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United Nations Committee on the Elimination of Racial Discrimination

**Combined Fifteenth, Sixteenth and Seventeenth Periodic
Reports of the Government of Australia under Article 9 of
the International Convention on the Elimination of all
Forms of Racial Discrimination**

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GLOSSARY

ABS	Australian Bureau of Statistics
ACMA	Australian Communications and Media Authority
ACT	Australian Capital Territory
ADCQ	Anti-Discrimination Commission of Queensland
AFP	Australian Federal Police
APS	Australian Public Service
ATSIC	Aboriginal and Torres Strait Islander Commission
CALD	Culturally and linguistically diverse
CDEP	Community Development Employment Projects
CERD	International Convention on the Elimination of all Forms of Racial Discrimination
CLR	Commonwealth Law Reports
COAG	Council of Australian Governments
Committee	Committee on the Elimination of Racial Discrimination
CRC	Community Relations Commission
Cth	Commonwealth
DDPA	Durban Declaration and Program of Action
DEEWR	Department of Education, Employment and Workplace Relations (formerly the Department of Employment and Workplace Relations)
DIAC	Department of Immigration and Citizenship (formerly the Department of Immigration and Multicultural Affairs)
DRM	Detention Review Managers
HREOC	Human Rights and Equal Opportunity Commission
ICCPR	International Covenant on Civil and Political Rights
IDS	Immigration Detention Standards
IHSS	Integrated Humanitarian Settlement Strategy
ILC	Indigenous Land Corporation
ILUA	Indigenous Land Use Agreement
IESP	Indigenous Education Strategic Plan
NAP	National Action Plan to Build on Social Cohesion, Harmony and Security
NCP	National Crime Prevention program
NGO	non-government organisation
NI	Norfolk Island
NNTT	National Native Title Tribunal
NSFATSIH	National Strategic Framework for Aboriginal and Torres Strait Islander Health
NSW	New South Wales
NT	Northern Territory
NTA	Native Title Act
NTER	Northern Territory Emergency Response
NTRB	Native Title Representative Body
OID	Overcoming Indigenous Disadvantage: Key Indicators Report
PBC	Prescribed Body Corporate
PJC	Parliamentary Joint Committee
PPV	Permanent Protection Visa
RDA	<i>Racial Discrimination Act 1975</i>

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Qld	Queensland
SA	South Australia
SAT	Western Australian State Administrative Tribunal
TAFE	Technical and Further Education
Tas	Tasmania
THV	Temporary Humanitarian Visa
TIS	Translating and Interpreting Service
TPV	Temporary Protection Visa
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNHRC	UN Human Rights Committee
VEOHRC	Victorian Equal Opportunity and Human Rights Commission
VET	Vocational Education and Training
Vic	Victoria
WA	Western Australia
WCAR	World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

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INTRODUCTION

Preparation and structure of report

In accordance with Article 9 (1) of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD), Australia submits this report as an update on the measures it has adopted to give effect to the provisions of CERD. This report is Australia's 15th, 16th and 17th under CERD, covering the period 1 July 2002 to 30 June 2008.

2. The report adopts a thematic approach in highlighting Australia's implementation of its CERD obligations since 1 July 2002. In doing so, it addresses issues raised by the Committee on the Elimination of Racial Discrimination (the Committee) during its consideration of the 13th and 14th Periodic Report of the Government of Australia Under Article 9 of CERD (13th and 14th Report) at its 56th session on 1 March 2005. To avoid repetition, it does not cover the material provided in Australia's interim report to the Committee, titled *Response of the Australian Government to the request for additional information from the sixty-sixth session of the Committee on the elimination of racial discrimination* (http://www.dfat.gov.au/hr/reports/aus_response_to_the_cerd_cte_13April2006.pdf).

3. The material included in this report should be considered in the context of the constitutional and legislative structures in Australia and the policies and programs that are in place to combat racial discrimination, as outlined in Australia's Common Core Document and previous periodic reports. Where relevant, this report cross-references relevant parts of the Common Core Document (available at: [ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination_CommonCoreDocument](http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination_CommonCoreDocument)) and Australia's 13th and 14th reports (available at: http://www.dfat.gov.au/hr/reports/cerd/cerd_report.pdf). Where more recent statistics or information are available, this updated information is included.

