monitoring developments with respect to workplace bargaining for their effects on pay equity and training.

The Australian Law Reform Commission has been asked to examine the equality of women before the law. In particular, the Commission has been asked to look into whether changes should be made to existing Federal or Territory laws, whether additional laws are required and whether changes should be made to the ways laws are applied. The Commission will consider women's equality before the law across a wide range of areas, including legal protection of equality, political and public life, the legal profession, perceptions of gender bias in the application of the law, marriage and family relations, violence against women, access to justice, education, employment, health care, economic life, immigration, social and cultural life.

The Government has welcomed the recent report reviewing policy advising mechanisms on the status of women and implementation of its recommendations will occur over the next 12-18 months.

**(f) Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example by:**  
**(iii) protecting the rights of children**

Australia ratified the UN *Convention on the Rights of the Child* on 17 December 1990. Australia's first report on the implementation of the Convention is nearing completion. Features of Current Policy

The World Declaration on the Survival, Protection and Development of Children and the Plan of Action for implementing the World Declaration were adopted by the World Summit for Children in September 1990 and accepted by Australia by the Prime Minister in May 1991. Development of the National Program of Action has been an extensive process, involving liaison and co-ordination between all levels of Government and with non-government organisations. An interim report on our Program of Action was transmitted to the UN on 31 March 1992.

Income support for young people over school leaving age who are homeless or at risk is provided by the Student Homeless Rate of AUSTUDY, for those studying and by the Young Homeless Allowance, for those looking for work. These payments are intended to ensure that a young person has independent income support if they cannot live at the home of their natural or adoptive parents because their physical or mental health would be substantially at risk, or because their parents are unable to provide a home, care and support.

The Family Skills Training Program (FSTP) is a preventative pilot program, established by the Commonwealth Government, which aims to promote positive parenting and non-violent problem solving by providing families with parenting and family functioning skills. The program targets disadvantaged families and attempts to address the isolation, sense of failure and loss of self-esteem that some parents may experience in raising children. The program aims to meet the specific needs of low income families, Aboriginal families, children with disabilities, children from non-English speaking backgrounds, sole parents and locally disadvantaged families.

Australia has ratified the *Hague Convention on Civil Aspects of International Child Abduction*. Australia has not yet ratified the *Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption*.

- Each of the States and Territories currently regulates, under its *Adoption Act*, its own programs for intercountry adoptions pursuant to bilateral agreements with a number of source countries. The administrative practices for these adoptions are undertaken pursuant to the National Guidelines on Intercountry Adoption which were agreed to by the Council of Social Welfare Ministers in 1986. The National Guidelines

were supplemented in 1991 by the Protocols and Procedures for the Development of Programs for Inlrcountry Adoption with New Countries.

**Challenges** Australia needs to conclude its preparation of the National Program of Action Ahead and lodge it with the United Nations. The Australian response is focusing particularly on the Declaration's supporting goals in the areas of food and nutrition, child health, sanitation and clean water, basic education, children living in difficult circumstances, women's health and education and current programs and future policies for the provision of overseas aid which directly assists children.

- This includes finalising Australia's response to the report in March 1993 on Australia by the UN Special Rapporteur on Sale of Children, Child Pornography and Child Prostitution (Muntarbhorn Report).

The question of the adequacy and appropriateness of existing Australian law to deal with female genital mutilation is currently being examined by the Government.

As part of Australia's response to the *United Nations International Year of the Family*, the Government will develop an "Australian Agenda for Families", to be released in December 1994 —

- This will draw upon new and existing policies and a program of community and government consultations and public awareness debates. The challenge will be to develop a cohesive set of national principles and priorities which address the human rights of all Australian children so that they can be incorporated into the Agenda.

The Government has received a Report from the Joint Select Committee in certain Aspects of the Operation and Interpretation of the *Family Law Act* which makes a series of recommendations regarding custody of and access to children of separated parents. The Government will be responding to this Report in the near future.

## Proposed National Action

Completion of Australia's first Report on the implementation of the *UN Convention on the Rights of the Child* and Australia's response to the Muntarbhorn report.

Implementation of Australia's program of action for the Survival Protection and Development of Children.

To foster the development of uniform State and Territory criminal legislation to deal with the sexual abuse of children in Australia and associated activities such as the production, possession and sale of child pornography —

- Australia is also preparing legislation to deal with the activities of Australian paedophiles overseas and those persons who incite, organise or profit from child sex tourism.

Obtaining international support to finalise the development of a Protocol to the *Convention on the Rights of the Child* to strengthen international mechanisms to help combat child prostitution and other forms of abuse and exploitation.

Implementation of the National Prevention Strategy for child abuse and neglect, aimed at creating an environment which supports families and communities and helps them meet their responsibilities to care for and protect children.

To effectively deal with the issue of homeless children as reflected in the report of the Human Rights and Equal Opportunity Commission (HREOC) —

- The Job Placement and Employment Training Program will facilitate employment for homeless young people; and
- the Department of Social Security is currently developing protocols with State governments on arrangements for referral of homeless young people to ensure more effective access to support services provided by the States.

A national research program with a focus on the special child protection needs of children from non-English speaking backgrounds. Aboriginal and Torres Strait Islander children and children with physical disability or developmentally delayed children is currently being undertaken.

Encourage countries in the Asia/Pacific region to become signatories to the *Hague Convention on Civil Aspects of International Child Abduction*.

Conclusion of discussions with State and Territory governments leading to proposed ratification of the *Hague Convention on the Protection of Children and Cooperation in respect of Inlrcountry Adoptions*.

**(f) Indicate legislation or administrative acts which Australia has proposed or adopted which would advance human rights observance, for example by:**  
**(iv) protecting the rights of minorities**

**Features of** All residents of Australia enjoy the same basic rights and obligations. In **Current Policy** recognition of, and in response to, the cultural and ethnic diversity of contemporary Australia, multiculturalism as a public policy was adopted by the Federal Government in 1989. Multiculturalism is the management of that diversity in the interests of the individual and society as a whole. Multiculturalism aims to ensure maximum participation and cohesion, and fair treatment for all. The Government's citizenship policy is based on an inclusive approach to society which encourages all permanent residents to take up citizenship and formally become members of the Australian community —

- While Australia has no multicultural legislation, the Federal system of Government does provide a range of legislative measures designed to safeguard basic rights that are particularly significant for the more vulnerable members of the community.

The Federal Government's commitment to the principle of a multicultural Australia is spelt out in its 1989 National Agenda for a Multicultural Australia and its Access and Equity Strategy, both of which are overseen at the Federal level by the Office of Multicultural Affairs (OMA). The National Agenda sets out a framework for multicultural policy. The three key elements of this policy

- cultural identity, the right of all Australians, within carefully defined limits, to express and share their individual cultural heritage, including their language and religion;
- social justice, the right of all Australians to equality of treatment and opportunity, and the removal of all barriers based on race, ethnicity, culture, religion, language, gender or place of birth; and
- economic efficiency, the need to maintain, develop and utilise effectively the skills and talents of all Australians regardless of background.

The Access and Equity Strategy seeks to provide equal access to government services for all residents who face barriers of race, culture, religion or language, including Aboriginal and Torres Strait Islander peoples and children of parents with non-English speaking backgrounds. This policy represents aspects of the principle of universalism in policy formulation and in the delivery of government services. The Strategy places an obligation on Government agencies to address the diversity of the Australian population in their mainstream program and service delivery in a range of areas including corporate planning, staff training and language service provision.

The centrepiece of recent efforts is in the area of community relations. The Community Relations Strategy has sought to research and implement measures to reduce the incidence of racist behaviour, while also encouraging agencies, institutions and individuals to consider approaches to improving community relations in a constructive manner. The Community Relations Strategy, which funded numerous projects involving Federal, State and Local Governments, community organisations, schools, police and the media, was evaluated in 1993 and its ongoing significance is recognised —

- As part of its community consultation responsibilities, the OMA's Bilingual Consultants Network has been strengthened and now consists of some 600 consultants and covers most community languages in most geographic areas of Australia. The purpose of the network is to access the views of people who, for reasons of language or other barriers, tend to be overlooked in consultation processes.

The Equity Unit within the Department of Industrial Relations provides the policy framework for the implementation of the Government's social justice and access and equity strategies across the industrial relations portfolio, with particular reference to workplace issues relating to women, people from non-English speaking backgrounds, Aboriginal and Torres Strait Islanders and age discrimination.

The challenge remains to maintain a peaceful and harmonious environment for the community and its members to prosper. While Australians live in a predominantly peaceful society, there are tensions and incidents of discrimination which cannot be ignored. A commitment to work towards achieving greater harmony is necessary to ensure that harmony and tolerance prevails —

- Experience of the Community Relations Strategy indicates that youth, media, police and the legal sphere as well as local government are the crucial areas to be addressed in the Government's endeavours to maintain and enhance good community relations.

The delivery of Access and Equity through Federal Government agencies is improving. The challenge ahead is to maintain that positive trend and also to encourage and assist other levels of government and the private sector to apply access and equity principles. This will further increase social and economic equity and opportunity for Aboriginal and Torres Strait Islander peoples, overseas born Australians and their children.

To improve the access and delivery of government services, most notably in language services and consultations with Non-English Speaking Background (NESB) groups; and

- to produce each year a comprehensive report on the Access and Equity Strategy.

**Challenges Ahead**

## Proposed National Action

The Government proposes to place particular emphasis on increasing participation in policy and program delivery and the next annual report will focus on this issue.

In the longer term, it is expected that the progressive removal of barriers to Access and Equity will be ongoing. A second cross-portfolio evaluation of the Strategy is to be commenced in early 1997 to report to Government in 1998.

In community relations, a long term agenda to 2001 is being developed, drawing on findings and lessons learnt from the development, implementation and evaluation of the Community Relations Strategy. New community relations activities will be negotiated with partners in the priority areas of youth, media, legal/police and Social government.

Australia will host an international conference on multiculturalism in early 1995. Such a conference would promote the concept of multiculturalism and lessons to be learnt from the Australian experience. It is proposed that the conference take as its main theme the management of cultural diversity globally and within nations.

## Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example by: protecting the rights of people with a disability

Australia is committed to ensuring human rights for people with a disability. This includes recognition of people with a disability as equal citizens with equal rights and opportunities.

### Features of Current Policy

Disability reform in Australia began in the early 1980's. Major legislative and policy changes were the introduction of the 1986 *Disability Services Act*, the Social Security Review, the 1991 Disability Reform Package and *Disability Discrimination Act* (1992) —

- These measures are directed at ensuring an expansion of opportunities for people with a disability, with a particular focus on gaining or regaining work in the rehabilitation process.

The Disability Reform Package introduced in 1991 coordinates people's needs for income support, access to mainstream labour market support programs, and specialist rehabilitation and disability specific support —

- It offers short periods of fully subsidised work experience which can be supplemented by a period of partial wage subsidy. Specialised agencies also provide support in employment, either for short periods or indefinitely.

Income support is available for people with a disability under a person's right to social security [See also (e) (iii) and Appendix E ].

The 1992 Federal *Disability Discrimination Act* complements existing State laws and offers equal protection for all people with a disability. It provides the legislative framework for people with a disability to exercise their human rights on an equal basis with other citizens —

- The Act further provides for the making of standards in the areas of employment, education, accommodation, public transport and the administration of Federal laws and programs.

Australian policies in this field aim for increased opportunities for self-determination, independence, choice, recognition and participation in all aspects of life.

Internationally, Australia strongly supported the development of the *United Nations Standard Rules on the Equalisation of Opportunities for Persons with Disabilities* and their adoption by the General Assembly in December 1993.



In 1993, the Government announced the introduction of a supported wages system which will improve access to jobs for people with disabilities who are unable to compete on the open labour market. Through this initiative, wages will be paid based on the productive capacity of the person with a disability, a disability wage supplement will be paid to the person with a disability, and employers will also receive assistance.

The Federal-State Disability Agreement took effect in 1991. It clarifies responsibilities of the Federal and State governments. It required State governments to pass legislation to complement the Government's *Disability Services Act 1986*. Since the Agreement, the Government has focused on providing rehabilitation services and funds employment services for people with a disability. State and Territory governments now provide and fund accommodation and related services and both levels of government fund advocacy services and research and development.

The Government has devised measures to prepare students with a disability for life as adults in their communities, especially in the workplace, after leaving school. Examples of these initiatives include —

- new support services for students with a disability, including support for the transition to tertiary study and to employment;
- new "Jobnet" services for school leavers will ensure that school leavers do not lose their confidence if they cannot find work after leaving school or who leave sheltered workshops for open employment and have subsequently lost their jobs;
- support in tertiary institutions will be through Regional Disability Liaison Officers based in universities and available to Technical and Further Education College students. The Officers will assist students with a disability during enrolment and coordinate the provision of equipment, note takers, communication aids and special assessment and examination requirements; and
  - incentive payments and subsidies are available to employers who employ apprentices or trainees with a disability, as well as assistance for workplace modification and tutorials.

