





**HUMAN  
RIGHTS  
COMMISSION**

# **Annual Report 1982-83**

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**Human Rights Commission  
GPO Box 629  
Canberra A.C.T. 2601**

Senator The Hon. Gareth Evans  
Attorney-General  
Parliament House  
Canberra A.C.T. 2600

Dear Attorney-General,

I have pleasure in enclosing with this letter the Report of the Commission on its operations from 1st July 1982 to 30th June 1983. Pursuant to subsection 29(1) of the *Human Rights Commission Act 1981*, the Report covers the operations of the Commission under both the Act and the *Racial Discrimination Act 1975*.

Yours sincerely

*Chairman for and on behalf of  
the Human Rights Commission*



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# STATUTORY FUNCTIONS

## Statutory Functions

**The Human Rights Commission** was set up by the Commonwealth Government to promote and protect human rights in Australia. Its functions are described in section 9 of the *Human Rights Commission Act 1981*, and, broadly speaking, the Commission is able to review legislation, investigate complaints, and undertake research and educational programs affecting human rights. The Commission has also been given responsibility for the administration of the *Racial Discrimination Act 1975*, but under that legislation the Commissioner for Community Relations has responsibility for inquiring into, and endeavouring to settle, complaints of racial discrimination.

Section 9 of the *Human Rights Commission Act 1981* reads:

9. (1) The functions of the Commission are —

- (a) to examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments are, or would be, inconsistent with or contrary to any human rights, and to report to the Minister the results of any such examination;
- (b) to inquire into any act or practice that may be inconsistent with or contrary to any human right, and —
  - (i) where the Commission considers it appropriate to do so — endeavour to effect a settlement of the matters that gave rise to the inquiry; and
  - (ii) where the Commission is of the opinion that the act or practice is inconsistent with or contrary to any human right, and the Commission has not considered it appropriate to endeavour to effect a settlement of the matters that gave rise to the inquiry or has endeavoured without success to effect a settlement of those matters — to report to the Minister the results of its inquiry and of any endeavours it has made to effect such a settlement;
- (c) on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to human rights;
- (d) when requested by the Minister, to report to the Minister as to the action (if any) that, in the opinion of the Commission, needs to be taken by Australia in order to comply with the provisions of the Covenant, of the Declarations or of any relevant international instrument;
- (e) on its own initiative or when requested by the Minister, to examine any relevant international instrument for the purpose of ascertaining whether there are any inconsistencies between that instrument and the Covenant, the Declarations or any other relevant international instrument, and to report to the Minister the results of any such examination;
- (f) to promote an understanding and acceptance, and the public discussion, of human rights in Australia and the external Territories;

- (g) to undertake research and educational programs, and other programs, on behalf of the Commonwealth for the purpose of promoting human rights and to co-ordinate any such programs undertaken by any other persons or authorities on behalf of the Commonwealth;
  - (h) to perform —
    - (i) any functions conferred on the Commission by any other enactment;
    - (ii) any functions conferred on the Commission pursuant to any arrangement in force under section 14 and
    - (iii) any functions conferred on the Commission by any State Act or Northern Territory enactment, being functions that are declared by the Minister, by notice published in the Gazette, to be complementary to other functions of the Commission; and
  - (j) to do anything incidental or conducive to the performance of any of the preceding functions.
- (2) The Commission shall not —
- (a) regard an enactment or proposed enactment as being inconsistent with or contrary to any human right for the purposes of paragraph (1)(a) or (b) by reason of a provision of the enactment or proposed enactment that is included solely for the purpose of securing adequate advancement of particular persons or groups of persons in order to enable them to enjoy or exercise human rights equally with other persons; or
  - (b) regard an act or practice as being inconsistent with or contrary to any human right for the purposes of paragraph (1)(a) or (b) where the act or practice is done or engaged in solely for the purpose referred to in paragraph (a).
- (3) For the purpose of the performance of its functions, the Commission may work with and consult appropriate non-governmental organizations.

Section 20 of the *Racial Discrimination Act 1975* reads:

20. In addition to the functions of the Human Rights Commission under the *Human Rights Commission Act 1981*, that Commission has the following functions:

- (a) to inquire into alleged infringements of Part II, and endeavour to effect a settlement of the matters alleged to constitute those infringements, in accordance with section 21;
- (b) to promote an understanding and acceptance of, and compliance with, this Act; and
- (c) to develop, conduct and foster research and educational programs and other programs for the purpose of —
  - (i) combating racial discrimination and prejudices that lead to racial discrimination;
  - (ii) promoting understanding, tolerance and friendship among racial and ethnic groups; and
  - (iii) propagating the purposes and principles of the Convention.

The Commission is an independent statutory authority, which 'has the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions' (section 10, *Human Rights Commission Act 1981*).

## PREFACE

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This Annual Report is a statement of the Commission's method of operations; it is also a record of the specific activities undertaken during the year ending 30 June 1983. The Commission believes that its operations, whenever possible, should achieve practical results, and this Report is presented in a way which, it is hoped, emphasises the practical nature of the Commission's work.

Part A outlines the activities of the Commission, beginning with a brief overview of human rights in Australia and of philosophies adopted by the Commission during the year. Following this, there is a description of all the Commission's activities; this description is divided according to the Commission's chief functions — complaints, consultations, information and education, inquiries, legislative review, research and administration.

Part B deals with the Racial Discrimination Act and the activities of the Commissioner for Community Relations.

Part C deals with new directions the Commission is likely to take in the future and outlines problems and changes which the Commission believes need consideration to enable its work to proceed effectively.

Most of the statistical and mechanical details have been included in the Appendixes.

The first Annual Report of the Commission (1981-82) detailed the history of the organisation from conceptualisation to commencement. The reader is referred to the earlier document for background information.



# PART A: THE YEAR IN REVIEW

## INTRODUCTION

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### **International Human Rights Instruments**

The *Human Rights Commission Act 1981* and the *Racial Discrimination Act 1975* take account of Australia's obligations under international instruments on human rights. The Racial Discrimination Act is based upon the International Convention on the Elimination of All Forms of Racial Discrimination, while the Human Rights Commission Act has annexed to it as schedules the International Covenant on Civil and Political rights, the Declaration of the Rights of the Child, the Declaration on the Rights of Mentally Retarded Persons, and the Declaration on the Rights of Disabled Persons.

The International Covenant on Civil and Political Rights proclaims the rights of all people to:

- privacy;
- marriage and family;
- their own language, culture and religion;
- participation in public affairs;
- freedom of expression, movement, association and assembly;
- protection of their inherent right to life;
- liberty and security of person;
- freedom from degrading treatment or punishment; and
- equal treatment with others under the law.

In addition to the universal rights of the ICCPR, the three Declarations assign particular rights to children, people with disabilities, and people who are intellectually disadvantaged.

The Declaration of the Rights of the Child states that all children are entitled to:

- a name and a nationality;
- opportunities to develop fully in conditions of freedom and dignity;
- adequate care, affection and security, including pre-natal care;
- education;
- special treatment, education and care if handicapped; and
- protection against cruelty and neglect.

All intellectually disadvantaged people have the following additional rights, according to the Declaration on the Rights of Mentally Retarded Persons:

- proper medical care and therapy;
- economic security;
- education, training, and work and trade union membership;
- a qualified guardian; and
- review of procedures which may deny them these rights.

The Declaration on the Rights of the Disabled affords the following additional rights to disabled people:

- respect;
- family and social life;
- economic security;
- education, training, employment and trade union membership; and
- protection from discriminatory treatment.

The Racial Discrimination Act makes it unlawful to discriminate on grounds of race, colour, descent, and national or ethnic origin in:

- doing any act which involves such discrimination;
- refusing access to places and facilities;
- transactions in land or providing accommodation;
- refusing to provide goods and services;
- restricting entry to trade unions;
- employing, or dismissing a person;
- public advertisements; and
- inciting the doing of an unlawful act.

### **Responsible Minister**

The Minister responsible for the Commission is the Attorney-General, who, until 5 March, was Senator the Honourable Peter Durack, Q.C., and, since that date, is Senator the Honourable Gareth Evans.

The Minister has the following powers under the *Human Rights Commission Act 1981*:

- (a) to make, vary or revoke an arrangement with a State or the Northern Territory for the performance of functions relating to the promotion of the observance of human rights in various ways; and
- (b) to declare, after consultation with the States and the Northern Territory, an international instrument to be an international instrument relating to human rights and freedoms for the purposes of the Act.

Under the *Human Rights Commission Act 1981*, the Attorney-General has the power to issue to the Commission a certificate certifying that the disclosure of certain information or the disclosure of the contents of certain documents would be contrary to the public interest.

The Minister is able also, under section 9 of the *Human Rights Commission Act 1981*, to request the Commission to perform certain functions such as the examination of proposed enactments to ascertain whether they are inconsistent with or contrary to any human rights.

Under the *Racial Discrimination Act 1975*, the Attorney-General has the power to authorise, in certain circumstances and under certain conditions, the provision of legal or financial assistance to a person who is involved in court proceedings in relation to the ACT.

### **Membership**

**The Human Rights Commission** consists of seven part-time Commissioners, including its Chairman, and one full-time Commissioner, its Deputy Chairman, whose status is similar to that of a departmental permanent head. There have been no changes in the Commission's composition since appointments were made on 25 September 1981.

The Commission's Chairman is the Honourable Dame Roma Mitchell, **D.B.E.**, a long-serving Judge, and since 9 May 1983 Acting Chief Justice, of the South Australian

Supreme Court. Before her appointment to the bench in 1965, Justice Mitchell had the distinction of being the first female barrister in Australia promoted to Queen's Counsel. Justice Mitchell was created Dame Commander of the British Empire in 1982 in recognition of her outstanding record for community activity, which includes service as Deputy Chancellor of the University of Adelaide and Deputy National Chairman of the Winston Churchill Memorial Trust.

Mr Peter Bailey, O.B.E., the Deputy Chairman, is a former Rhodes Scholar, and had a wealth of administrative experience in the Commonwealth Government before his appointment to the Human Rights Commission. He was Deputy Secretary to the Department of Prime Minister and Cabinet until 1974, when he was appointed a member of the Royal Commission on Australian Government Administration. In 1979 he was appointed Special Adviser on Human Rights in the Attorney-General's Department, and in 1980 he became Head of the Human Rights Bureau, the forerunner of the present Commission.

Professor Manual Aroney, O.B.E., is Associate Professor of Inorganic Chemistry at the University of Sydney. He is a member of the Executive of the Ethnic Communities' Council of NSW, and of the Australian Institute of Multicultural Affairs. He was a member of the National Ethnic Broadcasting Advisory Council and of the Board of the Special Broadcasting Service.

Professor Peter Boyce left his position as Head of the Department of Government at Queensland University to become Professor of Politics at the University of Western Australia. He is an executive member of the Australia-New Zealand Foundation, and a member of the Consultative Committee on Relations with Japan for the Commonwealth Government. Professor Boyce has, for the past two years, been President of the Australian Institute of International Affairs (W.A. Branch).

Mrs Norma Ford is Deputy Chairperson of the National Status of Women and Decade Committee of the United Nations Association of Australia, and an occasional member of the Victorian Equal Opportunity Board. She is a solicitor and barrister from Traralgon, Victoria, and has been National President of the Australian Federation of Business and Professional Women. Mrs Ford is also a member of the Tertiary Education Commission's Advanced Education Council and of the Australian Bicentennial Authority Victorian Council. In 1983 Mrs Ford was appointed a member of the Advisory Council on Women to the Victorian Premier and of the Equal Opportunity Advisory Council to the Premier.

Mrs Eva Geia is a member of the National Aboriginal Conference and of the Aboriginal Development Commission. She is also President of the Abis Community Co-operative Society Limited, an organisation which administers housing, hostel, sporting, welfare, and education programs for the Aboriginal and Torres Strait communities of the Townsville district.

Dr Christopher Gilbert is a Senior Lecturer in Constitutional and Administrative Law at the University of Queensland. He has been actively involved in human rights issues and was a member of the Queensland Committee for the International Year of Disabled Persons.

Ms Elizabeth Hastings is a counsellor at La Trobe University, and was an executive member of the Victorian Committee for the International Year of Disabled Persons. She has been an executive member of the Yooralla Society of Victoria, a Director of the Paraplegic and Quadraplegic Association of Victoria and was a foundation member of Disabled Peoples International in Australia.

The appointments of Dame Roma Mitchell, Ms Geia, Dr Gilbert and Ms Hastings expire on 30 November 1984, while those of Mr Bailey, Professor Aroney, Professor Boyce and Mrs Ford expire on 30 November 1986.

In addition to attendance at regular meetings of the Commission, each Commissioner undertook considerable extra work of a promotional and educational kind on behalf of the Commission. This often involved going to meetings in a representative capacity and, in the case of several Commissioners, has involved work which would have been undertaken by staff of the Commission, had these been available. Apart from this unpaid activity, there were identifiable specific occasions on which Commissioners undertook assignments on behalf of the Commission. The main additional activities of this latter kind which were undertaken in 1982-83 are listed in Appendix 4.

#### **Commissioner for Community Relations**

The seven-year appointment of the Honourable A. J. Grassby as Commissioner for Community Relations expired on 31 October 1982. The appointment of Mr Jeremy Long as Commissioner for Community Relations was announced on 29 October 1982, and he took up his appointment on 8 November 1982. Mr Long was formerly Deputy Secretary of the Department of Aboriginal Affairs, a position which he had held since 1975. From 1955 to 1968 he worked in Aboriginal welfare in the Northern Territory and in 1965 spent a year as research fellow with Professor Charles Rowley in a study of Aborigines in Australian society, and published a book on *Aboriginal Settlements*. He has also written a number of articles and papers on the situation of Aboriginal people. He has been a member of the Australian Institute of Aboriginal Studies since 1965 and was appointed to the Council of the Institute in 1974. Mr Long's appointment as Commissioner for Community Relations expires on 6 November 1989.

# COMPLAINTS

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As outlined in its first Annual Report, the Human Rights Commission has established procedures for inquiry into complaints about infringements of rights, both under the *Human Rights Commission Act 1981* and the *Racial Discrimination Act 1975*.

Individuals or groups of people may complain to the Human Rights Commission about infringements of their civil and political rights, and about infringements of rights arising from their status as children, people who are mentally retarded or people who are physically disabled and arising from their race, colour, descent, national or ethnic origin. Complaints under the Racial Discrimination Act are dealt with in Part **B**.

When a complaint under the Human Rights Commission Act is received, the Commission inquires into it with a view to settling the matter between the parties. The emphasis is upon conciliation, whereby the Commission's officers assist parties to arrive at a settlement which is mutually satisfactory. Where settlement is not achieved through conciliation the Commission may report on a matter under the Human Rights Commission Act to the Minister.

During the year, 145 complaints were received under the Human Rights Commission Act.

As noted elsewhere, the inaugural establishment of the Commission proved, with a developing workload, to be inadequate in almost all sectors of activity. The inadequacy was nowhere more pronounced than in the small but devoted group which handles complaints. There are only three conciliators in the team, and urgent requests were made for the addition of at least two more. The absence of any supplementation meant that the Commission had to confine the operation of its conciliating team largely to the areas already covered — mainly in northern Victoria, northern New South Wales and south eastern Queensland, and in some northern areas of Queensland (see Appendix 9). It was not possible to undertake any systematic work in Western Australia or the Northern Territory, both areas where there is a clear need to promote implementation of the Racial Discrimination Act in particular.

Complaints about infringements of human rights under the Human Rights Commission Act concerned a wide variety of matters, including complaints against the Commonwealth Government and instrumentalities for deporting persons convicted of crimes who had served their sentences and who were long time permanent residents in Australia. Other complaints involved the rights of mentally handicapped persons to equality of opportunity in the use of government and community services, the rights of residents in institutions providing for the needs of those who are physically disabled or mentally retarded, the rights of prisoners to fair treatment in gaols, rights to privacy, the rights of a child to know her/his natural mother, the right to equal treatment under the law and to equal protection of the law regardless of homosexual status, the right to immigrate to Australia despite physical disability, the rights of public servants and employees in tertiary education institutions to their reputation in promotions and appeals processes and the rights of children to participate in custody decisions of the Family Court. Some of these complaints, for example those dealing with deportation, became topics of research projects by the Commission.

Some examples of complaints are:

*Employment of People with Disabilities.* A person with diabetes who had satisfied selection criteria for employment with a large firm was advised that his employment would not be confirmed because of his medical condition. The complaint received by the Commission was put to the employer who undertook to investigate the circumstances of the case. The matter was settled when the complainant was offered a position with the firm.

*Health Insurance.* A single supporting parent with one child complained that she was required to pay the equivalent of two adult contributions to have herself and her daughter covered by health insurance.

The Department of Health advised that the health insurance system is based on a 'community rating principle' whereby everyone pays the same contribution rate regardless of health risk, age or number of dependants. The only concession to this was in the case of a single person who paid half the basic family rate. The Department advised that more widespread use of concessional levies would be potentially inequitable and would constitute a movement towards a direct user pays system. The complainant was advised that the public insurance scheme being developed by the Government would be more equitable from the point of view of single supporting parents.