4. To avoid adding to the burden on the secretariat resources of the Committee, the Australian Government has endeavoured to produce a concise report and has not attached documents relevant to every initiative, legislative change and judicial decision mentioned in this report. Throughout the report, details of particular programs of interest are highlighted in shaded boxes to give a flavour of the variety of programs initiated during the reporting period.

5. On 3 December 2007, following federal elections held on 24 November 2007, a new Australian Government was constituted. Accordingly, key strategies, policies and programs have changed since that date.

6. The Australian Government is committed to the effective operation of the Committee and looks forward to the Committee's consideration of this report.

Consultation with state and territory governments and civil society

7. Australia has a federal constitutional system, in which powers are shared between federal institutions and the six states (New South Wales (NSW), Victoria (Vic), Queensland (Qld), Western Australia (WA), South Australia (SA) and Tasmania (Tas) and three self-governing territories (the Australian Capital Territory (ACT), the Northern Territory (NT) and the Territory of Norfolk Island (NI)). Further

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information about Australia's political structure is available in part B of the Common Core Document. As the state and territory governments are responsible for many of the government activities that give effect to CERD, the Australian Government consulted state and territory governments in the preparation of this report. The Human Rights and Equal Opportunity Commission (HREOC) has an important role in countering racial discrimination, and was consulted extensively in preparation of this report.

8. The Australian Government also recognises the importance of involving civil society in the preparation of this report, and actively sought submissions from civil society during the preparation of this document, including by seeking submissions in response to a public consultation draft of the report. A list of submissions received from non-government organisations (NGOs) and individuals is at **Appendix A**. These were taken into consideration in the preparation of this document.

9. In response to the Committee's recommendation in paragraph 27 of its Concluding Remarks, the Australian Government advises that the text of Australia's 13th and 14th Report, as well as Australia's interim report dated 5 April 2006, have been made available on the Attorney-General's Department website since shortly after the date of submission, along with the associated observations of the Committee. These documents are also available on the website of HREOC. See <http://www.humanrights.gov.au/legal/submissions/cerd/index>.

General measures of implementation

10. The principal means by which Australia implements CERD is through the *Racial Discrimination Act 1975 (Cth)* (RDA) and the work of HREOC. Further detail on the federal political and legal anti-discrimination framework is available in the 13th and 14th Report and Part D of the Common Core Document. Australian states and territories also have comprehensive frameworks to counter racial discrimination (Part D of the Common Core Document refers). The section below, titled 'Significant legislative and policy developments' outlines relevant changes implemented by all Australian governments since publication of the Common Core Document, and responds to the Committee's concluding remarks relevant to these areas.

SIGNIFICANT LEGISLATIVE AND POLICY DEVELOPMENTS

Federal anti-discrimination legislation and related developments

National Human Rights Consultations

11. The protection of human rights and responsibilities is a question of national importance for all Australians. The Australian Government has indicated it will hold a national consultation on how best to promote human rights and responsibilities in Australia. Once the details of the consultation have been settled they will be widely advertised in order to encourage the broadest possible participation by the Australian public. The consultation will consider a range of options for recognising and protecting human rights in Australia. A legislative charter of rights and responsibilities is one option likely to be raised. However, any new approach will flow from the views expressed by the Australian people. The Government is currently considering how the consultation will be conducted.

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Criminal offence for menacing, harassing or offensive use of a carriage service

12. During the reporting period, the Australian Government passed the *Crimes Legislation Amendment (Telecommunication Offences and Other Measures) Act (No 2) 2004* (Cth), which made it an offence to use a carriage service in a way that is intentionally menacing, harassing or offensive.¹

Changes to citizenship provisions

13. The *Australian Citizenship Act 2007* (Cth) came into effect on 1 July 2007. It replaces the *Australian Citizenship Act 1948* (Cth) and continues Australia's inclusive and non-discriminatory approach to citizenship. Some of the key changes include:

- enhancing the integrity of the citizenship acquisition process
- amending the law to require citizenship applicants to have resided lawfully in Australia for four years, including 12 months as a permanent resident, immediately before the application (formerly, applicants were required to have been permanent residents for two years)
- providing for children who are adopted under full and permanent Hague Convention arrangements to be registered as Australian citizens
- replacing an operation of law provision with a discretionary provision to revoke a child's citizenship where the child's responsible parents cease to be Australian citizens
- allowing for resumption of Australian citizenship by former citizens of any age who renounced their Australian citizenship to acquire or retain another citizenship
- removing the age limits for registration of citizenship by descent
- providing for the conferral of Australian citizenship to children born after a parent lost their Australian citizenship on the acquisition of another
- providing for the conferral of Australian citizenship to people born in Papua before Papua New Guinean independence to a parent born in Australia (as now defined).

