



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

“Strengthening Human Rights and the Rule of Law”

Human Rights Law Resource Centre

Mallesons Stephen Jacques,

Level 50, 600 Bourke St, Melbourne

Thursday 7 August 2008, 6:15pm

CHECK AGAINST DELIVERY

[Acknowledgements]

- **First, may I acknowledge the traditional owners of the land we meet on – and pay my respects to their elders, both past and present.**

[Other Acknowledgements]

- **Justice Chris Maxwell, President of the Victorian Court of Appeal (also speaking)**
- **Mr David Krasnostein, Chair, Human Rights Law Resource Centre**
- **Mr Phil Lynch, Director, Human Rights Law Resource Centre (introducing you)**

- **Mr Ross Grady, Partner, Mallesons Stephen Jaques (also speaking)**
- **Ladies and gentlemen**

[Introduction]

- 1. It is a pleasure to join you this evening.
I thank the Human Rights Law Resource Centre for organising this event.**
- 2. This 60th anniversary year of the Universal Declaration of Human Rights draws us all to reflect on the protection of human rights over the last half of the 20th century.
And to reinvigorate our human rights agenda for the 21st century.**
- 3. It is timely, sixty years on, to draw inspiration from the Declaration as we review our guiding principles for human rights in Australia and as we work to take our commitment to the next level.**
- 4. And it is timely that in the year we celebrate this special anniversary, the Rudd Government is injecting renewed vigour into the cause of human rights.**
- 5. We are committed to ensuring a fair go for all Australians.**

6. **And as Federal Attorney-General, I consider the primacy of the law, informed by human rights, as fundamental to Australia's democracy.**
7. **Most of us have grown up in Australia, or chosen to live here, knowing that our democracy is strong.**
8. **But democracy is more than placing voting papers in a ballot box. True democracy must be underpinned by a respect for human rights.**
9. **The way we govern ourselves and conduct our affairs as a democratic nation hasn't happened by chance – we need to continually work at it to keep the rule of law in good order and to ensure social inclusion.**
10. **Tonight I will outline to you only a few things I am doing as part of the Rudd Government's commitment to human rights.**

[National Human Rights Consultation]

11. **The 2020 Summit earlier this year was a clear indication that Australians are interested in stronger human rights protections.**

- 12. Some of the themes emerging from the Summit included promoting gender equality, strengthening the protection of human rights in Australia, and affirming Australia's commitment to international institutions and the international rule of law.**
- 13. To this end, the Government is proceeding towards community consultation on how best to protect the rights and responsibilities of all Australians.**
- 14. I want to emphasise that the outcome of the consultation is not predetermined – any new approach to human rights will flow from the views of the Australian people.**

[Engagement with the United Nations]

- 15. In the meantime, the Rudd Government is committed – through intent and action – to living up to Australia's international human rights obligations.**

This is central to our commitment to upholding the rule of law.

16. Australia must look beyond its own borders to support and protect human rights.

We must work to be at the forefront of the development of international standards.

17. And at a global level, the Rudd Government has already demonstrated our commitment to re-engage with the United Nations to promote the rule of law internationally.

18. We are well advanced in the long overdue process of becoming a party to a number of key international instruments opposed, or sat on, by the former Government.

[Rights of People with a Disability]

19. A little over two weeks ago, Australia was one of the first Western countries to ratify the United Nations Convention on the Rights of People with a Disability.

- 20. This sends a strong and unequivocal message - Australians living with a disability will not be treated like second class citizens.**
- 21. This convention is the first major human rights treaty of the 21st century, and one of the fastest treaties ever negotiated and brought into force.**
- 22. Finally, we have an international legal instrument that clearly sets out that people living with a disability should have access to full and equal enjoyment of human rights and fundamental freedoms.**
- 23. I thank all the Australian NGOs who participated in the consultations leading to ratification.**
- 24. Now that we have ratified the Convention, in the coming weeks the Government will commence consultations on the Optional Protocol to the Convention – and I encourage you to take part in this process.**
- 25. The Rudd Government’s quick and decisive action in ratifying the Disability Convention**

demonstrates our preparedness to commit Australia to new human rights instruments where appropriate.

[Optional Protocol – Torture]

- 26. And for this reason, we are also working toward becoming a party to the Optional Protocol to the United Nations Convention Against Torture.**
- 27. Torture and cruel, inhuman or degrading treatment clearly have no place in Australia.**
- 28. The Protocol establishes a sub-committee to conduct visits to places of detention, including prisons and immigration detention centres.**
- 29. I believe that these mechanisms would complement existing arrangements in Australia to ensure detainees are treated humanly and by internationally accepted standards.**
- 30. Further to this, the Rudd Government is also moving to clearly and explicitly implement our international obligation to prohibit torture.**

- 31. Although our domestic criminal laws already contain offences which, collectively, outlaw all acts of torture, the Committee Against Torture has called upon all nations to enact a specific torture offence.**
- 32. And I am pleased to announce tonight that this week I have written to the States and Territories, consulting them on the development of Commonwealth legislation to prohibit torture.**
- 33. We are committed to ensuring that our domestic law clearly prohibits these deplorable acts.**
- 34. And to sending the strong message, both within Australia and internationally, that this Government will take whatever steps are necessary to eliminate the use of torture, wherever it occurs and whomever commits it.**

[Optional Protocol – CEDAW]

- 35. And last week marked the 25th anniversary of Australia's ratification of the United Nations Convention on the Elimination of All Forms of Discrimination against Women.**

- 36. Sitting underneath this is the Optional Protocol to the Convention, which was never actioned by the former Government.**
- 37. The Rudd Government is committed to women's rights internationally.**
And this Protocol would enable Australian women to complain directly to the United Nations if they feel Australia is not living up to its international obligations.
- 38. The Minister for the Status of Women, Tanya Plibersek and I have recently consulted on the issue of Australia becoming a party to this important Optional Protocol.**
- 39. And in the coming weeks I hope to table in the Federal Parliament a National Interest Analysis, the next key step in becoming a party to this Optional Protocol.**
- 40. Regrettably, women in our region of the world are among the most exploited. Human trafficking is rife and basic health and education**

standards are wanting. It is time for Australia to stand up to our international responsibilities.