*Immigration.* A man complained that he had been consistently refused permission to migrate to Australia because he was a dwarf. The matter was referred to the Department of Immigration and Ethnic Affairs for comment. The complainant was advised of the Commission's plans to conduct inquiries into Australia's immigration legislation to determine whether any parts of it are inconsistent with or contrary to any human rights. This case will be given consideration as part of that study.

*Electors' Rights.* A complaint was received that existing electoral legislation in regard to the House of Representatives infringed Article 25 of the International Covenant on Civil and Political Rights which refers to the rights to ' . . . take part in the conduct of public affairs, directly or through freely chosen representatives. . . 'and 'to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors. . . The complainants maintained that under the present system many voters are not fully afforded the right to have freely chosen representatives and the right to equal suffrage, and that the results of elections did not fully represent 'the free expression of the will of the electors'.

The view adopted by the Commission is that Article 25 provides a minimum standard which must prevail in democratic electoral processes. Although the Commission recognises that there are arguable advantages in other systems of representation it could not be said, given the current international law and treatment of these issues by other States Parties to the Convention, that Article 25 compels the adoption of other forms of representation in Australian Federal elections. The complainant was advised accordingly.

The pattern emerging from complaints, correspondence and other information received by the Commission is that although infringements of rights do not come to the notice of the Commission on a large or wide-ranging scale, members of minority groups suffer disadvantage. This appears to be directly related to those factors which identify them as members of the group.

The rights of children are infringed from time to time by law enforcement agencies, within education systems and within their families.

The rights of people with mental disabilities, particularly those living in institutions, are at times infringed by their being virtually imprisoned without adequate services being

provided to them and without facilities to maintain their dignity as individuals. They are denied the right of access to means of communication with persons outside their institutions.

People with physical disabilities are seen by some people to be denied many rights within the general community and particularly within institutions established for their welfare. Disabled persons do not have free and easy access to organisations providing services for the general community on the same basis as other members of the community. Their disabilities are aggravated by the lack of facilities to allow free movement and to meet their personal needs. Institutions for disabled persons are seen by some to attend more to the needs of the institution than to the needs of the disabled residents. Freedom of movement, of association and of communication are limited and apparently denied at times by practices employed within institutions. The Commission shares the concern of others in the community, and will act as it can to see that remedies are provided in respect of any such complaints it may receive.

# CONSULTATIONS

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One of the Commission's most important functions is the dissemination of human rights information to ensure that people in the community are made aware of their own human rights and the rights of others. The Commission has found that an effective means of informing a wide range of people is to consult with organisations catering for specific needs and interests in the community. This allows representatives from non-government organisations to return to their constituents, informing them about the consultation and the issues raised. In this way, the Commission can reach many more people than would otherwise be possible. The method also provides information to the Commission on what the community wants and needs, and can suggest new topics for research or investigation to the Commission.

A formal consultation with non-government organisations was held in Canberra on the evening of 29 September 1982. Four Commissioners and five officers met representatives of 28 A.C.T. groups, while another 14 groups and representatives from nine Commonwealth departments attended as observers. The Deputy Chairman, on behalf of the Chairman, opened proceedings with a description of the Commission's structure, functions and operations. Following Mr Bailey's introduction, the participants divided into three discussion groups: one on education and human rights in schools, one dealing with the A.C.T. Mental Health Ordinance, and one on the rights of prisoners from the A.C.T. in N.S.W. gaols. Dr Gilbert and Ms Hastings each conducted one of the workshops. All topics had previously been suggested to the Commission by a steering committee of interested individuals and by submissions received by the Commission.

To increase its accessibility to community organisations, the Commission held three of its meetings away from Canberra during the year. In Brisbane, Adelaide and Cairns, the Commission made time during its meetings to have discussions with representatives from many non-government organisations concerned with human rights, and these were also followed up, outside the meetings, by personal contacts between members of the Commission and representatives of these organisations.

During 1982-83 the Commission continued its consultations with the States and the Northern Territory to achieve a comprehensive coverage for receiving complaints about and promoting human rights in Australia. Without such coverage, the Commission cannot carry out its work effectively. The Commission is pursuing the creation of joint offices with each State or Territory to handle complaints and to share research, education and promotion. In this way a single point of access can be maintained for the public, rather than a host of organisations with overlapping responsibilities and duplicated resources. Progress with negotiations has proceeded, and agreement for co-operation under section 11 of the Human Rights Commission Act was reached between the Attorneys-General of the Commonwealth and of Victoria on 14 June 1983. This agreement has been followed up by the Commission by establishing detailed working arrangements with the Victorian Commissioner for Equal Opportunity and her office.

All human rights and racial discrimination complaints originating in Victoria will be directed to the Victorian Commissioner for Equal Opportunity who is empowered to deal with three specific categories of complaints:

- complaints about matters where an individual remedy can be achieved;

- complaints which involve policies (including those of a Commonwealth agency) taken within the State; and
- complaints which the complainant wishes to be settled at a State level.

It is expected that major complaints of a national character or requiring lengthy research will be referred to the Commission in Canberra, which will take responsibility for the collection of all complaint statistics. The Human Rights Commission will meet all the complaint-handling costs incurred by the Commissioner for Equal Opportunity on its behalf, including the payment of one clerical salary, and administrative expenses. These arrangements are to be reviewed after three months of operation.

The Commission keeps abreast of human rights developments not only in Australia, but also internationally. During the year the Commission received visitors from overseas and was represented at a number of international gatherings. Professor T. D. Campbell, Professor of Jurisprudence at the University of Glasgow, called on the Commission in November, while he was a visiting research fellow at the Australian National University. Two other overseas visitors with special interest in human rights held discussions with the Commission in February: Mr Pat Downey, Chief Human Rights Commissioner for New Zealand, and Mr B. L. Strayer, Assistant Deputy Minister from the Canadian Department of Justice.

While the Deputy Chairman was on leave overseas, he attended the United Nations Seminar on the Experience of Different Countries in the Implementation of International Standards on Human Rights, held in Geneva in June 1983. One of the Commission's senior officers, Dr Helen Ware, received invitations to attend two international seminars during the year. Dr Ware was the guest of the Economic and Social Commission for Asia and the Pacific at its Meeting on Integration of Women in Development held in Bangkok in August. She also attended a meeting of the United Nations Expert Group on Improving Statistics on the Status of Women in New York in April 1983.

## INFORMATION AND EDUCATION

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The basis for the Commission's information and education activities is found in paragraphs 9(1)(f) and (g) of the Human Rights Commission Act and paragraphs 20(b) and (c) of the Racial Discrimination Act. These give the Commission the functions of promoting understanding, acceptance and public discussion of human rights and of undertaking educational programs designed to promote human rights as well as tolerance and friendship among racial and ethnic groups.

Such tasks require a planned, rather than ad hoc, approach to the development of activities. Consequently the Commission has agreed that from 1983-84 onwards an annual information program will be prepared by the Commission. This will enable priorities and target audiences to be agreed, thus ensuring the most effective use of the human and financial resources available.

Clearly, an understanding of the level and extent of knowledge about human rights in Australia is a pre-requisite for the development of a co-ordinated information program if the Commission is to reach the appropriate audiences. The Commission was able to form an impression of what is known about human rights through its increasing contact with the community. This process was assisted by holding Commission meetings away from Canberra and through the attendance of Commissioners and staff at conferences, seminars, workshops and meetings around Australia. Field work, research projects and inquiries also provide valuable feedback. Nonetheless, the Commission is considering undertaking a systematic survey on the extent of knowledge of human rights to plan future information and education programs.

Constructive and positive contact with representatives of the print and electronic media was developed. This process was assisted by meetings with local media workers when the Commission met in Brisbane, Adelaide and Cairns and by the involvement of representatives of the media in the Conference on Freedom of Expression and Racist Propaganda.

Essentially, the *aim* of the Commission's information work is to fulfil its statutory functions of promoting an awareness and understanding of human rights; to develop an awareness of the existence, functions and powers of the Commission; and, wherever possible, to operate in concert with other government agencies, non-government organisations and individuals concerned with the promotion of human rights.

The *purpose* of its information and education activities is to provide citizens with an understanding of human rights by explaining:

- what human rights are;
- why they are important;
- what rights are 'guaranteed' in Australia;
- how those rights are 'guaranteed' or protected;
- what effect the infringement of human rights has on the community in general and the victims in particular;
- why persons should be concerned about the protection of their own rights; and
- why they should be concerned about the protection of the rights of others.

This understanding can then enable citizens to initiate action if they also know:

- what people can do if their rights are infringed;

- what people can do if the rights of others are infringed;
- what people can do further to promote understanding and observance of human rights; and
- where there are further information sources.

## Audiences

During the year the Commission prepared materials for general audiences but focused particularly on upper primary and lower secondary school students, educators, Aborigines, ethnic communities and Consultative Committees on Community Relations, as well as a diverse range of groups directly associated with the problems of racial discrimination such as publicans, real estate agents, police and media representatives. The Commission undertook specific activities to reach some of these groups in 1982-83, and programs are planned for other groups in the coming year.

The Commission devised a course entitled *Teaching Human Rights: Activities for Schools* which provides activities and materials organised around set topics, including:

- human rights and the law;
- freedom of conscience, opinion and expression;
- the right to live (and the right to die);
- freedom of assembly, association and participation in public affairs;
- equal opportunity;
- non-discrimination (race, gender and disability);
- the family; and
- education.

The course consists of a core manual, three films and three introductory booklets — *Human Rights: A Handbook*, *Human Rights for Humankind: Racism*, and *Human Rights for Humankind: Sexism*. The first of these booklets has been published, and the others are close to completion.

The current draft of the course was appraised by Dr Don Williams, Principal Lecturer in Curriculum Design at the Canberra College of Advanced Education. The course is being tested during the second school term (1983) in selected schools in New South Wales, Victoria and the Australian Capital Territory, and these trials will be evaluated by another three consultants: Associate Professor David Cohen (Macquarie University), Ms Caroline Josephs (A.C.T. Schools Authority), and Mr Colin Henry (Deakin Institute for Studies in Education). Their reports will be carefully considered when the final draft of the course is drawn up, prior to its final preparation for use in schools in 1984. Comments from other interested individuals and organisations, such as Education Departments in all States and Territories, have also been noted.

The Commission has begun informal liaison with other Commonwealth departments and agencies and non-government organisations with long experience in communicating with Aborigines and in using experienced intermediaries for this target audience. The Commission also continues to use other mechanisms, such as complaints and field trips, to reach Aboriginal people. In the course of a four-week visit to the Northern Territory for other purposes early in 1983 Mrs Ford spoke to educators, linguists and members of Aboriginal communities about the most effective ways of presenting information to Aborigines. From her consultations, the Commission's knowledge has been considerably enhanced.

As a basic step in promoting an understanding of its functions to the many ethnic groups in Australia, the Commission translated its pamphlet, *The Human Rights Commission and You*, into 14 languages:

Arabic	Malay
Cambodian	Maltese

Chinese	Polish
Cocos-Malay	Serbian
Croatian	Spanish
Greek	Turkish
Italian	Vietnamese

Another pamphlet, *The Racial Discrimination Act and You*, will soon be produced in these community languages.

In addition reports of the Commission are sent to a wide variety of ethnic organisations and media. Representatives of ethnic organisations have attended discussions with the Commission at its meetings outside Canberra. Invitations to make submissions to the public inquiry into the Migration Act (see Legislative Review) were carried in 22 ethnic language newspapers.

### **Publications**

The Commission adopted a policy of issuing three series of publications: Reports, Occasional Papers and Discussion Papers.

*Reports* on the Commission's considerations of a subject, with associated recommendations, are made to the Attorney-General, and tabled in Parliament.

*Occasional Papers* provide an analytic review of a topic with which the Commission is concerned and raise key issues and arguments, without committing the Commission to any particular view.

*Discussion Papers* contain background information on a particular topic and canvass a range of alternative viewpoints, proposals or suggestions. These papers are designed to elicit public comment and criticism.

In addition the Commission publishes an Annual Report, a newsletter — *Human Rights* -- and a variety of leaflets and special purpose booklets such as *Human Rights: A Handbook* and the Annual Lalor Address on Community Relations.

Further details of all the Commission's publications during the past year appear at Appendix 8. Public response in the form of enquiries and correspondence to the three main categories of publications has been consistent and, in the case of the discussion paper on corporal punishment, outstanding.

Four issues of the Commission's newsletter *Human Rights* appeared during the year. It will appear five times a year in future. It features reports on changes in the law on human rights, news of all Commission activities, as well as other news from outside. The newsletter is sent to approximately 3,500 organisations and individuals in Australia and overseas.

### **Resource Centre**

*Library.* Over the past year the library has consolidated its collection. A subject index has been developed and cataloguing of the monographs was commenced in 1982-83. Although a full catalogue remains to be produced, the book collection is accessible by author, and 15 basic bibliographies on particular subjects have been compiled. Topics of these bibliographies are listed in Appendix 8 and copies can be obtained from the Resource Centre.

*Publications/Distribution Unit.* The large number of requests for information and for copies of publications, together with the increase in publishing, has led to the streamlining of the publications/distribution unit's activities. The development of an effective mailing list has aided this process.

# INQUIRIES

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In the course of its dealings with the public, the Commission receives many suggestions for issues it might wish to pursue. Complaints about racial discrimination or human rights infringements are a particularly fruitful source. Often these issues require more than one method of approach — research, investigation, public forums, submissions from the public — and are best managed by conducting an inquiry. In 1982-83 the Commission held four such inquiries.

## **Freedom of Expression**

One of the Commission's major activities in 1982-83 was its inquiry into freedom of expression, a project determined soon after the Commission's inauguration to examine Commonwealth law and practice against Article 19 of the ICCPR. Components of the inquiry included public submissions, a proposed discussion paper summarising issues raised, a conference and three follow-up inquiries.

The Commission advertised for submissions to the freedom of expression inquiry and received fifty-two, covering a wide range of issues. Because of the Commission's limited resources, it decided to focus on four aspects immediately, while other issues will be considered later. The four aspects are:

- section 116 of the *Broadcasting and Television Act 1942*;
- controls on peaceful assemblies in Commonwealth places;
- freedom of expression of people with disabilities; and
- freedom of expression and racist propaganda.

### *Section 116 of the Broadcasting and Television Act 1942*

Since this inquiry commenced, Parliament has amended section 116 to repeal the 'election blackout' provisions of the Act, except those relating to paid political advertisements. The Commission decided therefore to limit the inquiry to an examination of the following two aspects of the section (which are unaffected by the legislative change):

- (a) the prohibition against dramatising current political matter, provided for in sub-section 116(2); and
- (.13) the right of freedom of expression of candidates for Parliamentary elections, as provided for in sub-sections 116(3) and (5).

Substantive work on the inquiry was begun, and the Commission intends to complete this work early in the coming year.

### *Controls on Peaceful Assemblies in Commonwealth Places*

**This inquiry addresses the question** of whether the State legislation that (by virtue of the *Commonwealth Places [Applications of Laws] Act 1970*) controls peaceful assemblies held in Commonwealth places in the States (e.g. Commonwealth Government offices, post offices and airports located on Commonwealth Government land) is contrary to the rights to freedom of expression and to freedom of assembly as provided for in Articles

19.2 and 22 of the ICCPR. The Commonwealth Places (Application of Laws) Act operates, in effect, to apply certain State legislation in places acquired by the Commonwealth for public purposes.

Submissions were requested by 18 March 1983, but only two were received by that date. It is likely that the Commission will complete this inquiry with an in-house review of State legislation.

#### *Freedom of Expression and the Rights of People with Disabilities*

While it is clearly important to emphasise that people with disabilities have a right not to be disadvantaged in receiving and imparting information and ideas, deciding on a project with some practical benefit was found not to be an easy task.

Given the range of disabilities involved and the relatively undefined scope of the right of freedom of expression, generalisations are difficult to make. For example, it is difficult to compare the problems of people who use wheelchairs in attending a public meeting, with the problem of meaningful participation in that meeting faced by people with hearing disabilities. The problems of other people, like those with a visual or intellectual impairment or people living in institutions, compound the difficulty of choosing a topic. The project has, therefore, been put aside until discussion and consultation with interested groups and individuals produce a viable proposal.

#### *Freedom of Expression and Racist Propaganda*

A conference on this subject was held in Melbourne on 12 and 13 November, and was attended by about 80 people. As background material for the conference, the Commission produced two Occasional Papers — *Incitement to Racial Hatred: Issues and Analysis* and *Incitement to Racial Hatred: The International Experience*. Dame Roma Mitchell officially opened the conference and eight papers were presented, including one by Professor Aroney and one by the former Commissioner for Community Relations, the Honourable A. J. Grassby. Ms Elizabeth Hastings conducted one of the two workshops. Major papers were given by Mr Creighton Burns, editor of *The Age*, Mr Barry Cohen M.P. (now Minister for Home Affairs and Environment), Mr Wellington Lee, Chairman of the Federation of Chinese Associations, Senator Alan Missen, and Ms Pat O'Shane, Secretary of the N.S.W. Ministry of Aboriginal Affairs. Sir James Gobbo, a Justice of the Supreme Court of Victoria, delivered the concluding remarks.