14. On 30 November 2007, Australia responded to a letter dated 15 October 2007 from the Human Rights Council Independent Expert on Minority Issues, seeking information about Australia's citizenship provisions. Australia's response provides an overview of the criteria all migrants must meet in order to become Australian citizens, regardless of race.

15. On 1 October 2007, changes were made to the *Australian Citizenship Act 2007* (Cth), to introduce a citizenship test. The changes provide that applicants for citizenship by conferral under the general eligibility criteria need to pass a test in order to satisfy the legal requirements to:

- have an understanding of the nature of their application
- have a basic knowledge of the English language
- have an adequate knowledge of Australia and the responsibilities and privileges of Australian citizenship.

16. Further details on the policy and implementation of the test can be found at paragraphs 269 to 277.

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Native title reforms

17. On 7 September 2005, the former Attorney-General announced a package of reforms to the native title system comprising six elements. The reform package was designed to enable native title issues to be resolved in a more timely and efficient manner, preferably through agreement-making rather than litigation. The Government conducted nationwide consultations with a wide range of stakeholders in developing the legislation.

18. The *Native Title Amendment Act 2007* (Cth) commenced on 15 April 2007. The amendments in this Act give effect to:

- Native Title Representative Body (NTRB) reforms
- the recommendations of the independent Claims Resolution Review
- amendments to the financial assistance provisions in the *Native Title Act 1993* (Cth) (Native Title Act), regarding non-government respondent funding
- some recommendations of the report into Prescribed Bodies Corporate (PBCs).

19. The *Native Title Amendment (Technical Amendments) Act 2007* (Cth) commenced on 20 July 2007. The Technical Amendments Act includes measures to:

- improve the workability of the Native Title Act by making a series of minor and technical amendments
- make minor amendments to provisions applying to NTRBs to complement measures in the *Native Title Amendment Act 2007*
- partially implement two of the recommendations from the Report on the Structures and Processes of PBCs.

20. Some of the amendments, including those relating to PBCs and NTRBs, came into force on 21 July 2007. Most of the technical amendments commenced on 1 September 2007. Further details can be found at paragraphs 109 ff.

Further reform of HREOC

21. The former Australian Government's *Australian Human Rights Commission Legislation Bill 2003*, to reform HREOC, has lapsed. The Australian Government is considering its position in relation to an appropriate structure for HREOC.

An entrenched guarantee against racial discrimination

22. The protection of human rights and responsibilities is a question of national importance for all Australians, and the Australian Government will hold a national inquiry into how best to promote human rights and responsibilities in Australia. This will include consideration of a national bill or charter of rights for Australia.

23. While there is no specific prohibition against racial discrimination in the Australian Constitution, human rights are currently protected in Australia in a range of ways. These include through: strong democratic institutions; certain rights in the Constitution; the common law; and legislation, including anti-discrimination legislation at the Commonwealth, state and territory levels. Australia has implemented its obligations under CERD in Australian law through the RDA.

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Reservation against section 4(a) of the Convention

24. Australia made the reservation to Article 4(a) at the time of ratification because it was not in a position to treat all of the matters covered by Article 4 as offences. The RDA prohibits discrimination and vilification on the basis of race, and contains civil remedies. All states and territories have enacted legislation that prohibits discrimination and, in some cases, vilification.

Burden of proof in civil proceedings involving racial discrimination

25. HREOC generally attempts to conciliate a complaint of unlawful discrimination under the RDA before the complaint can be referred to the courts. A conciliation conference is not a public hearing, a court of law or a tribunal. That means parties do not have to prove or disprove the complaint. Instead, conciliation allows people to state their point of view, discuss the issues in dispute and settle the matter on their own terms.

26. The RDA also enables complaints to be made to HREOC about unlawful discrimination on the basis of race or racially offensive or abusive behaviour. It is unlawful under the RDA to do public acts, either in whole or in part, because of the race, colour or national or ethnic origin of a person or group, and which are reasonably likely to offend, insult, humiliate or intimidate that person or group. There are limited exceptions, including for artistic works, academic publications and fair and accurate reporting on a matter of public interest.

