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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic reports of States parties due in 1996

Addendum

# AUSTRALIA[1]

[24 August 1999]

[1] For the second periodic report submitted by the Government of Australia, see document CCPR/C/42/Add.2; for its consideration by the Committee, see CCPR/C/SR.806-809 and Official Records of the General Assembly, Forty-third Session, Supplement No. 40 (A/43/40), paragraphs 413-460. The third periodic report (CCPR/C/AUS/98/3) also submitted by the Government of Australia awaits examination by the Committee.

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## Introduction

1. This is the fourth report of the Australian Government submitted in accordance with the requirements of article 40 of the International Covenant on Civil and Political Rights.

2. Australia's first report was submitted in 1981 and considered by the Human Rights Committee in 1982. Australia's second report was submitted in 1987 and considered by the Committee in 1988.

3. Australia's third report is submitted together with the present report. The third report covers the period from 1987 to December 1995. It provides a comprehensive account of the development of legislation, administration and practice relevant to each article of the Covenant over that time.

4. Australia has a federal constitutional system in which executive, legislative and judicial powers are shared or distributed between the Federal Australian Government, six state and two territory governments. In elections held in March 1996, a new Federal Government was chosen by the Australian people. In February 1996, following a by-election, a new government was installed in Queensland. There were general elections in Victoria, Tasmania and Western Australia which did not result in a change in government in those States.

5. Given that the third report was finalized as a comprehensive document in early 1996, the Australian Government takes the opportunity presented by the fourth report to present significant policy developments which have occurred in the period 1 January to 31 December 1996. Only those policy developments relating to specific articles of the Covenant are presented. In the absence of an entry under a particular article, the Committee is referred to the relevant chapter of Australia's third report.

6. This report is the product of a cooperative effort by the governments of Australia.

## Article 2

### Commonwealth - Human Rights and Equal Opportunity Commission

7. On 4 December 1996 the Australian Government introduced in the Federal Parliament the Human Rights Legislation Amendment Bill 1996.

8. This bill is intended to amend federal anti-discrimination legislation to reform the functions and structure of the Human Rights and Equal Opportunity Commission (HREOC), which is the body to which complaints of discrimination alleging breach of federal anti-discrimination laws are made.

9. The proposed legislation is partly a response to the February 1995 ruling by the High Court of Australia referred to in Australia's third report. The High Court held that the means by which determinations of the Commission were previously enforced, by registration of the

decision of the Commission with the Federal Court of Australia, was constitutionally invalid since the Commission, as a non-judicial body, did not have the constitutional power to finally determine disputes.

10. Under the proposed legislation, matters which cannot be conciliated will be dealt with in the Federal Court rather than the Commission. The individual commissioners (other than the Privacy Commissioner) are to be given a function of amicus curiae to argue the policy imperatives of their legislation before the Federal Court (but subject to obtaining the leave of that Court).

11. To assist with additional caseloads, the bill enables the judges of the Federal Court of Australia to delegate some but not all of their functions in this area to judicial registrars. It also provides that the Federal Court will not be bound by technicalities or legal forms in considering proceedings brought before it under the bill.

12. In addition, the bill rationalizes the functions and structure of the Commission by reforming the complaint handling processes, clarifying management responsibility, facilitating timely decision-making and generally providing for the better administration of the Commission. It removes complaint investigation and conciliation from the individual commissioners and centralizes that role in the office of the President of HREOC. It also simplifies dispute resolution procedures in human rights matters by eliminating the second tier of review in HREOC, which, as indicated previously, was not directly enforceable.

13. The bill provides for legal assistance to be sought from the Attorney-General. The general principles for assistance under the existing human rights legislation will continue to apply, that is, assistance will be granted where refusal of assistance would involve hardship and it is reasonable in all the circumstances to do so.

Tasmania - anti-discrimination legislation

14. The Tasmanian Government has decided to enact broad-based anti-discrimination legislation, bringing that state into line with other Australian jurisdictions.

## Article 3

Commonwealth - workplace relations

15. The Workplace Relations Act 1996 was passed by the Federal Parliament in 1996. Its principal provisions came into effect on 31 December 1996 and 1 January 1997. The Act supports a more direct, cooperative relationship between employers and employees, and greater labour market flexibility. The Act gives primary responsibility for industrial relations and agreement making to employers and employees at the enterprise and workplace levels. It aims to provide for effective choice and flexibility in reaching both individual and collective agreements. The accessible bargaining arrangements included in the Act are intended to create opportunities to improve pay and conditions, while a range of statutory requirements are aimed at protecting employees who are vulnerable under a more decentralized framework.

16. The Government believes the Act will be of particular benefit to women by providing the flexibility to negotiate agreements that meet their needs, for example, by implementing measures to improve their capacity to reconcile their work and family responsibilities. A range of safeguards of particular benefit to women are also included in the Act. For example, the Act ensures that equal pay for work of equal value without discrimination based on sex applies to both federal awards and formal federal agreements, while also providing a mechanism for equal remuneration orders where no adequate alternative mechanism is available.

17. The Act also includes an extensive range of provisions designed to prevent and eliminate discrimination on a range of grounds, including sex. In addition, a range of statutory requirements ensure that employees who negotiate agreements are protected.

18. An Office of the Employment Advocate (OEA) has been established to, among other things, provide assistance to employees who are negotiating a new form of agreement, the Australian Workplace Agreement. The OEA will pay particular attention to providing support to vulnerable employees, including women, young people and workers from non-English speaking backgrounds. The OEA will be operational from 12 March 1997.

19. Further details of the Act as it relates to freedom of association are provided below in the section on article 22.

Commonwealth - equal employment opportunity

20. Considerable equal employment opportunity and gender awareness training has been undertaken by the Australian Defence Forces for all ranks, from point of entry.

Commonwealth - domestic violence

21. An arrangement has been put in place with New South Wales, the Northern Territory and South Australia regarding notification of domestic violence protection orders. These states have agreed that where an order is issued against a member of the Australian Defence Forces which directs either that the member shall not possess a firearm licence or a firearm, or the confiscation and disposal of any firearm, for the duration of the order, a copy of the order will be forwarded to the Assistant Chief of Staff - Personnel of the relevant service.

22. The service will ensure that access to firearms is restricted to that required in order to perform day-to-day functions only and the member is to be supervised closely during any period when access to firearms is required. Where there is reasonable access to the home location, under no circumstances will the member be in a position to remove a firearm from the military area. Under no circumstances will such a member be in charge of an armoury.