**Challenges Ahead** To focus effectively the attention of all areas of government, the private sector and the general public on the barriers which confront people with a disability and on how those barriers can be broken down. This includes changes in the way the community speaks about disability and the public perceptions associated with this terminology.

To build on the legislative framework guaranteeing the rights of people with a disability in order to create the conditions that will allow people with a disability to participate fully in society.

To ensure a more coordinated approach to services, by all spheres of government and the community, which recognises and makes use of informal and mainstream as well as specialist services.

To develop a strategy which will enable full implementation of the *UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities* and the *Disability Discrimination Act*.

The Disability Reform Package is under review. The challenge is to maintain and improve access to, and participation in, the labour market for people with disabilities in a difficult and changeable labour market.

### Proposed National Action

An Australian Disability Strategy is currently being developed and will be based on the *UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities* and the *Disability Discrimination Act 1992* —

- The Strategy will provide a framework for agencies of governments in Australia to cooperate in the development of policies designed to provide equal opportunity to people with a disability in all aspects of life. It sets out national equal opportunity goals for people with a disability and measures for their achievement over a ten to fifteen year time frame.

The Strategy will also assist the Government to meet the intentions of the *Disability Discrimination Act 1992*.

Australia will contribute to the Asia Pacific Decade 1993-2002 by —

- signing the proclamation of the Full Participation and Equality of People with Disabilities in the Asia and Pacific Region signalling a commitment to the Agenda for Action;
- contributing \$50,000 seeding grant to ESCAP for a project in the region;
- agreeing to host the 1994 Disabled Peoples' International Conference and providing financial assistance; and
- contributing to the secretariat costs of the South Pacific Disability Council.

Promoting and developing the access of people with a disability and the less mobile elderly to mainstream transport options (including through the National Accessible Transport Committee comprising government and consumer representatives and transport operators).

**(f) Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example, by:**  
**(vi) protecting the rights of people with HIV/AIDS**

**Features of Current Policy**

As of June 1993, there are currently 17,475 persons with HIV and 4,258 AIDS cases in Australia. 2,786 deaths from AIDS have been recorded in Australia.

Australia has been relatively successful in substantially reducing the higher rates of new HIV infections of around 3,000 in the early to mid-1980s to currently about 600 new infections a year.

The first decade of Australia's approach to the HIV/AIDS pandemic was characterised by a vigorous mobilisation of effort and the forming of an effective partnership between —

- governments at all levels;
- medical, scientific and health care professionals; and
- NGOs and affected communities.

The first National HIV/AIDS Strategy, released by the Australian Government with bipartisan support in August 1989, provided a framework for an integrated response to the HIV pandemic and a plan for action across a range of policy and program activities.

The new Strategy launched in 1993 builds on the 1989 framework and continues the partnership approach to HIV/AIDS in Australia which has provided effective prevention and education as well as high quality health care.

Through the development cooperation program, Australia continues to give support for international efforts in combating the spread of HIV/AIDS. Expenditure on HIV/AIDS activities through the aid program during 1992/1993 totalled A\$6.2 million. A similar amount is estimated for expenditure in 1993/1994.

The Federal *Disability Discrimination Act* makes it unlawful to discriminate against people on the basis of their HIV/AIDS status. The legislation provides for complaints to be lodged with the Human Rights and Equal Opportunity Commission (HREOC) which can make a range of orders. Complaints in areas such as employment, education, accommodation and the provision of goods and services will be heard by the Disability Discrimination Commissioner.

To halt the spread of the pandemic and to provide support to those already infected with HIV and to increase their chance of long-term survival.

**Challenges Ahead**

Improvements in prophylaxis and antiretroviral therapy have considerably extended the period in which people with HIV remain well. This has continuing implications for the cost of treatment, and the provision of hospital and community care.

The pandemic seems to have stabilised in Australia, with indications of a decrease in the incidence of new infections, occurring predominantly in men who have sex with other men, but with a continuing increase in the incidence of progression to AIDS among individuals already infected with HIV.

To ensure that discrimination of people with HIV/AIDS is eliminated.

The pandemic is still relatively young and unstable and the potential for renewed rapid spread still exists.

**Proposed National Action**

The new National HIV/AIDS Strategy (1993-96) has two goals —

- to eliminate the transmission of the human immunodeficiency virus (HIV); and
- to minimise the personal and social impact of HIV infection.

The first goal is supported by the national target of reducing the incidence of new HIV infections in Australia to an annual rate of no more than 2 persons per 100,000 (i.e. 300-350 persons per year) by the year 2000. The HIV incidence rate in Australia is currently estimated to be about 3.5 new infections per 100,000 persons.

The issues of access, participation, discrimination, privacy and social justice continue to be vital elements in the National HIV/AIDS Strategy. They will help to ensure a supportive environment for HIV prevention and behaviour change, and ensure that the personal and social impact of HIV is minimised.

The objectives of the four major programs of the National Strategy are —

- Education and Prevention; to increase awareness of HIV/AIDS issues within the Australian community and to promote the development of community norms within populations at risk which support the establishment and maintenance of safe behaviours. This will be achieved through providing an appropriate range of public education initiatives and enabling individuals to assess their own risk and to make decisions about their behaviour;

- Treatment and Care: to improve the quality of the lives of those people living with HIV/AIDS through the provision of high quality, accessible and timely treatment, care, counselling and support in a cost effective manner;
- Research: to increase knowledge of ways to eliminate or limit the spread of HIV infection and to reduce the harm to individuals and the community resulting from HIV infection; and
- International: to contribute to limiting the incidence and impact of HIV/AIDS globally, with a particular focus on the Asia/Pacific region, through participating in international policy development and implementation drawing on the broad range of expertise, commodities and services available in Australia, where appropriate to the needs of developing countries.

Social justice principles and a supportive legislative environment are integral to Australia's success in responding to the HIV pandemic. In September 1993 a working group was established to oversee the implementation of recommendations made by a Legal Working Party on necessary law reform.

**(f) Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example by:**  
**(vii) protecting the rights of the mentally ill**

**Features of  
Current Policy**

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

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

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

The central objectives of the Mental Health Policy are to —

- expand community based mental health services, and reduce in size or close stand alone psychiatric institutions;
- integrate mental health services with general health services, and other community services; and
- introduce mechanisms to protect the rights of people with mental illness.

Under the policy, responsibility for mental health service delivery remains a State and Territory Government responsibility. However the Federal Government is assisting financially in implementing the policy.

The key components of the National Mental Health Plan are —

- reform and incentive funding to assist the States and territories to restructure mental services;
- National Projects funding to support projects of national significance to encourage innovation and accelerate mental health reform; and
- additional assistance for mental health research.

Considerable progress has been made towards implementing the Policy. The main achievements have been —

- ensuring that mental health services are integrated with other health services;
- providing financial assistance to the States and Territories to commence reform initiatives such as providing support for non-government mental health organisations working with people with psychiatric disability in the community;
- employing additional after hours crisis staff, setting up a transitional employment service, and employing more rural mental health workers; and
- establishing a National Community Advisory Group on mental health to allow consumers of mental health services and their carers direct input into mental health policy decisions.

Work has also commenced on addressing problems associated with the mental health workforce and the lack of mental health data.

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

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

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

the rights of carers;

the special needs of particularly disadvantaged groups;

accommodation;

employment;

professional training and education;

community education;

- research;
- prevention and early intervention; and
- the reform of mental health and related legislation.

The Inquiry also released a background paper in December 1992 that analysed Australian State and Territory mental health legislation in terms of the *United Nations Principles for the Protection of Persons with Mental Illness*.

To respond to the recommendations contained in the Report of the National Inquiry into the Human Rights of People with Mental Illness in 1994.

#### **Challenges Ahead**

To examine mental health legislation in all jurisdictions to ensure consistency with standards prescribed in the UN principles.

#### **Proposed National Action**

The National Mental Health Policy and Plan will continue to be implemented over the next five years. The Government is working with the States in a number of areas such as the development of a model for the reform of existing State and Territory legislation.

In regard to legislation, the objective of the Policy is to ensure that mental health legislation across Australia is consistent and that it affirms the rights contained within the Australian Health Ministers' Statement of rights and responsibilities, and the United Nations resolution on the protection of rights of people with a mental illness.

The Australian Government has established a Taskforce to examine the Burdekin Report in detail and to prepare a plan of action regarding the recommendations relating to the Australian Government's responsibilities. The intention is to table the Plan of Action in Federal Parliament in early 1994.

**(f) Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example, by:**  
**(viii) protecting the rights of the elderly**

**Features of** Social policies covering social security, aged care and age discrimination have  
**Current Policy** been framed within the Government's Social Justice Strategy and so give expression to the principles of access, equity, equality and participation.

- To qualify for the Age Pension, a man must be at least 65 and a woman at least 60 years of age and must have resided in Australia for ten years; and
- the *Soda! Security Act 1991* allows for the provision of a Pensioner Health Benefit card to all pensioners over 60 who have been in receipt of a pension for over 12 months. Elderly people may also receive their Age pension overseas [See also E (iii) and Appendix E]

Measures have been introduced to ensure that elderly people have access to information about their entitlements.

In 1995, the Australian Government commenced the Aged Care Reform Strategy. The Strategy is focused on responding to individual needs and protecting the rights of frail older people as consumers of services. The Aged Care Reform Strategy is based on the Government's recognition that the rights of older people as citizens entitle them to live their lives feeling secure and safe, knowing that there is support available when and where they need it. The Government is committed to enabling older people to live independently for as long as they wish and to ensuring that the balance of care services is responsive to their needs. Elements of the Aged Care Program include —

- assessment provided by Aged Care Assessment Teams made up of health professionals that assist older people and their carers decide on the care options most suited to their needs and arrange for service provision;
- the Home and Community Care Program (HACC) supports older people in their homes with a range of services including home help, nursing at home and personal care;

Cater support is an important element of the Government's aged care policy. In untying *ILO Convention 156, Workers with Family Responsibilities*, the Government has recognised its responsibilities towards carers —

- Carers are recognised in their own right as clients for HACC services. The Government provides financial support for carers and a range of

services to assist carers including respite care, help at home and counselling;

- the residential care system is based on financial support to residents in hostels and nursing homes. A Charter of Residents' Rights and Responsibilities and a formal Agreement between the resident and operator of the nursing home or hostel protect the rights of residents; and
- a National Action Plan for Dementia Care is being implemented. The goals of the Plan are those of the aged care program in general and the Targets and Actions of the Plan are directed to strengthening the capacity of all aged care programs to respond to the needs of people with dementia and their carers.

Equality of all older Australians is promoted by recognition of the special needs of older people of ethnic backgrounds, older Aboriginals and Torres Strait Islanders and older people in rural and remote areas. A number of strategies have been implemented to ensure access to services, including provision of information in community languages, and the development of culturally appropriate services. [See also F (iv)]

Participation is promoted through the involvement of older people in a range of planning and advisory mechanisms. For the past four years, Consumer Forums for the Aged have operated in each State and Territory and nationally, to advise the Minister on matters of concern to older Australians in regard to the aged care program.

Age discrimination has been present in Australia for a long time, but has only recently been recognised as a significant problem. All States and Territories (except Tasmania) have either introduced legislation or are planning to introduce legislation against age discrimination.

The Government recognises continuing challenges in developing policies that foster the dignity, self-respect and self-reliance of older people as equal members of the Australian community.

The long term policy goal is to support independent provision of adequate retirement income and maintenance of pre-retirement income and living standards by fostering private savings and so reduce reliance on Government benefits. Government regulation of provision for investment and superannuation is required to protect individual's savings to ensure that retirement income provisions are realised.

