

Chapter 6:

Aboriginal and Torres Strait Islander Social Justice

6.1 STATEMENT FROM THE COMMISSIONER

I have spent a lot of time this past year convincing people from all walks of life that the challenges facing Indigenous peoples in this country are not insurmountable.

In my earlier *Social Justice Report 2005*, I had set forth a 25-year plan to achieve health equality for Indigenous peoples within a generation. This is a vision that is evidence-based and grounded in a human rights-based approach. This is a vision shared by just about every peak health organisation in the country, as well as the non-government and community sectors, and reconciliation organisations.



Mr Tom Calma
*Aboriginal and Torres Strait
Islander Social Justice
Commissioner*

This year I co-hosted a historic meeting of Indigenous health peak bodies, professional associations and health experts to advance this ambition for health equality; and phrases like 'close the gap' have entered the national lexicon. Change can and does happen.

My 25-year vision is that of an optimist. My vision is for a country where the current state of Indigenous disadvantage will be as incomprehensible to future Australians as the 'White Australia policy' is to the present generation. My optimism is, however, matched by realism.

The *Social Justice Report 2006* and *Native Title Report 2006*, tabled in federal Parliament in June 2007, reveal significant problems in the way the Australian Government is administering Indigenous affairs in the period since the abolition of ATSIC. The development of these 'new arrangements' – as they have been called – has been tracked through the past four *Social Justice Reports*.

I have intentionally focused the *Social Justice Report 2006* on the whole-of-government approach adopted through these new arrangements. This approach is fundamental in determining the ability of the government to respond to a host of issues in a holistic manner.

The report identifies critical issues that must be addressed if we are to move forward without repeating or exacerbating existing policy errors.

And this makes this report and its predecessors of direct relevance to the current situation in the Northern Territory.

One thing that I was immediately struck by with the announcements of the government intervention in the Northern Territory was the similarity with the government's announcements in 2004 to abolish the Aboriginal and Torres Strait Islander Commission and introduce the new arrangements.

The commitments made at the time were also sweeping in their scope. What my reports have shown is that to date the government still hasn't been able to bed down a system that can deliver on those commitments.

What the government does in the coming months and years could, as the Prime Minister conceives, have 'painful consequences' and result in 'mistakes'. These must be minimised through eliminating policy error.

How can this be done? By ensuring that there is continuity between the mechanisms that will be relied upon to implement these recent announcements and the existing service delivery model of the 'new arrangements' – the so-called 'bold experiment' that has come about in the place of the ATSIC era. It will also require that new policy is based on sound evidence of what works in Indigenous communities both here and internationally so that we can correct the shortcomings in the current policy approach.

The *Social Justice Report 2006* identifies significant concerns that have the capacity to derail the efforts in the Northern Territory if left unchecked. And the report highlights that these concerns – the current, existing errors in the policy settings – are entirely avoidable.

A duty of care requires the government to initiate open and sustained engagement with Indigenous communities, other governments, Indigenous organisations and the community sector in addressing this enormous challenge before us all. After all, it is a challenge for everyone – we will either succeed jointly or fail individually.

Following the Australian Government's announcements of the proposed measures for the Northern Territory, I joined with my fellow Commissioners and the President of HREOC in urging the government to adopt an approach that is consistent with Australia's international human rights obligations.

Overall, Australia's human rights obligations set out a framework of measures ranging from:

- proactive measures to prevent human rights violations from occurring in the first place and to address the underlying factors that can contribute to violations;
- an accountability framework including the setting of benchmarks, and monitoring systems, to ensure that governments remain focussed on the ultimate outcomes of policy and are able to be held accountable for their rate of progress in addressing significant human rights breaches where they exist;
- processes for ensuring the effective participation and real engagement with stakeholders and affected peoples in designing policy and delivering services; and

- measures to respond to and address violations of rights whenever they occur.