New South Wales - violence against women

23. In May 1996, the New South Wales Government provided $1.5 million for the establishment of a state-wide Domestic Violence Court Assistance Program. The aim of the scheme, which is administered by the Legal Aid Commission of New South Wales, is to provide integrated legal and social support and assistance to women seeking protection in local courts

from violence or the fear of violence, and to facilitate access to other support services. This is done through a combination of legal representation (provided by solicitors and police prosecutors) and emotional and practical support provided by support workers. The scheme is managed by a coordinator. The model also outlines a set of objectives and guidelines for the operation of appropriate and effective court support.

24. Twenty-five organizations were funded, effective from 1 May 1996. These organizations will provide court support services in 37 courts around New South Wales.

25. The Program includes funding for a "training and resource unit", to be located in the Domestic Violence Advocacy Service. The Program will undertake a regular review and evaluation of the effectiveness of court assistance schemes funded through it.

26. The New South Wales Government has also provided full funding for the establishment of the first Aboriginal Women's Legal Resources Service in Australia. The Service will provide Aboriginal and Torres Strait Islander women and children with a gender specific service and ensure victims of violence have access to appropriate and accessible legal representation, legal advice and referral. It will be managed by Aboriginal and Torres Strait Islander women. It will provide community education, training and resources to the community. It will also have a toll-free telephone number which will allow women across the state to obtain immediate and confidential advice.

## Article 6

### International War Crimes Tribunal

27. Australia has continued to be actively involved in the development of the International War Crimes Tribunal.

28. At its fiftieth session, the General Assembly considered the report of the Ad Hoc Committee which reviewed the major substantive and administrative issues arising out of the draft statute. Australia was an active participant in the Ad Hoc Committee. The General Assembly adopted a resolution which established a preparatory committee open to all members of the United Nations with the mandate to discuss further the major issues arising out of the International Law Commission's draft statute and to draft texts with a view to preparing a consolidated text of a convention for a court as a next step towards consideration by a conference of plenipotentiaries. The Committee met for two sessions in 1996 and reported to the General Assembly at its fifty-first session. Australia again was an active participant in the work of the Preparatory Committee.

29. Australia has been cooperating with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia in relation to investigations and prosecutions. The International War Crimes Tribunals Act 1995 enables Australia to assist and comply with requests from the two Tribunals established by the United Nations Security Council.

Commonwealth - euthanasia

30. Some states have legislation enabling people to refuse medical treatment and regulating the provision of palliative care: Medical Treatment Act 1994 (ACT), Consent to Medical Treatment and Palliative Care Act 1995 (South Australia) (see below), Medical Treatment Act 1988 (Victoria). Other states rely on the common law to regulate palliative care and the refusal of medical treatment and other issues surrounding euthanasia. Only the Northern Territory has enacted laws to enable a medical practitioner to assist a person to die. The Northern Territory legislation has sparked a great deal of debate in the community.

31. The Northern Territory Rights of the Terminally Ill Act provides for a person who is terminally ill to request assistance from a doctor to voluntarily terminate his or her life in a humane manner. The Act establishes safeguards and conditions under which the doctor may assist.

32. The Federal Government has constitutional power to override legislation in the Northern Territory (and any other territory of Australia). A private member's bill - the Euthanasia Laws Bill 1996 - intended to invalidate the Northern Territory legislation has been passed by the House of Representatives on a conscience vote. It has been referred to the Legal and Constitutional Committee of the Senate for consideration prior to the bill being debated by the Senate early in 1997.

South Australia - palliative care

33. The Consent to Medical Treatment and Palliative Care Act 1985 came into effect in November 1995. As well as covering medical practice generally, the Act makes special provision for the care of people who are dying. However, the Act does not sanction euthanasia as such.

34. There are six major new provisions, four of which are based on the patient's right to self-determination. This right is enshrined in common law but has at times been given insufficient emphasis in medical and dental practice. The Act emphasizes the obligation of medical and dental practitioners to respect that right.

35. All the new provisions encourage medical practitioners, and other people taking part in health and allied care, to emphasize the importance of close relationships with patients and to support better practice of medicine.

36. Provisions for the appointment of agents and anticipatory directions enable patients to state their wishes. Discussion with patients about the provisions for the care of people who are dying creates opportunities for medical practitioners and others to offer reassurance that suffering can be eased and that decisions regarding treatment will be respected. These provisions are designed to support medical practitioners and nurses in the practice of palliative care and to give real meaning to the term "dying with dignity".

37. Key aspects of the legislation are:

Medical practitioners have a duty to explain the nature, consequences and risks of proposed medical treatment; the likely consequences of not undertaking the treatment; and any alternative treatment that might be reasonably considered in the circumstances of the particular case;

Medical practitioners and those administering treatment under medical supervision are granted protection from civil and criminal liability if they are acting with the consent of the patient and in accordance with certain conditions;

Patients may be able to appoint representatives to make decisions about treatment on their behalf if they are able to do so. These representatives are known as "medical agents" and are appointed under a "medical power of attorney" as provided for under the Act;

Patients will be able to make advance decisions about the kind of treatment they want, or do not want, in the event they are not competent to decide for themselves later on. A decision made in this way is called an "anticipatory direction". It may be used alone or together with a medical power of attorney, so that the medical agent can consent to, or refuse treatment, in circumstances which may not have been foreseen;

Medical practitioners are supported in the practice of palliative care for patients in the terminal stage of a terminal illness, in accordance with certain conditions. Medical practitioners, and those administering treatment under medical supervision, will be protected from civil and criminal liability if they administer treatment to relieve pain and distress, even though an incidental effect of the treatment is to hasten death; and

Medical practitioners caring for people who are dying are not obliged to use life-sustaining measures if there is no prospect of recovery.

38. The Act defines life-sustaining measures as "medical treatment that supplants or maintains the operation of vital bodily functions that are temporarily or permanently incapable of independent operation, and includes assisted ventilation, artificial nutrition and hydration and cardiopulmonary resuscitation".

39. This Act preserves the fundamental principle under article 6 that every human being has the inherent right to life. This right is protected by law and the Act gives greater definition to the principle of ensuring that no one shall be arbitrarily deprived of his life.

40. The Consent to Medical Treatment and Palliative Care Act 1995 also upholds the principle in article 7 that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment by ensuring the proper and humane care of people who are dying.