The main continuing challenge for the aged care program is to maintain standards of care at the same time as achieving efficient and effective use of resources. Major policy review and development is underway in relation to the links between aged care and acute health care, and links between aged care and housing —

**Challenges Ahead**

cern is to ensure equity of access to related programs led assessment and referral mechanisms and provision of clients and their carers; and

em the action taken to protect the rights of older people in are, the Federal Government has established a Working Party on of Final Older People in the Community.

ila, v i^o jgo.i care ptogram in [he wider context of the iionai P'lan of Action Australian Government policy supports moves internationally to proscribe on Ageing, lo which Australia is inent has endorsed the /-A/ discrimination on the basis of sexual orientation. This policy was put on record P |•tu/i>|(sf(>•Okler'i'O/(>• InrtSicnii programs that ad; mce ihe at the World Conference on Human Rights in Vienna in 1993. independence. 'KM Ul land care ser/ ices, opportunities for self-fu I fi I mem ign; iy 'tul ruh is of older people ----

**(f) Indicate legislation or administrative acts Australia has proposed (or adopted which would advance human rights observance, for example by:  
(ix) with respect to ensuring that there is no discrimination on the basis of sexual orientation**

Federal legislation recognises sexual preference as a ground of discrimination in employment, for the purposes of inquiry and conciliation by the Human Rights and Equal Opportunity Commission —

Sexual preference is a ground of discrimination recognised by Australia under *ILO Convention No. 111, Discrimination in Employment and Occupation, 1958*.

### Proposed National Action

The pension age for women will be increased to 65 years over a period of 20 years (starting 1 July 1995), resulting in the qualifying conditions for age pension being equal for men and women.

• national aged care information strategy is to be developed to ensure that older people and the community as a whole are well informed about the availability of services and entitlements; information on the rights of the consumers of services will be a focus of this strategy.

" he I/ruled Nations proposals for identifying priorities and targets for ageing "I ive been adopted as a framework (or developing a strategy on ageing and •>•• eli-beim; ihai will maximise the potential of all older people to have •[ in n ing and satisfying lives and to participate in the life of the community ; active i.-iii/cns. A report on initial activity m This area by the National - onsumerFunim for she Aped m 1994 will provide the basis for further policy ti -whipment. Advisory mechanisms involving older people will be a key 'rans of identiiving and responding to these new priorities.

ne issue of age discrimination is currently under consideration by the Federal government and it is likely that a discussion paper will be released in 1994 which will be used as the basis for community consultations.

In November 1992 the Australian Government decided to end those employment policies of the Australian Defence Forces (ADF) which discriminated on the grounds of sexual orientation. The Government also affirmed an ADF policy on unacceptable sexual behaviour by ADP members, regardless of sexual orientation.

Legislation in both Australian territories and in the States of New South Wales, Queensland and South Australia prohibits discrimination on the basis of sexual orientation in key areas such as employment, accommodation and the provision of goods and services. New South Wales prohibits vilification on the grounds of sexual orientation.

With respect to *ILO Convention No. 111*, the National Advisory Committee on Discrimination in Employment and Occupation was established in 1993. While the terms of 'reference' for the National Advisory Committee have yet to be finalised, the Committee is expected to have an important role in advising on implementation of *ILO Convention No 111* including discrimination on the basis of sexual orientation. A member of the gay and lesbian community has been appointed to the Committee.

Under Australian Government immigration regulations there is provision for the same sex partners of Australian permanent residents or citizens to be granted permanent residency.

In Tasmania, same-sex relationships between consenting adults remains a criminal offence. This is currently the subject of a petition to the Human Rights Committee under the First Optional Protocol.

Government agencies in some States and Territories work cooperatively with the gay men and lesbian communities to address violence and community health and welfare issues, arising from discrimination on the basis of sexual orientation.

**Challenges Ahead**

To remove Federal legislative and administrative provisions which unjustifiably discriminate on the grounds of sexual orientation.

In co-operation with the States and Territories, to eliminate discrimination on the grounds of sexual orientation in Australia.

**Proposed National Action**

The Australian Government will continue to support moves internationally to eliminate discrimination on the grounds of sexual orientation in appropriate UN forums, including the Commission on Human Rights (CHR).

The Government will consider the need to develop an education program on sexual orientation and homophobia, in conjunction with the lesbian and gay community.

The Government will develop its national policy on discrimination in employment and occupation under *ILO Convention No. III* —

- Policies and other action on this issue will be developed through a collaborative approach between the government, employers and unions, at federal and state levels.

Legislative action to recognise relationships between gay men and lesbians for conditions of service purposes in all areas of employment and welfare entitlements governed by federal awards will be considered.

The Australian Government will discuss with the States and Territories the elimination of all forms of discrimination on the grounds of sexual orientation.

**(f) Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example by:**  
**(x) protecting the rights of rural and isolated people**

The Government recognises that for remote communities in Australia, distance, climate, and the lack of public and private infrastructure pose special challenges. **Features of Current Policy** problems and

Australia recognises the distinctive health needs of rural and remote communities. In 1991, the Australian Health Ministers Council endorsed the first National Rural Health Strategy which recognises:

- the right of rural and isolated people to appropriate, sufficient and accessible health care services.

The Federal Government has implemented several rural health initiatives (such as the Rural Incentives Program and the Rural Health Support Education and Training Program) designed to address the specific needs and circumstances of health workers in rural and isolated communities.

The 1992 Access and Equity Evaluation Report identified shortcomings in the delivery of access and equity to target groups in rural and isolated areas — particularly to Aboriginal and Torres Strait Islander peoples — and recommended measures for improvement. In response to these recommendations, the Federal Government is developing a series of measures to ensure that all people living in isolated and rural communities not only receive equitable delivery of services, but also actively participate in decision making processes. [See also F (i) and F(iv)] —

- An example of this has been the North Australia Social Justice Pilot projects:
  - The Pilot model aims to provide flexible and consultative assistance to remote communities to enable responsive service delivery based on local needs.

The Federal Government has also introduced a range of educational and employment services to assist remote individuals and communities.

These include —

labour market program opportunities and employment placement assistance for remote clients and services;

employer services to remote employers;

the Community Development Employment Program (CDEP) which is a voluntary program which provides employment for Aboriginal and Torres Strait Islander communities in remote communities; [See also F

education direct assistance and ABSTUDY to all Aboriginal and Torres Strait Islanders (remote and non-remote); [See also E (iii)] and

outreach services to culturally remote urban Aboriginal and Torres Strait Islander communities.

**Challenges Ahead** Health issues in rural and isolated areas continue to require attention in order to ensure that the health needs of rural and isolated people are met and to ensure the adequate provision of or access to appropriate health services.

To strengthen the work that has been initiated in working with communities in rural and remote locations. This work has the basic aims of ensuring equal access and equality of service provision and participation for peoples in these communities in policy development processes and innovative service development and delivery. Given location and infrastructure difficulties, innovative and coordinated solutions are necessary and highlight the continued challenges for all Governments in better serving people in rural and isolated communities.

### Proposed National Action

The Federal Government in conjunction with the States and the Northern Territory, is in the process of revising the National Rural Health Strategy.

A more strategic approach to health care, targeting the specific health needs of Aboriginal and Torres Strait Islander peoples, persons suffering mental illness and other priority groups.

Establishment of a National Rural Health Unit charged with providing a national reference service on data and research.

**(f) Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example by:**  
**(xi) strengthening democratic institutions**

Australia has a democratic system of Government. The Australian Constitution establishes the framework for the electoral processes and government institutions which are at the heart of Australia's democratic government. Central to these is the election of the national government by the men and women of Australia who are 18 or more years of age. Voting is compulsory. Elections for the lower house of the national Parliament, the house which forms the Executive Government, are carried out on a "one vote, one value" basis. The upper house, the Senate is elected by proportional representation.

The Australian Constitution provides for the independent operation of the Parliament, the Executive Government and the Courts.

Australia's democratic electoral processes are complimented by institutions and mechanisms designed to ensure the accountability of government. These mechanisms include the scrutiny of government by parliamentary committees and administrative processes which provide for access to information and review of decisions. The following legislation has been enacted to allow people to challenge a wide range of decisions made under Federal laws and to obtain reasons for particular decision that have been made —

- the *Administrative Appeals Tribunal Act 1975*;
- the *Administrative Decisions (Judicial Review) Act 1977*;
- the *Ombudsman Act 1976*; and
- the *Freedom of Information Act 1982*.

The judiciary plays an important role in protecting certain recognised rights and freedoms which are regarded as fundamental such as the rule of law and by developing rules of statutory construction which reduce the degree of legislative encroachment onto those rights and freedoms. Recent decisions of the High Court have indicated that there are limitations on the legislative competence of Parliament to enact legislation which contravenes fundamental rights to be found implied in the structure of the Australian Constitution and the free and democratic nature of Australian society.

Australia's federal elections are conducted by a statutory authority, the Australian Electoral Commission, which is independent of government or political direction in the conduct of its functions —

**Features of Current Policy**



- The work of the Australian Electoral Commission is under the scrutiny of a parliamentary committee, the Joint Standing Committee on Electoral Matters. This Committee, which comprises representatives of government and opposition parties, reviews the conduct of federal elections and the application of electoral legislation.

The Australian Electoral Commission has a statutory role in promoting public-awareness of electoral and parliamentary matters. Considerable resources of the Commission are devoted to its programs in this area which are aimed at encouraging informed participation of all citizens in the electoral process. In addition, specific programs seek to provide assistance to —

" school students and first time voters.

Public funding is provided to candidates and political parties endorsing candidates for election to Australia's Federal Parliament. The amount of funding paid is dependent on the level of support received from the electors. This scheme was introduced to reduce the dependence of candidates on financial contributions from interest groups in the community and to promote greater equality of opportunity for those seeking election.

The Australian Electoral Commission also makes special arrangements for voting by persons who for reasons of health, disability or geographic isolation have difficulty in exercising their voting rights.

Australia is committed to strengthening its own democratic institutions, and to supporting other countries which are seeking to strengthen theirs.

Following a review of Australia's participation in United Nations peacekeeping missions, the charter of the Australian Electoral Commission has been expanded to empower it to provide assistance to oilier countries and international organisations in the conduct of elections —

- In line with its aim of assisting other countries in the .strengthening of their democratic institutions, Australia has in recent years given assistance through the aid program to the United Nations and the Commonwealth Secretariat for the conduct of or the planning for elections in Namibia, Cambodia, Western Sahara. Mozambique and South Africa.
- A number of officers of the Australian Electoral Commission are included on the Rosier of International Electoral Experts maintained by the Electoral Assistance Unit of the United Nations.

To ensure access to and participation in Australia's democratic institutions and government by the whole of the Australian community regardless of gender, race, age and ethnicity. **Challenges Ahead**

To assist the international community in promoting democratic processes and good governance.

To address women's under-representation within Australia's parliaments

### Proposed National Action

The Australian Government will continue to work to strengthen institutions and mechanisms designed to ensure the accountability of government.

Australia will continue to encourage informed participation of all citizens in its electoral processes. Specific programs to provide assistance to Aboriginal and Torres Strait Islander peoples, Australians of non-English speaking background, school students and first time voters will be continued. The Australian Electoral Commission will also continue to make special arrangements for voting by persons who for reasons of health, disability or geographic isolation have difficulty in exercising their voting rights.

Australia will contribute as an active member of the Electoral Assistance Information Network of the United Nations.

Australia will continue to provide institutional support to developing country democracies as part of its broader international assistance program —

- The Australian Electoral Commission has officers with expertise in providing technical advice on all aspects of the election process, including formulation of electoral systems, budgeting, voter registration, computing, training, electoral information and education, preparation of manuals, the conduct of polling, and counting of votes, as well as officers available to serve as election monitors, trainers and scrutiny supervisors.

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

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

**Features of Current Policy** Australia ascertains whether its domestic law and practice is in conformity with treaty obligations before becoming a party to a treaty. The Federal Government seeks the agreement of the State and Territory Governments before undertaking treaty obligations. Responsibility for implementing and complying with the terms of a particular treaty is shared between the Federal, State and Territory Governments.

The Federal, State and Territory Governments (except for Tasmania) have enacted anti-discrimination legislation and established independent statutory authorities to receive and investigate complaints under that legislation.

There are, however, no entrenched human rights guarantees in the Australian Constitution nor in any of the State Constitutions.

See Appendix G for major Federal legislation based on international human rights instruments.

**Challenges Ahead** To further incorporate human rights norms and standards into domestic law and practice.

To resolve issues raised in communications under the UN complaints mechanisms provided for in human rights instruments.

### Proposed National Action

To consider legislating on the use courts make of international human rights norms in interpreting domestic legislation so as to favour an interpretation which would not lead to a breach of human rights.

To enhance the effectiveness of the *Sex Discrimination Act 1984* by providing for a general prohibition on discrimination on the grounds of sex, marital status or pregnancy and to provide for equality before the law.

To establish a process for resolving issues raised under the UN complaints mechanisms which concern the acts and practices of States and Territories which are found to be inconsistent with United Nations human rights treaties.

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

**(xiii) lifting states of emergency**

Since the *International Covenant on Civil and Political Rights* came into force for Australia in 1975 there have not been any national emergencies of the type described in article 4, that is public emergencies which threaten the life of the nation and the existence of which are officially proclaimed. **Features of Current Policy**

Australia has no general legislation dealing with States of Emergency. There is, however, a range of relevant Federal and State legislation.