The proceedings of the Conference were published by the Commission as an Occasional Paper entitled *Words that Wound*.

The Commission continued during the year to discuss the issues both at its own meetings and with concerned people in the community with the object of preparing a report later in the year.

#### **Inquiry into the Villawood Detention Centre**

From September 1982 the Commission received a number of complaints alleging that the human rights of people held at the Villawood Detention Centre had been infringed. Because of the variety of rights involved in the complaints, the Commission decided in December that an inquiry into the observance of human rights at the Centre should be conducted by Mr Peter Bailey and Mrs Norma Ford.

The Detention Centre holds prohibited immigrants or deportees in custody until they are either deported or released back into the community. The Department of Immigration and Ethnic Affairs has administrative responsibility for the Centre, while the Australian Federal Police are responsible for the custodial functions.

Mr Bailey and Mrs Ford visited the Centre on 19 January, after speaking with representatives of the Department and the Australian Federal Police and after visits to comparable institutions in Victoria and the A.C.T. They observed the day-to-day running and facilities of the Centre. Another visit was made on 6 April to interview the 27 people in detention on that day. On 2 March the Commission advertised the inquiry and called for submissions. Two public hearings were held in Sydney on 13 and 20 April, where 18 submissions were heard, including those from the Department of Immigration and Ethnic Affairs and the Australian Federal Police.

Some practices at the Centre were found to be inconsistent with the detainees' human rights, including:

- the use of closed-circuit television surveillance in the men's bathrooms, which contravenes Article 17 of the ICCPR;
- the restricted access by detainees to Legal Advice. Although advice was not denied, many detainees were ignorant of their right to request such advice, or, if they sought advice, found delays in securing it: the Commission was concerned to find no systematic or formal method of alerting new detainees to their right to seek legal advice or of informing them of rules applying at the Centre; and
- children, when they are detained with parents, were not adequately provided with educational or recreational materials: the Commission wanted to see that the rights of the children are recognised and advocated.

The Commission recognised that the operations at the Villawood Detention Centre comprise only one component of the broader areas relating to the administration of immigration and ethnic affairs, which the Commission has been and will continue to examine through, for example, its review of the Migration Act (see Legislative Review).

The report on Villawood was completed in June.

## **Deportation**

The Commission took up this inquiry after receiving a number of complaints from non-citizens issued with deportation orders which followed prison sentences of one or more years. A number of these cases involved convictions for crimes associated with drugs, and some of the affected people had been residents of Australia for many years before their convictions. All these people had been lawful residents, but lacked formal citizenship; this lack made them vulnerable to deportation.

The Commission's report, *Human Rights and the Deportation of Convicted Aliens*, contained recommendations relating to such questions as whether deportation amounts to double punishment; whether deportation is considered a cruel, inhuman or degrading treatment; and whether deportation of one family member will greatly affect the rest of the family. Deportation can result in great hardship for innocent people, and the report stressed that family units should not be broken up except in extreme circumstances, such as when considerations of national security prevail.

Residents of Australia subject to deportation orders after conviction and imprisonment have a right of appeal to the Administrative Appeals Tribunal. However, that Tribunal cannot revoke a deportation order: all it can do is recommend to the Minister for Immigration and Ethnic Affairs that the Minister revoke the deportation order. As the law stands, the Minister is not obliged to follow that recommendation. In its report, the Commission recommended that, when considering a deportation decision which conflicts with the recommendation of the Administrative Appeals Tribunal, the Minister should comply with the procedures envisaged in Article 13 of the ICCPR by permitting the deportee further opportunity to submit reasons against his or her expulsion and by allowing representation of the person concerned by counsel or other agent. The Minister should also be able to remit the matter for re-hearing by the Tribunal in the light of fresh evidence.

Throughout its report the Commission emphasised that, whatever policy or other considerations are taken into account in deportation decisions, human rights should invariably be observed. It is not enough to consider human rights factors, together with a host of other matters: because of the operation of the Human Rights Commission Act the Minister has a duty to observe human rights in every case. The report was completed in June.

### **By-Laws on Aboriginal Reserves**

At its meeting in Brisbane on 19 and 20 July 1982, the Human Rights Commission decided to review by-laws applying in Aboriginal reserves throughout Australia. The first step was to determine where Aboriginal reserves still existed, and then to see if by-laws operated. Finally, these by-laws were scrutinised to see if they conformed with other human rights standards.

It was found that provisions existed in the statutes of several Australian States for Aboriginal reserves, but only in Western Australia and Queensland were by-laws at present in existence, and the review therefore concentrated on these two States.

The Western Australian by-laws are limited in their application to such matters as access to Aboriginal community lands, the use of alcohol, traffic, and minor offences. They involve minimum interference with day-to-day life of community residents.

The Queensland by-laws, however, are strikingly different, in that they apply uniformly to all Aboriginal reserves in Queensland, are very detailed and permit extensive interference in the day-to-day lives of residents of Aboriginal reserves. In a number of cases, the by-laws infringe human rights and, because they apply only to the Aboriginal residents of reserves, questions of discrimination inevitably arise.

The Commission prepared a draft discussion paper which was circulated for comment to those who had supplied material to the Commission for this project, and those with special interest in the matter. In light of their comments and further research, the draft discussion paper is being revised for wider publication.

# LEGISLATIVE REVIEW

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Another important task of the Commission is the review of Commonwealth laws for possible inconsistencies with defined human rights. The Commission can act on its own initiative, or can be requested by the Attorney-General to examine a particular piece of legislation. Acts are examined for inconsistencies with human rights, as defined by the International Covenant on Civil and Political Rights (ICCPR) or by the three Declarations annexed to the Human Rights Commission Act. The Commission then recommends to the Attorney-General, in the first instance, ways of bringing these Commonwealth laws into line with the international instruments. During the year, the Commission undertook five such reviews, and each is discussed below.

## **The Citizenship Act**

The Commission's first report to the Attorney-General, reviewing the human rights aspects of the *Australian Citizenship Act 1948*, was tabled in the Parliament on 21 October 1982.

The review was prompted by the announcement by the Minister for Immigration and Ethnic Affairs, in May 1982, that the Government intended to review and amend the Australian Citizenship Act and the Commission's concern that human rights considerations be taken into account in such a review.

The Commission's review concluded that there were five areas of concern in the Act (in its present form) and made recommendations in relation to each. These areas of concern relate to:

- (a) the definition and use of the term 'alien';
- (b) the requirements to be fulfilled by an applicant for citizenship;
- (c) provisions relating to loss of citizenship;
- (d) the words of renunciation in the oath or affirmation of allegiance; and
- (e) discriminatory provisions which give preferential treatment on the basis of national origin, sex, or marital status.

While the new Government has not proceeded (at the time of writing) with the amendment of the Australian Citizenship Act, it has introduced some amendments to the *Migration Act 1958* — more amendments will follow a complete review of this Act — and its amendments are consistent with the Commission's recommendations for the *Australian Citizenship Act 1948*. Of particular significance is the amendment to the definition of 'alien', removing the previous discrimination between non-citizens of British or Irish background and other non-citizens.

## **The Migration Act**

The Commission is conducting its own full review of the *Migration Act 1958* and will hold discussions with the Department of Immigration and Ethnic Affairs before the Act is substantially redrafted. The Commission will begin its review in September 1983, after public submissions are received.

## Crimes Act and Other Commonwealth Legislation Concerning Crimes

In the sphere of crimes, legislation bears directly on the relationships between the individual and society and between the individual and Government, and human rights are principally concerned with those relationships. It is evident that there is scope for inconsistency between the way some aspects of those relationships are governed at present by the criminal law and the way that they ought to be, in terms of human rights. It was with this in mind that the Commission decided to examine certain Commonwealth legislation concerning crimes to determine whether any of its provisions infringe human rights.

Ten Acts were examined and each provision of each piece of legislation was reviewed separately in relation to the international instruments. The Acts examined were the:

- *Crimes Act 1914*;
- *Crimes (Aircraft) Act 1963*;
- *Crimes (Protection of Aircraft) Act 1973*;
- *Crimes (Hijacking of Aircraft) Act 1972*;
- *Crimes at Sea Act 1979*;
- *Crimes (Taxation Offences) Act 1980*;
- *Crimes (Internationally Protected Persons) Act 1976*;
- *Crimes (Foreign Incursions and Recruitment) Act 1978*;
- *Crimes (Biological Weapons) Act 1976*; and
- *Crimes (Overseas) Act 1964*.

In the review, it became apparent that there were six main areas of concern, namely:

- detention of certain prisoners at the Governor-General's pleasure;
- procedures for dealing with children and young persons who offend against Commonwealth law;
- offences relating to unlawful associations;
- disclosure of official information by Commonwealth officers;
- reverse onus of proof and averment' provisions; and
- procedures for arrest, detention and trial of persons charged with criminal offences.

The report was completed in June. The Commission's recommendations generally proposed amendment of certain provisions to bring them into line with relevant human rights principles. For example, section 20B of the *Crimes Act 1914* provides for the procedures to be followed in relation to offenders against Commonwealth law who are found to be insane. It provides, in effect, that a person found to be unfit to be tried or who is acquitted by reason of unsoundness of mind is to be kept 'in strict custody until the pleasure of the Governor-General is known'. The Commission considers that 'strict custody' under section 20B amounts to arbitrary detention and, to that extent, infringes Article 9.1, which provides that no one shall be subjected to arbitrary detention. The Commission recommended that the section should be amended:

- (a) to cover the conditions, including periodic review with a right of appeal, under which a person dealt with on the basis of unsoundness of mind may be kept in strict custody;
- (b) to cover the two different classes of persons who may be subjected to strict custody — those who are permanently of unsound mind or are suffering from a long-standing but curable mental illness and those who, although of sound mind at the time of the trial, are acquitted by reason of unsoundness of mind at the time of the offence; and

I An allegation made by a prosecutor and taken as true in the absence of contrary evidence.

(c) to replace the procedure of being kept in strict custody at the pleasure of the Governor-General by another procedure not involving vice-regal discretions.

The Commission also drew attention to the need for those involved in the administration of crimes-related legislation to take account of the requirement to act consistently with human rights at all stages, before, during and after trial.

The Commission also made recommendations on:

- juvenile offenders;
- the Attorney-General's power to require provision of information or furnishing of documents in certain circumstances;
- matters concerning unlawful associations;
- official secrecy;
- the presumption of innocence;
- use of averment provisions in criminal proceedings;
- reverse onus of proof; and
- arrest and custody of prisoners aboard aircraft.

### **Mental Health Ordinance A.C.T.**

Following much public discussion and a number of approaches to the Commission by concerned groups, on 21 June 1982 the Attorney-General referred the draft Mental Health Ordinance for the A.C.T. to the Commission for comment.

The international instruments dealing with the rights of the mentally ill were drafted with a concern to ensure that everyone has access to treatment. They do not address the issue of the individual's right to refuse treatment or of the State's right to impose treatment for the good of the patient or of society. After consideration of the issues and of the relevant international instruments, the Commission adopted the view that conflicting rights must be weighed, and that neither extreme paternalism nor an extreme *laissez-faire* position is appropriate. In other words, there are some situations where the State should intervene to protect the individual from himself/herself, but such situations are very rare. The recommendations made by the Commission were based on the propositions that:

- (a) the fact that a person wishes to commit suicide is not in itself evidence of mental illness;
- (b) a sane person should not be prevented from committing suicide by the compulsory provisions of the Ordinance;
- (c) it is permissible to restrain people who are mentally ill from committing suicide or from self-mutilation, because it is likely that they would not have chosen this course of action in the absence of the mental illness;
- (d) in order to prevent serious harm to other people, it is permissible to restrain people — whether mentally ill or not — although the measures of restraint may differ for the mentally ill; this is in effect one of the main purposes of the Mental Health Ordinance;
- (e) because of the invasion of liberty involved, restraint and compulsory treatment can only be justified in extreme cases and for limited periods of time under multiple safeguards. Except in these extreme cases, paternalistic arguments for intervening for the individual's own good should not prevail; and
- (f) although it may be highly distressing for relatives, friends and the community to watch the individual suffer, compulsory intervention at an early stage to relieve that distress should not, in the Commission's view, be permitted.

The Commission's report, *Proposed A.C.T Mental Health Ordinance 1981*, was tabled in Parliament on 9 December 1982.

## **Testamentary Guardianship in the A.C.T.**

A number of women complained to the Commission through the Legal Aid Office (A.C.T) that they were unable to appoint a guardian by will for their children, because of a very old United Kingdom statute — the *Tenures Abolition Act 1660* — which still applies in the A.C.T. The father can appoint by will a guardian for his legitimate children but not for ex-nuptial children.

The then Law Reform Commission of the A.C.T. recommended in 1974 that both parents of a legitimate child should have rights to appoint testamentary guardians and the mother of an ex-nuptial child should be entitled to appoint a testamentary guardian for that child.

A later committee (the 'Ellis Committee') endorsed those recommendations and also recommended that each parent (including the father of an ex-nuptial child whose paternity had been established) should be entitled to appoint testamentary guardians, provided that the court retained its powers to remove guardians and resolve disputes.

The Commission has reported to the Attorney-General that the present law on testamentary guardianship in the A.C.T. is inconsistent with Articles 3, 23.4 and 24.1 of the ICCPR. These articles guarantee equal rights to men and women who are partners to a marriage and also give the child a right to protection. Taking into account, also, Principles 2 and 6 of the Declaration of the Rights of the Child, the Commission endorsed the relevant recommendations of the Law Reform Commission and the recommendation of the Ellis Committee mentioned above.

The Commission reported to the Attorney-General its view that further delay in implementing those recommendations could not be justified and would not be acceptable to the community.

The Commission's report, *Testamentary Guardianship in the Australian Capital Territory*, was tabled in Parliament on 1 June 1983.

# RESEARCH

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Much of the Commission's work involves research either to follow up complaints or as an independent investigation of areas where problems have appeared. Wherever possible the Commission circulates draft reports for comment to ensure that a full range of viewpoints has been considered.

## **Externally Contracted Research**

In order to utilise its limited resources most effectively, the Commission contracts out certain research projects, thus providing another channel for interaction with the community.

In 1982-83, eight projects were begun, while work on one other continued. A brief description of each project appears below, and all projects are summarised in Appendix 3.

### *Survey of Human Rights Research Literature and Associated Bibliography*

Work has almost been completed on the creation of this major reference work. In May 1982 the Human Rights Commission entered into a contract with Professor Alice Erh-Soon Tay, Professor of Jurisprudence, University of Sydney, and part-time Commissioner with the Australian Law Reform Commission, to prepare the survey and supervise compilation of the annotated bibliography, both of which are due to be submitted in July 1983.

### *Project on Disabled People and Social Security and Taxation*

In October 1982 the Human Rights Commission appointed the Australian Council of Social Service Inc. (ACOSS) to examine Federal Taxation and Social Security laws — and their administration — for their effects on people with disabilities.

Relevant Australian and overseas literature has been reviewed, together with existing legislation and the internal rules applied by the Department of Social Security and the Australian Taxation Office. Submissions have been invited from individual people with disabilities, organisations representing disabled persons and other interested bodies on how laws may discriminate against or disadvantage people with disabilities. The closing date for submissions was 30 June and the project is to be completed in August 1983.

### *Review of Conciliation Activities under the Racial Discrimination Act 1975*

This project is being carried out by Mr Patrick Pentony, formerly Associate Professor of Psychology at the Australian National University. It aims to review, analyse and assess the conciliation methods developed over the seven years since the enactment of the Racial Discrimination Act when endeavouring to achieve the settlement of complaints about unlawful acts of racial discrimination. The project will be completed in September 1983.

### *Affirmative Action Project*

Dr G. Moens of the Faculty of Law, the University of Sydney, was selected to carry out this work, which will review relevant literature and practice, and describe, analyse and assess the legal, sociological, philosophical and economic concepts and implications associated with the introduction of affirmative action programs in Australia for Aborigines, ethnic groups, women and people with disabilities. The review will discuss philosophical and pragmatic rationales for such action, refer to overseas experience, identify appropriate subject areas and target groups, and canvass the most efficient programs and methods of implementation. Alternate methods for achieving the aims of affirmative action programs will be also considered.

In the course of his work, the consultant will invite submissions from and undertake consultations with various State and Commonwealth anti-discrimination and equal opportunity bodies, e.g. State Counsellors and Commissioners for Equal Opportunity, the Office of the Status of Women, non-government organisations whose work is related to affirmative action programs and with scholars and practitioners working in this area. It is expected that the final report will be submitted to the Commission in February 1984.

### *Epilepsy as a Case Study*

A contract was let with the Australian Council for Rehabilitation of the Disabled (ACROD) in May 1983 for the case study. Epilepsy is a 'hidden' disability, about which there is little public sympathy or understanding. ACROD will examine various areas, including employment and education, where discrimination against people with this disorder may occur. The Council will also look at the legal constraints and the social bars which exist for people with epilepsy.