Victoria - fatal shootings

41. The relatively high incidence of fatal shootings by police in Victoria led to public criticism and five independent reviews of police use of and training in firearms and defensive tactics in that state. In Victoria, each individual shooting incident has been the subject of a detailed internal police review and it is standard procedure for an inquest to be held by the Coroner into any fatal shooting by the police. The Victorian Deputy Ombudsman (Police Complaints) has also conducted inquiries where complaints have been made to his office. In addition, a number of broader reviews of police use of firearms and of the alternatives to using firearms have been, or are being, conducted. The five independent reviews received advice from the United States Federal Bureau of Investigations, the Royal Canadian Mounted Police, the Australian National Police Research Unit and the Australian Institute of Criminology. The reviews generated 219 recommendations. In September 1994, Project Beacon was created to coordinate the Victoria Police response to these.

42. Project Beacon was charged with the responsibility of the implementation of a "safety first philosophy", namely that "the success of an operation will be primarily judged by the extent to which the use of force is avoided or minimized". This philosophy is now a key element in all Victoria Police operations, whether planned or unplanned.

43. In the two years since the creation of Project Beacon, Victoria Police has developed and implemented a comprehensive retraining programme, complete with a two-day maintenance component which must be undertaken every six months. The Victoria Police Operational Safety and Tactics Training (OSTT) programme balances and integrates conflict resolution, communication and incident management skills with traditional firearms, weapons and defensive tactics training. It is one of the most comprehensive programmes of its type anywhere in the world and Victoria Police is the first law enforcement agency in Australasia and the South-West Pacific region to develop and implement such a programme.

44. Victoria Police, through Project Beacon has also reviewed the entire infrastructure of policies, procedures, qualifications, legislation, equipment and information systems surrounding the "use of force", in order to bring the organization's "Safety first philosophy" to reality.

45. There were three fatal police shootings in 1995 and none in 1996. Equally important is the fact that injuries to both police and offenders (in volatile "use of force" incidents) have almost halved since the implementation of the OSTT training and very few incidents now escalate in violence after the police have arrived. These facts demonstrate not only the success of Project Beacon but also the remarkable increase in the level of community safety in police operations.

Commonwealth - indigenous health

46 The health status of Australia's indigenous peoples is unsatisfactory and is a priority area for national attention. A key commitment of the Commonwealth Government is to increase the priority given to measures to improve Aboriginal and Torres Strait Islander health.

47. While primary responsibility for the delivery of health-care rests with the state and territory governments, the Commonwealth Government is committed to creating the policy and administrative framework in which measurable and sustainable improvements can be achieved.

48. The Commonwealth Government also accepts responsibility for funding a growing number of Aboriginal and Torres Strait Islander community controlled health and substance abuse services to provide culturally appropriate care.

49. In 1995-1996, efforts focused on:

A "rebasing" exercise to ensure that Aboriginal and Torres Strait Islander health and substance abuse services were funded on a more consistent and adequate basis;

Developing specific service contracts with each health service for term funding based on assessed need;

Undertaking priority initiatives aimed at improving the availability and skill levels of the Aboriginal and Torres Strait Islander health workforce;

Establishing a national advisory mechanism, the Aboriginal and Torres Strait Islander Health Council;

Instituting a relief staff training scheme to enable Aboriginal and Torres Strait Islander Health Services to employ extra staff while permanent staff attend training in or out of the workplace;

Assisting Aboriginal and Torres Strait Islander health services to develop innovative strategies to address mental health care in primary health-care settings; and

Improving hearing services, with young children aged 0 to 5 the priority target group.

50. Funding was maintained in the 1996-1997 budget, with $24 million earmarked for establishing health services in communities where there is currently no service.

51. In October 1996, the Foundation for Indigenous Youth and their Families was announced. This is a new joint Commonwealth/private sector initiative to promote healthy lifestyles and mental health among Aboriginal and Torres Strait Islander young people. It will promote support mechanisms and build self-esteem by sponsoring sporting events, art and craft, dance, drama and family events.

52. A major achievement in 1996 has been the successful negotiation of framework agreements on Aboriginal and Torres Strait Islander health with the states and territories. These agreements commit all governments to principles to be applied in planning and delivery of health care and to improving the level of resources provided for Aboriginal and Torres Strait Islander health. They will also ensure that joint planning occurs and that the principle of community control is applied in the planning and delivery of health care.

53. In addition to the initiatives outlined above, the Aboriginal and Torres Strait Islander Commission (ATSIC) plays an important role in the delivery of health-related infrastructure to indigenous communities. Environmental factors such as uncontrolled dust, poor water supplies and waste disposal, inadequate housing and overcrowding, a lack of power, dangerous transport and work conditions are all significant influences on the poor health of indigenous Australians.

54. In recent years, ATSIC has pursued a number of major reforms aimed at improving the targeting and delivery of its resources and those of Commonwealth and state and territory governments to address environmental health problems. These reforms have focused on improving outcomes in three major areas:

Improvements in environmental health outcomes from housing and infrastructure provision, particularly in remote and rural areas;

Reduction of after-housing poverty, overcrowding and family homelessness; and

Providing more appropriate and sustainable housing and infrastructure solutions that reflect community needs and capacities.

55. One particularly significant reform has been the development of the ATSIC Health Infrastructure Priority Projects (HIPP) scheme. HIPP was developed to improve the targeting of funding, address large-scale environmental health projects in rural and remote communities and trial best practice options for programme management and expenditure. The scheme ensures a coordinated approach to tackle the housing and infrastructure needs of communities in a holistic way, through strategies which:

Target funding to communities where the need is greatest;

Target large essential health-related environmental projects, such as water, sewerage, power, priority housing and local roads;

Provide an opportunity to pilot best practice in project planning and delivery;

Undertake health impact assessments;

Encourage increased commitment from state/territory and local governments in relation to infrastructure projects;

Provide technical expertise and assistance to community organizations in order to provide quality housing and infrastructure; and

Integrate employment and training elements as part of project development, to allow communities to take on management and maintenance tasks.

## Article 7

### Female genital mutilation

56. Legislation prohibiting female genital mutilation, as agreed by the standing committee of Attorneys-General in 1994, has now been enacted in New South Wales, South Australia, Tasmania, the Australian Capital Territory and the Northern Territory. Legislation has been introduced in Victoria and is in the process of being developed in Western Australia; the question is under active consideration in Queensland.

