



2008 Human Rights Reports: Australia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2008 Country Reports on Human Rights Practices](#)

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Australia is a constitutional democracy with a federal parliamentary government. Its population was approximately 21.4 million. Citizens periodically choose their representatives in free and fair multiparty elections. In federal parliamentary elections held in November 2007, the Australian Labor Party (ALP) defeated the governing Liberal Party and National Party coalition, and in December ALP leader Kevin Rudd became prime minister. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. Problems were reported in a few areas, including domestic violence against women and children, and societal discrimination against Aboriginal people.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the government generally respected these provisions in practice. However, there were occasional reports that police and prison officials mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous people was pervasive and that racial discrimination by some police and prison custodians persisted.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the armed forces and police, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest and Detention

Police officers may seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear; however, they also may arrest a person without a warrant if there are reasonable grounds to believe the person committed an offense. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest, and arrested persons must be brought before a magistrate for a bail hearing at the next sitting of the court. However, the law permits police to hold individuals in preventive detention for up to 24 hours without charge if a senior police official finds it is "reasonably necessary to prevent a terrorist act or preserve evidence of such an act." Individuals may be detained for an additional 24 hours under an extension of the initial court order. Bail generally is available to persons facing criminal charges unless the person is considered to be a flight risk or is charged with an offense carrying a penalty of 12 months' imprisonment or more. Attorneys and families were granted prompt access to detainees. Government-provided attorneys are available to provide legal advice to detainees who cannot afford counsel.

The law permits a judge to authorize "control orders" on individuals suspected of involvement with terrorism-related activities. These orders may include a range of measures, such as monitoring of suspects and house arrest, and may be in effect for up to a year without the filing of criminal charges. If a control order is still warranted after one year, a new order must be sought from a court. Both the preventive detention and control order provisions expire in 2015. The law mandates a review of these provisions in 2010.

In March the government initiated an inquiry into the July 2007 detention of Mohamed Haneef, including an examination of "any deficiencies in the relevant laws" under which he was detained. Haneef, an Indian doctor working at a Queensland hospital on a temporary visa, was held by police for 12 days before being charged with recklessly providing support to a terrorist group in connection with a failed terrorist attack in the United Kingdom. The charges were dropped later the same month. Although the law states that the maximum investigation period a person can be held without charge is 24 hours (unless extended by court order), it also provides that the allowable time for questioning a suspect can be spread across an unspecified number of days (a concept known as "dead time")--a provision criticized by human rights groups, the media, and the legal profession. In its report, released on December 23, the inquiry body stated it found no evidence connecting Haneef to terrorist activities. It recommended an independent review of counterterrorism laws, changes to investigation procedures, and better coordination between intelligence and law enforcement agencies. In response the government stated it would implement most of the recommendations.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. In the state district and county courts and the state and territorial supreme courts, there generally are a judge and jury for serious offenses. The judge conducts the trial, and the jury decides on the facts and the verdict. Defendants have

the right to an attorney, and government-funded attorneys are available to low-income persons. The defendant's attorney can question witnesses, present evidence on the defendant's behalf, and access relevant government-held evidence. Defendants enjoy the presumption of innocence and have the right to appeal the court's decision or the sentence imposed. The law extends these rights to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. There is also an administrative process at the state and federal levels to seek redress for alleged wrongs by government departments. Generally, administrative tribunals may only review a government decision if the decision is in a category specified under a law, regulation, or other legislative instrument as subject to a tribunal's review.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Although the constitution does not explicitly provide for freedom of speech or of the press, the High Court has held that a right to freedom of expression is implied in the constitution, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

In April police raided *The Sunday Times* office in Perth. They executed a search warrant for Western Australia (WA) State government cabinet documents relating to an article reporter Paul Lampathakis wrote in February about a A\$16 million (approximately \$10.2 million) advertising bill charged to taxpayers apparently to help reelect the WA government. In July a WA parliamentary committee asked Lampathakis to reveal his source; he refused to comply. The then WA premier characterized the raid as a "complete overreaction," and as of year's end, the WA parliament had taken no further action in the case.

