



## **Submission No 44**

### **Inquiry into Human Rights and Good Governance Education in the Asia Pacific Region**

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Senator Marise Payne  
Chair  
Human Rights Sub-Committee  
Joint Standing Committee on  
Foreign Affairs, Defence and Trade  
Parliament House  
CANBERRA ACT 2600

Dear Senator Payne

**Inquiry into Human Rights and Good Governance Education in the Asia Pacific Region**

I refer to your letter of 28 May 2003 to the Attorney-General, the Hon Daryl Williams AM QC MP, seeking a submission from the Attorney-General's Department to the Inquiry into Human Rights and Good Governance Education in the Asia Pacific Region.

I am pleased to enclose a submission from the Attorney-General's Department to this Inquiry.

Thank you for seeking our input to this important Inquiry.

Yours sincerely

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# **Human Rights and Good Governance Education in the Asia Pacific Region**

*Inquiry by the Human Rights Sub-Committee  
Joint Standing Committee on Foreign Affairs,  
Defence and Trade*

**Attorney-General's Department**

August 2003

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## **Introduction**

As the department responsible for domestic human rights and anti-discrimination legislation, the Attorney-General's Department plays an important role in educating Australians about their human rights and responsibilities. Although generally within the portfolio responsibility of the Australian Agency for International Development (AusAID) and the Department of Foreign Affairs and Trade (DFAT), the Attorney-General's Department also participates in a number of programs and activities to promote human rights and good governance in the Asia Pacific region.

## **Human Rights and Good Governance Education in Australia**

Australia has a proud record on human rights, both domestically and in the international sphere. However, human rights only exist in a meaningful way if people believe in them and are committed to them. They exist because people understand their value to the community and appreciate their importance to the rights, liberties and dignity of the individual. The protection of human rights depends on them being accepted and observed by each and every member of our society.

The Commonwealth Government considers that education is the basis upon which a genuine and lasting respect for human rights is founded. Education plays an important role in promoting and protecting human rights. It changes attitudes, it fosters understanding and it encourages tolerance. In addition to teaching us about our own rights, it teaches us about our responsibilities to each other. The Government is committed to encouraging a greater understanding of human rights which it believes will contribute to a more tolerant and just society in which people respect diversity and the dignity and worth of others.

## ***Human Rights and Equal Opportunity Commission***

The Human Rights and Equal Opportunity Commission (HREOC) is Australia's national human rights institution and is an independent statutory authority established by the Australian Parliament. HREOC plays an important national role in promoting awareness of, and a respect for, human rights in the community.

The programs developed by HREOC provide information and strategies to improve the enjoyment of human rights in Australia. In 2001-02, HREOC developed a structured human rights education program for teachers of upper primary and secondary students. The program is comprised of a series of education modules, the first of which, *Youth Challenge*, was launched in late 2001. The modules include teaching materials such as extensive teaching notes, videos, worksheets and background information. Except for the videos, these materials are available free from HREOC's extensive website. The teaching approach used in the modules is designed to encourage understanding of human rights through contexts relevant to learners. It is discursive, skills-orientated and responds to different learning styles. The modules have been specifically designed to be cross-curricular: they can be incorporated into a range of different curriculum areas including history, legal studies, religious studies and studies of society and the environment.

The success of HREOC's education program was accorded national recognition when *Youth Challenge* was short-listed for *The Australian* newspaper's 2002 Awards for Excellence in Educational Publishing.

HREOC has developed a specific portal on its website to support teachers. As well as providing access to the education modules, the portal also includes links to human rights resources for teachers, access to the 'Current Issues' series, which keeps teachers up to date on human rights matters and access to a human rights education mailing list and external human rights resources.

HREOC also undertakes initiatives to assist and educate employers and employees. For example, Pregnancy Guidelines have been developed to provide practical assistance to employers to fulfil their obligations under the federal *Sex Discrimination Act 1984*. HREOC also developed *Race for Business*, a comprehensive package of resources for employers on eliminating racial discrimination and harassment in the workplace.

Wherever appropriate, HREOC engages with all forms of media to disseminate human rights information. HREOC maintains a Public Affairs section that liaises extensively with Australian and international media organisations through the dissemination of media releases, news conferences, interviews and special events.