There are three provisions of the Australian Constitution which provide a general framework within which laws may be passed or action taken by the Federal Government in emergency situations —

- Section 51 (vi) which provides that the Parliament may make laws for the peace, order and good government of the Commonwealth with respect to the naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth;
- Section 61, which provides that the executive power of the Commonwealth is vested in the Queen and may be exercised by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth; and
- Section 119 which provides that the Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

The Federal Government has power under these provisions to deal with emergency situations which may affect its own areas of responsibility, including maintenance of federal laws, as well as power to protect the States from invasion and civil disorder.

State legislation exists to provide for emergency powers during strikes in essential services and natural disasters.

The High Court of Australia has made it clear that even in time of war, or the threat or aftermath of war, section 51 (vi) of the Constitution does not allow for legislation contrary to the other provisions of the Constitution, for example section 116 which prohibits the Commonwealth from interfering with religious freedom, or the enactment of legislation that restricts civil rights, unless that legislation is genuinely incidental or conducive to the prosecution of the war.

Procedures for authorising the use of the Defence Force in response to an application by a State under section 119 of the Constitution, for protection against civil disorder, are contained in section 51 of the *Defence Act 1903*. Section 51 provides —

- Where the Governor of a State has proclaimed that domestic violence exists therein, the Governor-General, upon the application of the Executive Government of the State, may, by proclamation, declare that domestic violence exists in that State, and may call out the Permanent Forces (other than Reserve Forces) and in the event of their numbers being insufficient may also call out such of the Reserve Forces and the Citizen Forces as may be necessary for the protection of that State, and the services of the Forces so called out may be utilised accordingly for the protection of that State against domestic violence;
- Provided always that the Reserve Forces or the Citizen Forces shall not be called out or utilised in connection with an industrial dispute.

This provision is supplemented by Australian Military Regulations and Air Force Regulations.

**(f) Indicate legislation or administrative acts Australia has proposed or adopted which would advance human rights observance, for example by:**  
**(xiv) protecting the rights of refugees and asylum seekers**

Australia is party to the *1951 Convention relating to the Status of Refugees* and the *1967 Protocol relating to the Status of Refugees*. In accordance with its international obligations, Australia offers protection to asylum seekers who are recognised as meeting the Convention definition of a refugee.

**Features of Current Policy**

Determination procedures are structured to ensure openness in the decision making process and to maintain procedural fairness for all applicants. A claim for refugee status is assessed on its merits taking into account all material supplied by the applicant, in writing and at interview, together with information on human rights assessments in countries of origin from a range of sources, including reports from NGOs and expert opinion from within and outside the Government. Applicants are provided with an opportunity, at interview or subsequently, to comment on adverse findings relating to their claim.

The Refugee Review Tribunal was established on 1 July 1993 as an independent statutory body to undertake the administrative merits review stage of the refugee determination process. The Tribunal sits as single member panels, operating on non-adversarial guidelines, and has determinative power. Further appeals may be made to the courts on prescribed administrative law grounds.

People who are illegally present in Australia may be detained under the *Migration Act*. Asylum seekers who are illegally in Australia are not normally detained unless they have arrived in the country without authorisation —

- Where entry to the country has been made legally, legislative provisions which apply to those who subsequently become illegal allow for people not to be detained, or, if they are initially detained, for them to be released into the community. Where a person in this category is also an asylum seeker, detention would be unusual; and
- people who arrive at Australia's border without authorisation are, by contrast, usually subject to mandatory detention until removed from Australia or granted entry. Refugee claims from people in this category are processed as a matter of priority, and those found to be refugees are immediately released. Where unauthorised arrivals who are refused refugee status choose to pursue their claims through the courts, however, detention can be protracted.

Australia also operates an offshore Humanitarian Program which provides a number of places for persons overseas applying for humanitarian resettlement in Australia. These are considered on a case-by-case basis by migration officers

located in Australian overseas posts. To be granted a resettlement place which provides permanent residence status on arrival in Australia, the applicant must meet the specific criteria of the Humanitarian program, as well as general requirements relating to health and character —

- Refugee Program: people applying for entry to Australia under the Refugee Program must be outside their country of nationality or usual residence and must have suffered or hold a well-founded fear of persecution for a Convention reason. The cost of airfares to Australia are met by the Government:

- The Women at Risk scheme provides priority resettlement for refugee women and women registered as of concern to UNHCR and their dependents, who are alone or are heads of the family and are identified as being in danger of victimisation, harassment or serious abuse because of their sex. [See also F(ii)]

- " Special Humanitarian Program (SHP): applicants for entry into Australia under the Global SHP must be outside their country of nationality or usual residence and should have experienced or fear gross discrimination amounting to substantial violation of their rights. Applicants should be able to demonstrate some connection with Australia, in the form of family ties, a sponsor, or having worked or studied in Australia; and

- Special Assistance Category (SAC): this category was introduced in 1991-92 to reach groups with close links to Australia who are in vulnerable situations but who do not fit into the traditional refugee and humanitarian categories. SAC has the flexibility needed to respond to diverse situations of hardship, such as groups placed in serious danger by unrest or civil conflict in their home countries, displaced in their country and unable to return to their homes, or members of minority groups suffering discrimination.

The Federal Government has reinstated the provision of permanent residence to all persons granted refugee status in Australia since 1990.

inquiry raising concerns on a number of human rights issues. Concerns have been expressed as to whether the detention can be justified and whether, in particular circumstances, the detention can assume an arbitrary and unlawful character. Particular concerns have also been raised about the detention of children together with their parents in detention facilities —

- The Committee is due to report in 1994.

The Government will promote ratification and compliance with the *1951 Convention relating to the Status of Refugees* and the *1967 Protocol Relating to the Status of Refugees* in international forums and will consider ways to further promote ratification of the Convention in the region.

## Challenges Ahead/

### **Proposed National Action**

To continue to provide as a high priority appropriate training and relevant information to refugee decision makers within the Department.

The use of mandatory detention of unauthorised arrivals (a small percentage of illegal immigrants) and the length of detention of persons so detained has been subject to wide public debate in Australia. The Federal Parliament's Joint Parliamentary Committee on Migration is currently conducting an inquiry into detention practices relating to unauthorised arrivals and will be examining alternatives to detention. While detention of illegal immigrants is practiced by other comparable states, submissions have been made to that

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

**Features of Current Policy** In 1986 the Federal Government passed (*the Human Rights and Equal Opportunity Commission Act* which established the Human Rights and Equal Opportunity Commission (HREOC).

HREOC has responsibility for the administration of the *Racial Discrimination Act*, *Sex Discrimination Act*, *Privacy Act*, *Disability Discrimination Act* and *Human Rights and Equal Opportunity Commission Act*. The Commission is a permanent statutory authority, is independent and is not subject to direction by Government in the performance of its functions.

HREOC comprises of —

- a part time President, (presently a former Justice of the High Court of Australia); and

the Human Rights Commissioner (who is the Executive Head of the Commission);

- the Race Discrimination Commissioner;
- the Disability Discrimination Commissioner;
- the Aboriginal Social Justice Commissioner;
- the Sex Discrimination Commissioner; and

In those States and Territories which have their own anti-discrimination legislation, co-operative arrangements have been negotiated by the Federal Commission, pursuant to which State authorities act as agents for the Federal Commission (with the exception of New South Wales and the Northern Territory where the Commission continues to maintain offices). In Queensland, and in the Australian Capital Territory, the reverse position applies: the Federal Commission administers legislation passed by the local legislature. In Tasmania, where State legislation is not yet passed, the Federal Commission maintains a regional office to ensure that the protection of human rights afforded by Federal law is accessible to all Australians.

The functions of HREOC include the power to handle individual complaints as well as broad policy and promotional functions —

- conducting research, educational and other programs to promote acceptance, understanding and public awareness of human rights;
- reporting to the Parliament on laws that should be made or other action that should be taken in relation to human rights to comply with Australia's international obligations on human rights; and
- examining actions or practices of Federal Government authorities or actions under Federal law for consistency with human rights.

The Commission is empowered to attempt to reach a conciliated settlement of human rights complaints against Federal Government authorities, and to report to the Federal Attorney-General if such a settlement cannot be reached.

In relation to the *Sex Discrimination Act*, *the Disability Discrimination Act* and the *Racial Discrimination Act*, HREOC has broader complaint handling functions. Unlike human rights complaints which are restricted to complaints against the Federal Government, complaints under these three Acts may apply to discrimination by any body or person.

HREOC has the power to conduct public inquiries into human rights matters. The Commission has completed a number of major public inquiries since its establishment in 1986.

The Federal Government is currently undertaking a comprehensive review of the Human Rights and Equal Opportunity Commission. The review will assess the role, responsibilities and effectiveness of the Commission and it is anticipated that it will be completed in 1994. **Challenges Ahead**

**Proposed National Action**

The Federal Government will examine and respond to the recommendations arising from the evaluation of the Human Rights and Equal Opportunity Commission.

The idea of an independent Centre for Human Rights was a proposal initially submitted by Australian NGOs under the umbrella of the Australian Council For Overseas Aid (ACFOA). NGOs are now developing a modified proposal which will take account of Government comments on the earlier idea and this will be subject to further discussion and review.

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

**Features of Current Policy** Australia firmly supports measures to increase the effectiveness of United Nations and regional machinery for the promotion and protection of human rights. In this context, Australia supports the development and operation of regional human rights organisations, recognising that they can play an important role in standard setting and institution building.

The Asia Pacific remains the only region which does not presently enjoy the benefits of a regional human rights system. Australia has long supported the formation of such a system along the lines of models existing in other regions. Australia welcomed the reference in the *Bangkok Declaration of 1993*, in the lead up to the World Conference on Human Rights, on the need to explore possibilities for establishing regional or sub-regional arrangements for the protection and promotion of human rights in Asia.

Australia actively participated in the first and second Asia/Pacific workshops on human rights. A significant feature of those workshops was the involvement of a number of national human rights commissions, including Australia's Human Rights and Equal Opportunity Commission (HREOC), in addition to a wide range of governments from the region, and representatives of regional systems. Australia considers that the establishment of national commissions in the region will continue to provide momentum to regional discussions on the possibility of regional arrangements and institutions for the promotion and protection of human rights.

**Challenges Ahead** To adopt a regional instrument on human rights in the Asia Pacific which strengthens the universality of the basic principles outlined in the United Nations instruments.

To ensure that the distinctive contributions to thinking and practice on human rights that regional systems can make, based on particular regional perspectives and experience, does not detract from the universality of human rights principles.

**Proposed National Action**

Australia will work, along with other nations of the region, for the development of regional and sub-regional institutions or arrangements which promote and protect human rights.

Australia will actively support the United Nations, and in particular, the Centre for Human Rights, in facilitating discussion and exchange of information in this important area.

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

**Features of Current Policy**

The Government has taken a number of initiatives to increase the awareness of Australia's international obligations in the areas of human rights.

The Federal Government encourages teaching about human rights within the mainstream school curriculum. A set of agreed goals for schooling in Australia provide foundation for a program of human rights education for our schools. The program emphasises the promotion of understanding of cultural differences and tolerance of others as key national goals in education. These factors appear as a universal quality in almost all objectives in education systems of Australia. Particular national goals of relevance to human rights education include —

- to develop knowledge, skills, attitudes and values which will enable students to participate as active and informed citizens in our democratic Australian society within an international context;
- to provide students with an understanding and respect for our cultural heritage including the particular cultural background of Aboriginal and ethnic groups; and
- to develop in students a capacity to exercise judgment in matters of morality, ethics and social justice.

Positive initiatives have been taken by schools and education authorities concerning human rights education in the development of curriculum for government and non-government schools, in areas such as non-sexist education, Aboriginal studies and multicultural studies. Human rights issues and education are incorporated throughout syllabuses covering Society and Culture, Legal Studies, English, Aboriginal Studies, History and Geography.

In 1989, a structure was established to provide for the cooperation of States, Territories and the Commonwealth in developing a national curriculum framework for Australian schools. The framework was informed by three guiding principles —

- access and equity for girls, Aboriginal and Torres Strait Islander students, students from non-English speaking background, students learning English as a second language, students living in poverty, students who live in isolated rural communities and students who have a disability;
- recognising the knowledge and experiences of many different groups to redress the imbalance in curriculum that advantages those structures of knowledge and ways of viewing the world associated with one group; and

- critical analysis of structures that disadvantage and advantage various groups. This involves the examination of processes of construction of categories such as gender, race and class. For details of human rights education in the National Curriculum Framework, see Appendix H.

