



A Human Rights Agenda and Action Plan for the 75th Anniversary of the *Universal Declaration of Human Rights*

1. Context and Purpose

10 December 2008 marks the 60th anniversary of the *Universal Declaration of Human Rights*. The *UDHR* recognises that respect for human rights and the rule of law is the foundation of peace, justice, security and human development.

Australia played an important and constructive role in the development of this historic instrument and subsequent international human rights laws and mechanisms.

Australia's domestic, regional and international interests over the next 15 years and beyond require that we commit to collaborative and constructive leadership in developing and implementing modern and effective human rights standards, institutions and initiatives.

Without a rule-based international social order, without states that adhere to the rules and without a genuine commitment to tackling global problems multilaterally, urgent challenges such as climate change, poverty, financial instability and food insecurity will not only remain unresolved but will also have grave implications for global, regional and national peace, security and development.

In this context, and on the occasion of the 60th anniversary of the *UDHR*, the Human Rights Law Resource Centre brought together a diverse range of Australian experts to develop an agenda to improve the promotion and protection of human rights at the domestic, regional and international levels. A list of the forum participants is contained in the Appendix.

The panel sought to do this by identifying significant or emerging human rights issues, challenges or opportunities for civil society and governmental action over the next 15 years, and developing an action plan for progress across these areas.

The following themes were addressed by the panel:

1. The rights of Indigenous Australians.
2. Human rights, governance and policy development.
3. International and regional institution building, engagement and normative development.
4. Poverty, aid, trade, business, human rights and development.
5. Equality and non-discrimination.
6. The recognition, promotion and protection of economic, social and cultural rights.
7. Building a culture of human rights through education and engagement.

Part 2 of this document contains a summary of key initiatives for action by government in each of these areas over the next 15 years.

2. A Human Rights Agenda and Action Plan

2.1 Indigenous Rights

- Continue to address past injustices, including by auditing and implementing recommendations from the *Bringing Them Home* report, the *Royal Commission into Aboriginal Deaths in Custody* and the *Inquiry into Stolen Wages*.
- Develop and commit to the achievement of human rights benchmarks in key areas of Indigenous disadvantage, including health, housing, education and employment.
- Endorse the *UN Declaration on the Rights of Indigenous Peoples* and adopt and mainstream this instrument as a framework to address Indigenous issues, including by mandating and resourcing the Aboriginal and Torres Strait Islander Social Justice Commissioner to conduct education and monitor compliance.
- Reform the Northern Territory Intervention to ensure compliance with international human rights standards, including by reinstating the operation of the *Racial Discrimination Act*.
- Develop and adopt a treaty between Indigenous and non-Indigenous Australians.
- Develop and enact a national statutory human rights instrument that explicitly recognises and protects Indigenous rights.
- Amend the Australian Constitution to promote Indigenous rights and equality, including through preambular recognition of Indigenous Australians, the deletion of section 25, the amendment of section 51 (xxvi) to require that it only be used for the *benefit* of particular races, and the inclusion of new sections which enshrine the rights to due process, equality before the law and non-discrimination.
- In light of the abolition of the Aboriginal and Torres Strait Islander Commission, establish an Indigenous body that consists of elected Indigenous representatives who can contribute to policy-making in domestic Indigenous affairs.

2.2 Human Rights, Governance and Policy Development

- Recognising the very strong associations between human rights and 'good governance', institutionalise human rights in governance through laws and processes at the federal, state and local government levels by:
 - developing and enacting comprehensive statutory human rights instruments;

- conducting ‘human rights audits’ and developing ‘human rights report cards’ in relation to the policies and practices of government departments, statutory authorities and government departments;
- auditing all existing laws for consistency with human rights; and
- where necessary, amending legislation to ensure compatibility with human rights.
- Develop and strengthen effective parliamentary, executive and judicial mechanisms to ensure and monitor implementation of and compliance with international human rights standards and recommendations.
- Ensure ongoing training of all relevant actors in relation to human rights, which should address:
 - the relevance of human rights to the actor and be ongoing, monitored, targeted and not compliance driven; and
 - organisational reluctance to human rights or new ways of approaching long standing actions or problems.
- Challenge actors to move beyond a compliance driven approach to human rights. Actions in this regard should include monitoring, benchmarks, incentives, disseminating best practice models, human rights based assessments, accountability and remedial action for violations.
- The proposed national human rights consultation should be used to build community understanding of and engagement with human rights. This is also an opportunity to highlight the importance of economic, social and cultural rights.
- There is a need for political leadership to galvanise the community around the importance of comprehensive human rights protection.