Being the optimist that I am, I see the government's commitment as providing a potential pathway for the recognition of the human rights of Indigenous peoples in the Northern Territory (NT).

Overall, the announcements and the commitments made by the federal government for the NT raise a number of important and complex issues. Each of these issues in some way comes back to the capacity of the government to deliver on its commitments. And it is, of course, the capacity of the government through the new arrangements that has been the focus of successive *Social Justice Reports*.

The *Social Justice Report 2006* identifies the warning signs where the current federal system for Indigenous affairs is not capable of addressing these core issues due to significant policy errors.

The most significant problem with the new arrangements identified by the report is the lack of capacity for engagement and participation of Indigenous peoples. This manifests as a lack of connection between the local and regional level, up to the state and national level; and as a disconnect between the making of policy and its implementation.

The greatest irony of this is that it fosters a passive system of policy development and service delivery while at the same time the government is criticising Indigenous peoples for being passive recipients of government services.

People who are affected by policy have a right to be involved in its development – that is no more than a statement of the primary rationale for democracy. And, people who are affected by policy also have a responsibility to be involved in its development.

These are complex matters. They need robust debate. The need for such debate should not lead to inertia or inaction. But it should lead to a commitment to principled engagement with Indigenous peoples so that we are recognised as active participants and agents of change for our own futures and for those of our children.

This is a key challenge if we are to succeed in the Northern Territory, and in addressing the issues of violence and child abuse in every other state in Australia. These are the challenges that I detail in this year's *Social Justice Report* and *Native Title Report*.

Another important part of my role is to work with governments, Indigenous organisations and communities and many other groups on practical research and consultation projects.

Over the coming 12 months HREOC will:

- continue to build partnerships and identify practical steps to 'close the gap' on Indigenous health inequality;
- work with Indigenous communities and organisations to provide human rights education on issues such as customary law and family violence;
- develop options for remote Indigenous education, now and into the future, in partnership with key groups;

- complete a second stage of research into Indigenous young people with cognitive (brain function) disability and the links to the health, education and juvenile justice systems;
- review the National Indigenous Legal Advocacy Courses;
- support an Indigenous Peoples Organisations Network to coordinate input into United Nations activities and share information about international developments that impact on Indigenous human rights with Indigenous peoples in Australia; and
- follow up on the issues and recommendations in this year's *Social Justice and Native Title Reports*.

6.2 MONITORING AND REPORTING

The Social Justice Commissioner produces two reports annually on the human rights situation faced by Aboriginal and Torres Strait Islander peoples: the *Social Justice Report* and *Native Title Report*. These provide an annual state-of-the-nation review of progress on Indigenous policy and human rights compliance.

6.2.1 Social Justice Report 2006



Under section 46C(1)(a) of the *Human Rights and Equal Opportunity Commission Act 1986* (Cth), the Commissioner on behalf of HREOC is required to submit a report annually to the Attorney-General on the exercise and enjoyment of human rights by Aboriginal persons and Torres Strait Islanders (the *Social Justice Report*).

This report analyses the major changes and challenges in Indigenous affairs over the past year. It also includes recommendations to government that promote and protect the rights of Indigenous Australians.

The *Social Justice Report 2006* was transmitted to the Attorney-General on 5 April 2007 and tabled in Parliament on 14 June 2007. The report was officially launched on 3 July 2007 in Sydney at an event open to the media and the general community.

The *Social Justice Report 2006* report asks: what makes good Indigenous policy? It sets out how Indigenous peoples are able to engage with the government on a variety of levels: from the individual and community level up to regional, state and national levels. It analyses progress in improving the accessibility of mainstream services to Indigenous people. It provides an overview of the key issues for tackling family violence and child abuse in Indigenous communities. It also reviews international developments in Indigenous human rights over the past four years.

It is the fourth successive *Social Justice Report* to substantially focus on the federal government's policy settings for Indigenous affairs. This report considers progress two years into the 'new arrangements' and builds on the analysis of the previous three reports.