The final report will be published in March 1984, and should provide a model for other studies on disabilities.

### *Guardianship Law Survey*

This study will examine the position of intellectually handicapped adults who are not fully capable of managing their own affairs.

Intellectually disadvantaged persons may be assisted to help themselves by two distinct types of provisions:

- guardianship legislation; and
- citizen advocacy.

The Commission made a contract with Professor Peter Singer of the Centre of Human Bioethics, Monash University, and Dr Terry Carney of the Faculty of Law at Monash University to prepare a discussion paper on the ethical and legal issues in guardianship for intellectually handicapped people. Some of the issues to be raised by this study have already been discussed by a public seminar in Melbourne. Early in the coming year the Commission will circulate copies of the draft report to interested persons and organisations in the A.C.T. prior to holding a public workshop to discuss the options for guardianship legislation for the A.C.T. At a later stage the Commission will also examine the suitability of guardianship for persons who are senile, mentally ill or brain damaged in accidents and consequently can no longer make major decisions for themselves.

### *Compendium of Human Rights Courses in Tertiary Institutions*

The Commission received a draft report from Professor Alex Castles in March 1983, which lists all human rights courses taught in Australian universities and other tertiary

institutions. The report contains a brief, but comprehensive, description on a standardised basis of courses taught in various disciplines such as law, medicine, social sciences and welfare studies. The compendium is well organised and includes a subject index, and will provide the basis for a conference on teaching human rights to be held in Adelaide in August 1983.

### *Teaching Human Rights: Activities for Schools*

Two contracts were let for work in relation to this project and the details appear in the section on Information and Education.

### *Human Rights in Country Towns*

Research on the study of access to human rights in country towns continues, with a final report due in March 1984. When sparsely populated rural areas are covered in national surveys, often only limited attention is paid to the special problems and needs of these relatively isolated and self-contained areas. The study will examine the question of access to rights within a single community to see where and how the commitment to equal rights becomes strained or breaks down completely.

### **Internal Research**

Most of the in-house research projects undertaken during the year have been discussed in other sections (see, for example, the section on Inquiries). Some internal projects not covered elsewhere are discussed here.

### *The Rights of Aborigines at Wreck Bay (A.C.T)*

At the time of the 1981 Census, 823 Aborigines were recorded as living in the Australian Capital Territory. The great majority live in Canberra in conditions similar to the rest of the population. In the coastal area of the Territory at Wreck Bay, however, there is a community of some 200 Aborigines living in a former reserve.

The Commission spent some time examining the complex history of the Wreck Bay community, a knowledge of which is essential to an understanding of the community's present situation. Issues relating to land rights, fishing rights, educational and employment opportunities and self-government were considered at some length. Officers from the Commission then visited the community to discuss with representatives of the residents whether there were matters of human rights concern which the Commission could usefully take up on their behalf. There was general agreement that there was little scope for action, since the Wreck Bay community has been determining priorities for its future, and so contributions by outsiders were pointless at this time. The Wreck Bay community may ask the Commission for further action, when it has determined its future directions.

### *The Right of a Child to Information about its Natural Parents*

This issue, which relates to the rights of the adopted child and of the natural parent(s), was brought to the Commission's attention by a 1982 complaint from a mother who had given up her child. It was subsequently decided that, although the Commission's jurisdiction extended only to A.C.T. legislation on the matter, the uniform nature of the States' legislation made the subject appropriate for a broadly-based discussion paper. This is particularly the case at present, since:

- New South Wales, Victoria, South Australia and Queensland have been reviewing their own legislation and seeking submissions from interested persons; and

- there have also been calls from a number of national bodies including the Royal Commission on Human Relationships for moves toward a reference of powers in adoption matters by the States to the Commonwealth, and the consequent unification of adoption law and adoption jurisdiction throughout Australia.

The discussion paper addresses a number of issues relating to access to information in adoption, including:

- present and past legislation in Australia and overseas, and public response to that legislation;
- the rights of the adopted child, the rights of the natural mother, the rights of the natural father and the rights of adoptive parents, including current studies of psychological hardship in these groups resulting from current legislation;
- problems arising out of mechanisms for allowing access to information, including identifying versus non-identifying information, retrospectivity, mandatory counselling and legislation requiring consent from adoptive parents before information can be made available;
- problems arising from uniformity of legislation and federal jurisdiction; and
- the analogy between the situation of the adopted child and that of a child produced by artificial insemination or in-vitro fertilisation.

### *Corporal Punishment*

The Commission received a submission from Parents and Teachers Against Violence in Education stating the view that physical punishment in schools is contrary to Article 7 of the ICCPR and raising the issue of sex discrimination in the punishment of children.

Because of the general interest in this subject and the wide range of views held, the Commission issued a discussion paper for comment. The paper reviews the decisions of the European Court of Human Rights, recent changes in State schools in Victoria, the Swedish legislation outlawing corporal punishment of children by teachers and parents alike and the varied American experience. It draws attention to the reluctance of the proponents of the practice to proffer reasoned arguments in its favour and to the greater articulateness of their opponents. Different cultural attitudes to the acceptability of the practice are also noted together with special problems involving sexual distinctions and the use of corporal punishment upon children who are physically or intellectually disabled.

Interest in the discussion paper has varied considerably around the country. The Commission will seek the reactions of children themselves before the inquiry is concluded.

# ADMINISTRATION OF THE COMMISSION

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## **Staffing**

During the year the Commission was able to recruit staff to fill the ceiling of 25 full-time and six part-time positions determined at the time of commencement. However, as in most new organisations, it was difficult to predict the level of activity that would be required when the Commission became fully operational. The Commission found that the staff available to carry out its functions under existing legislation was insufficient to meet the demand being placed upon it. As a consequence, there was severe pressure in all areas. To overcome these difficulties the Commission sought an increase in its staff levels from the Government. Additional staff will also be required for the administration of the new sex discrimination legislation when it is passed by the Parliament.

A chart showing the Commission's organisation appears in Appendix 1.

## **State Offices**

**On** 29 October an Office of the Commission in Perth was opened by the Hon. Sir Ronald Wilson, K.B.E., C.M.G., Justice of the High Court of Australia. The office is staffed on a part-time basis by Mr Keith Hogg, formerly Chief Stipendiary Magistrate in Western Australia.

Offices are also maintained in Sydney and Melbourne to assist the Commission with inquiries, complaint handling and educational activities. Under the co-operative arrangements agreed with Victoria, the Commission's officer in Melbourne, Mrs Lorna Lippmann, will work in the Office of the Victorian Commissioner for Equal Opportunity.

There were discussions with the Anti-Discrimination Board (New South Wales) and the Commissioner for Equal Opportunity (South Australia) with the object of entering into co-operative arrangements with them in the coming year. It is also hoped that arrangements may be made in Tasmania and the Northern Territory.

Because of local problems involving human rights or racial discrimination in Queensland, the Commission pressed for the early establishment of an office in Brisbane.

## **Finance**

A Statement of Expenditure for the Commission appears at Appendix 2. The principal items of expenditure under Administrative Expenses were for office accommodation, office services, information materials and travel.

## **Freedom of Information**

In accordance with a Government direction that each agency include in its Annual

Report information on its administration of the provisions of the *Freedom of Information Act 1982*, the following information is provided:

#### Requests Made

	Number	Time from receipt of request to advice of Decision to applicant			
		0-15 days	16-30 days	31-45 days	46-60 days
Request under Section 19	3	1	1	1	
Request under Section 15	2		1	1	

Number of requests granted: 3

Number of requests where no documents existed: 1 (Section 11 [a])

Number of requests refused: 1

All the requests related to documents concerning the applicant.

#### Rejections

One request was refused. In this case the document was held to be exempt, since its disclosure involved the unreasonable disclosure of information relating to the personal affairs of another person (section 41). The applicant requested an internal review. The other person gave permission to provide access to the documents and the Commission granted full access.

#### Costs of Freedom of Information

- Fees received: nil. Charges were waived in all cases.
- Attributed costs:
  - Prior to commencement of the Freedom of Information Act on 1 December 1982:
 

Staff time:	\$3680
Administrative Expenses	950
	\$4630
  - Following commencement of the Act:
 

Staff time:	\$3439
Administrative Expenses:	505
	\$3944

#### Internal Procedures

A manual of procedures for handling F.O.I. requests within the Commission was produced for the use of staff and for public perusal. It set out the various steps to be followed at each stage in processing a request or an application for review.

The Commission adopted a policy of maximum openness consistent with section 34 of the Human Rights Commission Act which provides for non-disclosure of information acquired by the Commission about the affairs of individuals.

Due to the relatively small size of the Commission's staff and the few requests for access received, it was considered necessary to authorise only five persons (four Second Division officers and one Third Division officer) to grant access and only two persons (both Second Division officers) to refuse access under the Freedom of Information Act.

The only unusual feature of the early administration of the legislation was an expectation by some applicants that more documents than actually existed were held by the Commission.

### *Staff Training*

In addition to instructional information provided to staff, eight persons attended a variety of training courses and seminars on **F.O.I.**

### **Staff Development and Training**

The Commission encouraged staff to attend seminars, workshops and training programs to assist their career and personal development and thus contribute as well to the performance of the Commission. It operated an equal opportunity program. Seminars and conferences attended by staff are listed in Appendix 6.



## **PART B: RACIAL DISCRIMINATION**

### **REPORT BY THE COMMISSIONER FOR COMMUNITY RELATIONS**

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The Racial Discrimination Act as amended provides for the Commissioner for Community Relations to inquire into alleged infringements of its prohibitions on racial discrimination and to try to effect a settlement of such matters, on behalf of the Human Rights Commission. The staff who carry out inquiries into complaints of discrimination and who settle them are employed by the Human Rights Commission and do this work under delegations from the Commissioner.

In the year to 30 June 1983 a total of 512 complaints were received and, of these, 403 were resolved by the end of the year. The number of complaints of discrimination received from all States and the Northern Territory indicates that discrimination is still commonplace and widespread, but it certainly should not be taken as defining the extent of the problem. The number of complaints actually made to the Commission is a reflection of the extent of knowledge of the legislation and the remedies available; of the capacity and willingness of injured parties to make complaints; and of the availability of other remedies as well as of the actual incidence of discriminatory actions.

Inquiry and settlement work was also continued on some complaints which had been received before 1 July 1982 and most of these complaints were resolved during the year. A review of all unresolved matters was undertaken towards the end of the year and this showed that there was a total of 114 matters still unresolved at the end of June 1983.

Most matters were settled by correspondence and telephone contact with those involved. Some matters which did not seem to amount to discrimination within the terms of the legislation were taken up in the interests of improved community relations and were generally resolved to the satisfaction of the complainants. Some other matters were not pursued on behalf of the complainants after initial discussions with staff, often because other ways of dealing with the problems were identified.

For example, four Aborigines drinking in a private club were offended and embarrassed when a member of the staff criticised their dress, because other similarly — attired patrons in the same bar were not approached. In this case officers talked to the president of the club with the complainants who accepted the explanation and the apology of the president.

#### **Discrimination Against Aborigines**

As in past years, the largest single group of complaints related to discrimination against Aboriginal Australians. These 160 complaints amounted to about one-third of all the complaints received and a much larger proportion of those which actually related to unlawful acts of discrimination.

This year, as in previous years, virtually all the matters which required formally convened conferences of the parties to resolve them also concerned complaints of discrimination against Aboriginal people. Each of the 21 conferences ended in settlements

agreed upon by the parties and no certificates that conciliation had failed were issued during the year (see Appendix 10). Nineteen of the conferences were held in Queensland towns, a reflection of the extent to which field work was concentrated in that State.

Most of the matters related to discrimination in hotels, bars, discos and night clubs or to discrimination by real estate agents. Because of the prevalence of complaints against hotel staff and estate agents, new information material is being prepared for circulation to the relevant associations in an effort to ensure that their members are aware of the law against discrimination on racial and ethnic grounds and are able to inform their employees, customers and clients about the law.

Since Aboriginal people are discriminated against more than any other group in the population, some special pamphlets are being prepared to inform them about the Act and to indicate how they may make complaints about discrimination. A general leaflet about the Act was revised and prepared for reissue and it is planned to have it translated into several Aboriginal languages.

More than the half the total complaints of discrimination against Aborigines came from Queensland (60) and Western Australia (30). The relatively high number in Western Australia is attributable not, as in Queensland, to staff carrying out field work there — in fact staff made no field visits to Western Australia during the year — but to the efforts of welfare workers with the Trades and Labour Council in Perth working with Aboriginal families in Perth and the south-west. These workers helped a number of Aboriginal people to submit complaints, most of them relating to applications to the State Housing Commission for accommodation. It was argued generally that the eligibility of Aboriginal applicants was assessed in a discriminatory way, delaying their access to housing.

Inquiries into these complaints against the Housing Commission and other State Government Departments in Western Australia was, as indicated in earlier annual reports, impeded by the decision of the previous State Government not to allow officers to deal directly with the Commissioner for Community Relations. After the election of the new State Government in February this decision was reversed and complaints were once more dealt with in the usual way, through the Commission's office in Perth.

### **Racial Discrimination Complaints: Case Studies**

Some examples of complaints handled during the year may serve to demonstrate both the range of matters in which the Commission was asked to intervene and the ways in which they were settled.

#### *Service in Hotels*

Four Papua New Guinean delegates to a Church conference were in North Queensland en route to Port Moresby and ordered a round of drinks at a hotel. The barmaid apologised but said coloured people were only served 'take-aways'. The men then asked whether it would make any difference if they were visitors from Papua New Guinea, rather than locals. They again were told they would not be served drinks and were asked to leave.

Upon their return home, they reported the incident to the Prime Minister of Papua New Guinea, who wrote to the Premier of Queensland seeking an investigation. The matter received media coverage.

A complaint was made to the Human Rights Commission on behalf of the four men, one of whom returned to Australia in order to resolve the issue. He was assisted in this by the Papua New Guinea Government which arranged for Air Niugini to pay half of his fare.

With the help of local people and the co-operation of the parties, a conference was arranged at short notice in Townsville. Those present included the licensee of the hotel, one of the aggrieved persons, members of the church organisation which had hosted the Papua New Guineans' visit and representatives of the Commission.

The matter was settled with oral and written apologies, and public assurances and an apology printed in newspapers in Townsville and Port Moresby.

In a hotel in a New South Wales country town, an Aboriginal man was served a beer and a packet of cigarettes. When he sought further service he was refused and was told he should not have been served in the first place because the management had given instructions that Aboriginal people were not to be served.

At a compulsory conference between the parties the aggrieved person took the view that people who break the law usually paid a monetary penalty. He said also that the licensee's instruction not to serve Aborigines was an unlawful act of racial discrimination and that he had been hurt by it. In his view, the licensee should also experience some hurt by being 'hit in the pocket'. The respondent refused to consider paying any money to the complainant, but after discussion, the matter was resolved by the licensee paying an amount of money to a local charity. This met the complainant's requirements and enabled the matter to be resolved to the satisfaction of both parties.

Staff in a hotel in an outback Queensland town told Aboriginal women in a public bar that the management had directed that no women were to be served in the bar. When they pointed out that white women were drinking there, they were told that the limitation related to Aboriginal women. A conference with the publican and complainants settled the matter with apologies and assurances that discrimination would cease.

### *Real Estate Agents*

An Aboriginal woman, assisted by her brother and sister-in-law, sought rental accommodation in a North Queensland city. They met refusal after refusal and made five complaints under the Racial Discrimination Act.

They had responded to advertisements for flats and other accommodation to let. In several instances they had telephoned and arranged to inspect premises or to call at real estate agencies. When it was seen that they were Aboriginal, they were told the premises had been let or that the accommodation would not be available because of their race or colour. When the applicants had informed the landlord or estate agent at the initial telephone contact that they were Aboriginal they received no assistance or were told that the accommodation would not be available to them.

Compulsory conferences were convened in all these matters. The response of one agent was to condemn the Racial Discrimination Act as legislation which had set the Aboriginal community back ten years. In his opinion it was the prerogative of landlords to impose restrictions on prospective tenants. He was outraged to think that landlords were not free to advertise and let properties with restrictions on race, colour, sex, marital status and employment categories as they saw fit.

Several estate agents denied outright that racial discrimination was a factor in the failure of persons to obtain rented premises. They also denied the account of events given by the complainants, adding further insult to the injury already inflicted. In other cases the complainants accepted the explanations offered for the actions and responses of landlords and agreed that no racial discrimination was involved.

The parties resolved the issues between them by discussion and apologies and assurances were offered and accepted. In all instances the complainants indicated clearly that they would not tolerate racial discrimination.

The holding of these five conferences involving landlords and estate agents is believed to have made an impact on the community. The Aboriginal people let it be known that if future instances occurred they would probably seek a more substantial basis of settlement.

In another city, compulsory conferences were held after two young Aborigines, a brother and sister, both employed in the public service, were refused rented accommodation. It was clear from what the estate agent said at the conferences that racial discrimination by landlords and estate agents was practised widely in the city. In two instances the estate agents showed extreme hostility to officers and in one case to the complainants, showing that they saw the complaints as threatening their power and the way they were accustomed to exercising that power.