2.3 International and Regional Institution Building, Engagement and Normative Development

International

- Australia needs to be a model international human rights citizen and leader, including by taking a principled and consistent approach to human rights internationally, and ensuring that domestic policies and practices are human rights compliant.
- Australia should support best practice and participation in UN treaty monitoring bodies and Special Procedures of the UN Human Rights Council, including by supporting and resourcing Australian civil society and non-government participation in these processes.

- Australia should develop mechanisms, including parliamentary, executive and judicial mechanisms to audit and implement views and recommendations of UN treaty bodies and Special Procedures of the UN Human Rights Council.
- If Australia obtains a seat on the Security Council, it should act as an outstanding international citizen by using international human rights and the rule of law, rather than national interest, as the guiding principle for decision making.

Regional

- Australia should play a constructive, collaborative, respectful leadership role in the promotion and protection of human rights in Asia and the Pacific, including by contributing to the development of regional norms and institutions through education, capacity building, technical assistance and financial support. .
- Through aid, trade and support for civil society, Australia should resource a regional conversation about human rights which promotes education and a common understanding of rights in Asia and the Pacific.
- Pursuant to the dialogue above, and subject to its outcomes, Australia should contribute to the development of a regional human rights mechanism in Asia and the Pacific.
- Australian non-government organisations should be resourced to network and collaborate more extensively with non-government organisations in Asia and the Pacific to achieve these goals.

2.4 Poverty, Aid, Trade, Business, Human Rights and Development

- Human rights and development are closely related. Australia should promote coordination and collaboration between human rights and aid and development organisations, policies and programs.
- Conduct education and awareness raising regarding the Millennium Development Goals.
- Ensure that the Millennium Development Goals of 0.7% of GNI for aid is met.
- Legislate to ensure that Australian corporations respect human rights, including in respect of their extraterritorial activities.
- Play a leadership role in the development of a robust and effective international regulatory framework for business and human rights.
- Promote an understanding of the relationship between business and human rights, including by conducting education and training regarding the OECD Guidelines and the UN Global Compact.
- Conduct Human Rights Impact Assessments for any proposed public/private partnerships.

- Use governmental purchasing power to promote human rights and good corporate citizenship, including by including human rights provisions in governmental contracts.
- Review all trade agreements to ensure the principles of responsible business conduct and protection of human rights are included.
- Establish an independent complaints body capable of investigating grievances and assisting communities whose human rights are affected by Australian companies abroad.

2.5 A New Agenda for Equality and Non-Discrimination

- Build the case for equality within a human rights framework by:
 - developing a human rights culture that recognises and values differences;
 - collecting stories and narratives that make sense and speak to people and communities;
 - ensuring community engagement and listening to communities;
 - engaging and building support among media, business sector, parliamentarians, government and other key stakeholders; and
 - ensuring a multi-lingual, cross-sectoral and cross-cultural discussion.
- Enact comprehensive national and state-based equality legislation which:
 - provides comprehensive coverage in terms of grounds of discrimination, areas of public and private life, and jurisdiction;
 - focuses on achieving equality, rather than eliminating discrimination;
 - creates robust causes of action that provide effective and accessible individual and systemic remedies;
 - binds both public and private actors; and
 - ensures protection against spurious ‘special measures’ arguments.
- Realise and sustain equality by:
 - developing and adequately resourcing a regulatory and promotional body with responsibility for annual reporting, naming and shaming, and ensuring strong accountability;
 - undertaking a proactive ‘equality’ campaign;
 - providing services to achieve equality; and
 - developing a systemic approach to addressing discrimination and inequality.