In September the Australian Federal Police (AFP) searched the home of Canberra *Times* reporter Philip Dorling, acting on warrants alleging that he and an unnamed public servant had committed four breaches of the Commonwealth Crimes Act by communicating confidential government information or documents. However, as of year's end no charges had been brought against Dorling.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available and widely used by citizens.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

While the rights of peaceful assembly and association are not codified in law, the government generally respected these rights in practice.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

According to the 2006 census, the country's Jewish community numbered 88,832 persons. In the 12-month period ending September 30, an annual report on anti-Semitism in the country written by the director of international and community affairs of the Australia/Israel and Jewish Affairs Council, a nongovernmental organization (NGO), recorded 652 anti-Semitic incidents. This was approximately twice the annual average of the previous 18 years and 2 percent higher than 2007, the previous record year. These incidents included physical assault, property damage, harassment, and offensive written and electronic media. Among the 58 recorded incidents of assault during the reporting period were an Orthodox man punched in the face in Sydney in January and four Orthodox Jews assaulted in Perth in May. The report also expressed concern about an increase in assaults on, and harassment of, Jewish families walking to and from synagogues, and anti-Jewish material posted on online social networking sites such as Facebook and YouTube. On the other hand, the report's author noted that the situation improved moderately in most other areas, including the media, political life, and among extremist groups.

In March the police in Victoria State established an intelligence desk focusing on attacks against the Jewish community. On August 19, a settlement was reached in a lawsuit filed by a Jewish man against the Victorian government and police for their response to a 2006 incident in which members of Melbourne's Ocean Grove Football Club assaulted the man. As part of the settlement, the Victorian deputy police commissioner acknowledged that an off-duty policeman at the scene had erred by not intervening at the earliest opportunity to assist the victim.

In November approximately 400 persons held a rally in Gold Coast, Queensland State protesting a planned Islamic school. On December 1, approximately 200 residents demonstrated against the school. While some protestors stated that their opposition stemmed from concerns about parking issues, not religion, others asserted that Islamic schools led to further segregation of Muslims from the rest of the community. The mayor stated that the town had "a very good mix of multicultural society" and that he would support the school if it met local council planning criteria; a decision was expected in 2009.

Following the rejection in May by the local council in Camden, New South Wales (NSW) of a 2007 proposal by the Quranic Society for a 1200-student Islamic school, the society appealed to the Land and Environmental Court. The town councilors stated they had based their decision solely on planning grounds, citing a report on the school's environmental impact. The court ordered the society to provide an amended plan to the council; in response the society indicated it would reduce the size of its proposal in a bid to obtain council approval. However, in October the council rejected a new application from the society, which indicated it would pursue the matter further in court.

The government promoted acceptance of diversity through a number of programs, including public awareness programs conducted by the Human Rights and Equal Opportunity Commission (HREOC). The new government continued the A\$3.3 million (approximately \$2.1 million) National Action Plan for Social Cohesion, Harmony and Security, designed to help Muslim communities connect with the wider society, and the Living in Harmony program,

which funded community projects to promote tolerance and combat racism. In December the government announced the appointment of a 16-member Australian Multicultural Advisory Council to "bring new cultural diversity perspectives to the Australian Government."

For a more detailed discussion, see the *2008 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not address forced exile, but the government did not use it in practice.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The government granted refugee status and asylum and facilitated local integration. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

The government funded refugee resettlement services such as language and employment programs.

In February the government transferred all remaining detainees at the country's offshore refugee processing center in Nauru to Australia for resettlement, and in March closed the center. In May the government abolished Temporary Protection Visas (TPVs). Under the TPV scheme, unauthorized arrivals, in the first instance, could not be granted permanent visas.

On July 29, the government announced major changes to the mandatory detention policy for unauthorized arrivals. Under the new policy, following health, identity, and security checks, unauthorized arrivals are detained while their applications are being processed only if it is determined that they pose a threat to the community. Previously, with the exception of families with children, individuals could only be released pending full adjudication of their asylum claim if they met certain criteria, such as old age, ill health, or experience of torture or other trauma.