### Commonwealth - punishment of children

57. A discussion paper on the lawful chastisement of children was issued by the Model Criminal Code Officers' Committee in August 1996. The paper proposes that parental correction be lawful where it is "reasonable" and provides that conduct can amount to reasonable correction of the child only if it is reasonable in the circumstances for the purposes of the discipline, management or control of the child. causing or threatening to cause serious harm to a child is not to constitute reasonable correction of a child.

58. The paper also proposes that the same principles operate for persons who have care of a child (for example, schoolteachers) where the parent of the child consents to such correction by the person or the person reasonably believed the parent of the child consented.

59. The recommendations in the paper only deal with criminal responsibility - whether it should be a criminal offence to use reasonable force to correct children. they do not in any way prevent schools or childcare centres from developing policies that no force may be used to correct children. Civil remedies, such as remedies in tort law, are not affected by the recommendations.

60. This aspect of the discussion paper has attracted considerable public interest. The Model Criminal Code Officers' Committee is expected to issue its final report on these proposals in 1997 following extensive nationwide consultation.

### Commonwealth - arbitrary detention

61. A Model Mental Impairment And Unfitness To Be Tried (Criminal Procedure) Bill is being cooperatively developed by federal, state and territory Attorneys-General through the Model Criminal Code Officers' Committee. The model bill has been endorsed by Attorneys-General following extensive nationwide consultation on an earlier draft in 1994/1995.

62. The model bill provides for a procedure whereby terms of detention for the mentally impaired and unfit to be tried will be limited by the courts rather than being indefinite and dependent on administrative action. The model bill has been substantially implemented in South Australia, but is unlikely to be implemented in other jurisdictions until there is agreement to it from Health Ministers. Health Ministers are being asked by the Attorneys-General to reconsider some objections they have to a court-based scheme (Health Ministers prefer using health tribunals).

## Article 9

Commonwealth - access to legal advice

63. Section 256 of the Migration Act 1958 makes provision for access to legal advice by persons in immigration detention only where legal advice is requested by such persons. This provision is intended to facilitate the expeditious processing of claims made by boat arrivals and to avoid the situation, which has arisen, of lawyers encouraging boat arrivals, regardless of the nature of their claims, to engage in unwarranted, lengthy and expensive proceedings.

64. In June 1996 the Federal Court found in Human Rights and Equal Opportunity Commission and Anor v. Secretary of the Department of Immigration and Multicultural Affairs that, despite section 256 of the Migration Act, the Human Rights and Equal Opportunity Commission Act 1986 required the Department to deliver a confidential letter from the Human Rights and Equal Opportunity Commission to a detainee offering legal advice. The detainee had not requested legal advice or access to a lawyer.

65. In response to this decision, the Migration Legislation Amendment Bill (No. 2) 1996 was introduced to Parliament in June 1996. It has yet to be enacted. The Bill seeks to ensure that the intention of section 256 of the Migration Act is not able to be overcome through the use of the Human Rights and Equal Opportunity Act or other similar mechanisms. The legislation is not intended to diminish the right of detainees to seek legal advice or the Department's obligations to facilitate access to legal advice where it is sought.

New South Wales - young offenders

66. The Children (Parental Responsibility) Act 1994 is outlined at paragraphs 1423-1426 of Australia's first Report under the Convention on the Rights of the Child. In August 1996, independent consultants conducted an evaluation of the operation of the Act and assessed whether the Act is meeting its objectives. An evaluation committee will consider the consultants' findings and make recommendations regarding the future of the legislation.

Commonwealth - Aboriginal deaths in custody

67. On 25 November 1996, ATSIC and the Human Rights and Equal Opportunity Commission released the Indigenous Deaths in Custody 1989-1996 report. The report examines the deaths of indigenous people in custody since the Royal Commission into Aboriginal Deaths in Custody in 1987.

68. The report suggests that a new approach to implementation of the Royal Commission's recommendations by federal, state and territory governments is needed and highlights legal and other avenues for individuals.

Current profile of indigenous deaths in custody

69. In 1995, 22 Aboriginal people died in police or prison custody - the highest number since 1987. At least 17 people have died in 1996. Indigenous people are 16.5 times more likely to die in custody than non-indigenous people. The majority of deaths were the result of self-inflicted hanging or natural causes.

70. A change in definition of the term "a death in custody" in 1989 means that only deaths in institutional settings, as opposed to police pursuit, can be examined when comparing the Royal Commission and post-Royal Commission periods. The average number of institutional deaths in the Royal Commission period was 10.4. In the post-Royal Commission period it was 11.4.

71. There has been a significant decline in the proportion of deaths occurring in police custody and an increase in deaths occurring in prison. It has been found that Aboriginal people arrested are now being transferred more quickly from police cells to remand centres, taking pressure off the police and putting it on the prison system.

Arrests and imprisonment

72. Incarceration of indigenous peoples in Australia increased by 61 per cent between 1988 and 1995. Incarceration of non-indigenous people has increased by 38 per cent. Indigenous people are 17.3 times more likely to be arrested and 14.7 times more likely to be imprisoned than non-indigenous people.

73. Indigenous people are more likely than non-indigenous people to be imprisoned for assault, break and enter, motor vehicle offences, property offences and justice procedures offences and are also more likely to be arrested for good order offences.

74. Indigenous people are twice as likely as non-indigenous people to be arrested in circumstances where assault occasioning no harm is the most serious offence and are three times more likely to be imprisoned for such an offence. This indicates that provocative policing is continuing with regard to the use of offensive language, resisting arrest and assault occasioning no harm.

75. The federal government is proposing to hold two summits on the Royal Commission in 1997. The first will be a summit of indigenous representatives followed by a meeting of ministers responsible for law and justice.

## Article 10

Victoria - detention conditions

76. In Victoria, improvement continues to be made since the last report in the separation of convicted and unconvicted prisoners.

77. Currently, the majority of male remand prisoners continue to be housed at the Melbourne Remand Centre (capacity 240), with the Metropolitan Reception Prison being used as the entry

and assessment point for the male system. However, by the end of 1997, a 600-bed male prison will be built at Laverton, 15 kilometres west of Melbourne, which will in part replace the antiquated facilities of the Coburg Prison Complex, which currently contains the Metropolitan Reception Prison. The prison at Laverton will house the majority of male remand prisoners and will allow for further improvement in the separation of convicted and unconvicted male prisoners.