The Government is working with employers and unions to educate students on issues such as labour relations, occupational health and safety, workplace reform and the rights and obligations of workers —

- at the same time, the Government will provide a training and development program for teachers, employers and trade union speakers.

The Australian Government has introduced a community education program, "Stopping Violence Against Women", aimed at creating a climate of opinion whereby violence against women is not condoned under any circumstances and to contribute to the elimination of all forms of violence against women in Australian society. [See F (ii)]

A number of programs have also been funded which aim to identify and address gender bias in the law and legal system, including —

- a gender awareness program for members of the judiciary and magistrature being developed by the Australian Institute of Judicial Administration, to run over three years; and
- a pilot program on gender bias for Family Court judges and judicial registrars.

Australia's second progress report to the United Nations on CEDAW was widely distributed and purchased throughout Australia to raise awareness amongst the community of the achievements in Australia in implementing the Convention.

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The Aboriginal and Torres Strait Islander Social Justice Commissioner coordinates a National Aboriginal and Torres Strait Islander Social Community Education Program with the following objectives —

- to inform Aboriginal and Torres Strait Islander people about their rights and the protection available under anti-discrimination and other legislation;
- to reduce the incidence of Aboriginal and Torres Strait Islander people in custody;

to enable Aboriginal and Torres Strait Islander communities to establish and protect community standards of their human rights; and

to empower Aboriginal and Torres Strait Islander people to solve community relations problems at the local level through an understanding and assertion of their rights. [See also F (i)]

**Challenges Ahead** To strengthen the understanding by Australians of human rights, including through developing school curriculum and teacher training of the nature of indigenous human rights particularly those of Aboriginal and Torres Strait Islander peoples.

While equal employment opportunity legislation and anti-discrimination legislation provide a framework for combating discrimination in the workplace based on ethnicity and/or birth, workplace discrimination still remains a concern. Elimination of discriminatory practices and, to the extent possible, discriminatory attitudes in learning and working environments requires a comprehensive and integral response and pro-active community and school education.

To ensure that all women have the right to live free from violence and the fear of violence. The extent of violence against women in Australia remains a matter of national importance- This will require a major change in community attitudes so that violence is seen as unacceptable.

### Proposed National Action

The Government will continue to pursue strategies to increase awareness of Australia's international obligations in the areas of human rights, including —

- developing and disseminating education materials and curricula for schools which promote ethical development; and
- initiatives in community education aimed at eliminating violence against

The Government will consider developing measures aimed at increasing knowledge of indigenous human rights, including through school curricula and teacher training programs.

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

There are several education and training programs for personnel directly responsible for the protection of human rights —

- the Attorney-General's Department provides a small number of training courses on human rights issues, for example, to the Department of Immigration and Ethnic Affairs;
- the Australian Federal Police (AFP) does not have courses specifically designed to cover international human rights treaties, although it does have a number of current training courses which include components covering cross-cultural communications exercises and awareness of human rights;
- the Attorney-General's Department is acting as a catalyst in developing pilot programs to encourage a more comprehensive understanding of Aboriginal culture among people who work in all Australian courts. This program has been developed in response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody and is being conducted in consultation with the Aboriginal and Torres Strait Islander Commission and the Australian Institute of Judicial Administration; [See also F (i)]
- the Australian Defence Force (ADF) provides human rights and international humanitarian law training for all its personnel, in particular training in the Law of Armed Conflict and awareness of appropriate workplace attitudes and behaviour: [For details of ADF human rights training, see Appendix 1]:
  - Foreign students attending ADF courses receive the same periods of instruction regarding international humanitarian law as their ADF counterparts. This training is designed to improve leadership skills, to impart professional and technical expertise, and generally to create a more effective atmosphere for cooperation in external defence activities;
  - similarly, overseas military personnel during training with or attachment to the ADF are exposed to the ethos of the ADF, and Australian values in general, towards issues of conscience, including human rights. In-country professional and technical training is also provided by ADF personnel under defence cooperation agreements, which includes LOAC and human rights elements as appropriate; and

**Features of Current Policy**



— Defence Cooperation funding together with funding from Australian International Development Assistance Bureau (AIDAB), was used to assist the Philippines Commission on Human Rights to conduct a series of seven seminars for military and police trainers in the Philippines early in 1993 to a target audience of between 700 and 1000 military and police officers. UNICEF and Red Cross were also involved in these seminars.

The Federal Government is providing funding to the Family Court to develop programs to enhance the awareness of judges and other decision-makers on such matters as the cause and effect of violence against women and gender issues that effect the resolution of family law matters. This work complements other gender awareness activities currently being pursued by the Australian Law Reform Commission. [See also 1]

The Department of Immigration and Ethnic Affairs provides training on the Refugee Convention, international and administrative law, practical casework training, cross-cultural issues associated with refugee determination and aspects of the refugee definition to officers involved in determining applications for refugee status.

No systematic human rights training program exists as yet for officers of the Department of Foreign Affairs and Trade and AIDAB —

- both agencies are currently developing on-going training programs on human rights issues for their staff.

**Challenges** To further extend and consolidate programs for human rights education and training for Australian officials involved in the human rights field, in particular  
**Ahead** Department of Foreign Affairs and Trade and AIDAB.

To examine the possibilities for enhanced human rights training by the Australian Defence Force. [See Appendix I],

## Proposed National Action

The Department of Foreign Affairs and Trade has prepared a Human Rights Manual (See Appendix J) to be used as the basis for a comprehensive human rights training course for all its officers. This course will be available for other Departments/ Agencies with particular interests in human rights issues.

The Department of Immigration and Ethnic Affairs will continue to provide, and will consider ways of expanding, human rights training, including on refugee issues to its overseas officers.

The Federal Government has provided funding to the Australian Institute of Judicial Administration to develop gender awareness programs to be made available to members of the Australian judiciary.

The ADF will consider ways of strengthening humanitarian law training, including a human rights component.

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

**Features of Current Policy** The independence of the judiciary in Australia is assured by provisions of the Australian Constitution and the constitutions of the States and Territories.

The constitutional guarantees generally provide security of tenure until a prescribed retiring age, subject to removal by the relevant Government at the request of its legislature on the grounds of proved incapacity or misbehaviour. Judicial remuneration may not be diminished during a judge's tenure of office. These safeguards apply to the judges of superior and intermediate courts.

State and Territory legislation provides similar safeguards to assure independence of magistrates who constitute the lowest tier of courts.

**Challenges Ahead** To examine the development of criteria for judicial appointments and to achieve a judiciary which is more reflective of Australia's social diversity.

**Proposed National Action**

In September 1993, the Attorney-General issued a Discussion Paper on Judicial Appointments — Procedure and Criteria'. The Discussion Paper explores options for reform of the appointment process. Comments have been invited on the paper and the Government will respond in 1994.

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

Australia regards non-governmental organisations (NGOs), engaged in development work, as well as those specifically undertaking work on civil and political rights, as having a legitimate and well respected role to play both domestically and internationally in the promotion and protection of human rights. Australia looks to cooperate closely with its domestic NGO community over the development and implementation of human rights policy and has established an extensive array of consultative mechanisms. Australia also actively promotes the role of NGOs internationally and supports their development in other States as an important part of strengthening the infrastructure which promotes and protects human rights.

Activities include —

- the Human Rights Fund which was established by the Department of Foreign Affairs and Trade to provide assistance directly to organisations and individuals in other countries who are involved in the promotion and protection of human rights;
- regular consultations (usually three times a year) with representatives of Australian human rights NGOs on issues of current interest in the field of human rights. The agenda for these talks is set jointly by the Department of Foreign Affairs and Trade and NGO representatives;
- support for NGOs' activities through Australia's official aid program through:
  - the Australian International Development Aid Bureau (AIDAB)/ NGO Cooperation Program. This represents the main focus of the relationship between AIDAB and the Australian NGO community engaged in development activities overseas;
  - NGO participation in bilateral country programs where NGO expertise is especially valuable. Included are programs in Indochina, Africa, the Philippines and, most recently, China and Thailand;
  - volunteer programs under which Australians work in developing countries;
  - the Women in Development Small Grants Scheme; and
  - direct support to local NGOs in developing countries as well as international NGOs active in development.

**Features of Current Policy**

The Australian Government recognises the rights of community groups and individuals to participate in policy development and service delivery decisions which affect them. This includes having a role in program planning, development and delivery, and involves program areas working closely with community groups, service providers, professional bodies and other levels of government. Where a program is a joint Commonwealth and State responsibility, community consultation processes are often an integral part of agreed program arrangements.

The Australian Parliament has established, on a bi-partisan basis, the Amnesty International Parliamentary Group (AIPG). The Australian Government has since 1987 received Amnesty International urgent action human rights cases through AIPG and raises these cases directly with foreign governments.

Australia regularly includes civil and political human rights NGO representatives as part of the official delegation to major international conferences. Australia also actively supports NGO participation at international conferences and multilateral forums to ensure that their views are widely heard.

The Australian Government consults on all International Labour Organisation matters with the peak bodies representing employers and employees —

- a tripartite body, the International Labour Affairs Committee, exists for the purpose of regular consultation.

Australia has actively supported the UN Working Group drafting the *"Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms"*.

The Government provides financial assistance to national women's organisations to assist with operating costs, in acknowledgement of the important channels they provide for participation in policy development and decision-making.

The Government through the Department of Immigration and Ethnic Affairs (DIEA) provides funding to a number of non-governmental organisations in the refugee and asylum seeker field, including the Refugee Council of Australia, the Refugee Advisory and Casework Service and the Australian Red Cross. DIEA also administers three schemes funded by the Commonwealth to assist Refugee and Special Humanitarian Program entrants. These schemes provide assistance and guidance to voluntary groups who wish to be directly involved in assisting the settlement of refugees in Australia.

To strengthen the level of cooperation and dialogue between the Australian Government and the domestic NGO community (civil/political rights focused and those with broader development agendas) in order to promote and protect human rights in Australia and internationally in a systematic and integrated manner.

To ensure that these NGOs are able to participate actively in multilateral forums including through continuing to play an important role in standard setting.

To work for the strengthening of NGOs in other countries as part of efforts to support the domestic infrastructure which promotes and protects human rights.

**Proposed National Action**

Continue to explore opportunities for the Australian NGO community to become more significant stakeholders in the delivery of an increasingly complex development cooperation program —

- continued emphasis could be placed on the participation of NGOs within bilateral programs as appropriate; and
- continued level of NGO involvement in emergency and refugee assistance is also anticipated.

Conduct a feasibility study for a possible Australian Advisory Committee on Human Rights which could act in an advisory capacity to the Government as requested, in particular through written reports, on human rights issues on the international agenda.

Expand funding for the Department of Foreign Affairs and Trade's Human Rights Fund.

Refine existing Government/NGO consultative processes and in particular ensure that the NGO community is consulted in the preparation of Australian reports to the respective Committees established under the core Human Rights Conventions.

Work towards the finalisation and adoption of the *"Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms"*.

Continue to work closely with women's organisations and others concerned with the status of women in developing Australia's priorities for the Fourth World Conference on Women and associated preparatory activities.

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

**Features of Current Policy** The Australian aid program makes a real contribution to improving human rights in our region. Virtually all aid activities have the potential to contribute to the right to development, the right to work, and other economic and social rights. Australia attaches a high priority in its aid program to the international promotion and protection of human rights, particularly of vulnerable groups and women. A key element of this approach is developing well targeted measures to strengthen the domestic infrastructure which promotes and protects human rights —

In recognition of the need to raise the profile of human rights issues and their direct relevance to its development work, AIDAB, in conjunction with the Department of Foreign Affairs and Trade, is presently developing an operationally focused human rights and aid issues training program for all its staff for implementation during 1994.

Where human rights violations have been identified, Australia, in measuring its aid response, adopts a case-by-case approach, and has sought to focus on what will be most productive in assisting the cause of the victims of human rights abuses, as well as working towards more open and participatory government.

As part of Australia's efforts to promote the domestic infrastructure which supports human rights in developing countries, including national institutions, Australia has contributed A\$300,000 to the UN Voluntary Fund for Technical Assistance assisting States in the development of such measures —

- Australia is currently examining ways of providing assistance in the establishment and operation of human rights machinery to several countries which have requested it.

Australia has taken a pro-active role in international forums aimed at strengthening the necessary infrastructure for the promotion of human rights —

- Australia makes regular financial contributions to multilateral development funding bodies and, in the case of the World Bank and the Asian Development Bank is represented at a senior policy making level. Australia actively supports these institutions' efforts to reduce poverty through their strategies to enhance economic and social human rights.