### *Police*

An Aboriginal married couple complained that two policemen had entered their home in a country town without a warrant or permission and had come to their bedroom and shone a torch on them in their bed. Their complaint to the police was investigated but the Internal Investigation Section found that it could not determine the truth of the matter. The Deputy Commissioner of Police notified the complainants of these findings and they then asked the Human Rights Commission to act on their complaint.

Officers travelled to the town and met with complainants and senior police. The complainants were reasonable and moderate and concerned to have the matter settled by conciliation. Senior police, however, adopted a defensive and unco-operative attitude. They expressed complete ignorance about the Racial Discrimination Act, although conciliation work had been carried out in most police districts in the State over the last seven years.

Officers proposed that they should speak to the two policemen involved but this suggestion was rejected.

It was agreed that a compulsory conference would be held, attended by the barrister acting for the policemen, a senior police officer and the Aboriginal couple.

The conference was convened and settled the matter. The couple accepted that the police acknowledged and regretted that they had taken offence at the incident.

This matter was unusual because of the hostile and unco-operative attitudes of the police and their insistence on having a barrister involved. It has been found that the involvement of lawyers accustomed to the adversary system of the courts is not conducive to settlement by conciliation.

Before leaving the town, officers met four groups of Aborigines at their request and heard allegations of most serious infringements of fundamental freedoms and human rights by police in the town. It was indicated that complaints lodged with the police were not satisfactorily resolved and that there was no effective liaison between the police and the community.

Officers decided not to remain in the district to inquire into these allegations, judging that their continued presence would have been seen as provocative and threatening and would have risked attracting public attention in a way detrimental to community relations and to effective resolution of the matters.

Leaders in the Aboriginal community undertook to obtain statements from those persons who claimed to have been mistreated and from others who could help to substantiate the allegations. The Deputy Commissioner of Police was informed of the community's concerns and of the general nature of the allegations made.

The particular problem in this town is an isolated one. In other police districts in the State there are effective Aboriginal/police liaison arrangements and no such serious allegations about infringements of rights have been made. Generally complaints about racial discrimination against Aboriginal people by members of police forces throughout Australia have decreased and Aboriginal/police relationships have developed to the benefit of both Aboriginal communities and police forces.

### *Management of an Aboriginal Reserve*

A majority of the members of the Aboriginal Community Council in a north Queensland Aboriginal reserve complained against the reserve manager and a police sergeant claiming that they held a 'court' following break-ins and thefts at the reserve by a group of Aboriginal boys. The boys were required to work on three consecutive Saturdays under the supervision of the Aboriginal community police and the boys' parents and guardians were fined. The Council members took the view that the matter would have been handled differently if the boys had not been Aboriginal.

Officers of the Inquiry and Conciliation Branch visited the reserve to inquire into the complaint. While there, they received further complaints from four of the five Aboriginal Justices of the Peace living on the reserve. Most of the parents and guardians who had been involved also complained and provided signed statements. They complained that the manager and the police sergeant, together with the Council Chairman, had dealt with matters appropriate to the Children's Court or to an Aboriginal Court, and that they had exceeded their powers. It was also alleged that some of the boys had been assaulted.

Many residents expressed resentment about the incident and held the manager responsible. The Justices of the Peace were particularly dissatisfied because, they claimed, Aboriginal Courts had dealt with similar matters in the past.

When officers made initial inquiries at the reserve, a complaint was also received from the wife of the manager against the Deputy Chairman of the Aboriginal Council in his capacity as a bus operator. The Deputy Chairman was one of those who made the initial complaint.

Officers returned some weeks later and convened a conference attended by the manager, the police sergeant, the Council Chairman and other members of the Community Council, parents and guardians, and Justices of the Peace. The manager made it clear that he would not co-operate if one of the complainants, a member of the Community Council, was present. After consultation with the parents and guardians and the Justices of the Peace, this man decided to withdraw to allow the conference to proceed. With the agreement of the parties, the conference was convened as a compulsory conference.

At the conference parents and guardians and Justices of the Peace outlined their concerns to the manager and the police sergeant. They stated that in future they wanted such matters to be dealt with by the appropriate authority. The matter was settled with expressions of regret from the manager and apologies from the sergeant and assurances that in future normal court processes would be used.

Although the aggrieved persons at the conference were satisfied with the outcome, members of the local Consultative Committee on Community Relations indicated they were not happy with the outcome. Similar dissatisfaction was expressed by some community members and all those concerns were later fully discussed with both the Committee and Community Council.

### *Monument to Pioneer*

A National Aboriginal Conference member complained about a monument to an explorer and early settler in Central Queensland which stated that he was 'murdered by hostile blacks'. The monument was located in a recreation area adjoining a major highway near a country town. The complaint questioned the historical and legal accuracy of the facts and alleged that it misrepresented, defamed and prejudiced the dignity of Aboriginal people.

During a field trip an officer arranged a meeting between representatives of the local shire council and of the Aboriginal community. It was agreed that a group would be established to consult with the Aboriginal community to consider more appropriate

wording on the monument and other alternatives which the Council might adopt, including a suitable memorial for the black people of the area.

### *Education*

A German-born teacher complained that a State Education Department discriminated against her because of her ethnic origin and age. She had come to Australia in 1951 as a qualified primary teacher but was unable to find employment in her profession because her qualifications were not recognised. After becoming naturalised, she made several further attempts to find employment as a teacher but failed.

In 1981, she graduated from the University of Melbourne with qualifications to teach in a secondary school. She was also enrolled for a higher degree in education.

She registered with the Education Department for employment. But in four years, she was only offered emergency teaching positions. When she made enquiries about a permanent appointment, she was told that the interview reports and college rating of other applicants were better than hers. She disagreed and, attributing her lack of success to her ethnic origin and age, complained under the Racial Discrimination Act.

The Commissioner for Community Relations referred the matter to the Director—General of Education. He responded that all applicants for employment were treated on the same basis and that appointments were made according to the availability of positions in the subjects and geographical locality applied for, as well as the applicant's college record, assessment and interview. He confirmed that other applicants had been given higher priority for employment than the complainant. He advised also that vacancies in the subjects for which the complainant was qualified had been rare and advised that her application remained on file and would receive full consideration when a vacancy occurred.

Subsequently, the complainant wrote to the Commissioner for Community Relations to advise of a vacancy in a school where she had been teaching temporarily. A long-term position was later offered to the complainant in another school and this resolved the matter for her.

### *Wine Industry*

A Senator for South Australia complained on behalf of a grape grower of Greek origin that a winery discriminated against him by not purchasing his grapes and by investigating his personal history. It was further alleged that when persons of Greek origin purchased fruit blocks, contracts for the supply of grapes were not renewed.

The winery responded that the grower had not submitted an estimate for his proposed deliveries by the due date. Because other growers' estimates exceeded the winery's requirements, his grapes were not purchased. According to the company, this practice applied to any grower. It denied making any investigation into the grower's personal history.

As to the purchase of grapes on a contractual basis, the company advised that it did not use this method because the provisions of the Trade Practices Act did not permit it. Furthermore, the principal factors in determining the grapes bought from individual growers was the type of grape they produced and the market demand for particular varieties of wine.

The firm acknowledged that it did not automatically continue buying grapes from properties when the ownership changed. It suggested that before settling on the price of a wine growing property, a prospective purchaser should negotiate with wine buying companies to ensure an outlet for produce.

The complainant's comments on the winery's response were awaited.

## **Racist Utterances**

Numerous complaints were received concerning derogatory statements about individuals and groups which related to their racial or ethnic origins. Complaints were also received about the dissemination of racist literature containing ideas based upon superiority of race and racial hatred.

## **Wages on Queensland Reserves**

The matter of payment of below award wages to Aboriginal workers on Queensland reserves was raised with the Human Rights Commission, although no complaints were received during the year about this matter.

The Queensland Government's intention to raise the level of wages paid on reserves to what is variously described as the 'minimum wage' or the 'basic minimum wage' was announced by the Minister responsible in May 1980. Information provided to the Commission during the year indicated that the Department of Aboriginal and Islanders Advancement continued to pay wages to Aboriginal employees on the reserves at the 'minimum wage' level, rather than paying the applicable award rates. This practice apparently continued, despite the judgement given in the Industrial Court of Queensland on 29 May 1979 that workers on reserves had the same entitlement to the benefit of awards as workers outside reserves and despite the provision in the *Aboriginal and Torres Strait Islanders (Queensland Discriminatory Laws) Act 1975* that an Aboriginal or Islander employee shall be entitled to be paid wages at a rate not less than the rate payable if they were not an Aboriginal or an Islander.

The Human Rights Commission prepared a draft discussion paper intended to inform Aboriginal and Islander people in Queensland of the several avenues open to anyone who may be paid below award rates and wished to receive the appropriate award wage.

It is some ten years since other State Governments and the Commonwealth Government in the Northern Territory ceased the practice of paying Aboriginal workers on reserves a wage or training allowance below award rates.

One option open to union members employed on reserves is to seek the help of their union in securing full award conditions. It was action of this kind by an Aboriginal unionist employed at the Yarrabah reserve near Cairns that resulted in the Industrial Court's ruling of May 1979. An active union program to recruit Aboriginal members in the reserves and to ensure that they enjoy full award conditions would not seem out of place.

## **Complaint, Inquiry and Community Development Work in the Field**

Officers of the Commission undertook field work in the Eastern States during the year, travelling to Tasmania, Victoria, New South Wales and Queensland, to enquire into and settle complaints and to advise and assist local people in improving community relations. In all, three conciliators spent a third of the total available conciliation time in the field in the four States.

During a field trip to Queensland in July/August 1982, Mrs Norma Ford travelled with officers from Canberra, through New South Wales, to Maryborough, and then returned to Brisbane for a Commission meeting. She rejoined the officers at Rockhampton, Bundaberg, Townsville and Mt. Isa. In addition, she visited several Aboriginal reserves, settlements and communities. The Secretary of the Human Rights Commission, Mr Fergus Thomson, joined the team for field work between Cairns and Rockhampton. Mrs Ford and Mr Thomson wanted to learn about the discrimination and prejudices which exists against Aboriginal and Islander communities. Officers were accompanied on another field trip in northern New South Wales and central Queensland

in September 1982 by Mr Patrick Pentony, in connection with his research study of conciliation work (see section on Research), and on another visit to Queensland in April 1983 by Mrs Fay Mules, Commissioner for Equal Opportunity, Victoria.

Complaints dealt with on the trips related to alleged discrimination: by estate agents and landlords; in hotels, restaurants and caravan parks; by police and public servants; by taxi companies; in schools; by employers; and by the media.

During the course of their field work, officers essentially dealt with complaints under the Act, but at the same time extended their work to promote good community relations, collaborating with individuals and community organisations interested in the field of human rights, and particularly the rights of racial and ethnic groups.

Not all complaints received involved unlawful acts of racial discrimination. For example, complaints against the media and against sporting organisations did not relate to any matter within the prohibition provisions of the Racial Discrimination Act. But where the particular matter was of concern to the complainant and the community and was of a racially divisive nature, officers acted by promoting compliance with the principles of the Racial Discrimination Act and the International Convention, doing what they could to stop the practices complained about and to resolve the discontent.

It was noticed that there was a more widespread and public condemnation of the special measures taken by governments, particularly those for Aboriginal people. It was apparent to officers that there was an urgent need for a public awareness campaign to inform Australians generally about the needs of Aboriginal people and the justification for measures to overcome the disadvantages they suffer.

Many cases of racial discrimination were settled during the field trips. Twenty-one compulsory conferences were convened in 10 centres and in all matters settlement was achieved. In some cases, it became apparent, after the event, that settlement did not entirely satisfy aggrieved persons or respondents, although no one was so dissatisfied as to claim that a measure of justice had not been achieved.

Field work entailed arduous travelling over long distances, mostly by two officers. Because of these demands and the limited staff resources available, field work operations were limited to the Eastern States. It is of real concern that it remained impossible to extend field work to South Australia, Western Australia and the Northern Territory. The administrative measures which the Commission is pursuing to overcome the deficiencies are dealt with elsewhere in this Report (see section on Administration).

A map showing centres visited can be found at Appendix 9.

### **Consultative Committees on Community Relations**

The informal committees established in cities and towns around the country continued to play an important part in combating racial discrimination and prejudice. Several of the committees were able to resolve complaints of discrimination during the year and to help the staff of the Commission in dealing with other complaints. The committees provide a link between local communities and the Human Rights Commission and Commissioner for Community Relations and have been able to promote understanding and tolerance in their communities in a variety of ways.

The committees have operated on a voluntary basis, without Government financial support, but this year the Human Rights Commission was able to introduce a modest scheme for reimbursing approved expenditure by the committees on matters of an essentially out-of-pocket nature.

The Committees in Brisbane, Perth, Adelaide, Darwin and in Rockhampton and Cairns in Queensland and Moree in New South Wales met as required during the year. New committees were established in Geraldton, Western Australia, in Bundaberg and Townsville in Queensland, and in June moves were being made to set up a committee in Alice Springs in the Northern Territory. Addresses for each of the committees are provided in Appendix 11.

## Complaints Not Settled

Not all matters in previous years were resolved by conciliation and the aggrieved parties in a few of these unresolved matters have since sought to obtain remedies in the courts, as provided for in the Racial Discrimination Act. The best known of these matters is the complaint of Mr John Koowarta of Aurukun, North Queensland, against the Queensland Minister for Lands about the refusal of assent to the transfer of a pastoral lease in the Cape York Peninsula bought by the Aboriginal Land Fund Commission for Mr Koowarta's group in 1976. When the matter was originally taken to the Supreme Court of Queensland in 1981, the Queensland Government appealed to the High Court, challenging the validity of the relevant sections of the Racial Discrimination Act. The High Court having determined in May 1982 that the Act represented a valid use of the Commonwealth's legislative power, it was possible for Mr Koowarta again to seek remedies in the Queensland Supreme Court. During the year Mr Koowarta's legal advisers prepared for the next phase of what has become an extremely drawn out procedure.

In May 1982 the Human Rights Commission received notice of a similar complaint about the apparent refusal to assent to the transfer of a pastoral lease in North Queensland but the complainants did not pursue the matter during the year. The Aboriginal Development Commission, which had been negotiating to buy this lease, gave notice to the Commission in October 1982 of its intention to lodge a complaint about the same matter. The Aboriginal Development Commission was, however, able to provide an adjoining property for the same group by purchasing the company holding the lease.

Both these matters relate to a policy which, according to a statement by the Queensland Minister for Lands in Parliament in December 1976, the State Government had adopted in 1972 under which it did not 'view favourably proposals to acquire large areas of additional freehold or leasehold land for development by Aborigines or Aboriginal groups in isolation'. It is perhaps necessary to state that no other government in Australia places any restrictions on the people of any particular race obtaining leasehold title to land.

Some progress was made during the year in bringing before the Courts two other matters in Queensland where conciliation had failed. The complaint of a young woman about her treatment by a police officer in a North Queensland country town in September 1978 was not resolved at a conference in September 1980 and a certificate was issued in October 1980. The complainant engaged the services of a solicitor with the Cairns Aboriginal Legal Service, proceedings were instituted, a statement of claim was served and a defence entered. In another matter concerning sale of tickets for an entertainment at a country hotel in southern Queensland in January 1981, a certificate was issued in April 1981. The complainant continued her efforts to bring the matter to court.

Each of these cases illustrates a deficiency of the Act which has been remarked upon in previous reports by the Commissioner for Community Relations. Where conciliation fails, the burden is on the complainant to seek redress from the Courts. Legal aid can be provided, and has been provided, by the Commonwealth, but delays and difficulties have characterised the process of engaging and communicating with legal advisers and having cases prepared for presentation in court.

It is worth noting that the Sex Discrimination Bill, introduced into Parliament in June 1983 provides for the Sex Discrimination Commissioner to refer a matter to the Human Rights Commission if the Commissioner believes it cannot be settled by conciliation or has failed to settle it by conciliation, or considers that a matter should be so referred. The Bill provides for the Commission to hold an inquiry into such matters and make determinations. Such determinations would not be binding on the parties but either the Commission or the complainant could seek an order in the Federal Court to enforce

a determination. The inclusion of a similar provision in the Racial Discrimination Act would provide a means of resolving quickly, effectively, and at relatively little cost, those few matters not settled by conciliation.

### **Legislation Against Racial Discrimination**

The South Australian Parliament outlawed racial discrimination in that State in 1966; the Commonwealth Government signed the International Convention on the Elimination of All Forms of Racial Discrimination in 1966 and ratified it in 1975 when the Racial Discrimination Act was passed by the Commonwealth Parliament; and in 1977 the New South Wales Parliament legislated against racial discrimination. To date no other States have enacted laws against racial discrimination although the Victorian Government has indicated that it intends to introduce such legislation.