Through its website, HREOC also disseminates information about human rights to the Australian community, including reports, submissions, guidelines and complaints information. The legislation for which HREOC is responsible is available to be viewed online, including the international instruments which are scheduled to the legislation. Information about human rights legislation and instruments is also available via other online facilities such as the Australian Legal Information Institute (AustLII) database and the AustLII treaties library which is supported by the Department of Foreign Affairs and Trade. While information on HREOC's website is mainly presented in English, the Commission is working on making some materials available in other languages. Currently, the website allows the Complaint Guide and the Human Rights and Equal Opportunity Commission Brochure to be viewed in fourteen languages including Arabic, Greek and Vietnamese.

### ***National Committee on Human Rights Education***

A National Committee on Human Rights Education has been established and endorsed by the Government as the focal point for Australia's contributions to the United Nations Decade on Human Rights Education (1995-2004).

The National Committee on Human Rights Education was established as a cooperative venture between relevant government and non-government agencies, business and the community sector. The Committee was incorporated in Victoria in November 2001.

The Commonwealth Government provided initial seed funding of \$10,000 to assist with the establishment of the Committee. The Government also provided an additional \$20,000 to the Committee to mark International Human Rights Day 2001, and a further \$20,000 in funding to the Committee in October 2002. Tax deductibility status for the Committee's Australian Human Rights Education Fund was granted in

September 2001. Tax deductibility status will enhance the ability of the Committee to raise funds from the private sector and members of the public to assist it in developing initiatives for human rights education. This will assist the Committee to forge links with the private sector and the community, encouraging the perception that human rights are matters for all participants in society to engage in, rather than something to be administered by government.

The Committee's major activity in 2002 was the National Strategic Conference on Human Rights Education held in Canberra on 23 August 2002. The Conference brought together people from all sectors involved in human rights education (including the media, government, the education sector and community organisations). It provided an opportunity for different sectors involved in human rights education to meet and exchange ideas, and to discuss human rights education initiatives currently under way in the community. The Attorney-General opened the conference and, in his opening speech, emphasised the Government's commitment to human rights education and noted the critical role the Committee plays in the development of strategies to promote human rights education in Australia. Recommendations for follow-up action were released in December 2002 and it is expected that they will provide a framework for developing a coordinated national human rights education strategy.

The Committee is planning to hold its next conference in Sydney in October 2003. The details of this conference are still being developed.

Another important initiative developed by the Committee is the Citizenship of Humanity Project launched on 10 December 2002. The Project is directed towards final year primary school students and aims to promote classroom discussion and appreciation of human rights, by reference to the Universal Declaration of Human Rights. It is supported by the State and Territory human rights education committees. The program will culminate in the issue of a Certificate of Humanity to all participants.

The Committee has developed a proposal for the establishment of an Australian National Centre for Human Rights Education to administer human rights education programs, organise conferences, operate as a centre for research and provide assistance to other human rights commissions in the region. The proposal is in its initial stages and the Committee is liaising with the Attorney-General's Department in relation to the development of this proposal.

The Commonwealth Government strongly supports the initiatives of the Committee and encourages the States and Territories to continue to do likewise through their respective State Committees. The activities of the Committee are complemented by the comprehensive human rights education work of HREOC.

#### ***Funding to the Red Cross for International Humanitarian Law Education***

The Commonwealth Government contributes funding to the Australian Red Cross to assist it in the dissemination of information about international humanitarian law.

The principles of international humanitarian law are designed to protect the victims of armed conflict. They provide protection to those who are not, or are no longer, taking

part in fighting, such as civilians, medical personnel and wounded soldiers. They also restrict methods of conducting war that are indiscriminate or cause unnecessary suffering.

Australia is a party to the Geneva Conventions regarding international humanitarian law. Parties have an obligation to disseminate the principles of international humanitarian law as widely as possible to civilians and the armed forces. Australia's partnership with the Red Cross assists in fulfilling this obligation.