The Department of Immigration and Citizenship (DIAC) provided immigration advice and assistance to persons making an initial asylum claim or application for lawful residence. DIAC also has a statutory obligation to facilitate access to legal representation for persons in immigration detention.

As of September 12, there were 274 persons in immigration detention, the lowest level since 1994. The majority of detainees had breached their visa conditions. Although delays in processing asylum applications were not a significant problem during the year, a small number of asylum seekers had remained in long-term detention despite having exhausted the appeal process. They could not be returned to their home country because they lacked travel documents or could not obtain necessary transit visas. The commonwealth ombudsman reviews all cases of persons in detention two years or more. In September the ombudsman reported that of the 19 persons in immigration detention longer than two years, only one remained and was awaiting removal from the country. The other 18 either were removed, granted a visa, or departed voluntarily.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage and mandatory voting.

Elections and Political Participation

In federal elections held in November 2007, the ALP won a majority of seats in the lower house of Parliament, and in December ALP leader Kevin Rudd became prime minister. Political parties could operate without restriction or outside interference.

There are no legal impediments to public office for women and indigenous people. There were 67 women in the 226--seat federal Parliament (40 in the House of Representatives and 27 in the Senate). There were four female ministers in the 20-member federal cabinet, three women among the 10 ministers outside the cabinet, and three women among the 12 parliamentary secretaries. There was one woman among the eight premiers and chief ministers of the six states and two territories. The deputy prime minister was a woman, and there were two female judges on the High Court. On September 5, a woman was sworn in as governor-general, the first woman to hold that post.

Aboriginals generally were underrepresented among the political leadership. There were no Aboriginals in the federal Parliament. There was one Aboriginal in the Tasmania State parliament, one in the NSW State parliament, two in the WA State parliament, and five in the Northern Territory (NT) legislative assembly. In November 2007 an Aboriginal woman became the highest ranking indigenous member of government in the country's history when she was appointed NT deputy chief minister, a position she retained. There was one Asian-Australian in the federal cabinet.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption.

Queensland, WA, and NSW have independent anticorruption bodies that can investigate alleged government corruption, and every jurisdiction has an ombudsman who can investigate and make recommendations in response to complaints about government decisions. Public officials are subject to financial disclosure laws.

On March 3, the NSW Independent Commission against Corruption (ICAC) recommended that the Wollongong local council be dismissed because of "systemic corruption" related to its handling of development applications. The next day the NSW government dismissed the council. In May ICAC announced a finding of "serious corrupt contempt" against a planner on that council. In WA the Corruption and Crime Commission charged public servants and politicians with misconduct and corruption in relation to their dealings with a lobbyist; there were nine convictions in that case.

Federal, state, and territorial governments have freedom of information (FOI) laws that provide the public with access to government information, generally subject to both an application and a processing fee. Government information may be exempted from disclosure to protect essential public interests or the private or business affairs of others. An applicant, including foreign media, may appeal a government decision to deny a request for information to the quasi-legal Administrative Appeals Tribunal (AAT), an executive body that reviews administrative decisions by government entities. An adverse AAT decision may be appealed to the Federal Court of Australia.

The Australian Press Association and others have criticized the FOI application process as unduly lengthy and costly, particularly with regard to requests for nonpersonal information. On August 5, the government asked the Australian Law Reform Commission (ALRC) to review secrecy laws and issue a report by October 31, 2009. On August 11, the ALRC released a report recommending changes to the privacy laws, including simplification of the laws; removal of exemptions for political parties and small businesses; and stronger penalties for violations. Parliament did not enact any of the recommended changes by year's end.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Federal laws prohibit discrimination based on sex, disability, race, color, descent or national or ethnic origin, marital status, or age. An independent judiciary and a network of federal, state, and territorial equal opportunity offices effectively enforced the law. HREOC investigates complaints of discrimination or breaches of human rights under the federal laws that implement the country's human rights treaty obligations.