The majority judgement of the High Court in May 1982, upholding the validity of two key sections of the Racial Discrimination Act, was reaffirmed twelve months later when the Court in another judgement held unanimously that the Act was a 'complete statement of the law for Australia relating to racial discrimination' and hence that the New South Wales law dealing with racial discrimination was invalid. The Court gave this judgement in the *Viskauskas* case, an action brought by a Kempsey hotel owner challenging the right of the President of the New South Wales Anti-Discrimination Board to deal with a complaint by three Aborigines that they had been refused drinks at this hotel in November 1980. A similar complaint had been made to the Commissioner for Community Relations who stopped his inquiries to allow the New South Wales authorities to try to settle the matter. The effect of the judgement was to exclude the use of any State law on racial discrimination and to require complaints to be made to the Human Rights Commission.

The Attorney-General at once announced that the Commonwealth Government intended that State laws against discrimination should be allowed to operate:

The policy of this Government in relation to human rights and anti-discrimination law is quite clear: no Commonwealth law in the human rights or anti-discrimination area will operate to override or exclude the constructive developments that have been taking place in several of the States in the field of anti-discrimination law.

We do not intend to displace State laws which satisfy international standards and which are operating satisfactorily.

However, the Commonwealth will use the powers it undoubtedly has where there are gaps in State laws, or where State agencies do not cover the field sufficiently.'

The *Racial Discrimination Amendment Act 1983*, introduced and passed by the Commonwealth Parliament in June, adds a new section:

6A. (1) This Act is not intended, and shall be deemed never to have been intended, to exclude or limit the operation of a law of a State or Territory that furthers the objects of the Convention and is capable of operating concurrently with this Act.

(2) Where —

- (a) a law of a State or Territory that furthers the objects of the Convention deals with a matter dealt with by this Act; and
- (b) a person has, whether before or after the commencement of this section, made a complaint, instituted a proceeding or taken any other action under that law in respect of an act or omission in respect of which he would, but for this subsection, have been entitled to make a complaint under this Act,

the person shall be deemed never to have been, and is not entitled to make a complaint or institute a proceeding under this Act in respect of that act or omission and any proceedings

pending under this Act at the commencement of this section in respect of such a complaint made before that commencement are, by force of this sub-section, terminated.

(3) Where —

- (a) a law of a State or Territory that furthers the objects of the Convention deals with a matter dealt with by this Act; and
- (b) an act or omission by a person that constitutes an offence against that law also constitutes an offence against this Act,

the person may be prosecuted and convicted either under that law of the State or Territory or under this Act, but nothing in this sub-section renders a person liable to be punished more than once in respect of the same act or omission.

A complaint submitted to the Human Rights Commission after a complaint about the same matter has already been made to a State anti-discrimination authority will not be proceeded with. If, on the other hand, a complaint is made first to the Commission and later to a State authority about the same matter, it appears that the Commissioner for Community Relations could continue efforts to settle the matter, relying on existing arrangements for close liaison with State authorities to ensure that there is no overlapping or duplication of effort.

The Commissioner and staff of the Commission continue to collaborate with officers of State anti-discrimination authorities, consulting as appropriate both about inquiries in particular matters and about general race relations issues and proposals for changes in legislation. In particular, there were discussions on procedures to be followed by the Victorian Commissioner for Equal Opportunity and her staff acting as delegates of the Commissioner for Community Relations in accordance with an arrangement between the Commonwealth and Victorian Attorney-General for handling human rights matters which was to come into operation on 1 July 1983.

### **Community Relations**

Dealing with complaints about the kind of direct, or 'first order', discrimination specifically outlawed by the Racial Discrimination Act is only a part of the job of 'combating racial discrimination and prejudices that lead to racial discrimination'. The Human Rights Commission has responsibility under the Act for promoting understanding and acceptance of the Act itself and of the aims and principles of the International Convention for the Elimination of All Forms of Racial Discrimination, and for promoting 'understanding, tolerance and friendship among racial and ethnic groups'. Elsewhere in this report there are references to research projects undertaken, to information material prepared and to educational projects initiated by the Commission during the year in carrying out these responsibilities. Every complaint dealt with by the Commission's staff, and every field trip undertaken, provides opportunities to improve community relations and to leave individuals and groups better equipped to handle problems for themselves. Visits and talks by members of the Human Rights Commission and by the Commissioner for Community Relations provide opportunities to increase awareness of the law against racial discrimination and how it is applied, and to discuss problems and issues in community relations as they arise.

Measurement of the effectiveness of these activities is difficult. While discrimination remains widespread, effective publicity about the Act should increase the number of complaints of discrimination coming to the Commission. But at the same time the effort to educate people about the law concerning discrimination should steadily reduce the incidence of discriminatory acts.

The general promotion of better relations between ethnic and racial groups in Australia is a task for which the Human Rights Commission does not have sole responsibility. It is the business of governments at all levels — national, state and local, — and in

particular of those departments and authorities with special responsibilities for immigration and ethnic affairs, Aboriginal affairs, education, welfare, law enforcement and justice. It is the business of all employers and all trade unions, of the hundreds of local, regional and national organisations representing ethnic and Aboriginal communities, and of the thousands of other clubs and community organisations, and of every citizen in the country. The task of improving community relations requires all Australians to work at eliminating racial discrimination in all fields, especially in access to employment, housing and services, and also to take positive measures to overcome disadvantage.

Sometimes where there is no obvious or direct discrimination, members of some groups may enjoy unfair advantage and members of other groups may be disadvantaged. In the workplace, discriminatory treatment is suspected more often than it is clearly manifested and, because many people hesitate to make complaints about their own employers and supervisors, positive interventions by employers seem essential even to eliminate direct discrimination in recruitment, training and selection for promotion. It is appropriate that the Commonwealth Government itself should provide a strong lead by ensuring that all departments and statutory authorities take action to eliminate discrimination, direct or indirect, against members of ethnic and racial minorities. The need for better information to provide a basis for assessing the effectiveness of intervention was raised by the Commissioner for Community Relations in preliminary discussions with officers of the Public Service Board.

In the long run the improvement of community relations requires that all people in this country enjoy real equality of opportunity and that particular ethnic groups are not denied access to power, wealth and status in the Australian community. In times of prosperity and full employment when virtually all Australians could feel secure about their work and enjoy a reasonable confidence that they would be better off next year than last year, people were generally, and understandably, more tolerant about newcomers sharing and contributing to the country's prosperity and growth than they have been in recent months, when migrants are likely to be seen as competitors for scarce jobs and limited resources.

That the protracted world economic recession coincided with the need to respond to the humanitarian call to provide new homes for refugees from Indo-China has not helped. Many of the problems Indo-Chinese and Australians have experienced during the year in adjusting to the situation can be attributed to the state of the labour market. The refugees themselves and the many private citizens and workers in government and community agencies who have been involved in the refugee settlement program and in dealing with particular problems and crises have good cause for a measure of quiet satisfaction that difficult situations were as capably handled as they were. Given a measure of goodwill, good sense, experience and a determination to solve problems, it can be demonstrated that there is no 'iron law' that where there is ethnic difference, there will necessarily be ethnic conflict.

In several places during the year there was also tension, and there were some unpleasant episodes of violence, involving not the most recent arrivals but the first Australians. Here again, an underlying cause of the tension, and of the isolated incident of violence, was the economic situation which, combined with the extreme drought conditions prevailing in the eastern states until the autumn of 1983, produced high levels of unemployment in country towns. Aboriginal Australians in rural areas have been living with rates of unemployment ranging upwards from 30% for the past eight years and more, but the marked increase in general unemployment in country areas in 1982 seemed to have an adverse effect on race relations in a number of towns.

Ill-feeling against Aboriginal people was expressed in many country areas because of resentment about special government policies and programs in Aboriginal affairs, notably the program of educational grants for Aboriginal secondary students and policies recognising Aboriginal claims to land.

In the Northern Territory some community leaders succeeded in arousing a degree of concern and anxiety among the residents of the town of Katherine about a traditional land claim which included the nearby Katherine Gorge National Park. Since the claimant groups had given assurances that, even if the claim were successful, they did not want to obstruct continued public use of the land as a National Park and the claims process allows for competing interests to be heard by the Aboriginal Land Commissioner and considered by government, the agitation against the claims seemed unnecessary and inappropriate. To the extent that it aroused hostility against Aboriginal people, rather than being aimed at having the Federal Parliament change the Commonwealth legislation — the Aboriginal Land Rights (Northern Territory) Act — it was unfair and did nothing to maintain good relations among the citizens of Katherine. Similar efforts were made to arouse anxiety about land claims near Tennant Creek. The Katherine Gorge land claim was heard by the Aboriginal Land Commissioner, Mr Justice Kearney, in February/March 1983 but his report had not been made public by the end of June.

In New South Wales similar alarm about the possible scope and effect of land claims was expressed in country areas in the months before the State government made public its plans for new legislation for Aboriginal land rights in late December 1982. Fears that existing land holding and land use would be threatened proved groundless, since the legislation allows for consideration of claims only to unused and unoccupied areas that are not needed for 'an essential public purpose'.

Later in the year there were indications that similar efforts were being made to exploit public ignorance and uncertainty about what might be involved in the recognition of Aboriginal land rights by the new State government elected in February 1983 in Western Australia. The interests of Australians generally would be served if both the advocates and the opponents of government action to give Aboriginal groups and communities title to, and control of, land spent less time talking about 'land rights' and more time explaining exactly what proposals they support or oppose.

In Queensland, during the weeks before the Commonwealth Games were held in Brisbane in September, there was a good deal of public anxiety about the possible nature and consequences of demonstrations planned by Aboriginal groups in an effort to advance their campaign for the granting of more secure title over Aboriginal and Islander reserves than had been provided for in legislation passed by the Queensland Parliament earlier in 1982. In the event, arrangements were negotiated for several lawful demonstrations, well covered by the local and overseas press, radio and television, and one or two unauthorised demonstrations passed off without serious incident. We can all be thankful that commonsense prevailed and give credit for the responsible leadership on the part both of government authorities and all the Aborigines which ensured that the potential in Brisbane for serious damage to be done to the cause of community relations was not realised.



# PART C: LOOKING TO THE FUTURE

## DIRECTIONS

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For the Commission, the years ahead appear to contain the promise of further rapid development. As indicated elsewhere in this report, the function of actively promoting equality between the sexes is about to be vested in the Commission by statute, and in addition it is proposed that the Commission be given a power of determination. The Attorney-General has indicated that later in the year a national Bill of Rights will be introduced and that the Commission will have a significant role in its implementation. Beyond that, the Attorney-General has indicated that he intends to review the Human Rights Commission Act within the next 12 months in order to ensure that its constitution and powers are appropriate to the new tasks being assigned to it.

The Commission welcomes the new emphasis on human rights. It believes it can discharge effectively the new functions being placed with it, even though there will inevitably be shortages of resources and problems of adjustment during the initial stages. It will respond to the challenge actively and positively. It emphasises, however, that its resources are already stretched and that without reasonable additions to them the Commission will be unable to respond, as it and the community would wish, to the expectations generated.

The coming year will also see significant consolidation in the program of co-operation with State agencies dealing with human rights and discrimination. The Federal Government has already given a lead by ensuring that Commonwealth legislation in the areas of both race and sex discrimination will not operate so as to invalidate compatible State legislation. The Government has also approved the co-operative arrangements between the Commission and the Office of the Commissioner for Equal Opportunity in Victoria, and the exploration of possible arrangements with appropriate authorities in other States and the Northern Territory. At the machinery level, the Commission is working with the relevant State agencies to ensure that resources are combined and that the public is offered a comprehensive service by the one office, rather than partial services by separate Commonwealth and State offices. If, as seems likely, suitable arrangements can be entered into with the relevant authorities in New South Wales and South Australia, and if a separate Commission office can be established in Queensland, then some 75 per cent of Australia's people will have access within the next 12 months to a service for the promotion and observance of human rights within their own State — facilities not previously available — and at reasonable cost to all governments.

The Commission also looks to establishing more substantial links with non-government organisations throughout Australia. Hitherto, because of its 'Commonwealth' focus, the Commission has conducted consultations with national non-government organisations and with organisations in the ACT. As co-operative arrangements are entered into with the State human rights agencies, the Commission intends to promote systematic consultation at State level with relevant non-government organisations. It also intends, at the national level, to move beyond the initial phase of acquainting organisations with each other to focusing in greater depth with particular

groups on matters of mutual concern, e.g. in relation to the problems of ethnic groups or of people with disabilities. In September 1983 a national consultation will be held in Sydney to discuss sex discrimination legislation, the rights of children and the rights of people with disabilities residing in institutions.

Consistent with its desire to co-operate with as wide a group of organisations as is possible in promoting human rights in Australia, the Commission will be enlarging the range of information materials available for distribution to and use by such organisations. Special attention will be paid in the coming year to the development of material for adult and community educators as well as to the production of booklets on various human rights issues for use by school students. In addition to the production of printed information, the Commission will be paying greater attention to visual aids, such as posters and displays, and work will be commenced on a film explaining human rights which can be used by the Commission and community organisations.

As well as the research projects outlined in Part A which have yet to be completed, the Commission has decided upon a number of new research topics to be undertaken next year. Other projects are still under consideration. The Commission will soon let tenders for work on Commonwealth prisoners' rights, the rights of people with disabilities who are resident in institutions, Aboriginal rights and a project entitled Law and Rights, a series of mini-consultations on various aspects of the law. In-house research in the coming year will look at rights associated with de facto relationships, electoral reform, and the Handicapped Persons Assistance Act. As with external research, other internal projects are currently being discussed.

As mentioned earlier, the Commission has now made a number of reports to the Government concerning matters of human rights. Some of these recommend changes to existing legislation to take better account of human rights, others recommend revised administrative procedures in the interests of a better observance of human rights. At the conclusion of this first year of operation, the Government had made no announcements as to its intentions relating to any of the Commission's reports. The Commission hopes that before long there will be positive evidence, by the reaction to its reports, that the Government intends to move in areas within its jurisdiction towards better observance of human rights. The Commission believes its recommendations are legally desirable and administratively feasible and that there should not be undue delay in adopting them. On the assumption that the Government will adopt the Commission's recommendations, credit can only accrue to both the Government and the Commission from a clear announcement of the Government's attitude and of its intentions in relation to the recommendations in each report.

The Commission observes that the present structure of the Commission, which involves a mixture of full-time and part-time members, has worked well. It has ensured that the functioning of the Commission's office has been kept under the general supervision and direction of a number of part-time Commissioners who bring to their tasks insights from their day to day professional work and their special interests in the field of human rights. The Commission believes that, whatever the future structure of the Commission may be, it should include a significant proportion of part-time persons selected for their knowledge, ability and experience in fields of human rights that are likely to be of primary concern to the Commission.

# ISSUES AND RECOMMENDATIONS

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During the 18 months the Commission has been in operation, a number of issues have emerged which are not yet the subject of report but which the Commission considers should be raised for discussion. In addition, there are several aspects of the legislation which, in the light of experience, might usefully be considered for amendment when the general review of human rights legislation, promised by the Attorney-General, is undertaken. Although the Commission had intended to raise these issues in its fourth Annual Report (1985), so that they could be considered before a response to the 'sunset' provisions was determined, the Commission has brought forward for attention in conjunction with the review promised by the Attorney-General those that have already come to notice.

## Issues

### *Racist Propaganda*

A substantial proportion of the complaints received by the Commission under the Racial Discrimination Act relate to the use of insulting or derogatory language based on race in the broad sense in which it is defined in the Act. The Commission is concerned at the absence of a remedy, except its good offices, in such cases, but on the other hand, it is very conscious not only of the value of freedom of expression and thought in themselves, but also of the specific obligations which Australia has assumed under the Racial Discrimination Convention and ICCPR Articles 17 (privacy), 18 (freedom of thought and belief) and 19 (freedom of expression). It intends in the near future to make recommendations to the Attorney-General designed to give some form of remedy, probably using the pattern of the Racial Discrimination Act, which provides first for a conciliation process, to be followed later, if necessary, by litigation.

### *Commonwealth Funding*

The Commission has received a number of complaints, particularly in the area of social welfare, stating that institutions or programs funded by the Commonwealth have incorporated practices which are inconsistent with the full enjoyment of human rights. One example is the unnecessary deprivations of liberty and privacy sometimes associated with occupancy of nursing homes and institutions where disabled persons live or work. The standard answer is that the Commonwealth provides funds but leaves the State or agency free to manage the relevant program. The Commission is inclined to the view that, where the Commonwealth provides specific purpose funds, it should exercise some responsibility over their use and this responsibility goes beyond the technical requirements of auditing and financial accountability. It has not yet reached a conclusion on this issue, but raises it for consideration, and may at a later date make it the subject of consultation with Departments and non-government agencies.

<sup>1</sup> Section 36 of the *Human Rights Commission Act 1981*

### *'Sunset' Clause*

Although the longer term future of the Commission has not yet come under consideration, it will not be long before questions are posed about whether its life will be extended beyond December 1986, when the Human Rights Commission Act will cease to be in force unless there is specific legislation to continue it. The existence of this provision may well in the not-too-distant future affect the willingness of staff to join the office of the Commission, and be used as an excuse for delaying action by those States which do not soon enter into co-operative arrangements.