[Standing United Nations Invitation]

- 41. And our commitment does not end with becoming a party to these international instruments.**
- 42. Australians are matter of fact people. Instinctively, they know we must be prepared to be judged by the standards we expect other countries to meet.**
- 43. The former Government had a defensive approach to visits by the United Nations to Australia, almost regarding it as an affront that international human rights experts would dare suggest that a visit to Australia was appropriate.**
- 44. I am pleased to announce tonight that the Rudd Government has agreed to issue a standing invitation to Australia for United Nations human rights Special Rapporteurs and other experts.**

- 45. This initiative demonstrates the Rudd Government's willingness to engage with the international community on how best to implement human rights obligations in the same way we expect other countries to engage with these processes.**
- 46. By extending a standing invitation, the Rudd Government makes it clear that we will accept requests for visits from the United Nations. This is something that likeminded countries, such as New Zealand and Canada, have done for some time.**
- 47. And it demonstrates the Rudd Government's commitment to engage more positively with the United Nations in implementing our human rights obligations.**
- 48. I noted with interest comments by the Opposition earlier this year, indicating their objective of reclaiming the mantle of the party committed to the rule of law.**

49. We certainly welcome that aspiration, but my view is that a Government or Opposition cannot profess a commitment to the rule of law, without being clear on its position on international human rights instruments and the important relationship with the United Nations.

[Other Areas]

50. And of course, the work the Rudd Government is doing in this area is not limited to my portfolio.

51. One of the first acts of the Minister for Immigration was to end the so-called Pacific solution, by closing Nauru and Manus Detention Centres and bringing all those people found to be refugees to Australia.

The estimated cost of running these facilities was \$314 million.

52. And the Rudd Government ensured the abolition of Temporary Protection visas.

53. We also recently announced a suite of reforms to Australia's immigration detention system.

- 54. The new policy will result in a risk-based approach to detention so that a person who poses no danger to the community will not be held in a detention centre and children will not be detained in an immigration detention centre at all.**
- 55. For the cases being processed at Christmas Island they will receive legal assistance and access to independent review of unfavourable decisions.**
- 56. Our reforms, being led by my colleague, Senator Chris Evans, Minister for Immigration and Citizenship demonstrate a more humanitarian approach - an approach based on decency.**
- 57. Similarly, the Rudd Government's historic apology to Indigenous Australians earlier this year was, I believe, a positive and healing move to unite all Australians.**
- 58. It was an outstanding occasion in Australia's history, and we want to build on that.**

- 59. Regrettably, the plight of Indigenous Australians generally continues to be one of the most serious and persistent human rights challenges facing Australia.**
- 60. The Rudd Government is progressing a number of initiatives aimed at close the gap between indigenous and non-indigenous Australians including in life expectancy, infant mortality, education, housing and employment.**
- 61. And I am working in the area of native title, with my colleague Minister Jenny Macklin, to encourage parties to set aside old attitudes and creatively engage with each other to achieve long term sustainable intergenerational outcomes.**

[Access to Justice]

- 62. Similarly, I am firmly of the view that ensuring access to justice is an important part of the rule of law.**
- It is also central to our concern for strengthening human rights and promoting social inclusion.**

- 63. Some of you will be aware that I am considering various reforms to improve the conduct of litigation.**
- 64. Over the past number of months I have made my view known that whilst court resources are finite, and more needs to be done to make justice available to everyone.
Not merely for those who can afford protracted litigation.**
- 65. Our justice system suffers when it is misused, for example when legal action is threatened or commenced to achieve collateral purposes.**
- 66. I believe legitimate public debate and proper conduct of litigation warrant further examination.**
- 67. And as I embark upon this, I am always interested to hear suggestions on how to improve the administration of and access to justice.**

[Conclusion]

- 68. It is, I think, a very exciting time.**

69. We have acted quickly since coming into Government to progress Australia's human rights agenda – nationally and internationally.

70. At the same time, a strong, comprehensive system of human rights protections cannot exist or flourish without respecting and upholding the rule of law.

We will continue to do both.

71. I want you to know that the Government's support for and protection of the most vulnerable and disadvantaged in our community is an ongoing priority.

Martin Luther King once said *injustice anywhere is a threat to justice everywhere.*

72. In summing up, I made an important appointment today to the Human Rights and Equally Opportunity Commission.

73. Justice Catherine Branson of the Federal Court of Australia will become President of the Commission, starting in October for a 5 year term.

- 74. I am confident she will provide a significant contribution to the promotion, understanding and recognition of human rights in Australia. We look forward to working with her to ensure a fair go for all Australians.**
- 75. I thank the Honourable John von Doussa QC, the current President for his contribution.**
- 76. And I thank you all for what you do to support the fundamental principles that guide this important agenda.**

ENDS (approx 2004 words)