Women

The law criminalizes rape, including spousal rape, and the government enforced the law effectively when cases were reported to the authorities. Penalties for rape are prescribed in the laws of the individual states and territories.

On June 13, the Court of Appeals upheld the Queensland State attorney general's appeal of the sentences imposed by a lower court on nine defendants who pleaded guilty in the 2006 gang rape of a developmentally disabled 10-year-old indigenous girl in her community of Aurukun in the Cape York area. None of the nine defendants originally received prison sentences. As a result of the appeal of the original sentences, the Court of Appeals sentenced five of the nine defendants to prison terms.

The law prohibits violence against women, including domestic abuse, and the government enforced the law. Nonetheless, violence against women remained a problem, particularly in Aboriginal communities.

According to the Australian Bureau of Statistics (ABS), approximately one in three Australian women experienced physical violence during their lives, and almost one in five experienced sexual violence. Aboriginal women were 40 times more likely to be victims of family violence compared with other women. Domestic violence was believed to be widely underreported in indigenous communities; among reasons cited for this were cultural factors and the isolation of many indigenous communities. The federal and state governments funded programs to combat domestic violence and support victims, including funding of numerous women's shelters.

Prostitution is legal or decriminalized in several states and territories, and the governments of Victoria, Queensland, NSW, and the Australian Capital Territory (ACT) license brothels operating within their borders. However, some brothels operated illegally. In some locations state-funded sexual health services employees visited brothels to educate workers about sexual health matters and to prevent worker mistreatment. Local governments or prostitution licensing authorities inspected brothels to ensure compliance with planning laws and licensing requirements, including health and safety regulations. However, government officials faced difficulties enforcing health and safety standards in illegal brothels. Trafficking in persons, primarily women from Asia, for prostitution

was a limited problem.

The Sex Discrimination Act prohibits sexual harassment. Circumstances that give rise to complaints of such harassment can also give rise to criminal proceedings or disciplinary action against the subject of the complaint and to compensation claims by the complainant. On December 12, a Senate inquiry into the act reported its findings. Its recommendations included amending the act to include breast feeding as a specific ground of discrimination and to specifically protect workers from sexual harassment by customers. It also recommended that HREOC conduct a public inquiry to examine the merits of replacing the various existing federal antidiscrimination acts with a single Equality Act.

The independent federal sex discrimination commissioner, who is part of HREOC, undertakes research, policy, and educational work designed to eliminate discrimination between men and women. There also is a federal Office for Women.

HREOC received 857 complaints under the Sex Discrimination Act from July 2007 through June 2008. Of these, 22 percent alleged discrimination based on pregnancy, and 18 percent alleged sexual harassment. The commission resolved 421 of the complaints, 209 by conciliation.

Women have equal status under the law, and the law provides for pay equity. The law requires organizations with 100 or more employees to establish a workplace program to remove the barriers to women entering and advancing in their organization.

There were highly organized and effective private and public women's rights organizations at the federal, state, and local levels.

Children

The government demonstrated its strong commitment to children's rights and welfare through its publicly funded education and health care systems.

State and territorial child protection agencies investigate and institute prosecutions of persons for child neglect or abuse. All states and territories have laws or guidelines that require members of certain designated professions to report suspected child abuse or neglect. The federal government's role in child abuse prevention is limited to funding research and education campaigns, developing an action plan against the commercial exploitation of children, and funding community-based parenting programs.

According to the Australian Institute of Health and Welfare, there were 58,563 substantiated cases of child abuse and neglect from July 2006 to June 2007, the latest period for which national statistics were available. These included physical abuse, sexual abuse, emotional abuse, and neglect. In July, following revelations of child neglect in South Australia (SA), Queensland, and the ACT, the federal government and states agreed to establish a national child protection framework.