27. If a discrimination or racial hatred complaint cannot be conciliated, the complainant can apply to the Federal Court or Federal Magistrates Court. For racially offensive behaviour complaints, the complainant must prove, on the balance of probabilities, three things: that the act was done in public; that the race (or colour, or national or ethnic origin) of the person or group of people who were being targeted by the defendant was one of the reasons for the act; and that the act was reasonably likely to offend, insult, humiliate or intimidate a reasonable person of that ethnicity.

Non-regulatory initiatives

28. The Australian Government acted to combat internet-based racism in 2007. It did so by taking non-regulatory action designed to complement existing federal and state criminal laws, and laws allowing the Australian Communications and Media Authority (ACMA) to direct Australian-based internet hosts to remove content that is 'Refused Classification'. The measures included A\$189 million funding for the *NetAlert—Protecting Australian Families Online* program. This program launched a hotline and website to provide information about security risks on the internet, and free internet filters to help protect families online, including by enabling families voluntarily to block racist online content.

29. ACMA will receive more than A\$11.7 million over four years to increase its outreach activities to all Australian states and territories. It will receive an additional A\$2.2million in 2007–08 to respond to increasing complaints about internet content, requests for internet safety advice and continuing management of the NetAlert program. The number of police tracking internet predators will double, at a cost of

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A\$43 million. Police will also increase their work with schools and communities through a comprehensive outreach program and more internet safety officers.

State and territory ‘Bill of Rights’ and ‘Charter of Rights’ initiatives

30. Several states took significant steps to protect human rights in their jurisdictions during the reporting period. The Australian Capital Territory (ACT) enacted the *Human Rights Act 2004* (ACT) as an Act of the ACT Parliament. It was the first ‘charter of rights’ legislation in any Australian jurisdiction. The Act is the product of extensive community consultation and represents the first stage of a legislative scheme that will strengthen the protection of fundamental rights and freedoms in the ACT. The Act gives legal effect to individual rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) and recognises those rights as part of ACT jurisdictional law. The Act requires bills introduced into the ACT Parliament to be accompanied by a statement of compatibility. The ACT courts and tribunals are also required to interpret all legislation, as far as possible, in a way that is consistent with the Act.

31. The ACT Government introduced the *Human Rights Amendment Act 2007* (ACT) on 6 December 2007. It was passed by the ACT Parliament on 4 March 2008. The Human Rights Amendment Act amends the Human Rights Act 2004 to, among other things, provide a direct right of action for people flowing from a duty on public authorities to comply with human rights effective from 1 January 2009. From this date, a person will be able to start a proceeding in the ACT Supreme Court against a public authority or rely on their rights under the Human Rights Act in other legal proceedings. The amendments also enable entities other than public authorities to choose to be subject to the obligations that currently attach to public authorities. Entities choose to ‘opt in’ by writing to the relevant Minister who must then make a declaration that the entity is a public authority for the purposes of the duties on public authorities and the right of action against public authorities.

32. Victoria also established a Charter of Human Rights and Responsibilities through legislation in 2006. Parts of the Victorian Charter commenced on 1 January 2007, and the remaining provisions commenced on 1 January 2008. The Charter is an Act of the Victorian Parliament and the rights in the Charter are drawn from the International Covenant on Civil and Political Rights (ICCPR). In addition to information provided in paragraph 80 of the Common Core Document, the Victorian Charter of Human Rights and Responsibilities (Charter): requires new laws to be assessed for compatibility with the Charter; requires courts to interpret laws consistently with the Charter where it is possible to do so; and generally requires public authorities to respect human rights. The Charter also provides specific individual and collective rights for Indigenous peoples, and recognises cultural rights more broadly. The Charter affirms the right of all persons to equality and freedom from discrimination on the basis of attributes including race.

33. In 2007, the Western Australian (WA) Government proposed developing a Human Rights Act for WA. The process involved: establishing an independent committee of prominent citizens to consult widely on human rights issues; developing a draft Human Rights Bill; and setting up a broad and inclusive public submission process. The final report of the Committee, released in November 2007, noted that a clear majority of submissions and participants in the public consultations were in

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favour of a WA Human Rights Act. The final report of the Committee is with the Government for its consideration. In addition, the Attorney-General of WA has forwarded this report to the Australian Government Attorney-General for his consideration, including consideration of a possible Australia-wide human rights Charter.