78. In August 1996, the Metropolitan Women's Correctional Centre, the first of three privately operated prisons, was opened. This facility houses all remand women prisoners and the majority of sentenced women prisoners. Given the small number of women prisoners in the state, it is impracticable to keep separate all convicted and unconvicted women. However, the "special" status of unconvicted prisoners is recognized by the provision of extra privileges, such as extended contact visits.

## Article 14

### Commonwealth - funding for legal aid

79. The Commonwealth Attorney-General wrote to state and territory Attorneys-General on 26 June 1996 to advise that the current Commonwealth-state legal aid funding agreements would be terminated on 30 June 1997. The Commonwealth will negotiate new legal aid agreements with the states and territories which ensure that from 1 July 1997 the Commonwealth will be responsible for funding matters that arise under Commonwealth law and the states will be responsible for matters under state law.

80. The Commonwealth wants to ensure that, in future, funds provided to legal aid commissions by the Commonwealth are used in a way which better serves the Commonwealth and those who look to the Commonwealth for legal assistance. The Commonwealth believes that the state and territory governments have a responsibility to provide adequate funding for the provision of legal assistance under the laws they enact.

81. Where a criminal matter arises under state or territory laws, the Commonwealth's decision will mean that it is for these governments to consider the requirements of article 14 (3) (d) of the Covenant when providing funds for legal aid in criminal law matters. The Commonwealth Government will meet its obligations in relation to criminal matters arising under Commonwealth law.

### New South Wales - children in the justice system

82. The New South Wales Government is committed to introducing a minor offenders punishment scheme for juvenile offenders in New South Wales, based on the New Zealand model of family group conferencing.

83. In the New Zealand system, primary responsibility for making decisions about what is to be done with children and young people who are alleged to have offended is placed with extended families. The key to family decision-making is a process called the family group conference. Family group conferences are based upon a philosophy of restorative justice. The

idea is that, by involving families and victims, family group conferences allow for the damage to the victim to be put right and social harmony to be restored. The aim is to address the offending behaviour of young people and divert young people from more serious offending by seeking to utilize the resources of family and significant others.

84. An inter-departmental working party chaired by the Attorney-General's Department has been established to examine the Government's proposal and to look at ways of improving the current system of police cautioning. The Working Party has produced a discussion paper which will be released for public consultation at the end of 1996. One aim of the Working Party is to develop proposals which provide culturally appropriate and workable approaches for addressing the high level of representation of young Aboriginal people within the juvenile justice system. The Government's proposal is also being examined in the context of the evaluation of the community youth conferencing scheme which was piloted in 1995 in Wagga, Moree, Bourke, Marrickville, Campbelltown and Castle Hill and which was loosely based on the New Zealand system. The evaluation found that, while the scheme had potential, it suffered from a number of structural and systemic problems.

Victoria - children in the justice system

85. The Victorian Government has introduced family group conferencing for offenders who have an offending history that would warrant the disposition of a supervisory order. When the offender has been found guilty of an offence, the Magistrate has the power to order that a family group conference take place. The key referral criteria are:

> The young person has previously been found guilty of an offence, resulting in a non-supervisory order;
>
> The young person has pleaded guilty to a second or further offence and, in the view of the Magistrate, would otherwise attract a supervised order;
>
> The young person consents to the referral, via a legal representative; and
>
> Family and significant others are prepared to attend.

86. Serious crimes of violence are excluded from the scheme.

87. The conference is convened by a representative of the Department of Human Services and is attended by the offender and his or her family, the offender's legal representative, the victim and police.

88. At the conclusion of the conference, the parties return to court and the Magistrate formalizes the conditions that the offender has agreed to at the conference. The conditions become conditions of a good behaviour bond.

89. Family group conferencing commenced in April 1995. It is proposed that the pilot scheme continue for 18 months followed by a 12-month evaluation phase.

Queensland - children in the justice system

90. The Juvenile Justice Legislation Amendment Bill 1996 implements an electoral commitment of the coalition government to address the increasing community problem of juvenile crime. The legislation fulfils the government's commitment to take a tougher line in respect of juvenile crime while ensuring the legislation contains sufficient safeguards to protect individual rights and freedoms.

91. The policy reflected in the legislation follows largely the recommendations of Judge Mcguire, the President of the Children's Court. The legislation basically introduces five substantive policy initiatives.

92. First, significant changes are made to enforcement powers to ensure that the courts and police have adequate powers of law enforcement while encouraging police to use alternatives to arrest. Second, the principles of juvenile justice are amended so as to include a reference to people other than the child. The community, the victim and the family are expressly recognized. Third, the legislation ensures that processes are available to divert a child offender from the criminal justice system. Fourth, the act contains provisions emphasizing the role of parents. Finally, responsibility for juvenile detention centres is administratively transferred to the Queensland Corrective Services Commission.

93. The enhanced law enforcement powers include:

Power of police officers investigating certain offences to apply to a Children's Court magistrate to take a fingerprint or palm print of the child. When the prints are taken, a parent, legal practitioner for the child, an independent justice of the peace or an adult nominee of the child must be present. The prints are to be destroyed if a conviction for the offence does not eventuate. A number of safeguards are expressly contained in these provisions:

The child must have been charged (but not arrested) for the offence;

Notice of the application to the magistrate must have been given to the child, a parent, the Chief Executive and the Commission (if the child is a detainee); and

The police must satisfy the court on the balance of probabilities that the child is reasonably suspected of being the offender and the order is necessary for the proper investigation of the offence.

When a child has been found guilty of an offence, the police officer or the court can refer the matter to a community conference as an informal way of dealing with the offender. A community conference involves the child and other concerned persons. The desired outcome is to benefit the child, the victim and the community. The aim of a community conference is to achieve an agreement. The agreement must contain a clause that the

child admits the offence, reflecting the primary aim of acceptance of responsibility for the offence by the child. The agreement may also contain provision for restitution, compensation, an apology, the child's future conduct, or a programme akin to a community service order or probation.

A police officer may, if a child admits to an offence, refer the matter to community conferencing before formal proceedings are commenced. Depending upon a number of factors, the police officer may thereafter elect to take no further action or may formally caution the child. The confidentiality of the identity of a child who has been the subject of a caution or a conferencing session is expressly preserved in the Act - it is an offence for a police officer to breach the statutory duty of confidentiality.

The rule against self-incrimination is preserved by provisions which bar the use of any information revealed at a community conference in later court proceedings against the child. However, should the child reoffend within seven years after taking advantage of the diversionary scheme of community conferencing, the fact of the earlier conferencing programme can be brought before the court for sentencing on the later offence.