The government has enacted tough criminal laws aimed at restricting the trade in, and possession of, child pornography; the law allows suspected pedophiles to be tried in the country regardless of where the crime was committed. The Child Sex Tourism Act prohibits child sex tourism and related offenses for the country's residents and citizens overseas and provides for a maximum sentence of 17 years' imprisonment upon conviction. From 2006-07, the AFP conducted 57 investigations and assessments under the act, securing 28 prosecutions and 18 convictions. During the year the government continued its awareness campaign to deter child sex tourism through the distribution of materials to citizens and residents traveling overseas. Child protection NGOs raised community

awareness of child trafficking. There were no reports of children trafficked into the country during the year.

The new government largely continued federal emergency intervention measures initiated by its predecessor to combat child sexual abuse in 73 NT Aboriginal communities. The measures were taken following a June 2007 government report of widespread such abuse. These measures included emergency bans on alcohol and pornography sales, restrictions on the payment of welfare benefits in cash, linkage of support payments to school attendance, and medical examinations for all NT indigenous children under age 16. However, the government dropped its predecessor's plan to abolish the permit system used to enter indigenous communities. In June the minister for indigenous affairs stated that there were "some positive signs coming out of some of the measures," including higher school attendance and increased food purchases. In October a board appointed by the government to review the intervention released its report. It recommended making the intervention compliant with the Racial Discrimination Act; the government agreed. It also recommended that compulsory income management only be applied to parents that neglected their children; however, the government did not accept this recommendation. While public reaction to the intervention remained generally positive, some lawyers and Aboriginal activists expressed concern that there was inadequate consultation and that the measures were racially discriminatory.

In May an SA State government inquiry reported widespread sexual abuse of children in Aboriginal communities in the state's northwest. The SA aboriginal affairs minister stated that overcrowded housing was "centrally related" to the problem of abuse, and the federal government offered additional funding for housing.

Trafficking in Persons

The law prohibits all forms of trafficking in persons, but the country continued to be a destination for some trafficked women in the sex industry and trafficked laborers.

Some women, primarily from the People's Republic of China (PRC), the Republic of Korea, and Southeast Asia, entered the country for the purpose of prostitution, sometimes entering with fraudulently obtained tourist or student visas. Many of these women traveled to the country voluntarily to work in both legal and illegal brothels but under conditions that amounted to debt bondage or sexual servitude. There were several reports of men and women from India, the PRC, and South Korea migrating to Australia temporarily for work whose labor conditions amounted to slavery, debt bondage, and involuntary servitude.

Authorities believed that sex trafficking networks were composed primarily of individual operators or small crime groups that often relied on larger organized crime groups to procure fraudulent documentation for the trafficked women.

The law comprehensively criminalizes "people trafficking" offenses, including sexual servitude, slavery, deceptive recruitment, debt bondage, child trafficking, and domestic trafficking. These offenses carry penalties of up to 25 years' imprisonment for slavery, debt bondage, child trafficking, and domestic trafficking; 15 years for sexual servitude; and seven years for deceptive recruitment. It is an offense for citizens or residents to travel abroad to engage in sex with minors under age 16.

In March the AFP and DIAC arrested five persons in Sydney on several charges, including running a business that included sexual slavery. Ten women were freed during the police raids. On December 2, however, the public prosecutor's office ruled that there was insufficient evidence to prosecute those arrested.

On December 22, a Gold Coast man was sentenced to five years' imprisonment for crimes related to the sexual slavery of two Thai women. He was found guilty of trafficking under the sexual slavery laws.

On August 28, the High Court upheld the 2006 conviction of Melbourne brothel owner Wei Tang on charges of slavery for holding several Thai women in slave-like conditions. The court set a precedent in ruling that the law does not require the prosecutor to prove that the defendant knew or believed the victims to be slaves; if it is established that a victim was held in slave-like conditions, the perpetrator is guilty of slavery under the law.

The government had a wide range of programs to combat trafficking, prosecute traffickers, and assist trafficking victims. The AFP and DIAC have lead roles in combating trafficking in persons. The AFP's Transnational Sexual Exploitation and Trafficking Teams are responsible for investigating trafficking syndicates operating in the country and abroad. State police forces worked closely with the AFP on a comprehensive policing strategy to counter trafficking in persons. From April 2007 through March 2008, the AFP investigated 27 cases, of which approximately 80 percent were related to sex trafficking.