The Government increased funding to the Red Cross in 2000 from \$45,000 to \$120,000 per year. This increase has allowed officers dedicated to the dissemination of international humanitarian law principles to be employed in every Australian State and Territory. This has significantly enhanced the ability of Australian Red Cross to promote the principles of international humanitarian law throughout the community.

A great many Australian defence force personnel and aid workers are deployed in countries that are experiencing or have recently experienced armed conflict. The Government's increased funding level highlights the Government's commitment to ensuring that these men and women are well prepared for Australia's ever-increasing role in situations of armed conflict.

#### ***Other Human Rights Education Activities in Australia***

In addition to the work of the Human Rights and Equal Opportunity Commission and the National Committee on Human Rights Education, the Government supports various other human rights education initiatives.

One example is the *Discovering Democracy* education program which is a national civics and citizenship program. The program targets three education sectors: schools, higher education and adult community education. Program activities for schools focus on the Studies of Society and Environment curriculum. Social justice is a major theme and program activities support basic democratic values such as tolerance, acceptance of cultural diversity, respect for others and freedom of speech, religion and association.

*Living in Harmony* is another Federal Government program and is administered by the Department of Immigration and Multicultural and Indigenous Affairs. This initiative provides a valuable framework for combating racism and involves a community grants program, a partnerships program with a range of government and non-government agencies and a public information strategy.

#### **Good Governance and Human Rights Activities in the Asia Pacific**

##### ***China***

##### ***Human Rights Dialogue***

In August 1997, following discussions between the Chinese Premier, Li Peng, and Prime Minister John Howard, China and Australia initiated a high level dialogue on



human rights. The first round of the Australia China Human Rights Dialogue was held in late 1997.

The seventh round of the annual multilateral Dialogue was held in Beijing on 28 July 2003. The Dialogue addressed judicial administration, civil and political freedoms, the rights of women and children and the treatment of Falun Gong members and other disadvantaged groups in China. Following the Dialogue, the Australian delegation spent three days in Tibet in order to discuss the Australian Government's concerns about the human rights situation directly with Tibetan authorities. Notably, the Australian delegation was the first human rights delegation to visit Tibet.

The Australian delegation was led by the Department of Foreign Affairs and Trade and included a representative of the Attorney-General's Department and AusAID. The President of HREOC, Justice Jon von Doussa QC, was also part of the delegation.

#### *Australia-China Human Rights Technical Cooperation Program*

During the course of the first Australia China Human Rights Dialogue it was agreed that the two countries would undertake a program of technical cooperation aimed at strengthening the administration, promotion and protection of human rights in China.

The Australian contribution to the Australia-China Human Rights Technical Cooperation (HRTC) Program is provided through AusAID. AusAID has entered into a Record of Understanding with HREOC to manage overall the implementation of the HRTC Program. HREOC works directly with Chinese counterpart agencies, and Australian specialist agencies and individuals that participate in particular activities.

Through the HRTC Program, cooperative relationships have been formed with the Ministry of Foreign Affairs (the lead counterpart organisation), the Supreme People's Procuratorate, the Supreme People's Court, the National Judges College, the State Ethnic Affairs Commission, the Ministry of Justice, the Ministry of Public Security, the All-China Women's Federation and the Chinese Academy of Social Sciences.

The HRTC Program is a concrete manifestation of the commitment of the two Governments to work towards improvements in the administration, promotion and protection of human rights in China. Individual activities focus on practical measures to achieve these ends. The HRTC Program is based on the idea that by working together and exchanging views and approaches, effective elements of human rights protection, promotion and administration will develop and prosper.

On a recent trip to China from 21-25 July 2003, the Attorney-General emphasised in his meetings with Chinese officials, including the Minister for Justice and the Vice Minister for Public Security, the positive nature of the HRTC Program and noted the improved cooperation between China and Australia on human rights assistance.

#### *Assistance to the Chinese Judiciary*

Through the HRTC Program, AusAID has funded a range of judicial training activities delivered by Australian judges from Federal Court. The AusAID-funded activities include exchange visits by Australian and Chinese judges. Since 1998,

Australian judges have delivered annual lectures at the National Judges College (NJC) in Beijing.