*Recommendation 1:* The 'sunset' clause (section 36 of the Human Rights Commission Act) be removed when the Act is revised.

### *Publication of Reports*

Under section 30 of the Human Rights Commission Act the Minister is required to table a copy of every report furnished to him by the Commission within 15 sitting days of either House of the Parliament. There are many times in the year when Parliament is not sitting, which means that sometimes the Commission's report can be withheld from the public for several months. Particularly where the report concerns a matter of considerable public interest, as is the case with the Commission's Sixth Report, *The Observance of Human Rights at the Villawood Immigration Detention Centre* (delivered in June 1983), it seems unfortunate that the public, and particularly those who have spent time and effort in making submissions to the Commission, should be unaware of the outcome of the Commission's investigations. While the Commission recognises the desire of Government to study the contents of a report before it is published, lengthy delays give the impression not only of tardiness by the Commission but of an unwillingness by the Government to make available information which has been specifically prepared with publication in mind. The Commission recognises that under existing rules it is possible to release a report by circulating a copy out of session to each Member of Parliament, thereby avoiding any risk of contempt of the Parliament, and considers the small extra expense involved in this should not be an impediment to publication.

*Recommendation 2:* That provision be made for, and the practice be adopted of, early publication of the reports of the Commission without waiting for the maximum allowable time to elapse.

### *Secrecy Provisions*

A number of Acts provide that officers are not to reveal information collected in the course of administering the legislation of the general affairs of the relevant Department or agency. There are also provisions in the Crimes Act (section 70) and the Public Service Regulations (Regulations 34 and 35) which make it an offence to reveal information obtained in the course of official duty without authority. There is an inclination on the part of some of those who manage departments and agencies to take the view that anything revealing a deficiency in the working of the body, including deficiencies which may result in infringements of human rights, should not be revealed, and that any disclosure would amount to misconduct.

The Commission recognises that much information held by departments and agencies is confidential and, usually, does not want access to this information. What are more often brought to the attention of the Commission are practices and procedures of a department or agency that have the effect of infringing human rights, and it is these matters which place the individual who contacts the Commission at risk.

It is true that section 32 of the Human Rights Commission Act provides that a person is not to prejudice, intimidate or coerce another person, because he or she has complained to the Commission or has furnished information or documents relating to the

complaint. However, the legal position is not clear and the Commission understands that an officer providing information to the Commission and seeking the protection of section 32 may find that the penal provisions of the Crimes Act or Public Service Regulations, or the secrecy provisions of a particular Act, are invoked.

The Commission regards this position as unfortunate. It is of the view that, as many of the more serious and systemic infringements of human rights are the results of powers exercised by public officials, those who detect them and wish to bring them to the notice of the Commission should not run the risk of being penalised for so doing. The Commission recognises that in some cases the information provided may be inaccurate, or that on investigation there may appear to be no infringement of human rights, but the Commission is of the view that this should be determined by itself and not by the department or agency using the powers of suppression. Indeed, the Commission perceives one important reason for its existence as being specifically to monitor the exercise of such powers.

*Recommendation 3:* Section 32 of the Human Rights Commission Act should be amended in such a way as to put it beyond doubt that a person who has reasonably brought an alleged breach of human rights to the attention of, or complained of such a breach to, the Commission should not be subject to criminal or disciplinary action.

### *Reporting Powers*

The Commission does not have, under the Racial Discrimination Act, the powers to report and makes recommendations conferred on it under the Human Rights Commission Act (sections 9[1] [a], [c], [d] and [e] and section 16). The Commission is required by section 20 of the Racial Discrimination Act to promote an understanding and acceptance of, and compliance with, the Act, and also to develop programs to combat racial discrimination or promote the general purposes of the Act. In some cases, the most effective course will be through changes in Commonwealth law or in the practice of Commonwealth agencies, and it seems desirable that the Commission have a duty to report, with recommendations, on such matters.

*Recommendation 4:* The Commission should be empowered to report to the Minister in relation to the Racial Discrimination Act and the International Convention on the Elimination of All Forms of Racial Discrimination in the same way as under the Human Rights Commission Act and the human rights instrument attached as schedules to, or declared under, that Act.

## **Recommendations**

**In** addition to the more general points raised in the preceding section, the Commission has identified a number of problems in the operation of the Human Rights Commission Act and the Racial Discrimination Act which appear to raise no substantial issues of policy, but which, if corrected, could improve the efficiency and effectiveness of its operations. These points are listed in summary form below —

### *Racial Discrimination Act*

*Recommendation 5:* While the effect of section 6A(2) of the Racial Discrimination Act to prevent dual complaint processes is accepted, the power of the Commission to investigate a matter where either the complainant or the Commission considers it has not been fully or satisfactorily handled as a complaint by the State agency should be confirmed by a specific legislative provision. Moreover, a person who has made a complaint to a State agency should have the right to withdraw that complaint and make a fresh complaint under the Racial Discrimination Act to the Commission, provided double jeopardy is not involved for the respondent.

*Recommendation 6:* The right to equality before the law provided by section 10 of the Racial Discrimination Act can in effect only be availed of, following an unsuccessful endeavour to achieve satisfactory settlement by conciliation, by obtaining a declaration from a court. As it appears that court proceedings under the Act may be brought only by a complainant, and as individuals are often reluctant to institute the necessary proceedings, the Commission should be clearly empowered by legislation to institute such proceedings.

*Recommendation 7:* At present, section 45 of the Racial Discrimination Act authorises the provision of legal or financial assistance to enable a person to be represented at court proceedings brought under the Act where there is hardship on the part of the applicant and the aid would be reasonable in all circumstances. The Commission considers that assistance ought to be available for a party to proceedings under the Act which involve issues of public importance even though the party concerned may not otherwise satisfy the tests of 'hardship' and 'reasonableness', and suggests that it be empowered to make recommendations accordingly in suitable cases.

*Recommendation 8:* Under section 22 of the Racial Discrimination Act provision is made for the calling of a compulsory conference to assist in settling a matter into which inquiries are being made. In his efforts to reach conciliated settlements, the Commissioner for Community Relations felt it to be desirable on some occasions, in order to prepare the way for an effective conference, to use the powers of direction under section 22 to arrange a separate meeting or meetings with one or more of the parties who would at a later stage be directed to attend the compulsory conference. There is at present no provision for such a direction to be given to the parties, who may be the complainant, the respondent or other relevant persons. The Commission recommends that section 22 be amended to provide for separate meetings between the parties and the conciliator in the interests of the effective settlement of complaints.

### *Human Rights Commission Act*

*Recommendation 9:* The Commission should have a general power of delegation similar to that contained in section 40 of the Racial Discrimination Act, but to office holders rather than named officers (section 13 of the Human Rights Commission Act only allows the Commission to authorise a prescribed person to inquire into a particular act or practice).

*Recommendation 10:* The Commission can, in effect, convene at monthly or six-weekly intervals and there are occasions when policy decisions need to be taken between meetings: the power to take such decisions should be clearly conferred, so that the person administering the Commission under section 7(5) (the Chairman where full-time, or the Deputy Chairman) may obtain a decision by consulting all members of the Commission reasonably able to be contacted, and in any event not fewer than half of the members, and obtaining either a unanimous agreement or a decision in which the minority agree to be bound by the decision of the majority.

*Recommendation 11:* The Commission's charter extends to Commonwealth enactments, which include laws, rules, regulations or by-laws, but may not include such instruments as administrative orders or instructions, e.g. the General Orders and General Instructions issued by the Commissioner of the Australian Federal Police: the definition of 'enactment' should be extended to include administrative orders, instructions etc.

*Recommendation 12:* The Commission should be empowered, notwithstanding the provisions in section 34 of the Act, that there be no disclosure of information relating to the affairs of another person, to authorise a researcher to have access to complaint material, provided that the information so obtained is used only in such a way as to avoid identifying the affairs of another person communicating with the Commission. There should be penalty for infringement of the condition.

*Recommendation 13:* The Commission has expressed concern about the difficulty it has in discharging its statutory obligations effectively because of the tightness of resources made available to it. It notes in particular that its resources in the conciliation area are too restricted

(they have not been increased beyond those available, before the establishment of the Commission, to the then Commissioner for Community Relations, despite the increase in work flowing from the Human Rights Commission Act and the inability of the team to cover complaints in Western Australia or the Northern Territory). The Commission recommends that, notwithstanding the acknowledged tightness of resources, it be given some increase in staffing particularly in the area of conciliation, to cover the existing workload (additional resources have been promised to enable implementation of the Sex Discrimination Bill when enacted),



# APPENDIX I

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## Organisational Structure: Human Rights Commission

		<i>Appointment Expiry Date</i>
Chairman:	Dame Roma Mitchell, DBE (SA)	30/11/84
Deputy Chairman: (Permanent Head)	Mr P. H. Bailey, OBE (ACT)	30/11/86
Commissioners:	Associate Professor M. J. Aroney, OBE (NSW)	30/11/86
	Professor P. J. Boyce (WA)	30/11/86
	Mrs N. C. Ford (Vic)	30/11/86
	Mrs E. Geia (Qld)	30/11/84
	Dr C. D. Gilbert (Old)	30/11/84
	Ms E. Hastings (Vic)	30/11/84
Commissioner for Community Relations:	Mr J. P.M. Long	6/11/89
Secretary: Mr J. F. Thomson (Level 3)		
Legal and Projects Branch (Senior Assistant Secretary Level 2): Dr J. F. Hookey		
Legal Section: 2 staff		
Projects Section: 5 staff		
Inquiry and Conciliation Branch (Assistant Secretary Level 1): Mr G. C. Wyer		
Complaints, Inquiry and Conciliation: 3 staff		
Promotion and Information Branch (Assistant Secretary Level 1): Mu. T. D. Wood		
Resource Centre: 5 staff		
Administration: 5 staff		
State Offices: New South Wales		
Victoria	One person each	
Western Australia		

## APPENDIX 2

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### Statement of Expenditure 1982-83

	1981-82*	1982-83	1982-83
	Expenditure	Appropriation	Expenditure
<i>Special Appropriations</i>			
Holders of Public Office			
<i>(Remunerations Tribunals Act 1973)</i>			
• Human Rights Commission including the Commissioner for Community Relations)	113 715	167 400	125 462
<i>Appropriation Act (No. 1 and No. 5)</i>			
<i>Division 181: Human Rights Commission</i>			
1 Salaries and payments in the nature of salary	329 286	1 002 900	956 518
2 Administrative Expenses	387 593	748 500	748 206

\* The Human Rights Commission commenced operation on 10 December 1981

September	<p>(Acting Chairman) Presented a paper to the Melbourne Interest Group</p> <p>Discussions with government and non-government representatives on the forthcoming conference on freedom of expression</p> <p>Called on Mr Colin McKay, Executive Officer of the Australian Press Council to develop links between the Council and the Human Rights Commission</p> <p>Spoke to Ms Carmel Niland of the N.S.W. Anti-Discrimination Board</p> <p>Gave a two hour lecture on human rights at Sydney University in connection with the jurisprudence course, given at the request of Professor A. Tay</p>
October	<p>Attended and presented a paper to the National Languages Policy Conference, Canberra</p>
November	<p>Attended the Freedom of Expression and Racist Propaganda Conference, Melbourne</p> <p>Attended the opening of the Perth office of the Human Rights Commission</p> <p>Addressed the A.C.T. Quaker Race Relations Committee on the position of Aborigines at Wreck Bay Settlement at Jervis Bay</p> <p>Interviewed for the ABC radio program, The Law Report</p> <p>Made arrangements for (and later attended) testimonial dinner for the Hon. A. J. Grassby</p> <p>Spoke at a session of the Conference of Australian Ombudsmen, Canberra</p>
February	<p>Met Mr B. L. Strayer, Assistant Deputy Minister of the Canadian Department of Justice</p> <p>Various activities associated with the Villawood Inquiry</p> <p>Discussions in Melbourne with the Victorian and South Australian Commissioners for Equal Opportunity</p>
August	<p>Professor Aroney</p> <p>Held discussions with the Commissioner for Community Relations and Mr Pittorino</p> <p>Attended Annual General Meeting of the Greek Professionals Association</p> <p>Attended a meeting organised by the Greek press and ethnic radio to proclaim a Greek-oriented college in Sydney</p>
October	<p>Attended National Languages Policy Conference, Canberra</p>
November	<p>Attended the Freedom of Expression and Racist Propaganda Conference, Melbourne</p> <p>Attended a meeting of the Race Relations Committee of the Anti-Discrimination Board of N.S.W. about racial problems in Moree</p> <p>Annual General Meeting of Federation of Ethnic Communities Councils of Australia, Brisbane</p>
December	<p>Attended testimonial dinner for the Hon. A. J. Grassby, Sydney</p> <p>Meeting of the Federation of Greek Associations of Sydney</p> <p>Attended a function of the Ethnic Communities' Council of N.S.W.</p> <p>Attended a function of Lawasia</p>
February	<p>Attended a meeting of the Race Relations Committee of the N.S.W. Anti-Discrimination Board</p>
March	<p>Attended a meeting in Sydney of the Australian Institute of Multicultural Affairs</p> <p>Delivered lecture on Human Rights and Racism to Greek Professionals Association of N.S.W.</p>
April	<p>Interview for <i>Townsville Daily Bulletin</i></p> <p>Consultation with an officer of the Australian Institute of Multicultural Affairs on project on ethnic aged</p>
May	<p>Attended Israel Independence Day function</p> <p>Meeting with Executive Director of the Special Broadcasting Service</p>

- June Lecture on the Human Rights Commission at International House, University of Sydney.  
Meeting in Sydney of the Australian Institute of Multicultural Affairs
- Professor Boyce**
- July-  
September **Addressed the Law** Society of Western Australia on the Human Rights Commission  
Discussions with the W.A. Minister for Police and the W.A. Attorney-General  
Visited Geraldton with the Commissioner for Community Relations  
Informal discussions with Mr John Healy, Lawasia  
Address to Perth Legacy  
Participated in a session of the Australian Political Studies Association Annual Conference about legislation for human rights
- October Address on protection of human rights to the Perth Grand Lodge of Freemasons  
Attended opening of Perth Human Rights Commission office  
Valedictory address to social work graduation class, University of Western Australia, on the protection of human rights
- December Article on legal protection of human rights in the *West Australian*  
Attended a symposium on human rights organised by the United Nations Association
- February Accompanied Mr Long on part of his W.A. trip; met with the new W.A. Attorney-General and the Perth Consultative Committee on Community Relations, and Dr Thomson of the Crown Law Department
- Mrs Ford**
- Involved in ongoing liaison with national non-government organisations, the Office of the Status of Women, the Victorian Commissioner for Equal Opportunity and local community organisations on human rights matters. Gave national and local radio talks and press interviews during the year
- July Community Relations field trip with conciliation team to northern N.S.W. and Queensland (3 weeks duration) to relate to and understand the concerns of Aboriginal communities.  
Independent visits to Mackay, Townsville and Palm Island for discussions with Aboriginal and Islander representatives to broaden the experience of the field trip. Discussions with Aboriginal and Islander Broadcasting Service and Catholic Education Centre, Townsville. Interviews with local media
- October Addressed the Zonta Club, Melbourne  
Attended National Languages Policy Conference, Canberra
- November Addressed Mid-City Club, Melbourne  
Addressed Equal Opportunity Committee, Victoria  
Addressed the Victorian Status of Women Committee  
Attended Conference on Freedom of Expression and Racist Propaganda, Melbourne  
Discussions with the Acting Commissioner for Equal Opportunity, South Australia; the Womens Studies Units, Salisbury and Adelaide; and Women's Advisory Unit to the Premier of South Australia
- December Attended testimonial dinner for the Hon. A. J. Grassby
- January Villawood Detention Centre Inquiry including two visits to Villawood, visit to Maribyr-  
-April nong Detention Centre; visit to Belconnen Remand Centre. Public hearings (2 days)
- February Visited Human Rights Commission office in Perth and held discussions with Mr Keith Hogg
- March Discussions in the Northern Territory regarding initiatives in Aboriginal education, training and communication. Visited the Aboriginal Women's Resource Centre, Darwin; met the Darwin Consultative Committee; talks with the Northern Territory Department of

Education, institutions and educators; visited Batchelor College and the School of Australian Linguistics, Batchelor; and discussions with officials of N.T. Department of Health regarding Aboriginal health issues

April

Completed the Villawood Inquiry

June

Addressed the National Council of Women

Discussions with Father Frank Brennan on human rights and Aborigines

**Mrs Geia**

Extensive travel and consultation on racial discrimination and for National Aboriginal Conference and Aboriginal Development Commission commitments

November

Attended Freedom of Expression and Racist Propaganda Conference, Melbourne

**Dr Gilbert**

August

Attended two-day Commonwealth Second Division Seminar to discuss Human Rights and Public Administration

Interviewed twice for radio

September

Spoke on Human Rights Commission to a group of law students, Queensland University

Spoke on Human Rights Commission Act and ICCPR to the State Women's Council of the Liberal Party of Queensland

Attended and conducted a workshop at A.C.T. Non-Government Organisations consultation