An ambassador for people-smuggling issues is responsible for promoting a coherent and effective international approach to combating trafficking in persons (particularly in the Asia-Pacific region), assisting in the negotiation of international agreements for the return and resettlement of persons brought illegally into the country, and working for the prosecution of traffickers. The ambassador coordinates the country's participation with Indonesia in the Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime. The government has antitrafficking agreements with Cambodia, Burma, Laos, and Thailand designed to improve international cooperation and police investigation of trafficking syndicates. The government also funded awareness campaigns in source countries and continued funding the Asia Regional Cooperation to Prevent People Trafficking project. Underway in four countries--Thailand, Laos, Burma, and

Cambodia--the project focused on strengthening the criminal justice process to combat trafficking in persons.

Within the country the government continued an awareness campaign targeting the sex industry and the community at large and widely publicized criminal cases against traffickers. Trafficking victims willing to cooperate with authorities in the investigation and prosecution of traffickers qualify for a temporary visa and a range of social services. Counseling, temporary shelter, and other assistance were available to all trafficking victims.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment; education; access to premises; provision of goods, services (including health services), and facilities; accommodation; purchase of land; activities of clubs and associations; sport; and the administration of federal laws and programs. The government effectively enforced the law.

The disability discrimination commissioner, who is part of HREOC, promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The commissioner also promotes implementation and enforcement of state laws that require equal access and otherwise protect the rights of persons with disabilities. The law also provides for mediation by HREOC of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination.

HREOC's July 2007 to June 2008 annual report stated that 988 complaints were filed under the Disability Discrimination Act during that period. Of these, 46 percent were employment related, and 29 percent involved the provision of goods and services. HREOC finalized 815 complaints, 385 complaints through conciliation.

The government provided A\$26 million (approximately \$21 million) to the Australian Paralympic Committee to

support athletes at the 2008 Paralympic Games.

National/Racial/Ethnic Minorities

According to HREOC's July 2007 to June 2008 annual report, it received 376 complaints under the Racial Discrimination Act, citing 669 alleged grounds of discrimination. Of these, 50 percent involved employment, 13 percent involved provision of goods and services, and 11 percent alleged "racial hatred." Persons born outside the country filed 41 percent of the complaints, and Aboriginals and Torres Strait Islanders filed 46 percent.

Indigenous People

According to the June 2006 census, Aboriginals and Torres Strait Islanders numbered approximately 517,200 persons, approximately 2.5 percent of the total population. The new government continued the previous government's emphasis on "practical reconciliation" aimed at raising the health, education, and living standards of indigenous people while promoting individual responsibility and an end to passive welfare. On February 13, Parliament made a significant symbolic gesture by passing a government motion apologizing for past mistreatment of indigenous citizens. This included an apology to those affected by the forcible removal of children from their families between 1910 and 1970--the "stolen generations."

A wide variety of continuing government initiatives and programs sought to improve all aspects of Aboriginal and Torres Strait Islander life. The government budgeted A\$3.5 billion (approximately \$2.24 billion) for indigenous-specific services in 2007-08 and A\$4.3 billion (\$2.75 billion) in 2008-09.

An Australian Institute of Health and Welfare report published in April noted improvements in educational attainment, employment, income, and home ownership among indigenous people in recent years. The institute found, however, that the health status of indigenous people remained poor compared to the rest of the population. Life expectancy for indigenous citizens was 59 for males and 65 for females, compared with 77 and 82 respectively for the nonindigenous. Indigenous persons were twice as likely to be hospitalized as other citizens. According to the ABS, 24 percent of prisoners were indigenous, a rate 13 times higher than for the nonindigenous.

The National Drug Research Institute reported that Aboriginals were more than twice as likely as their nonindigenous counterparts to die from alcohol abuse. Researchers cited high rates of poverty and unemployment, low educational levels, and lack of adequate access to health services among Aboriginals as contributing causes, particularly in isolated communities.