In 1999 and 2000, former High Court Chief Justice, Sir Anthony Mason, and Federal Court Justices Finkelstein and Matthews, delivered lectures at the NJC on a number of subjects, including judicial review and criminal procedure.

In June 2000, five judges from the Supreme People's Court of China and a number of provincial courts undertook a ten day study visit to Australia to examine forensic practices and procedural rules to protect human rights used in Australian courts.

In November 2001, NSW Supreme Court Chief Justice Spigelman, Federal Court Justice Branson, Victorian Supreme Court Justice Kellam and former High Court Justice Dawson also conducted training at the NJC, focusing on judicial ethics (including judicial independence, conflict of interest, judicial impartiality and bias). This coincided with the introduction of China's first Code of Judicial Ethics and the training provided some initial guidance on the application of the Code's provisions.

## *Indonesia*

### *Australia-Indonesia Working Group on Legal Cooperation*

The inaugural meeting of the Australia-Indonesia Working Group on Legal Cooperation (the Working Group) was held from 9-10 April 2002 in Jakarta. The Working Group was created under the Australia-Indonesia Ministerial Forum (AIMF), which plays a key role in strengthening the bilateral relationship between Australia and Indonesia.

The objective of the Working Group, pursuant to the Memorandum of Understanding (MOU) on Legal Cooperation between Australia and Indonesia, is to achieve cooperation on the development of the legal systems, laws and legal institutions of both nations. Both the Australian Attorney-General and the Indonesian Minister for Justice and Human Rights emphasised at the meeting the importance that these legal cooperation initiatives play in strengthening the bilateral relationship. The inaugural Working Group included a Focus Group on Human Rights.

The Attorney-General attended the sixth meeting of the AIMF in Jakarta on 11 March 2003. In addition, the Attorney-General met with the Chair of the Indonesian Human Rights Commission, Abdul Hakim Garuda Nusantara. These meetings emphasised the continued commitment to cooperative legal sector and human rights activities between Australia and Indonesia.

### *Meetings with Indonesian Officials*

On 19 August 2002, the Attorney-General's Department met with participants on an AusAID-funded Human Rights Study Program in Australia. The participants were from the Ministry of Justice and Human Rights in Jakarta. These meetings are practical examples of the kind of technical cooperation on human rights set out in the MOU on Legal Cooperation between Australia and Indonesia.

### *Specialised Training Project Human Rights Course in Australia*

On 27 May 2002 and on 14 May 2003, the Attorney-General's Department hosted a roundtable for Indonesian participants in the Indonesia-Australia Specialised Training Project (IASTP) Human Rights in Australia course. The IASTP provides knowledge and skills development that meets both the priorities of Government and the needs of participants through the design and delivery of appropriate technical and professional training. Lawyers from the Attorney-General's Department gave presentations on the role of the Department in domestic and international human rights matters; treaty making processes; reporting to United Nations (UN) treaty bodies; Commonwealth anti-discrimination laws; and Australia's domestic implementation of its international human rights obligations.

### *Assistance to the Indonesian Judiciary*

The Legal Reform Program Facility (LRP) was AusAID's primary vehicle for delivering assistance to the Indonesian Supreme Court until its completion in May 2003. AusAID is currently finalising a design process to develop a new program of assistance for the legal/human rights sector planned to commence early in 2004.

The Indonesia Judicial Training Program (IJTP), implemented by the Federal Court of Australia, existed under AusAID's Government Sector Linkages Program between 1999 and 2002. The training is held in both Indonesia and Australia and is delivered by judges of the Federal Court of Australia. As at the end of 2002, the Federal Court had delivered 13 workshops to more than 400 Indonesian judges, and 44 Indonesian judges had benefited from training programs in Australia (mostly with the Federal Court).

The integrity of the Indonesian Supreme Court is particularly critical to legal reform in Indonesia because of the high proportion of cases appealed to the Supreme Court and because it controls the enforcement of substantive law. Australia has supported the Supreme Court since 1999, the longest period of engagement by any donor, and remains one of its largest donor partners. In addition to a wide range of training for judges and court officials, key outcomes have included new court regulations on class action procedures and alternative dispute resolution, and the development of video-conferencing technology used for the first time to interview former President Habibie from Germany in a corruption case.