The introduction to this year's report states:

This continuity of focus... provides a vital record of the policy making process for Indigenous affairs at the federal level... After four years..., it is clear that there are significant problems with... Indigenous affairs at the federal level.

Primarily, this is due to an 'implementation gap' between the rhetoric of government and its actual activities. Perhaps most concerning, is that the problems with the current policy settings are well known... The government has largely acknowledged their existence and has made extensive commitments to address them. And yet, the problems continue and are exacerbated year by year.

There were two major problems identified in the *Social Justice Report 2006*.

First, the federal government has consistently emphasised that engagement with Indigenous peoples is a central requirement for the new arrangements to work. But in practice, the new arrangements are essentially a top-down imposition – with policy set centrally and unilaterally by government and then applied to Indigenous peoples. The government's intervention plan in the Northern Territory is the latest example of this approach.

There has been no discernible progress in advancing mechanisms for Indigenous people to participate at the regional level, despite it being stated government policy for regional engagement mechanisms to exist.

The second main problem identified in the report was that while the government was increasingly emphasising the importance of increasing access to mainstream services for Indigenous peoples there has been little progress in achieving this.

As the Commissioner states in the report:

There is no overarching framework of benchmarks and indicators for how the government will improve access to mainstream services. Processes adopted through the existing whole-of-government approach are also unclear. This is even the case in urban areas where regional coordination offices have been operating since 2004.

The government is moving towards mainstream service delivery with changes to the Community Development Employment Program (CDEP) and Indigenous housing, for example, but without a clear path to ensure that these services are more accessible. This Social Justice Report reveals significant problems with the system as it currently operates and its transparency. As a result, I am concerned that current changes could reduce government accountability and further disenfranchise Indigenous people.

The report indicates that the Shared Responsibility Agreement (SRA) process provided some glimmers of hope for the government. In a survey of communities that have entered into these agreements, which was conducted for this report, most people were generally positive about the process and voiced improvements in their relationships with government.

However, community confidence and satisfaction in the SRA process was limited by the short-term nature of the funding, disproportionate accountability requirements, lack of flexibility once the agreement was signed and unrealistic expectations of the community party of the SRA.

Many communities saw the SRA process as a way to change the relationship with government to one that is based on addressing their needs and building their capacity to address ongoing problems. However, many communities have been left disappointed with the government not matching the expectations generated by the SRA process to date.

The *Social Justice Report 2006*, a community guide, a media kit and other information are available online at www.humanrights.gov.au/social_justice/sjreport06/

6.2.2 Native Title Report 2006



Under section 209 of the *Native Title Act 1993* (Cth), the Commissioner is required to submit a report annually to the Attorney-General on the operation of the Native Title Act and the effect of the Act on the exercise and enjoyment of human rights of Aboriginal peoples and Torres Strait Islanders (the *Native Title Report*).

The *Native Title Report 2006* was transmitted to the Attorney-General on 5 April 2007 and tabled in Parliament on 14 June 2007.

This year's report continues the theme from the previous three *Native Title Reports* by focusing on land tenure and economic reform on Indigenous communal lands. It specifically focuses on the capacity of the native title system to deliver economic benefits for Indigenous people and showcases best practice examples of Indigenous community led development and in agreement making processes.

There is no doubt that sustainable economic development is essential for the wellbeing of remote Indigenous communities, now and into the future. This is not just the view of the Social Justice Commissioner; it is the view of the majority of Indigenous people who responded to the national survey contained in the *Native Title Report 2006* to determine the aspirations and priorities of traditional owners for their land. It is also the view of the Australian Government whose ambitious economic reform agenda during 2005 and 2006 is designed to stimulate economic activity on Indigenous owned land.