To utilise development assistance in a way which encourages and assists other countries to improve their human rights performance, by promoting the development of effective human rights machinery, the rule of law and more open and participatory government. Challenges Ahead

To develop aid programs which assist women and vulnerable groups.

To continue efforts to strengthen relevant national institutions in recipient countries, especially those with legal, judicial, and electoral functions —

- particular support needs to be made available for countries with fledgling democratic institutions.

To raise the profile of human rights/good governance issues in the aid program amongst AIDAB staff in a systematic way and provide staff with some of the conceptual tools to integrate these crosscutting issues effectively into aid activities.

To continue to raise the profile of human rights issues through Australia's participation in multilateral institutions' policy making forums.

**Proposed National Action**

To continue to place an emphasis within the context of the overall aid program on measures that promote and protect fundamental civil and political rights, including of women and vulnerable groups.

To continue to assist other countries to strengthen their national human rights infrastructure as well as developing promotional and educational activities aimed at ensuring that human rights are enjoyed by everyone.

To support the expansion and development of activities such as offering expert advice and practical assistance with regard to the holding of free and fair elections and to provide technical and legal advice on the drawing up of constitutions or the establishment of institutions at the national level to protect the human rights of citizens, for example a Human Rights Commission or an Ombudsman's office.

Annual high level consultations with major developing country recipients and other regular processes for policy dialogue will continue to become more refined and focused according to the specific needs of particular countries —

- in this context dialogue about good governance and human rights issues particularly as they impact on development can be advanced.

AIDAB is taking steps to institute an organisation-wide training program on the broad range of issues relating to the integration of human rights into the aid program.

Consider further contributions to the UN Voluntary Fund for Technical Assistance.

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

**Features of Current Policy** Australia is committed to ensuring that adequate resources from within the UN system are made available for strengthening the operation of the UN Centre for Human Rights —

- Australia argued strongly at the Vienna World Conference on Human Rights for an increase in the resources currently allocated to the Centre for Human Rights.

Australia strongly supports the UN Centre for Human Rights in its role as the focal point for the UN's human rights activities. Australia also strongly supports the activities of the Centre in providing advice and technical assistance to Governments in the field of human rights • —

- An amount of A\$300,000 was contributed from the aid program in 1 993-94 to the Voluntary Fund for Technical Assistance for the purpose of developing national human rights institutions primarily in the Asia-Pacific region; and
- in 1 993, Australia also seconded an indigenous officer from the Aboriginal and Torres Strait Islander Commission to the Centre for Human Rights.

**Challenges** The radical changes now taking place in the world are making increasing **Ahead** demands on the United Nations human rights system. This highlights the need for the Centre for Human Rights to be strengthened if it is to play its mandated central role in the promotion and protection of human rights, service committees properly and carry out its role as a provider of advice and assistance and dissemination of information on human rights.

**Proposed National Action**

Australia is ready to assist the Centre for Human Rights in strengthening these programs in a practical way and will consider ways to further contribute to the Centre's Voluntary Fund —

- Specific areas in need of immediate assistance are the advisory services and technical assistance programs of the Centre for Human Rights which are aimed at strengthening the infrastructures for the promotion and protection of human rights in every country.

Australia strongly supports the proposal for the establishment of a UN High Commissioner for Human Rights who would be based in Geneva and work closely with the Centre.

Australia will consider the continuation of the secondment of an Australian officer to the UN Centre for Human Rights.

## Appendix A

### Human Right Treaties to which Australia is a Party

*The International Covenant on Civil and Political Rights (ICCPR)*

*The International Covenant on Economic Social and Cultural Rights (ICESCR)*

*The First Optional Protocol to the ICCPR*

*The Second Optional Protocol to the ICCPR*

*The Convention on the Elimination of all Forms of Racial Discrimination (CERD)*

*The Convention against Torture and other Cruel, Inhuman or Degrading Forms of Punishment (CAT)*

*The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*

*The Convention on the Rights of the Child*

*The Convention on the Prevention and Punishment of the Crime of Genocide*

*The Convention on the Political rights of Women*

*The Convention on the Nationality of Married Women*

*The Slavery Convention of 1926 (as amended) and the 1953 Protocol amending the 1926 Convention*

*The Convention on the Reduction of Statelessness*

*The Convention relating to the Status of Stateless Persons*

## Appendix B

### ILO Conventions Ratified by Australia as at December 1993

ILO Convention No 2 *Unemployment* (1919)

ILO Convention No 7 *Minimum Age (Sea)* (1920)

ILO Convention No 8 *Unemployment Indemnity (Shipwreck)* (1920)

ILO Convention No 9 *Placing of Seamen* (1920)

ILO Convention No 10 *Minimum Age (Agriculture)* (1921)

ILO Convention No 11 *Right of Association (Agriculture)* (1921)

ILO Convention No 12 *Workmen's Compensation (Agriculture)* (1921)

ILO Convention No 15 *Minimum Age (Trimmers and Stokers)* (1921)

ILO Convention No 16 *Medical Examination of Young Persons (Sea)* (1921)

ILO Convention No 18 *Workmen's Compensation (Occupational Diseases)* (1925)

ILO Convention No 19 *Equality of Treatment (Accident Compensation)* (1925)

ILO Convention No 21 *Inspection of Emigrants* (1926)

ILO Convention No 22 *Seamen's Articles of Agreement* (1926)

ILO Convention No 26 *Minimum Wage Fixing Machinery* (1928)

ILO Convention No 27 *Marking of Weight (Packages Transported by Vessels)* (1929)

ILO Convention No 29 *Forced Labour* (1930)

ILO Convention No 42 *Workmen's Compensation (Occupational Diseases) (Revised)* (1934)

ILO Convention No 45 *Underground Work (Women)* (1935)\*

ILO Convention No 47 *Forty-Hour Week* (1935)

ILO Convention No 57 *Hours of Work and Manning (Sea)* (1946)

ILO Convention No 58 *Minimum Age (Sea) (Revised)* (1936)

ILO Convention No 63 *Statistics of Wages and Hours of Work* (1938)

ILO Convention No 76 *Wages, Hours of Work and Manning (Sea)* (1946)

ILO Convention No 80 *Final Articles Revision* (1946)

ILO Convention No 81 *Labour Inspection* (1947)

ILO Convention No 83 *Labour Standards (Non-Metropolitan Territories)* (1947)

ILO Convention No 85 *Labour Inspectorates (Non-Metropolitan Territories)* (1947)

ILO Convention No 86 *Contracts of Employment (Indigenous Workers)* (1947)

ILO Convention No 87 *Freedom of Association and Protection of the Right to Organise* (1948)

ILO Convention No 88 *Employment Service* (1948)

ILO Convention No 92 *Accommodation of Crews (Revised)* (1949)

ILO Convention No 93 *Wages, Hours of Work and Manning (Sea) (Revised)* (1949)

ILO Convention No 98 *Right to Organise and Collective Bargaining* (1949)

ILO Convention No 99 *Minimum Wage-Fixing Machinery (Agriculture)* (1951)

ILO Convention No 100 *Equal Remuneration* (1951)

ILO Convention No 105 *Abolition of Forced Labour* (1957)

ILO Convention No 109 *Wages, Hours of Work and Manning (Sea) (Revised)* (1958)  
 ILO Convention No 111 *Discrimination (Employment and Occupation)* (1958)  
 ILO Convention No 112 *Minimum Age (Fishermen)* (1959)  
 ILO Convention No 116 *Final Articles Revision* (1961)  
 ILO Convention No 122 *Employment Policy* (1964)  
 ILO Convention No 123 *Minimum Age (Underground Work)* (1965)  
 ILO Convention No 131 *Minimum Wage-Fixing* (1970)  
 ILO Convention No 133 *Accommodation of Crews (Supplementary Provisions)* (1970)  
 ILO Convention No 136 *Worker's Representatives* (1971)  
 ILO Convention No 137 *Dock Work* (1973)  
 ILO Convention No 142 *Human Resources Development* (1975)  
 ILO Convention No 144 *Tripartite Consultation (International Labour Standards)* (1976)  
 ILO Convention No 150 *Probation Administration* (1978)  
 ILO Convention No 156 *Workers with Family Responsibilities* (1981)  
 ILO Convention No 158 *Termination of Employment* (1982)  
 ILO Convention No 159 *Vocational Rehabilitation and Employment (Disabled Persons)* (1983)  
 ILO Convention No 160 *Labour Statistics* (1985)

## Appendix C

### Australia's Reservations to International Human Rights Treaties

#### *International Covenant On Civil And Political Rights*

##### *Article 10*

1. AH persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
- 2.(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
- 2.(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

##### **Reservation**

In relation to paragraph 2 (a) the principle of segregation is accepted as an objective to be achieved progressively. In relation to paragraphs 2(b) and 3 (second sentence) the obligation to segregate is accepted only to the extent that such segregation is considered by the responsible authorities to be beneficial to the juveniles or adults concerned.

##### *Article 14*

- 14 (6) When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

##### **Reservation**

Australia makes the reservation that the provision of compensation for miscarriage of justice in the circumstances contemplated in article 14, paragraph 6, may be by administrative procedures rather than pursuant to specific legal provision.

#### Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

#### Reservation

Australia interprets the rights provided for by articles 19, 21 and 22 as consistent with article 20; accordingly, the Commonwealth and the constituent States, having legislated with respect to the subject-matter of the article in matters of practical concern in the interest of public order (*order public*), the right is reserved not to introduce any further legislative provision on these matters.

#### *International Convention on the Elimination of All Forms of Racial Discrimination*

#### Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, *inter alia*:

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

#### Declarations and Reservations

The Government of Australia ... declares that Australia is not at present in a position specifically to treat as offences all the matters covered by article 4 (a) of the Convention. Acts of the kind there mentioned are punishable only to the extent provided by the existing criminal law dealing with such matters as the maintenance of public order, public mischief, assault, riot, criminal libel, conspiracy and attempts. It is the intention of the Australian Government, at the first suitable moment, to seek from Parliament legislation specifically implementing the terms of article 4 (a).

#### *Convention on the Elimination of All Forms of Discrimination Against Women*

#### Article 11(2)

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities; and
- (ci) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

#### Reservations

The Government of Australia states that maternity leave with pay is provided in respect of most women employed by the Commonwealth Government and the Governments of New South Wales and Victoria. Unpaid maternity leave is provided in respect of all other women employed in the State of New South Wales and elsewhere to women employed under Federal and some State industrial awards. Social Security benefits subject to income tests are available to women who are sole parents.

The Government of Australia advises that it is not at present in a position to take the measures required by article 11 (2) to introduce maternity leave with pay or with comparable social benefits throughout Australia.

The Government of Australia advises that it does not accept the application of the Convention in so far as it would require alteration of Defence Force policy which excludes women from combat and combat-related duties. The Government of Australia is reviewing this policy so as more closely to define "combat" and "combat-related duties".

#### *Convention on the Political Rights of Women*

#### Article III

Women shall be entitled to hold public office and to exercise all public functions established by national law, on equal terms with men, without any discrimination.



## Declarations and Reservations

The Government of Australia hereby declares that the accession by Australia shall be subject to the reservation that article 111 of the Convention shall have no application as regards recruitment and conditions of service in the Defence Forces.

### *Convention On The Rights Of The Child*

#### *Article 37*

States Parties shall ensure that:

- (c) every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

#### **Declaration**

Australia accepts the general principles of Article 37. In relation to the second sentence of paragraph (c), the obligation to separate children from adults in prison is accepted only to the extent that such imprisonment is considered by the responsible authorities to be feasible and consistent with the obligation that children be able to maintain contact with their families, having regard to the geography and demography of Australia. Australia, therefore, ratifies the Convention to the extent that it is unable to comply with the obligation imposed by Article 37(c).