October

Attended luncheon in Brisbane, at which Mrs Quentin Bryce spoke on the Convention on the Elimination of All Forms of Discrimination Against Women

February

Meeting to discuss establishment of Disabled Peoples' International, Brisbane

March

Addressed ACROD seminar on Disabled Persons and Social Security and the Law

Accompanied Mr Long on consultations with Quaker Race Relations Committee and Prisoner Aid Groups, Queensland

**Ms Hastings**

August

Attended United Nations Association Status of Women Committee's Conference on Technological Change and Women

September

Attended and conducted a workshop at A.C.T. Non-Government Organisations Consultation

Book launching of *The Impossible Takes A Little Longer*, Canberra (to which she contributed a chapter)

November

Attended Freedom of Expression and Racist Propaganda Conference, Melbourne

May

Attended proclamation of Equal Opportunities (Discrimination Against Disabled Persons) Act, Melbourne

June

Attended public meeting on Beauty Quests Fund-Raising for Voluntary Services to Disabled People

## APPENDIX 5

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### Activities of the Commissioner for Community Relations

*(1) 1 July 1982 — 31 October 1982: The Hon A. J. Grassby*

<i>Date</i>	<i>Place</i>	<i>Activity</i>
July	Geraldton	Met with community representatives
	Canberra	Meeting with Ethnic Communities Council
	Sydney	Ethnic Communities Council of N.S.W. Foundation Day Dinner
August	Canberra	Executive meeting of the Australian Libyan Arab Amity Association
	Wodonga	Guest speaker at Development Course at the Clyde Cameron College
	Canberra	Inaugural meeting with the Australian Council of Churches
	Sydney	Hineni Youth and Welfare: Sixth Anniversary of Hineni; Guest of Honour at Pakistan Association of Australia, Independence Day celebrations
September	Canberra	Guest of honour at immigration luncheon given by the Embassy of Greece
	Sydney	Sydney University Extension Program
	Mt Isa	Queensland Arts Festival: Bingarra Festival
	Melbourne	Seminar of the Association for the Promotion of Asian Visual Arts
	Sydney	1982 Foundation Day Address, University of Sydney
	Brisbane	National Aboriginal Conference
	October	Adelaide
Adelaide	Annual Conference of UNICEF Committee of Australia	
Wollongong	Wollongong Institute of Education	
Sydney	University of Sydney: Fiesta Seminar	
Sydney	28th Convention of Order of Ahepa, Grand Lodge of N.S.W.	
Sydney	Australian Aid to Lebanon Appeal	
Perth	Public meeting: Human Rights and Civil Liberties	
Canberra	National Languages Policy Conference	

*(2) 1 November 1982 — 30 June 1983: Mr J. P. M. Long*

November	Melbourne	Conference on Freedom of Expression and Racist Propaganda
	Sydney	Familiarisation visits to Ethnic Affairs Commission; UN Association of Australia; Anti-Discrimination Board; and several ethnic associations
	Melbourne	Familiarisation visits to Ethnic Affairs Department; Commissioner for Equal Opportunity; Ecumenical Migration Centre, Richmond; Migrant Resources Centre and Ethnic Communities Council; Australian Institute of Multicultural Affairs
	Adelaide	Familiarisation visits to Ethnic Affairs Commission; Ethnic Communities Council; Attorney-General of S.A.; Migrant Resource Centre; Language and Multicultural Centre, Education Department
	Brisbane	4th Annual Conference of the Federation of Ethnic Communities Councils

December	Adelaide	Introduced speakers at 8th Annual Lalor Address on Community Relations
January	Adelaide	Conference on <i>Prejudice and the Media</i>
February	Sydney	Opening address at annual conference of Australian Association of Speech and Hearing; discussions with the N.S.W. Anti-Discrimination Board, Uniting Church Commission on Social Responsibility; consultations with Ethnic Communities Council, Ethnic Affairs Commission, N.S.W. Ombudsman
	Perth	Consultations with Trades and Labour Council; Consultative Committee on Community Relations; Attorney-General of W.A.; Human Rights and Civil Liberties Watch Group; Aboriginal Legal Service; Ethnic Communities Council of W.A.
	Geraldton	Meeting with police, magistrates, local government bodies; Aboriginal Boomerang Council; Regional Consultative Committee on Community Relations
March	Canberra	Addressed Rotary Club of Canberra
	Darwin	Consultations at Bureau of Northern Lands Council; attended meeting of Area Committee on Aboriginal Affairs; met Chief Minister and Leader of Opposition; discussions with Darwin Consultative Committee on Community Relations and Department of Social Security; visited Aboriginal Women's Resource Centre; Resource and Settlement Centre; addressed Aboriginal Task Force Group; visited Nungalinga College
	Brisbane	Brisbane Consultative Committee on Community Relations
	Hobart	Met Minister for Ethnic Affairs; Consultative Committee on Community Relations; addressed Ethnic Communities Council forum; Tasmanian Aboriginal Centre; addressed Anglo-Saxon-Celtic Association luncheon
	Canberra	Meeting with Ethnic Communities Council
	Adelaide	Attended and spoke at official opening of 6th Glendi Greek Festival
	Sydney	Attended Greek National Day Memorial Service and concert
April	Cairns	Attended Human Rights Commission meeting; Cairns Consultative Committee on Community Relations; visited Yarrabah Aboriginal community
	Ravenshoe	Inspected camping and housing conditions
	Townsville	Visited Palm Island and Aboriginal communities; James Cook University
May	Sydney	Anti-Discrimination Board; Law Reform Commission seminar on Aboriginal Customary Law Reform
	Bundaberg	Discussions with Consultative Committee on Community Relations; Aboriginal organisations, local government, police and magistrates
	Rockhampton	Discussions with members of Consultative Committee on Community Relations; and Aboriginal organisations
May	Canberra	Discussions with National Aboriginal Conference Executive
June	Melbourne	Meeting of human rights instrumentalities
	Sydney	Discussions with the N.S.W. Jewish Board of Deputies; discussions at Community Justice Centre, Redfern, on training and mediation methods

## APPENDIX 6

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### Staff Attending Seminars and Conferences 1982-83

	<i>Conference Dates</i>	<i>Officer Attending</i>	<i>Organised By</i>	<i>Location</i>
Ms C. Cheney	July	18 months of the AD(JR) Act	Public Service Board	
Ms S. Gleeson	February	Cross Cultural Orientation	Institute for	
		<del>Workshop</del>	<del>Aboriginal Development</del>	
	June	Workshop on participative conference design	Centre for Continuing Education	Canberra
	September	Workshop on search conference techniques	Centre for Continuing Education	Alice Springs
	November	Cross Cultural Network Conference	Australian Association for Adult Education	and Finke Canberra
Dr J. Hookey	July	Second Division Seminar: Human Rights and Public Administration	Public Service Board Public Service Board	Canberra Canberra
	November	Second Division Seminar: Security Issues	Public Interest Advocacy Centre	Canberra
	November	Immigration Law and Policy	Attorney-General's Department	
Ms J. Jardine	September	Statistical Reporting of Freedom of Information	Australian Association of Speech and Hearing	Canberra Sydney
	February	Regional Conference	Centre for Continuing Education, A.N.U.	Canberra
Ms A. Kamarul	September	Ownership and Control of the Media	Aquinas College	Sydney
	January	Prejudice and the Media	Australian Institute of Political Science	Canberra
	April	Women and the Bureaucracy	Public Service Board	
Dr S. Ozdowski	July	Administrative Decisions (Judicial-Review)-Act-1977—	Australliri Institute of	Adelaide Sydney Canberra

		AM		
	February		Recent Developments in Refugee Law	UN High Commissioner for Refugees Canberra
	April		Computer Security Seminar	Public Service Board Canberra
	May		Freedom of Information Legislation	Public Service Board Canberra
Dr R. Pettman	September		Workshop on action methods, role training and social drama	Centre for Continuing Education, A.N.U. Canberra
	November		Conference on Freedom of Expression	Human Rights Commission Melbourne
	December		Address on human rights education	United Nations Association Canberra
Mr J. Thomson	September		Second Division Seminar on Freedom of Information	Attorney-General's Department Canberra
	November		National Conference	Australian Institute of Public Administration Melbourne
	December		Conference of ALAO Regional Office Heads	Australian Legal Aid Office Sydney
	February		Financial Responsibility in Commonwealth Departments	Public Service Board Canberra
	May		Access to Government Information	A.N.U. Canberra
	June		Meeting of Commissioners/Counsellors for Equal Opportunity	Commissioner for Equal Opportunity Melbourne
Dr H. Ware	November		Immigration Law and Policy	Public Interest Advocacy Centre Sydney
			Affirmative Action for the Disabled	ACROD Canberra
	April		Measuring the Status of Women	United Nations Statistical Office and UN International Research and Training Institute New York
Mr M. Willcock	September		8th National Conference of Lesbians and Homosexuals	Conference Collective Canberra
	September		Statistical Reporting of Freedom of Information	Attorney-General's Department Canberra
	October		Training Workshop for Executive Officers of State Employment Discrimination Committees	Department of Employment and Youth Affairs Canberra
	February		Recent Developments in Refugee Law	UN High Commissioner for Refugees Canberra
Mr J. Wood	September		Seminar on Freedom of Information	Attorney-General's Department Canberra
	June		Seminar on Management Control in the Public Sector	Public Service Board Canberra

## APPENDIX 7

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### Complaints Received from 1/7/82 to 30/6/83

#### *HUMAN RIGHTS COMMISSION ACT*

*145 complaints received, which can be broken down in the following way:*

	<i>No.</i>	
Male	78	53
Female	40	27
Organisation/Group	17	11
Family	8	5
Not Known	2	1
<i>By State</i>		
New South Wales	43	30
Victoria	26	18
Queensland	19	13
South Australia	9	6
Western Australia	18	12
Tasmania	1	
Australian Capital Territory	23	16
Northern Territory	3	2
Overseas	2	1
Not Known	1	
<i>By Category</i>		
Medical Treatment	10	7
Employment	22	15
Benefits	12	9
Sex Discrimination	10	7
Immigration	15	10
Justice	37	25
Racist Propaganda	5	3
Incoherent/Outside Sphere	22	15
Other	12	9

*RACIAL DISCRIMINATION ACT*

*512 complaints were received during the period, and these can be represented in the following way:*

	<i>No.</i>	<i>%</i>
Male	262	51
Female	109	21
Organisation/Group	89	17
Family	36	7
Not Known	14	3
Section 21 (1)(b)	2	—
<i>By State</i>		
New South Wales	128	25
Victoria	76	14
Queensland	112	22
South Australia	24	5
Western Australia	75	14
Tasmania	13	2
Australian Capital Territory	57	11
Northern Territory	20	4
Not Known	2	
Overseas	4	1

31% of all complaints were by or on behalf of Aborigines.

## APPENDIX 8

### **Publications of the Commission**

#### *Reports:*

1. The *Australian Citizenship Act 1948* August 1982
2. Proposed A.C.T. Mental Health Ordinance October 1982
3. Testamentary Guardianship in the A.C.T. April 1983
4. Human Rights and the Deportation of Convicted Aliens and Immigrants June 1983

#### *Occasional Papers:*

1. Incitement to Racial Hatred: Issues and Analysis October 1982
2. Incitement to Racial Hatred: The International Experience October 1982
3. Words that Wound: Proceedings of Conference on Freedom of Expression and Racist Propaganda March 1983

#### *Discussion Papers:*

1. Corporal Punishment in Schools and the Rights of the Child March 1983

#### *Leaflets:*

The Human Rights Commission and You (Available in ten community languages)  
Teaching Human Rights

#### *Human Rights: A Handbook*

An illustrated handbook for children March 1983

#### *Periodicals*

*Human Rights*, the Newsletter of the Commission  
4 issues produced in 1982-83

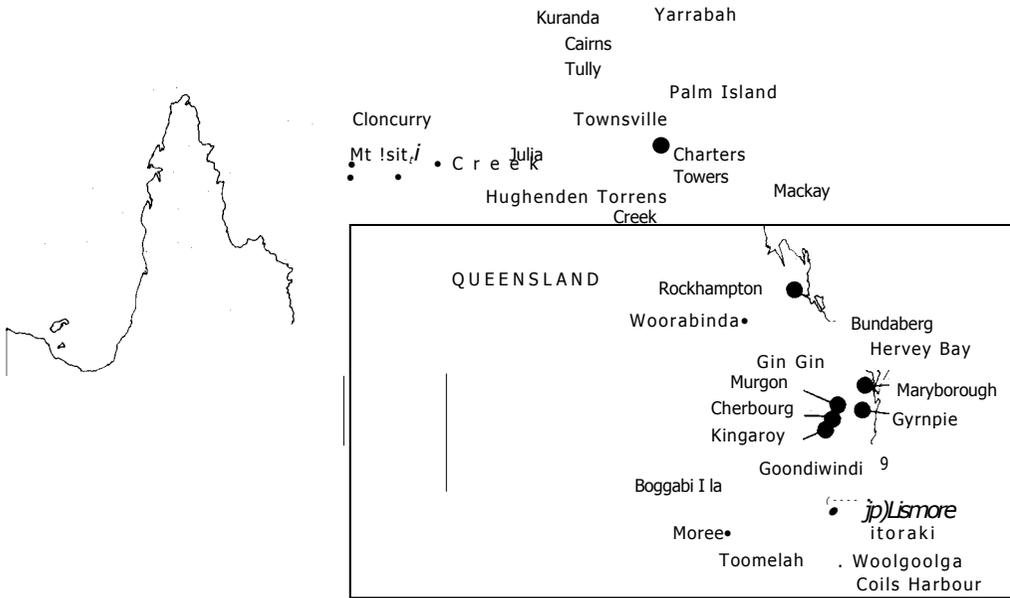
Press Releases: 11 from 1 July 1982 until 30 December 1982  
8 from 1 January 1983 until 30 June 1983

## List of Bibliographies

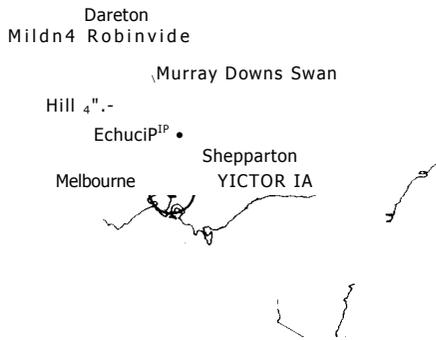
<i>Code</i>	<i>Topic</i>	<i>Assembled</i>	<i>References</i>
B1	Freedom of Assembly	December 1982 (Part 1)	26
B2	Freedom of Assembly	December 1982 (Part 2)	20
B3	Ethnic Aged	March 1983	17
B4	Migrants and the Legal System	March 1983	6
B5	Migrants in Australia	March 1983	71
B6	Single Fathers and their Rights	March 1983	27
B7	Children's Rights	March 1983	134
B8	Victims of Crime	March 1983	19
B9	Affirmative Action	March 1983	29
B10	Safeguarding the Rights of the Mentally Ill and the Developmentally Disabled	April 1983	68
B11	Aborigines and Social Justice	April 1983	24
B12	Corporal Punishment	April 1983	80
B13	Human Rights: selected books, directories, document collections, yearbooks	May 1983	90
B14	Human Rights: selected articles	June 1983	100
B15	Teaching Human Rights	June 1983	50

# APPENDIX 9

## Centres Visited during Field Trips, 1982-83



### NEW SOUTH WALES



## APPENDIX 10

### Compulsory Conferences Convened and Certificates Issued

	<i>Compulsory Conferences 31/10/75 to 30/6/80</i>	<i>Compulsory Conferences 1/7/80 to 30/6/81</i>	<i>Compulsory Conferences 1/7/81 to 10/12/81</i>	<i>Compulsory Conferences 1982/83</i>	<i>Certificates Issued</i>
Armidale		1			
Brisbane	2	1	1		3
Bundaberg			1	5	
Canberra	2				
Cairns				3	
Fremantle		1			
Fitzroy Crossing	3				
Gilgandra	1				2*
Goondiwindi	2	3		1	2
Hervey Bay					
Inverell	3				
Kempsey	1				
Kununurra		1			
Lismore	2			1	
Mt Isa				2	
Moree	4	2			4*
Maryborough				1	
Narrabri				1	
Melbourne	1				
Pingelly	1				
Port Macquarie	1				
Sydney	2				
Taree	2				
Tamworth		1			
Townsville		4		5	
Wyndham		1			
Yarrabah				1	
<b>Total</b>	<b>28</b>	<b>15</b>	<b>2</b>	<b>20</b>	<b>13*</b>

\* one matter

\* no certificates issued 1982/83

# APPENDIX 11

## Consultative Committees on Community Relations and State Offices of the Human Rights Commission

### NEW SOUTH WALES

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Moree NSW 2400  
Telephone (067) 522669

### VICTORIA

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### QUEENSLAND

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• Bundaberg: Mr Michael McCabe  
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Bundaberg QLD 4670

Cairns: Mrs L. White PO  
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Mr Paul Canet

### WESTERN AUSTRALIA

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### NORTHERN TERRITORY

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