In October the federal government agreed to make resources available for job training for Aboriginals under an "Australian employment covenant" signed by business and Aboriginal leaders with a goal of creating 50,000 jobs for indigenous citizens.

The National Native Title Tribunal resolves native land title applications through mediation and acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. In 2002 the High Court ruled that native title rights do not extend to mineral or petroleum resources and that, in cases where leasehold rights and native title rights are in conflict, leaseholder rights prevail but do not extinguish native title rights. In May the government announced it would review the native title process with a view to reducing its complexity and ensuring that royalties indigenous communities received from the mining industry were used beneficially. A discussion paper on the subject was released in December.

On April 24, the full bench of the Federal Court overturned a 2006 decision by a federal court judge recognizing native title of the Nyoongar Aboriginal group over a large portion of southwestern WA, including the state capital of

Perth. The state and federal governments had appealed the original decision. In its April ruling, the court cited serious errors in the original decision's application of High Court rules for establishing proof of native titles and referred the case back to a federal court judge for another hearing. There was no further action on the case by year's end.

The A\$1.4 billion (approximately \$896 million) indigenous land fund is a special account that provides an ongoing source of funds for indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

Aboriginal NGOs included groups working on native title issues, reconciliation, deaths in custody, and Aboriginal rights in general. International NGOs, such as Amnesty International, also monitored and reported on indigenous issues and rights. HREOC has an Aboriginal and Torres Strait Islander social justice commissioner.

In December, the government appointed a committee to develop a model for a national indigenous representative body.

Other Societal Abuses and Discrimination

There were no reports of societal violence or discrimination against homosexuals. In June 2007 HREOC presented a report to Parliament noting 58 federal laws that denied same-sex couples and their children basic financial and work-related entitlements available to heterosexual couples and their children. In November, Parliament passed government bills to amend 68 federal laws as a means of eliminating such discrimination.

On December 19, the minister for defense, science, and personnel announced that as of January 1, 2009, same-sex partners of Defence Ministry personnel would no longer be denied payment of death benefits from military pension funds.

Federal and various state laws prohibit discrimination on the grounds of HIV-positive status. HREOC reviews complaints of discrimination on the grounds of HIV/AIDS status under the category of disability-related complaints, but a specific breakdown of HIV/AIDS-related cases was not available.

Section 6 Worker Rights

a. The Right of Association

The law provides workers, including public servants, the right of association domestically and internationally and protection against antiunion discrimination, and workers exercised these rights in practice. An ABS survey released in April indicated that as of August 2007, union membership had decreased over the previous 12 months from 20.3 to 19 percent of the total workforce, and to only 13.7 percent of the private-sector workforce. Unions generally carried out their functions free from government or political control.

Under the law workers are free to join or decline to join industrial associations, and discrimination against individuals for membership or nonmembership in a union is prohibited.

The law provides for the right to strike, but confines strikes to the period when unions are negotiating a new enterprise agreement and specifies that strikes must concern matters under negotiation. This is known as "protected action." Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action. The law subjects strikers to heavy fines for taking industrial action during the

life of an agreement and contains secondary-boycott provisions. Industrial action must be authorized by a secret ballot of employees; unions complained that this requirement was unduly time consuming and expensive to implement. The law permits the government to stop strikes if they are judged to have an "adverse effect" on the employer or damage third parties, but this provision was not used during the year.

According to the ABS, during the 12-month period ending June 30, there were 166 industrial disputes, 22 more than the previous year; during the same period, total workdays lost due to strikes rose from 88,400 to 164,900.

b. The Right to Organize and Bargain Collectively

Federal, state, and territorial laws provide workers with the right to organize and bargain collectively, and workers exercised this right in practice.