The survey found that although custodial responsibilities and land care were their first priority, nearly all respondents strongly supported economic development. It revealed that traditional owners on resource-rich land were likely to have good governance structures in place because they had been supported by industry and government to negotiate mining and other land-use agreements. However, land owners on marginal land often had very limited interaction with business and government and therefore lacked the structures and skills to access government support. As such, some land owners are in a position to initiate projects while others are completely locked out of the process.

The *Native Title Report 2006* also examined the Australian Government's economic reform agenda for Indigenous land, specifically the 99-year lease scheme that aims to provide home ownership opportunities on Indigenous land.

The Commissioner states in the report:

The problem with this scheme is that Indigenous land owners have to give up their land rights if they want to access new homes and low interest mortgages.

Ultimately the lease and home ownership initiative is more a debt creation scheme – one which threatens our hard fought-for land rights. Unfortunately, the majority of remote Indigenous Australians can't currently get mortgages because they are either unemployed, or they are recipients of benefits or precarious income that does not support mortgage repayments.

My report does prove however, that much is possible when governments and industry work with Indigenous people to achieve joint economic aspirations.

This very forward looking report shows that economic development can and does happen on Indigenous land, and when the preconditions are right, Indigenous Australians can and do achieve great things on their land.

The report contains 14 recommendations and showcases five successful case studies that stand in stark contrast to the majority of media coverage and public commentary that we see on Indigenous issues. The case studies document Indigenous agreements and enterprises that support community development as well as economic development on communal lands. Each case study was selected because it describes a participatory model of Indigenous enterprise and economic development that is generating benefits for the Indigenous communities concerned.

The case studies in this report are a small sample of some of the good practices across Australia that maintain Indigenous control of the policies and processes that affect them. They demonstrate that it is possible and desirable to involve Indigenous people at all levels of policy development and implementation and agreement-making. They also demonstrate that the best outcomes for Indigenous people are achieved when policy and agreements are informed by principles and practices that support Indigenous self determination and ways of doing business.

The report reinforces that the preservation of Indigenous rights to land and an emphasis on Indigenous participation in policy development should be the central points of all future government activity to support economic development on Indigenous land.

The Commissioner states in the report:

I am in support of economic development on communal lands. Moreover, I support home ownership and enterprise development for Indigenous Australians who are in a position to achieve these goals. My concerns are not with the intention of the Australian Government policy. My concerns are with diminution of Indigenous autonomy and active participation in achieving these objectives.



The *Native Title Report 2006*, chapter summaries, fact sheets and media release are available online at www.humanrights.gov.au/social_justice/ntrreport06/

6.2.3 Community Guide and CD-Rom

There were 35 000 Community Guides for the *Native Title Report* and *Social Justice Report* printed. Some 25 000 of these were distributed through the National Indigenous Times and the Koori Mail in June 2007.

The reports, community guide, media summaries and other materials, have also been made available on a CD-Rom.

6.3 RESEARCH AND POLICY

The Social Justice Commissioner advocates for the recognition of the rights of Indigenous Australians and seeks to promote respect and understanding of these rights among the broader Australian community.

6.3.1 Indigenous young people, cognitive disabilities and/or mental health problems and the criminal justice system

This project is in final draft stage and will be submitted to the Attorney-General's Department once completed.

In addition to a thorough literature review and collation of government responses, case studies and consultations were also conducted with community members, experts and practitioners. These focus on instances of promising practice aimed at early intervention or diversion of Indigenous young people from the criminal justice system. The project makes recommendations about further areas for investigation, the need for greater awareness of, and education on, the needs of Indigenous young people with cognitive disabilities and mental health issues, and provision of appropriate services.

6.3.2 Indigenous Community Legal Education and Human Rights project

This project commenced on 5 June 2007. It is a joint project with the Indigenous Law and Justice Branch of the Attorney-General's Department. The project aim is to achieve one of the goals of the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities of July 2006 and the COAG Communiqué of June 2004 – the goal of implementing the National Framework of Principles for preventing family violence and child abuse in Indigenous communities.