## Appendix D

### **Australia's Reporting Obligations to the United Nations Human Rights Treaty Bodies**

Australia is required to report periodically to the UN human rights bodies under six major human rights treaties. In addition, Australia is required to report to the ILO every second or fourth year. They are as follows:

Instrument	Reporting Period	Current Status	Agency Responsible
International Covenant on Civil and Political Rights  Article 40	Entry in force for Australia - Nov 1980 1st due Nov 81 and thereafter every five years  2nd report due 1986  3rd report due 1991	First report submitted Nov 81 Considered Oct82  Second report Submitted Feb 87 Considered Apr 88  Third report is being prepared.	Attorney-General's Department
Convention on the Rights of the Child  Article 44	Entry in force for Australia - Jan 1991 1st report due Jan 93 and thereafter every five years	First report in draft form and being circulated to the States and Territories for comment.	Attorney-General's Department
Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment  Article 19	Entry in force for Australia - Sep 1989 1st report due Sep 90 and thereafter every four years	First report Submitted Aug 91 Considered Nov/Dec91  Second report due Sep 94	Attorney-General's Department
International Covenant on Economic, Social and Cultural Rights  Article 16	Entry in force for Australia -Mar 1976  More complex reporting cycle has been simplified to one comprehensive report every five years from now on	Second periodic report on Art 13-15 Submitted Jun 92 Considered May 93	Department of Foreign Affairs and Trade

Convention on the Elimination of all Forms of Racial Discrimination Article 9	Entry in force for Australia - Oct 1975 1st report due Oct 76 and thereafter every four years with interim two yearly reports	Combined 6th, 7th and 8th report Considered Aug 91  Ninth interim report submitted August 93	Department of Foreign Affairs and Trade
Convention on the Elimination of all Forms of Discrimination Against Women Article 18	Entry in force for Australia- Aug 83 1st report due Aug 84 and thereafter every four years	First report submitted 1986 Considered 1988  Second report submitted in 1992 To be considered in 1994	Office of the Status of Women

## Appendix E

### Additional information on Australia's social security scheme

Social security pensions are generally longer term payments which may be paid to people who meet certain residence requirements; income and asset tests are also applied.

- \* Disability support pension provides assistance to people with limited means who have a continuing inability to work because of a physical, intellectual or psychiatric impairment.
- \* The Disability Reform Package introduced in 1991, focuses on providing income support to people with a disability, and assessing that person's capacity to participate in rehabilitation, labour market programs, education, employment and other community activities.
- \* Wife pension may be paid to the wife of an age or disability support pensioner who is not eligible for any other pension in her own right.

Carer pension may be paid to a person who provides personal care and attention or constant supervision to a person with a severe physical, intellectual or psychiatric disability.

Sole parent pension provides assistance to sole parents who are supporting at least one child under 16. The Government funded Jobs, Education and Training (JET) scheme assists sole parent pensioners to enter or re-enter the workforce by ensuring access to work oriented counselling and work-related training schemes, and by helping provide access to child care.

Double Orphan Pension provides assistance in meeting the costs of bringing up children who are orphans.

Social Security allowances and benefits are generally short term payments which are payable to eligible claimants who are Australian citizens or permanent legal residents of Australia, subject to income and assets tests, and in some cases, to waiting periods.

For unemployed people, the Government has introduced Job Search Allowance and Newstart Allowance. The Job Search Allowance provides assistance to working-aged persons who have been unemployed for less than 12 months and the Newstart Allowance provides assistance to those people who have been unemployed for more than 12 months. Special assistance to improve the employment prospects of unemployed people is provided by the Commonwealth Employment Service.

From 20 March 1994, long-term unemployed people aged 60 and over (but below age pension age) who have been getting income support for 12 months or more and who are eligible for Newstart Allowance, will be able to get Mature Age Allowance.

- \* Sickness allowance provides assistance for people who are temporarily incapacitated for work because of sickness or an accident.

Special Benefit provides assistance to a person in severe financial need due to circumstances outside their control, for whom no other pension or allowance is payable and no other support available.

Young homeless allowance provides assistance to single people on allowance or benefit who are under 18 years and homeless and have no parental or custodial support.

Widowed person allowance provides assistance for recently bereaved widowed persons, both male and female, who have no dependent children.

The Department of Social Security pays family payments to provide assistance with the costs of bringing up children. Assistance is provided to most Australian families, with levels of payment are dependent on individual family needs as determined by income and assets tests.

Child Disability Allowance provides financial assistance to people caring for disabled children at home.

The Department of Social Security is also responsible for certain supplementary payments. Eligibility for these payments is assessed when a person claims pension, allowance, benefit or family payment unless otherwise stated. Rent assistance provides assistance to people with limited means who pay rent or similar payments to private landlords for accommodation. Pharmaceutical allowance is paid to social security clients to assist with the cost of prescription drugs. Mobility allowance provides assistance to disabled people in employment or vocational training.

The Australian system of compensating veterans and their dependants for the effects of war or defence service was introduced to assist those veterans incapacitated during World War I and those dependants who were bereaved. In 1935 the basic principle of compensation for service related incapacity or death was extended with the introduction of service pensions, reflecting the recognition by successive Governments that the intangible effects of service could result in loss of earning power and premature aging.

Payments to veterans and their dependants through the Department of Veterans' Affairs include:

- disability pension for service related injury or disease;
- age service pension;
- invalidity service pension: similar to the disability support pension paid by the Department of Social Security;
- partner service pension: a pension paid to the legally married or de facto partner, or widow/widower of an age or invalidity service pensioner;
- carer service pension: a pension paid to a person who personally provides care and attention to a severely handicapped veteran service pensioner;
- war widow/widower pension: a pension paid to eligible partners as compensation for a veteran's death where that death was caused by or related to specific types of military

orphans pension: a pension paid to eligible dependent children as compensation for the death of a veteran, where that death was caused by or related to specific types of military

Veterans' Children Education Scheme: for eligible children of certain deceased, blinded or totally and permanently incapacitated veterans or members of the defence or peacekeeping forces;

- supplementary benefits or assistance: designed to meet specific needs of eligible persons such as rent assistance, attendant allowance to a disability pensioner, pharmaceutical and telephone allowance and
- housing loan subsidies and other housing-related benefits, including comprehensive home owners' buildings insurance and household contents insurance cover.

Medical treatment benefits, which are made available by the Department of Veterans' Affairs to eligible veterans and war widows include:

- hospital care;
- general medical practitioner and specialist services;
- domiciliary nursing and nursing home care;
- psychiatric care;
- occupational and speech therapy and physiotherapy;
- artificial limbs and appliances; and
- counselling.

## Appendix F

### Legislation Protecting the Rights of Indigenous Australians

#### Federal Legislation

State law provides the basis for the protection of rights of indigenous peoples through the *Aboriginal and Torres Strait Islander Commission Act 1989*.

Statutory recognition of Aboriginal and Torres Strait Islander organisations provides a means by which those organisations may lobby governments, corporations and interest groups for changes in the human rights field. One example of such organisations lies in the I. and Councils established under the *Aboriginal Land Rights (Northern Territory) Act 1976*

The possibility exists under the *Aboriginal Councils and Associations Act 1976* for organisations to incorporate for the purpose of furthering human rights ideals. The *Lake Condah and Framlingham Forest Act 1987* is a Commonwealth Act which establishes two trusts which are incorporated under the *Aboriginal Councils and Associations Act 1976*. As such, a corporation may make by-laws with respect to various specified matters including management and activities relating to the land and declaration of sacred sites.

The *Aboriginal and Torres Strait Inlander Heritage Protection Act 1984* was enacted to give the Minister for Aboriginal and Torres Strait Islander Affairs the power to make declarations to protect significant Aboriginal areas and objects from serious threats of injury or desecration. This legislation provides an important administrative mechanism whereby the rights of Aboriginal and Torres Strait Islander peoples may be protected.

Aboriginal and Torres Strait Islander peoples have access to the Human Rights and Equal Opportunity Commission, (the body established to deal with human rights complaints.

The *Racial Discrimination Act 1975*, whilst prohibiting discrimination in the areas of employment, access to places and facilities, land dealings and accommodation, does not define "race". Rather, the Act applies the definition of race in the Racial Discrimination Convention and extends the term "race" to cover colour, descent and national or ethnic origin. Section 6 of the Act states that it binds the Commonwealth and each State as well as the Crown in right of the Northern Territory and Norfolk Island.

Under the *Aboriginal Land Rights (Northern Territory) Act 1976* land may be claimed by Aboriginal people on the basis of "traditional ownership of land. Once granted, traditional rights to use or occupation of Aboriginal land prevail.

Under the *Aboriginal Land Grant (Jervis Bay Territory) Act 1976* scheduled land became Aboriginal land and the Wreck Bay Aboriginal Community Council was established with full power to grant a licence to use that land.

#### State Legislation

In New South Wales a new ground of complaint of racial vilification has been introduced under the *NSW Anti-Discrimination Act 1977*. This Act has created a new criminal offence of serious racial vilification which applies to public acts which involve the dissemination of matter to the public knowing that it vilifies a person or group of persons on the ground of race.

In Western Australia the Criminal Code has been amended to create the offences of possession, distribution or display of material with the intention of creating hatred or harassing any racial group.

In the Australian Capital Territory the *Discrimination Act 1991* created the office of serious racial vilification.

South Australia was the first State in Australia to enact Aboriginal land rights legislation. Areas of land are held in that State on behalf of Aboriginals pursuant to the *Pitjantjatjara Land Rights Act 1981* and the *Maralinga Tjarutja Land Rights Act 1984*. In respect of the Pitjantjatjara lands, land is granted to a body corporate comprising all Pitjantjatjaras, and is administered by a trust which must ascertain the wishes and opinions of all traditional owners and protect their interests in relation to the management, use and control of the lands.

In New South Wales the *Land Rights Act 1983* was enacted as beneficial and remedial legislation designed to give important rights in Crown land to the representatives of the Aboriginal people who have suffered substantial injustice and loss consequent upon the deprivation of their land following first white settlement. It enables grants of land to be made to Aboriginals, thereby enabling their own management of that land to take place.

In Queensland the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991* provide for the grant and claim of certain categories of land within the State of Queensland. The operation of these Acts are to date uncertain.

#### Administrative Acts

Because of the nature of the powers and functions of the Aboriginal and Torres Strait Islander Commission, all actions taken by the Commission are taken with a view to the protection of the human rights of indigenous peoples.

A declaration made by the Minister for Aboriginal and Torres Strait Islander Affairs under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* is an administrative act.

The decision (1992) of the High Court on native title is in Australian legal terms a judicial not administrative act, but may be an administrative act in terms of human rights issues. This decision protects the land rights of those Aboriginal and Torres Strait Islander communities which can establish connection with vacant Crown Land in accordance with traditions.

The establishment of the Council for Aboriginal Reconciliation by legislation in 1991, with the support of all political parties and State and Territory Governments, and the establishment of the Aboriginal Reconciliation Unit within the Department of Prime Minister and Cabinet are administrative measures which are designed to investigate and implement ways of enshrining the rights of indigenous peoples within the legislative and social framework of the country. The Council's activities have assisted in encouraging a debate about the importance of achieving a lasting reconciliation between indigenous and non-indigenous Australians.

The Monitoring Unit established after the completion of the Royal Commission into Aboriginal Deaths in Custody is an administrative measure designed to ensure that the rights of indigenous peoples are protected in the manner recommended by the Report of the Royal Commission.

### International Mechanisms

Since December 1991 the *Optional Protocol to the International Covenant on Civil and Political Rights* has been operative in Australia. Under the Optional Protocol the Human Rights Committee which is set up under the covenant may, after all domestic remedies have been exhausted, receive communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

## Appendix G

### Major Federal legislation based on international instruments on human rights

*Human Rights and Equal Opportunity Commission Act 1986*, which gives the Human Rights and Equal Opportunity Commission (HREOC) functions by reference to the *International Covenant on Civil and Political Rights (ICCPR)*, the *Convention on the Rights of the Child*, the *Declaration of the Rights of the Child (CROC)*, the *Declaration on the Rights of Disabled Persons*, the *Declaration on the Rights of Mentally Retarded Persons*, the *Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief*, and the *Discrimination (Employment and Occupation) Convention 1958 (ILO Convention no.111)*.

*Privacy Act 1986*, which gives more particular effect to the right to privacy recognised in Article 18 of the ICCPR, and develops this in more detail by reference to guidelines produced by the Organisation for Economic Co-operation and Development.

*Racial Discrimination Act 1975*, implementing most of the provisions of the *Convention on the Elimination of All Forms of Racial Discrimination*. This Act contains a general prohibition of racial discrimination affecting the enjoyment of human rights, as well as making racial discrimination unlawful in specified areas, such as employment, education, and provision of goods and services.

*Sex Discrimination Act 1984*, implementing most of the provisions of the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*. This Act makes sex discrimination unlawful in the administration of Federal laws and programs and in certain specified areas such as employment, education and access to services.

*Disability Discrimination Act 1992*, which gives effect to provisions relating to disability in *ILO Convention no.111, Discrimination (Employment and Occupation) 1958*, the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights*.

The Federal Government has had affirmative action programs in force in the Public Service for a number of years. In 1986 the Federal Government passed legislation requiring businesses with 100 or more employees to establish affirmative action programs for women. These programs must evaluate the employer's policies and practices to prevent discrimination against women employees, identify statistical or other patterns of discrimination against women employees and set objectives for achieving equality of opportunity for women in employment. Annual public reports of the programs must be prepared. A Director of Affirmative Action has been appointed to monitor the programs and review the effectiveness of the legislation.