An independent review of the IJTP in 2002 highlighted the success of the Program and the strong support it enjoys within the Supreme Court. Aside from technical legal training, the IJTP provides the Supreme Court with a clear view of how an independent judiciary should operate.

## *Vietnam*

### *Human Rights Dialogue*

The second round of the bilateral human rights dialogue with Vietnam was held in Canberra on 27 June 2003. Discussions covered a wide range of human rights matters including reform agenda for the UN treaty system, the Commission on Human Rights, judicial reform and approaches to criminal law.

The Australian delegation was led by a senior officer of the Department of Foreign Affairs and Trade, and included officials from the Attorney-General's Department and other relevant agencies and the President of HREOC, Justice John von Doussa.

The Dialogue was followed by a five day AusAID-funded study tour hosted by HREOC, which included visits by the Vietnamese Delegation to the NSW Administrative Decisions Tribunal, the Australian Human Rights Centre at the University of New South Wales and other organisations. The visit program was designed to enhance the participants understanding of Australia's approach to the promotion and protection of human rights and to consider possible areas for future technical cooperation.

#### *Assistance to the Vietnamese Judiciary*

Judicial exchange programs between judges of the Federal Court of Australia and judges of the Supreme People's Court of Vietnam involve visits and workshops and are funded by the Centre for Democratic Institutions.

#### *Assistance to the Judiciaries of other Asia-Pacific countries*

A number of judicial training programs in Asia and the South Pacific are managed by agencies that use the Federal Court's expertise and are often sponsored directly or indirectly by AusAID. The administration over 5 years of an AusAID grant of \$35,000 for assistance to court and legal libraries in the South Pacific, has helped establish and assist libraries of the Supreme Courts of Vanuatu, Tonga, Samoa and Kiribati and the Central Intellectual Property & International Trade Court Library in Bangkok.

The Federal Court has sponsored study tours for overseas judges and court officials from, for example, French Polynesia, Papua New Guinea and Japan. In addition, a number of judges of the Federal Court hold commissions as appellate judges in South Pacific jurisdictions. For example, a number of Federal Court judges are judges of the Supreme Court of Fiji.

#### *Asia-Pacific Forum of National Human Rights Institutions*

Australia has also been a major supporter of the Asia-Pacific Forum of National Human Rights Institutions, an organisation for regional cooperation on human rights in the Asia Pacific region. The Forum has become an effective mechanism for promoting human rights in the region. The Forum deals with human rights in a constructive, practical and collegiate manner.

The Forum receives significant funding from the Australian Government through AusAID. The national institutions that currently constitute the membership of the Forum are:

- HREOC
- the Fiji Human Rights Commission
- the National Human Rights Commission of India
- the Indonesian National Commission on Human Rights
- the Human Rights Commission of Malaysia
- the Human Rights Commission of Mongolia

- the National Human Rights Commission of Nepal
- the New Zealand Human Rights Commission
- the Philippines Commission on Human Rights
- the National Human Rights Commission of the Republic of Korea
- the Human Rights Commission of Sri Lanka, and
- the National Human Rights Commission of Thailand.

The Forum undertakes technical cooperation projects to help strengthen the operation of its member institutions to improve domestic human rights observance, to promote the establishment of new national human rights institutions and to promote regional cooperation on human rights issues. It also helps these institutions to cooperate on human rights issues of common concern such as HIV/AIDs and disability. The Forum conducts annual meetings that bring together human rights institutions, the UN, government and non-government organisations to consider regional approaches to addressing human rights. It also provides training on key human rights themes for staff from human rights institutions, as well as individuals from government and non-government organisations engaged in promoting and protecting human rights.

Since its establishment in 1996 the major activities of the Forum have focussed on the exchange of information and the development of regional cooperation among member institutions. Activities such as its annual meetings, thematic workshops, the provision of specialised training and the development of public information resources have had an important human rights education role. For example, in July 2002 the Forum held a two day workshop on human rights education, media and racism for senior staff from its member institutions as well as observers from governments, non-governmental organisations and UN agencies. The workshop was co-sponsored by the UN Office of the High Commissioner for Human Rights and received financial support from AusAID.