HREOC will coordinate and deliver training to 15 people who will be employed by the Attorney-General's Department as Community Legal Education Workers in regional and remote Family Violence Prevention Legal Services. The 15 people will have responsibility to educate remote Indigenous communities about the relationship between Australian law, customary law and human rights.

A draft training module has been completed by HREOC and has been submitted and approved by the Attorney-General's Department. The training is mapped against competency elements of the National Indigenous Legal Advocacy Course (NILAC). The training is therefore accredited, and those completing it will have credit towards one of the following: Certificate III NILAC, Certificate IV NILAC, or the Diploma NILAC.

HREOC staff have met with the Family Violence Prevention Legal Services at Darwin and Cairns to discuss the proposed training and to obtain feedback about the way in which the Community Legal Education Workers will operate in the context of other positions within each service.

6.3.3 Women in corrections and post-release issues project

On 20–21 July 2006, the Social Justice Commissioner hosted a two-day national workshop with approximately 70 government and non-government stakeholders working with Indigenous women both pre- and post-release from prison. The workshop directly implements recommendations made in the *2004 Social Justice Report*. This report identified a lack of targeted and culturally appropriate support services for Indigenous women exiting prison, and concluded that new approaches to develop these services are needed to reduce Indigenous women's over-representation in the criminal justice system.

Participants at the workshop sought to identify some of the critical gaps in service delivery for Indigenous women exiting prison, as well as how these gaps could be addressed. The main topic areas addressed by the workshop were housing and access to emergency accommodation; the difficulties associated with reconnecting with family and community after prison; the need for healing programs to address grief and loss and trauma; and the importance of alternative sentencing options to divert women from prison. Through discussion, the workshop sought to identify better practice examples in each of these areas, as well as the solutions or actions required to promote the availability of best practice services.

A national roundtable has been proposed as a second stage to follow up on the workshop outcomes and recommendations.

6.4 EDUCATION AND PROMOTION

6.4.1 Community forum at the launch of *Social Justice* and *Native Title Reports 2006*

The *Social Justice* and *Native Title Reports* were launched at Ultimo College (NSW TAFE) on 3 July 2007.

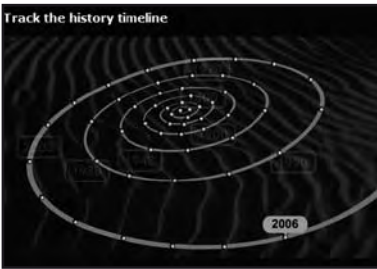
The launch was followed by an open community forum. This was initially intended as an opportunity to discuss the issues covered in the reports, but as a result of the federal government's emergency response to child abuse in the NT the previous week, the focus shifted. The forum provided one of the first opportunities for a public interactive discussion with Indigenous experts about the government's emergency response.



Co-author of the 'Little Children are Sacred' report Pat Anderson, at the launch of the Social Justice Report 2006.

The panellists included: Mick Gooda (MC and CEO of the Cooperative Research Centre for Aboriginal Health), Tom Calma (Aboriginal and Torres Strait Islander Social Justice Commissioner), Rob Welsh (Chairperson Metro Land Council), Pat Anderson (Co-author of the *Little Children are Sacred* report), Dr Mark Wenitong (President, Australian Indigenous Doctors Assoc), Assoc Prof. Sue Green (Nura Gili, UNSW), Marcia Ella-Duncan (Chairperson, NSW Aboriginal Child Sexual Assault Taskforce) and Jackie Huggins (Co-Chair of Reconciliation Australia).