The court is empowered to regard as lawful the actions of a police officer arresting a child whom the officer believed, on reasonable grounds, to be an adult.

94. The additional powers in respect of cautioning and community conferencing are designed to encourage the use of diversionary avenues from the criminal process for child offenders. It also promotes greater participation and recognition of the victims and the community generally.

95. The Act amends the definition of parent in various instances to include any person who appears to be a parent of the child. This gives greater latitude for police in fulfilling certain statutory duties, for example, the obligation to take reasonable steps to notify the parents. As well, a parent can be ordered to attend the proceedings for a child coming before the courts.

96. A significant change to the legislation concerns serious offences. A serious offence as defined under the legislation is an offence punishable by more than 14 years' imprisonment. If an offence is of such a serious nature that, were the offence committed by an adult, the matter would be dealt with by the Supreme Court, then likewise the matter is to be dealt with by the Supreme Court when the offender is a child. No longer does the child have the election of having the matter dealt with by a Children's Court judge. Moreover, if an adult is charged with certain types of offences committed while the offender was technically a child, the Act provides that, for sentencing purposes, the offender must be treated as an adult.

97. The Act includes a discretion for the court to sentence the offender as an adult for other types of offences that were committed when the offender was technically a child. These circumstances arise when the person has been proceeded against or sentenced as an adult in respect of other offences but there are outstanding child offences in which proceedings have not yet been completed. The new provisions give the sentencing court the opportunity to sentence, realistically, an offender who has already crossed the threshold into adult offending, but has an outstanding child matter pending. Similarly, the court is given a discretion to convert a child punishment to an adult punishment when the person subject to the order is now an adult.

98. The Act amends the sentencing powers. In particular, there are increases to community service hours and to detention orders, for example, for particularly heinous crimes. Life sentences will be available for crimes such as murder. Previously the maximum penalty was 14 years. In addition, further combinations of orders will be allowed - detention and probation can be combined for a single offence, as can probation and community service. There is also scope for converting a fine into a community service order.

99. Finally, the Act clarifies the powers in relation to visitors to detention centres. Visitors can be subject to a pat-down search and can be directed to leave if they will not be searched or do not comply with a direction based on security considerations.

## Article 17

### Commonwealth - privacy regime

100. The Government has announced that it will, in consultation with the States, implement a privacy regime in Australia comparable with best international practice.

### Victoria - privacy regime

101. The Victorian Minister for Multimedia has appointed a Data Protection Advisory Council to consider the most appropriate privacy model for the Victorian public sector. The Council is to report in December 1996.

## Article 22

### Commonwealth - workplace relations

102. Among the fundamental principles underpinning the Workplace Relations Act 1996 are the principles of freedom of choice, freedom of association and equality before the law. To give effect to these principles, the Act makes employment discrimination and victimization unlawful, where they occur on the grounds of a person's membership or non-membership of an organization, such as a trade union, registered under the Act or seeking registration. Individuals will be protected against coercion (whether direct or indirect) to join or not to join an organization, or to cease to be a member of an organization.

103. Other reforms introduced by the Federal Government in the Workplace Relations Act 1996 are outlined under article 3 above.

## Article 23

### Commonwealth - family tax initiative

104. The major family policy initiative of the Government is the family tax initiative for low- and middle-income families. This initiative is designed as an additional measure to provide adequate income levels for families with children and to recognize the role of primary carers with dependent children. It also recognizes both the inherent costs of bringing up children and the income foregone by families with only one parent in the paid workforce.

105. The family tax initiative provides assistance to families through two separate measures, the family tax payment and family tax assistance. The family tax payment will be a fortnightly cash payment made to eligible low-income families through the Department of Social Security. This will ensure that those families who may not have enough tax liability to fully benefit from the changes to the taxation system will receive direct income support. The family tax assistance is administered through the taxation system by the Australian Tax Office and will involve reducing the tax liability of parents through increases to tax free thresholds for eligible families with children.

### Commonwealth - family migration

106. While the Government continues to recognize family migration as an integral part of the migration programme, there has been some shift in emphasis towards skilled migration, given the contribution to Australia's economic development that flows from skilled migration, and having regard to the high and sustained levels of unemployment in the Preferential Family category.

107. The eligibility criteria for visas in the Preferential Family category have been amended to reflect this change in emphasis. In particular, sponsorship of family members - spouses, fiancés, children and parents - has been restricted to Australian citizens. Sponsorship is a privilege that should only be available to those who have made a public commitment to Australia by becoming Australian citizens. At the same time, suitable measures have been included in the Migration Regulations to accord with Australia's obligations under the Covenant. For example, the citizenship requirement will not apply to persons who hold refugee or humanitarian visas and exemptions have been put in place allowing permanent residents to sponsor a child where:

> The child was born outside of Australia and the sponsor was a permanent resident at that time;
>
> The child was included in the parent's visa application but did not travel to Australia with his or her parent(s); and
>
> The child's other (overseas) parent has died or become incapable of caring for the child.

108. Certain exemptions have also been provided in relation to the adoption of children and orphan relatives.

109. As a result of concerns about incidents of abuse of the spouse/fiancé provisions, amendments will also be made requiring a two-year cohabitation period to establish a de facto relationship.

## Article 24

### Model Criminal Code - age of consent

110. The Model Criminal Code discussion paper on "Sexual offences against the person" was released in November 1996. The discussion paper recommends that there be a standard age of consent of 16 years and that this should apply equally to homosexual and heterosexual intercourse. The Model Criminal Code Officers' Committee is expected to issue its final report on this and other proposals in 1997 following extensive consultation. The Committee's proposals are being developed cooperatively by federal, state and territory governments.

### New South Wales - child protection

111. The Department of Community Services has made a number of procedural and practical changes in the provision of child protection. These changes include:

A framework for casework that highlights assessment, decision-making and planning in each phase;

Assessment of safety, risk and well-being issues for children and young people;

Better information processes;

Flexible pathways for providing appropriate response and services in individual cases; and

Clear recognition of the need for a collaborative inter-agency response in order to provide the range of services children and families need.