2.6 Recognition, Promotion and Protection of Economic, Social and Cultural Rights

- Ensure that all Australians enjoy, at least, the core minimum standards of economic, social and cultural rights, including in the areas of health, housing and education, by:
 - identifying baseline evidence to demonstrate the need for protection of economic, social and cultural rights;
 - setting benchmarks to ensure progressive realisation and measures for accountability; and
 - engaging with the community to develop and monitor these benchmarks.
- Ensure adequate legal recognition and protection of economic, social and cultural rights, including by:
 - enshrining economic, social and cultural rights in a national human rights instrument; and
 - establishing an Economic, Social and Cultural Rights Commissioner to receive and determine complaints and to monitor and report on realisation.

2.7 Building a Culture of Human Rights through Education and Engagement

- Establish a shared and common understanding and acceptance of human rights and their relevance to and by all.
- Ensure active participation and involvement in developing Australia's human rights framework by all areas of and actors in the community.
- Articulate human rights in everyday language, appropriate to all communities and by using mediums relevant to those communities.
- Listen to and draw on experiences of individuals and communities to inform the development of a national human rights framework.
- Use relevant examples and stories to illustrate the importance of human rights.
- Engage and use leaders from all sectors to promote the relevance and importance of human rights to their communities.
- Integrate human rights considerations into all government and non-government institutions to ensure the practical realisation of human rights.
- Ensure that human rights are incorporated into primary, secondary and tertiary education.

Appendix — Attendees

Monday, 27 October 2008

Telstra Conference Centre, Level 1, 242 Exhibition Street, Melbourne

Andrew Lynch	Director, Gilbert + Tobin Centre of Public Law, UNSW
Ben Schokman	Senior Lawyer, Human Rights Law Resource Centre
Cassandra Goldie	Director, Age and Sex Discrimination Unit, Australian Human Rights Commission
Chris Sidoti	Human Rights Council of Australia
David Kinley	Chair in Human Rights Law, University of Sydney
David Manne	Director, Refugee and Immigration Legal Centre
Dianne Otto	Director, International Human Rights Law Program, Melbourne Law School
Dianne Sisley	Director, Australian Centre for Human Rights Education
Elizabeth Evatt AC	Former member, UN Human Rights Committee
Emily Howie	Senior Associate, Allens Arthur Robinson Corporate Responsibility Group
Fiona McLeay	Head of Advocacy, Program Effectiveness and Learning, World Vision Australia
George Williams	Sir Anthony Mason Professor of Law, University of New South Wales
Helen Szoke	CEO, Victorian Equal Opportunity and Human Rights Commission
Hilary Charlesworth	Professor, ANU School of Law
Hugh de Kretser	Executive Officer, Federation of Community Legal Centres
John Tobin	Senior Lecturer, Melbourne Law School
Julie Debeljak	Deputy Director, Castan Centre for Human Rights Law, Monash University
Larissa Behrendt	Director, Jumbunna Indigenous House of Learning, University of Technology, Sydney
Malcolm Fraser AC CH	Former Prime Minister of Australia (1975-1983)
Mat Tinkler	Director, Public Interest Law Clearing House (Vic)
Nicole Bieske	President, Amnesty International Australia
Peter Henley	Coordinator, Human Rights Group, Mallesons Stephen Jaques
Phoebe Knowles	Lawyer, Human Rights Law Resource Centre
Rachel Ball	Lawyer, Human Rights Law Resource Centre
Robin Banks	CEO, Public Interest Advocacy Centre
Sarah Joseph	Director, Castan Centre for Human Rights Law, Monash University
Simon Rice	Professor, ANU School of Law
Simone Cusack	Public Interest Lawyer, Public Interest Law Clearing House (Vic)
Teena Balgi	Convenor, Human Rights Network, National Association of Community Legal Centres
Tom Calma	Aboriginal and Torres Strait Islander Social Justice Commissioner, Australian Human Rights Commission
Vanessa Lesnie	Director of Strategy, Australian Human Rights Commission
Vanessa Zimmerman	Adviser to UN Special Representative on Business and Human Rights
Facilitators	
Rufus Black	Partner, McKinsey & Co
Philip Lynch	Director, Human Rights Law Resource Centre