6.4.2 Bringing them home 10th anniversary

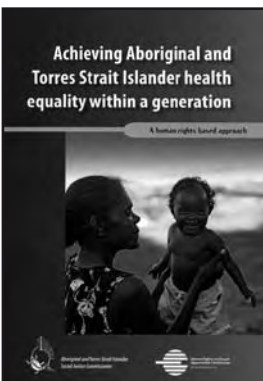


HREOC has undertaken a number of projects to commemorate the 10th Anniversary of the *Bringing them home* report, which coincides with the commemoration of the 40th Anniversary of the 1967 Referendum.

A new page on our website (www.humanrights.gov.au/bth) provides information about events around Australia commemorating the 10th Anniversary and an interactive timeline that details the history of forcible removal of Indigenous children from their families. It invites contributions for the Indigenous Law Centre (UNSW) to mark the 10th Anniversary.

HREOC has also reviewed and updated our educational materials on the *Bringing them home* report which are distributed nationally. All primary and secondary schools have been sent a copy of the timeline poster that details the history of forcible removal of Indigenous children from their families.

6.4.3 Indigenous health issues



In early December 2006, an open letter was published in *The Australian* newspaper calling for an end to the health inequality experienced by Indigenous Australians. The letter was co-signed by 35 organisations nationally, and builds on the recommendation in the *Social Justice Report 2005*, namely that all Australian governments commit to closing the health gap between Indigenous and non-Indigenous Australians within 25 years.

On 4 April 2007, Commissioner Calma participated in the launch of the Indigenous health equality campaign alongside the National Aboriginal Community Controlled Health Organisation (NACCHO) and Olympians Catherine Freeman and Ian Thorpe. This event also launched the Virtual Sea of Hands for Australians for Native Title and Reconciliation (ANTaR) – the focus of which includes an ability to direct targeted letters to federal

and state politicians about Indigenous health equality. In the same week, NACCHO and Oxfam also released a report titled '*Close the Gap*' providing an overview of current research and evidence on the needs to close the life expectancy gap, and containing international comparisons.

This campaign is being run as a partnership with the Social Justice Commissioner. A program of events has been agreed, with project partners conducting events and releasing documents in a staged and strategic manner to build momentum and public debate on these issues. Other related activities the Commissioner has participated in include:

- numerous speeches, including to the Future Summit in Melbourne, QCOSS, and various conferences on policy development;
- submission of a case study and presentation at the International Symposium on Indigenous peoples and the social determinants of health in Adelaide. The Symposium was co-hosted by Flinders University and the Cooperative Research Centre on Aboriginal Health, as a preparatory meeting for the World Health Organisation's (WHO) World Commission on Social Determinants. The case study and presentation highlighted a rights based approach to health;
- commentary on the federal budget's implications for Indigenous health equality (including joint releases by project partners); and
- producing a publication: *Achieving Aboriginal and Torres Strait Islander health equality within a generation – A human rights approach*.

On 2 July 2007, Commissioner Calma co-hosted a historic meeting in Sydney of state, territory and national Indigenous peak health bodies (Aboriginal community controlled health services and Indigenous medical professional organisations). The first meeting of its kind, it helped to foster consensus by a range of organisations on strategic questions about how these organisations will work amongst themselves, as well as how they will collaborate with the coalition of more than 40 organisations that are progressing the current national campaign to improve Indigenous health equality within a generation.

6.5 LEGISLATIVE DEVELOPMENT

6.5.1 Local Government Reforms – Queensland

On 30 April 2007, the Local Government Reform Commission called for suggestions on the formation of the State's new local government boundaries.

The Social Justice Commissioner provided comments on the Local Government Reforms taking place in Queensland. These reforms will affect all local councils with the amalgamation of the smaller, less economically viable councils with larger councils. The Social Justice Commissioner provided comments specific only to the 17 Aboriginal Shire Councils and the 17 Torres Strait Island Councils.

6.5.2 Draft Guidelines for the Support of Prescribed Bodies Corporate

On 17 May 2007, the Land Branch of the Department of Families, Community Services and Indigenous Affairs invited comment on the draft 'Guidelines for the Support of Prescribed Bodies Corporate (PBC)'.