### Queensland - children's legislation

112. The Government has introduced a bill to establish the Office of Children's Commissioner whose functions will be:

Monitoring and reviewing the delivery of children's services;

Promoting practices and procedures that uphold the principle that parents or legal guardians of children have the primary responsibility for the upbringing and development of their children;

Advising the Minister about developing and reviewing standards for child care and foster homes;

Receiving, assessing and investigating complaints about the delivery of children's services;

Monitoring the procedures developed and implemented for handling complaints about the delivery of children's services and alleged offences involving children;

Cooperating with the Queensland Police Service and the Australian Bureau of Criminal Intelligence in the investigation of allegations about offences involving children, including, for example, sexual abuse, child pornography and child sex tourism, and cooperating with such agencies in their endeavours to eradicate these activities;

Implementing and maintaining a programme of official visits to residential facilities;

Liaising and cooperating with other agencies, like the Ombudsman;

Establishing tribunals to hear appeals of reviewable decisions; and

Conducting research and inquiries into any matter related to the Commissioner's functions.

113. The bill also merges the adoption and child-care appeal tribunals bodies into one, to be called the Children's Services Appeals Tribunal.

Western Australia - Child Protection Services Registrar

114. The Department of Family and Children's Services has established a Child Protection Services Registrar which records names of children who have been maltreated and/or assaulted and the services provided to them. The names of persons found guilty in court of assault or maltreatment are also entered.

## Article 25

Universal and equal suffrage

115. In Western Australia, variations in voting value arise because of a zoning system which distinguishes between metropolitan and non-metropolitan areas. The High Court of Australia in McGinty v. Western Australia (1996) 70 ALRJ 200 confirmed that the principle of representative democracy implied in the Western Australian Constitution carries with it the right of each individual elector to participate on an equal basis in the electoral process. However, the High Court determined that electorates of equal numerical size are not a necessary characteristic of representative government nor must the vote of each individual elector be equal in value. Accordingly, the Western Australian arrangement for representation is valid.

Commonwealth - participation in public affairs

116. Widespread concern over several years within the Australian community about the increasing significance of international law and treaty action by the Executive arm of the Commonwealth Government without Parliamentary scrutiny and community involvement culminated in 1995 with a major Senate inquiry into the Australian treaty-making process.

117. In May 1996, the Minister for Foreign Affairs and the Attorney-General responded to the recommendations of the Senate inquiry by announcing reforms to the treaty-making process. The basic aims of the reforms are to: introduce a measure of transparency to the process; provide more opportunity for the involvement of the states and territories, Parliament, industry, non-government organizations, and the general public; and make the Executive more accountable to Parliament in its exercise of the treaty-making power.

118. The new procedures are:

A requirement for the tabling of treaties in Parliament at least 15 sitting days before binding action is taken;

The preparation of comprehensive national interest analyses to accompany tabled treaties;

The establishment of a Joint Standing Committee of Treaties of the Commonwealth Parliament to conduct routine scrutiny of tabled treaties and detailed inquiries into the more significant among them;

The establishment of a Commonwealth-State Treaties Council comprised of the Prime Minister, the state Premiers and territory Chief Ministers, to consider treaties and other international instruments of sensitivity and importance to the states and territories; and

The construction of a complete database of Australian treaties on the Internet.

119. By October 1996, four major tablings of a total of about 30 treaty actions, accompanied by national interest analyses, had taken place in Parliament under the new procedures. The Parliamentary Treaties Committee had considered all the treaties in question, held public hearings into nine of them, tabled two reports in Parliament, and had full public inquiries into two treaties under way.

120. The Treaties Council was due to convene for the first time on 15 November 1996, with four treaties (two environmental Conventions and two trade Agreements) and the Draft Declaration on the Rights of Indigenous Peoples on the agenda.

121. The Treaties Library located at the Australasian Legal Information Institute site on the Internet has most of the Australian Treaty Series freely and publicly available by electronic means.

122. Consultations around the country by the Treaties Secretariat of the Department of Foreign Affairs and Trade have found a high degree of approval from all affected sectors for the reformed process. The Government has promised a review after two years.

## Article 26

### Commonwealth - disability discrimination

123. Section 53 of the Disability Discrimination Act 1992 (the Act) provides that it is not unlawful for a person to discriminate on the grounds of disability in connection with employment in the Defence Force in, amongst other things, positions involving the performance of combat duties, combat related duties and peacekeeping services. Subsection 53 (3) of the Act provides that combat duties, combat related duties and peacekeeping services are such duties as declared by the regulations.

124. New regulations redefined "combat" and "combat related duties" for the purpose of the Act. These were gazetted on 5 February 1996.

125. Regulation 3 now defines "combat duties" as those "duties which require, or are likely to require, a person to commit, or participate directly in the commission of, an act of violence in the event of an armed conflict".

126. Regulation 4 now defines "combat related duties" as "duties which require, or are likely to require, a person to undertake training or preparation for, or in connection with, combat duties or duties which require, or which are likely to require a person to work in support of a person performing combat duties".

### Commonwealth - indigenous employment strategy

127. The Australian Defence Forces have developed specific initiatives to encourage greater representation by people of non-English-speaking background and Aboriginal and Torres Strait Islander peoples.

128. An Aboriginal and Torres Strait Islander Recruitment and Career Development Strategy has been established as a joint venture between the Department of Defence and the Department of Employment, Education, Training and Youth Affairs. The strategy is designed to improve employment equity and opportunities for Aboriginal and Torres Strait Islander personnel within the Australian Defence Forces. A goal of the Strategy is to obtain a 2 per cent Aboriginal and Torres Strait Islander representation in the Australian Defence Forces by the year 2005. Aboriginal people and Torres Strait Islanders comprise around 2 per cent of the Australian population.

129. The Aboriginal and Torres Strait Islander Recruitment and Career Development Strategy also aims to promote greater participation by indigenous people in the Cadets.

New South Wales - anti-discrimination

130. The Transgender (Anti-Discrimination and other Acts) Amendment Act 1996 was passed by the New South Wales Parliament in June 1996 and came into effect on 1 October 1996. The Act provides for a new ground of discrimination on the basis of transgender status and prohibits such discrimination in a variety of areas of public life.

131. The Industrial Relations Act 1996 (NSW) replaces the Industrial Relations Act 1991 (NSW) and contains provisions which are designed to ensure that industrial agreements (including awards and enterprise agreements) are free from discrimination. The President of the Anti-Discrimination Board is given wide powers of intervention in industrial matters where issues of unlawful discrimination arise.