## Appendix H

### Human Rights Education in the National Curriculum Framework

**Studies of Society and Environment** — A belief in the economic, cultural and social rights of all people underpins this learning area through its content, cross-curriculum perspectives and promotion of active citizenship. The content fosters an appreciation of gender, multicultural and indigenous people's perspectives, the concept of the global village and the need for a 'futures' focus in addressing social issues. The key values promoted by the learning area are democratic process, social justice and ecological sustainability.

**Languages other (than English)** — Incorporates broad guidelines for the development of a variety of Aboriginal and Torres Strait Islander education programs, and acknowledges the right of Aboriginal and Torres Strait Islander peoples to maintain, retrieve, revive, reclaim and preserve their linguistic and cultural heritage. The National Agenda for a Multicultural Australia and the Report of the Inquiry into Aboriginal and Torres Strait Islander Language Maintenance, Language and Culture: A Matter of Survival informed the development of this curriculum framework. [See also E (v), F (i) and F (iv)]

**English** — An underlying principle of this learning area is that students will understand how language is constructed, used and manipulated in powerful ways to influence others.

**Arts** — Underlying principles include recognition and provision for the expression and enhancement of the cultural forms and traditions of all cultural groups and an understanding of the role of the Arts in the local and global environment and to society's use of natural resources.

**Technology** — Students evaluate the positive and negative impacts of technology on societies and environments and are encouraged to be open-minded and respect individual differences when responding to technological challenges. This learning area builds on the national goals for schooling, including to develop in students an appreciation and understanding of and concern for balanced development and global environment and a capacity to exercise judgment in matters of morality, ethics and social justice.

**Science** — This learning area encourages students to explore the different cultures that contribute to our understanding of our physical and biological world. It acknowledges that a science education should make connections with other areas of human endeavour and that to solve most of society's concerns requires the integration of a range of understandings from disparate areas of human endeavour.

**Mathematics** — A democracy assumes the capacity of all members of the community to participate in the public debates and social action through which important decisions are made. Increasingly, fully informed participation requires mathematics. Students are encouraged to develop an appreciation of the process of growth and change and the relationship between mathematics and society.

**Health and physical education** — The key principles of this learning area are diversity, social justice and supportive environments. This learning area aims to develop in students the knowledge, skills, processes and values to assist them to make informed choices and take action to support those values that are important to the society to which they belong.

## Appendix I

### Human Rights Training in the Australian Defence Force (ADF)

Human rights and humanitarian issues are an integral part of a comprehensive training approach for all ADF personnel. The two main areas of human rights training in the ADF are training in international humanitarian law (with an emphasis on Law of Armed Conflict) and awareness of appropriate workplace attitudes and behaviour.

#### International humanitarian law training

The Laws of Armed Conflict (LOAC) encompass all international law with respect to the conduct of armed conflict binding on Australia and on individual members of the ADF, either in treaties and international agreements to which Australia is a party, or under customary international law. The ADF undertakes to train all its personnel in the LOAC to the level of understanding appropriate for their duties and responsibilities. The aim is to ensure that personnel:

- a. are aware that LOAC regulates the conduct of armed conflict;
- b. know that part of LOAC which controls the means and method of combat;
- c. know what is prohibited and what is specifically protected under LOAC;
- d. are aware of a commander's legal responsibilities in the conduct of operations; and
- e. are aware of the rules which, if violated, make an individual personally liable for breaches of LOAC.

The Chief of the Defence Force has directed that LOAC training be undertaken in four job related categories:

- |                 |  |
|-----------------|--|
| <b>Level A.</b> | Level A is the minimum level of understanding required of all ADF personnel. The aim is to inform soldiers, sailors and airmen of the basic principles of humanitarian law, their individual responsibilities and to emphasise the rules which are absolute. |
| <b>Level B.</b> | Level B builds on this understanding and is designed for members of operational units which could have direct contact with the enemy. It also makes provision for military specialisation and the level of rank.   |
| <b>Level C.</b> | Level C training is a requirement for those personnel involved in planning and directing combat operations and post-combat administration at headquarters/command level.   |
| <b>Level D.</b> | Level D training is for service legal officers and is designed to equip them with the necessary expertise to provide advice to operational commanders.   |

Australia's obligations under international humanitarian law is covered in initial employment training including pre-commissioning training for officer cadets, promotion or career development courses, single Service Staff Colleges, the Joint Services Staff College and other routine training courses. Current directives also require operational units to include such training in ADP exercise activities.

Additional training (covering, inter alia, humanitarian aspects) is also given to units prior to deployment to operational areas:

- immediately prior to departure for service overseas all members under command of Land Headquarters receive instruction in cultural diversities they will experience overseas and LOAC issues. This instruction emphasises that civilians and civilian property are to be respected at all times; and
- for example, prior to deployment to Somalia, 1 RAR Battalion received training by legal staff in Townsville on various aspects of peacekeeping operations, which included the procedures for handling civilian criminal offenders. This training was detailed and included working the troops through scenarios and playlets. The object of the training was to ensure that the troops would conduct themselves in accordance with both international humanitarian and domestic Australian laws.

ADF Standard Operating Procedures and operational concepts take into account the obligations of international law, such as those of the 1907 Hague Conventions, the 1925 "Poison Gas" Protocol, the 1949 Geneva Convention and its 1977 Protocol, the 1977 Environmental Modification Convention, the 1983 Inhumane Weapons Convention, and the 1993 Chemical Weapons Convention.

The ADF recognises the contribution that community organisations and NGOs can make to assist in the dissemination of human rights law. For some time now, the International Committee of the Red Cross has been assisting in this role by giving presentations to single Service Staff Colleges, the ADF Peacekeeping Seminar and other ADF personnel.

- It is envisaged that there could be an enlarged role for the Red Cross in this area following the opening of the new Australian College of Defence and Strategic Studies; and
- it is intended that future Peacekeeping Seminars will devote more time to the role of NGOs in peacekeeping operations.

## Review of policy

The training policy for international humanitarian law/LOAC is currently under review by the Defence Force Legal Services Branch and, once finalised, will be produced as a Defence Instruction General.

A commander's guide on the LOAC is currently being drafted and will be finalised by the end of the year.

There has recently been increased emphasis placed on education of ADF personnel in human rights law.

- A draft curriculum for the planned Australian College of Defence and Strategic Studies includes human rights, conflict resolution, the United Nation's role, collective security, peacekeeping and international law as part of its study of international security issues.
- The Training Directorate of the Headquarters Australian Defence Force (HQADF) is currently looking at developing, in conjunction with ADFA, a number of courses, primarily on the Law of Armed Conflict, which will cover humanitarian issues. These courses will be designed for personnel (primarily military) who are likely to be involved in operations where they may come into contact with enemy forces. It is planned that there will be a number of places available for foreign students on each course. Current planning envisages two courses per year.

## Awareness of appropriate workplace attitudes and behaviour

The 19 grounds for discrimination identified by the Human Rights and Equal Opportunity Commission have been under review by Headquarters Australian Defence Force (HQADF) for the past two years. A paper on this subject will be submitted in mid-October for consideration by the Defence Force Personnel Policy Committee.

Defence Instruction (General) (DI-(G)) 35-3 "Unacceptable Sexual Behaviour by Members of the Australian Defence Force" is being reviewed within the ADF and is expected to be available early in 1994.

Other relevant documents include: DI(G) 44-1 "Avoidance and Elimination of Racial Discrimination and Racial Behaviour", Departmental Personnel Instruction (DPI) 3/89 "Elimination of Sexual Harassment", and DP! 3/91 "Non-Offensive Working Environment".

## Navy

Mixed Gender Awareness training currently under way in the RAN is as follows:

Recruit Training. All new recruits receive a four hour module covering communal harmony and fraternisation issues. Instructors at the Recruit's School are briefed on sexual harassment, fraternisation and discrimination issues.

Junior Officer Initial Training. A three hour module covering dress, etiquette, protocol and customs, fraternisation and gender awareness is included in initial training for new entry officers at HMAS Creswell.

Junior Officers' Staff Course. Mixed Gender Awareness issues are included in the "Supervising in an Integrated Environment" module.

Other courses. Modules on D1(G) "Unacceptable Sexual Behaviour" are included in a number of other courses for Commanding Officers, Warrant Officers, and Petty Officers. The RAN Staff Course (for mid-seniority officers) this year conducted a module entitled "Women and Equality in Australia".

The Navy is currently undertaking a Good Working Relationships initiative aimed at developing a comprehensive program of change which recognises, values and manages diversity in the Navy's workforce and eliminates inappropriate workplace attitudes and behaviours— including all forms of discrimination, harassment, fraternisation and anything else which undermines cohesion, discipline, command relationships and operational effectiveness of the work unit.

The Good Working Relationships project is being conducted in four stages between May and December this year. The project involves interviews with naval personnel which will form the basis of recommendations on policy changes and education programs required to establish a harmonious work environment. It is planned that the training program which will subsequently be developed for naval personnel will begin around January next year; and

- training will be conducted at four levels (junior sailors, senior sailors, junior officers, senior officers) and will be integrated with existing courses or courses currently being developed.

A confidential toll free telephone number has been established to provide an information and referral service to any RAN personnel who consider they have been subjected to, accused of, or witness to any form of discrimination or harassment and who wish to seek information about their rights and options for further action. Toll free ISO numbers which give RAN personnel serving overseas or in deployed ships access to Operation Lifeguard will be promulgated shortly.

## Army

The opening of combat related positions to service women in 1990 resulted in the Army forming the Combat Related Employment of Women Evaluation Team (CREWET) in January 1991. It was decided within the Army to develop and issue leadership guidelines for commanders of mixed-gender units and a mixed gender awareness package for the Army.

A draft 'Leadership Considerations Mixed-Gender Service in Land Command Units' package was developed and issued to units in April 1991. The package was discussed with commanding officers and they were urged to implement mixed-gender awareness training at unit level;

- the draft document has since been formalised and the booklet 'Leadership Considerations Mixed-Gender Service in the Army' has been distributed to all officers and NCOs.

All newly recruited Army personnel pass through one of the following institutions for recruit training — 1 Recruit Training Battalion (1 RTB, Kapooka), a direct entry course for specialist officers (doctors, dentists, etc) at the Land Warfare Centre, training at the Army TAPE, or officer cadet training at the Royal Military College, Duntroon.

- The Standing Operating Procedures and induction training for these courses cover issues such as discrimination on racial, religious and gender grounds; and
- Gender Awareness Training (GAT) has been introduced at RMC, 1 RTB and in leadership courses at the Land Warfare Centre. GAT includes explanation of policies relating to employment of women, fraternisation, sexual harassment and unacceptable sexual behaviour.

Promotion courses, pre-commander courses, Junior Staff Courses, and Command and Staff College courses all contain components on gender awareness or sexual harassment in the workplace.

## Air Force

RAAF personnel receive awareness training in unacceptable sexual behaviour and sexual harassment issues in the following training environments:

- 1 Recruit Training Unit. All airmen and airwomen go through 1RTU as part of their induction;
- RAAF College. Officer training courses including Junior Officer Initial Executive Courses, Administrative Officers' Basic Course, Basic Staff Course, and Commanding Officers' Course;
- The RAAF School of Management and Training Technology. Residential courses for promotion to Corporal, Sergeant and Warrant Officer; and
- Command and Staff Course.

The majority of RAAF bases have a mixture of civilian and service Equal Employment Opportunity (EEO) and Sexual Harassment Contact Officers.

The RAAF is currently closely reviewing its policy regarding unacceptable behaviour in the workplace and considering ways to improve its training in this area.



## Appendix J Human

### Rights Manual

The Human Rights Manual has been prepared by the Department of Foreign Affairs and Trade's Human Rights Section for the purpose of fostering a deeper understanding of human rights amongst officers of the Department and of the Australian International Development Assistance Bureau (AIDAB), who would be expected to handle human rights as a part of their daily responsibilities, both in Canberra and at posts overseas.

The manual is not intended to be an exhaustive examination of the history, principles or current status of human rights issues: there are numerous texts and journals devoted to these issues which can be consulted for more detailed examination of various aspects of human rights. In addition, the manual seeks to provide officials with a sound, general introduction to the main themes and issues in the human rights field, and to serve as a basic reference book for officers in the course of their work. There is also a detailed summary of the main treaties and organizations which are directly relevant to a good understanding of contemporary human rights practice.

This first edition of the Manual is intended to serve as the basic document for use in the Department's human rights training program for officers of the Department of Foreign Affairs and Trade and AIDAB. This program is intended to focus in greater detail on the implications of human rights from an operational point of view. The Manual is also publicly available.