Commissioner Calma at the launch of the 'Close the Gap' campaign.

These guidelines related specifically to amendments to the general terms and conditions relating to Native Title Program Funding Agreements. These agreements enable Native Title Representative Bodies (NTRBs) and Native Title Service Providers (NTSPs) to assist PBCs with their day-to-day operations. The draft guidelines include the following conditions:

- Funding applications and the funding assessment process;
- Funding applications and applications from NTRBs/NTSPs; and
- Applications direct from PBCs.

The Social Justice Commissioner provided 10 recommendations regarding the draft guidelines.

6.5.3 Native Title Mediation discussion paper

The Social Justice Commissioner was asked to provide some initial comments on the Exposure Draft of Best Practice Guidelines for parties and representatives in National Native Title Tribunal (NNTT) mediation. The Draft Guidelines have been prepared in accordance with the Government's acceptance of recommendations put forward by the Senate Legal and Constitutional Committee, relevant to the *Native Title Amendment (Provisions) Bill 2006*. The recommendation provides that the *Native Title Act 1993* be amended to require parties to mediate in good faith, and a code of conduct for parties involved in native title mediation be developed.

On 4 May 2007, Commissioner Calma met with the Attorney-General's Department providing comment on the initial draft guidelines. The Attorney-General's Department advised that a consultation process is to be conducted in the future on the revised draft guidelines.

6.6 INTERNATIONAL ACTIVITIES

6.6.1 IPO Network Meeting and Public Forum on 2007 UN Permanent Forum on Indigenous Issues (PFII)

The Indigenous Peoples Organisations (IPO) Network is a loose coalition of peak Indigenous organisations from around Australia which are working on Indigenous rights at the national and international level. It is a follow-up action in the *Social Justice Report 2006* that the Commissioner will work with the IPO Network to identify sustainable options for establishing a national Indigenous representative body.

The Commissioner hosted a meeting of the IPO Network in Sydney to allow delegates that had attended the 6th session of the PFII in May 2007 to report back to the Network. Initial discussions about research and preparation for participation in the 7th session of the PFII also commenced. The theme for the 7th session will be climate change, and a half-day of the agenda will be devoted to Indigenous Peoples in the Pacific.

To coincide with the IPO Network meeting, the Commissioner hosted two other meetings involving Network members. The first was a public forum to allow a report-

back by representatives of some of the Indigenous organisations which HREOC had funded to participate in the May session of the UNPFII. The second was a meeting for members of the IPO Network with representatives of the Attorney-General's Department, the Department of Foreign Affairs and Trade and the Office of Indigenous Policy Coordination. This meeting provided an opportunity to discuss the outcomes of the May PFII meeting, as well as key developments at the international level in relation to the rights of Indigenous peoples.

6.6.2 International Law Association publication

From 2003–2005, HREOC entered a partnership with the International Law Association, Australian Division (ILA) to convene a series of workshops on international law issues affecting Indigenous peoples. The outcomes of these workshops have been collated by the ILA for publication in their Martin Place papers series.

HREOC has co-sponsored publication of the papers, hosts the papers on the HREOC website, and makes copies of the papers available to the public.

6.6.3 Declaration on the Rights of Indigenous Peoples

In June 2006, the Chairman's text for the Draft Declaration on the Rights of Indigenous Peoples (DDRIP) was considered by the new United Nations Human Rights Council. By overwhelming majority the Council adopted the Declaration and recommended to the United Nations General Assembly that it do so as well. It was anticipated that the Declaration would be considered for final adoption by the General Assembly in November 2006.

However, the United Nations General Assembly decided on 28 November to delay consideration of the Declaration for up to 12 months. The decision, made by the Third Committee of the General Assembly on 28 November, states that the General Assembly will 'defer consideration and action on the United Nations Declaration on the Rights of Indigenous Peoples to allow time for further consultations'. Furthermore, it also decided that the General Assembly would 'conclude consideration of the Declaration before the end of (the General Assembly's) sixty-first session' which is in mid-September 2007.