Under the 1996 Workplace Relations Act, negotiation of contracts covering wages and working conditions shifted further from a centralized awards system to enterprise-level agreements certified by the Australian Industrial Relations Commission (AIRC). The WRA also provided for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers, which were subject to fewer government regulations than awards or enterprise bargaining agreements; however, AWAs had to meet a "no disadvantage" test: a worker could not be made worse off compared to the relevant award. Amendments to the law in 2005 (known as "WorkChoices") removed the "no disadvantage" test and provided only for five minimum standards of employment: a minimum wage, annual leave, sick leave, unpaid parental leave, and maximum working hours. All other workplace conditions were negotiable.

In response to widespread opposition to the WorkChoices law from both unions and the general public, in March Parliament passed the government's "Transition to Forward with Fairness" bill, which came into effect on March 28. The new law abolished the signing of new AWAs and established a new "no disadvantage" test for future workplace agreements designed to ensure that they contain basic worker protections. The law allows existing AWAs to continue until their expiration and enables businesses that had staff on AWAs before December 1, 2007, to continue to sign individual contracts, known as Individual Transitional Employment Agreements (ITEAs), provided these pass the "no disadvantage" test. To do so, an ITEA must not disadvantage an employee as compared to an applicable collective agreement, or to an industry-standard award if there is no collective agreement. ITEAs can only run until December 31, 2009. In addition the new law authorized AIRC to modernize industrial awards (standard agreements for particular industries that have been created and refined by decisions of AIRC) as part of a broader overhaul of the labor laws planned by the government for 2009.

Certain issues are excluded by law from inclusion in workplace agreements. Such "prohibited content" includes, for example, mandatory union involvement in dispute settlement and remedies for unfair dismissal. The law permits unions to enter certain workplaces to investigate a suspected breach of the WRA or hold discussions with employees. However, unions may only enter a workplace to investigate a breach of an award or collective agreement if a union member is carrying out work at the premises and the suspected breach affects a union member.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law explicitly prohibits forced or compulsory labor, including by children; however, trafficking in persons was a limited problem.

d. Prohibition of Child Labor and Minimum Age for Employment

There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they were 15 or 16 years of age. Federal and state governments monitored and enforced a network of laws, which varied from state to state, governing the minimum school-leaving age, the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations. The Australian Confederation of Trade Unions also monitored adherence to these laws. Workers under age 18 require parental or guardian consent to sign an ITEA.

e. Acceptable Conditions of Work

Although a formal minimum wage exists, most workers received higher wages through enterprise agreements or individual contracts. There are above-minimum wage classifications for individual trades and professions. In October the Australian Fair Pay Commission, which determines minimum wage increases, raised the federal minimum award wage to A\$543.78 (approximately \$348) per week from A\$522.86 (\$335) per week, an increase of 4.14 percent.

The Workplace Ombudsman provides employers and employees advice about their rights and has authority to investigate employers alleged to have unlawfully exploited employees.

Over the past two decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. The ABS reported that, as of December, approximately three million persons (28 percent of the workforce) were employed as "part-time" workers, of whom 72 percent were women. Such employees were not entitled to certain employment benefits such as sick leave or annual leave but were paid at a higher hourly wage rate.

Federal or state occupational health and safety laws apply to every workplace. The law provides federal employees with the right to cease work without endangering their future employment if they believe that particular work activities pose an immediate threat to individual health or safety. Most states and territories have laws that grant similar rights to their employees. Employees have recourse to state health and safety commissions, which investigate complaints and order remedial action.

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas require that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. However, there were complaints that some individuals entering the country to work temporarily on so-called "457" skilled-worker visas were being underpaid or charged excessive rents by their employers. There also were complaints that some employers used foreign workers as a less expensive substitute for Australian workers. In response to the criticism and the report of a parliamentary committee on the issue, the government proposed, and in December Parliament passed, legislation that expands DIAC's authority to monitor and investigate possible noncompliance by employer-sponsors, introduces penalties for employers in violation of their obligations, provides for improved government information sharing, and defines sponsorship obligations for employers and other sponsors. On August 1, minimum salary levels for temporary overseas workers were increased by 3.8 percent. There were no reports of worker rights abuses in the country's three inhabited dependent territories of Christmas Island, Cocos (Keeling) Island, and Norfolk Island.