Australian Capital Territory - intestacy

132. As a result of a legislative amendment which came into effect on 1 May 1996, it is now possible for a person, in addition to the legal spouse of an intestate, to inherit. The right to inherit extends to persons described in the legislation as an "eligible partner". An eligible partner is a person other than the intestate's legal spouse who, whether or not of the same gender as the intestate, was living with the intestate immediately before the death of the intestate as a member of a couple on a genuine domestic basis. To be classified as an "eligible partner" a person must have lived continuously with the intestate for two years or more, or be the parent of a child of the intestate under the age of 18 at the date of the death of the intestate.

## Article 27

Native title

133. In 1996, the Government introduced into Parliament amendments to the Native Title Act 1993. The amendments clarify the circumstances in which acts affecting native title may be done, facilitate agreements between government and native title holders about those acts, streamline the processes for determining native title matters, provide an effective registration process for claims and ensure that native title and compensation determinations under the Native Title Act 1993 are enforceable.

134. The Government subsequently announced a number of further amendments relating to the registration of claims, statutory functions for representative Aboriginal and Torres Strait Islander bodies, and the right to negotiate process and establishing a register for indigenous land use agreements. The amendments have not yet been considered by Parliament.

135. On 23 December 1996 the High Court handed down its decision in Wik Peoples v. Queensland (1996) 141 ALR 129. The decision concerns the effect on native title at common law of pastoral leases granted under certain Queensland legislation. The High Court decided by majority (4-3) that the grant of the pastoral leases did not confer on the lessees a right of exclusive possession, and therefore the grant of the pastoral leases had not necessarily

extinguished native title. However, where the rights of the pastoral lessees are inconsistent with native title, the rights of the lessees prevail. The Government is currently considering the implications of this decision, particularly in relation to the operation of the Native Title Act 1993.

Indigenous Land Fund and Corporation

136. As noted in the third report, the second tranche of the Government response to the High Court's decision in Mabo v. Queensland (No. 2) (1992) 175 CLR 1 was the establishment of an Indigenous Land Fund, a permanent self-financing fund giving dispossessed indigenous communities the means to acquire land. The Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995, established the Fund and the Indigenous Land Corporation (ILC). The Fund was allocated $200 million in 1994-1995, and $121 million (indexed) in 1995-1996 and subsequently for each financial year until June 2004.

137. During 1996, the ILC developed its National Indigenous Land Strategy, 1996-2001. This document explains the basis of the ILC strategy for indigenous land acquisition and land management projected over the next five years. The ILC sees its primary role and function as being to address the land needs of indigenous people who have been dispossessed. It is taking a national, strategic approach, as well as consulting widely at the regional level. Seven regional indigenous land strategies are also being prepared.

138. The Government has recently introduced amendments to the Land Fund and Indigenous Land Corporation (ATSIC Amendment) Act 1995 to fulfil the Government's election commitments regarding the Land Fund. The proposed amendments will:

Insert a clause that the ILC must give priority to those who are disadvantaged in access to land;

Expand the categories of potential ILC grantees from indigenous corporations to indigenous trusts, partnerships and individuals;

Expand the ILC Board by giving the Minister power to make additional appointments from time to time as he considers appropriate;

Enable the ILC to make grants of land and money and guarantee loans to individuals, trusts and partnerships, as well as corporations;

Improve the "secrecy" provisions regarding meetings of the Land Fund Consultative Forum; and

Address technical errors from the drafting of the original act.

Native Title Social Justice Report

139. ATSIC presented a major report to the former Government in March 1995 on further social justice measures that the Government should consider in response to the recognition of native title. The report focuses on institutional and structural change and the recommendations cover a wide spectrum of issues. Many of these recommendations will require detailed development and negotiation before they can be put into place. Central to the development of the report was a process of consultation and the opportunity for broad participation by the Aboriginal and Torres Strait Islander community.

140. The previous Government did not formally respond to ATSIC's report prior to the election of the coalition Government. The present Government has emphasized that social justice cannot be delivered to indigenous people until their disadvantages in health, housing, education and employment are overcome.

141. The Minister for Aboriginal and Torres Strait Islander Affairs has indicated that the Government is not intending to make specific responses to the Social Justice Report and that ATSIC and the Council for Aboriginal Reconciliation should pursue implementation as part of their normal activities.

Victoria - indigenous cultural heritage

142. In Victoria, Aboriginal cultural heritage is protected under the Archaeological and Aboriginal Relics Preservation Act 1972 (Vic) and the Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984. This legislative regime protects Aboriginal archaeological sites and places of significance. It also prevents the sale of Aboriginal artefacts in Victoria unless a permit has been granted. In 1996, the Victorian and Commonwealth Governments cooperated to acquire artefacts provenanced in Victoria when they were offered for public sale. A number of these artefacts have been returned to relevant Aboriginal communities.

143. The Museum of Victoria has policy of human material being returned to appropriate Aboriginal communities.

144. A review of the Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984 has recently been completed by the Hon. Elizabeth Evatt, AC. As one of the matters considered by this review was the interaction of Commonwealth and state heritage protection legislation, the Victorian Government will review its own legislation in the context of responding to Ms. Evatt's report.

Victoria - cultural diversity

145. In 1996, the Victorian Government adopted a set of commitments contained in the Pledge by the Government of Victoria to the People of Victoria, including the following principles:

> "The Government of Victoria regards the cultural diversity of our community as one of the State's greatest assets;

> "The Government of Victoria encourages all people to preserve, enhance and share their cultural heritage within the legal and institutional framework of our society and the reciprocal responsibility of all to accept the right of others to do so;
>
> "The Government of Victoria will promote policies, programmes and strategies aimed at delivering culturally appropriate services to all Victorians."

146. The Pledge has been produced in 21 community languages for distribution to government and community organizations.

147. The Victorian Government has announced that it will establish a new Immigration Museum to recognize and document the experience of Victoria's diverse migrant communities.

Western Australia - multicultural policy

148. The Western Australian Government's multicultural policy which was introduced formally in 1996, aims to manage cultural diversity in a way which maximizes the cultural, economic and social benefits of diversity and maintains community cohesion and social harmony.

149. The policy contains four major principles:

> The equality of all people and our basic human right to freedom from unlawful discrimination;
>
> The freedom of all to preserve, enhance and share their own cultural heritage;
>
> The need to maintain, develop and utilize the skills and talents of all individuals so as to maximize the social and economic benefits of cultural diversity; and
>
> A commitment to positive, harmonious and just community relations.

150. The Western Australian Government's Office of Multicultural Interests is developing a set of guidelines for government departments and an integrated community relations strategy for the State.

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