This comes after 24 years of consensus-style negotiations on the Declaration, including a working group of governments and indigenous representatives for the past 11 years.

The Social Justice Commissioner called on all governments, especially Australia, to ensure that any further discussions on the Declaration are conducted with the full participation of indigenous peoples.

For further information on the decision of the General Assembly see: www.un.org/News/Press/docs/2006/gashc3878.doc.htm

In addition to the above, the Social Justice and Native Title Units also contribute to legislative development by making written and oral submission to Parliamentary and other inquiries. A list of these submissions can be found in Chapter 3 of this report, *Monitoring Human Rights*.

6.7 SPEECHES

A selection of public addresses made by the Social Justice Commissioner during 2006–07 is listed below. Speeches can also be accessed on HREOC's website at: www.humanrights.gov.au/speeches/social_justice/index.html

Advanced Indigenous Business, launch speech at Cairns Convention Centre, 7 June, 2007.

National Sorry Day Committee event: Stolen generations track home, speech to Parliament House in Canberra, 21 May, 2007.

Securing the rights of Indigenous Territorians, speech delivered at the Forum: Securing Territorian's Rights – Statehood and a Bill of Rights? Charles Darwin University, Darwin, 10 May, 2007.

What makes good Indigenous Policy – Good, Better, Best – Policy Making for Indigenous Australians, address to the IQPC 6th annual conference – Collaborative Indigenous Policy Development, 1 May, 2007.

Maximising economic and community development opportunities through native title and other forms of agreement-making, speech to the National Native Title Conference, Cairns Convention Centre, 6–8 June, 2007.

Addressing Indigenous health inequality within a generation – a call to action, speech at media launch, Telstra Stadium in Sydney, 4 April, 2007.

Customary law in sentencing and changes to tenure arrangements on communally owned land, address to the Indigenous Legal Issues Forum 35th Annual Legal Convention, 24 March, 2007.

Lessons Learned from the Scrutiny of Indigenous Affairs, address to the Australian Public Service Commission's 2007 Government Business Conference in Sydney, 23 February, 2007.

Investing in Indigenous research and researchers to address Indigenous disadvantage, speech at the Indigenous Education Advisory Council Conference in Melbourne, 21 February, 2007.

Addressing family violence and child sexual assault in Indigenous communities – A human rights perspective, speech at the Aboriginal Child Sexual Assault Forum, NSW Parliament House, 5 December, 2006.

Human Rights and Indigenous Education 'Success, celebration and the way forward', speech at the Making the Difference Conference, Adelaide, 16 November, 2006.

Diabetes in Indigenous Communities, speech at A symptom of society International Diabetes Forum in Victoria, 13 November, 2006.

The Integration of Customary Law into the Australian legal system, speech at the Globalisation, law and justice seminar, University of Western Australia, 27 October, 2006.

Launch of the Western Australian Law Reform Commission Report into Aboriginal Customary Laws, speech, Perth, 27 October, 2006.

A Level Mining Field: The Path to Achieving Outcomes for Indigenous and Non-Indigenous Stakeholders in Mining, opening statement at Sustainable Development Conference, Sheraton Perth Hotel, WA, 26 October, 2006

Declaration on the Rights of Indigenous Peoples Parliamentary Briefing, opening statement to Parliament House, Canberra, 12 October, 2006.

The Integration of Customary Law into the Australian Legal System, speech at the National Indigenous Legal Conference, NSW, 23 September, 2006.

Challenges for Aboriginal and Torres Strait Islander law and justice agencies, speech at the National Aboriginal Justice Advisory Committee (NAJAC) Colloquium, 13 September, 2006.

Garma festival presentation, speech at Gulkala in North East Arnhem Land, 5 August, 2006.