34. In September 2006, the Tasmanian Government asked the Tasmanian Law Reform Institute to investigate whether human rights could be better protected and enhanced in Tasmania and, if so, how this could be done. After extensive consultation, the Institute reported to the Tasmanian Government in October 2007, proposing establishment of a Charter of Rights, and making specific recommendations regarding the form it should take. The Tasmanian Government has yet to respond formally to the recommendations.

35. The Northern Territory (NT) Statehood Steering Committee announced its intention to carry out, in 2007–08, community consultation into issues relating to whether and how the NT should become a state. This consultation addresses the question of whether there should be a NT Bill of Rights. The Committee released its first discussion paper in May 2007. A consolidated paper with final recommendations will be prepared following the release of submissions. The consolidated paper will be taken to a future Constitutional Convention.

36. A New South Wales (NSW) Parliamentary Joint Legislative Review Committee was established following the 2001 Report from the Parliamentary Standing Committee on Law and Justice which conducted an inquiry into a Bill of Rights for NSW. Although the Report found that it was not in the public interest to enact a statutory Bill of Rights, it recommended that a ‘Scrutiny of Legislation’ committee be established. As a result of this recommendation, the Joint Legislative Review Committee was established and commenced operations in August 2003.

State and territory anti-discrimination legislation and policy

Australian Capital Territory (ACT)

37. The ACT prohibits discrimination on the grounds of race and the incitement of racial hatred through vilification provisions of the *Discrimination Act 1991*. Vilification is an offence under the Discrimination Act. In addition, Part 2.4 of the *Criminal Code 2002* includes the offence of incitement (section 47).

38. In November 2006 the *Human Rights Commission Act 2005* established the Human Rights Commission as a statutory oversight agency for the ACT. It incorporates the functions of the Human Rights Commissioner and the Discrimination Commissioner. These roles are currently filled by the same person, who has responsibility in relation to complaints regarding racial discrimination, hatred and vilification.

39. As part of the Human Rights Commission’s community education, advice and research functions it has undertaken a wide range of initiatives targeting racial discrimination, including working with populations that have been subjected to abuse, providing financial support and expertise to a national research project on awareness

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of remedies for racism, investigating the application and improvement of vilification laws, and providing targeted awareness training programs.

40. The *Aboriginal and Torres Strait Islander Elected Body Act 2008* establishes an elected Indigenous representative body. The body will advise the Government on issues affecting Indigenous Territorians, and monitor and report on the effectiveness of programs delivered by ACT agencies including accessibility of services. It will conduct research, hold forums and propose programs for government consideration. The elected body is required to consult the United Ngunnawal Elders Council, which represents the traditional landowners of the ACT region.

41. Although not enshrined in legislation, a 2004 Practice Direction of the ACT's Magistrates Court has established the Ngambra Circle Sentencing Court. The Court seeks to provide an effective and restorative process for the criminal justice response to, and community involvement in the management of, Aboriginal and Torres Strait Islander offenders and their victims. Certain criminal offences can be heard by the court, which convenes in locations other than a traditional courtroom. The Court includes the active participation of Aboriginal and Torres Strait Islander community elders.

New South Wales (NSW)²

42. The *Anti-Discrimination Act 1977* (NSW) allows for exemptions to be granted from the operation of that Act. In 2004, the *Anti-Discrimination Regulation 2004* (NSW) was amended to include a list of matters to be considered in relation to exemption orders. The list requires the Minister and the NSW Anti-Discrimination Board Board to consider:

- whether the proposed exemption is appropriate or reasonable
- whether the proposed exemption is necessary
- whether there are any non-discriminatory ways of achieving the objects or purposes for which the proposed exemption is sought
- whether the proponent of the proposed exemption has taken reasonable steps, or is able to take any reasonable steps, to avoid or reduce the adverse effect of a particular act or action before seeking the exemption
- the public, business, social or other community impact of the granting of the proposed exemption
- any conditions or limitations to be contained in the proposed exemption.

Amendments to adoption laws

43. Following consultations with Aboriginal groups during the introduction of the *Adoption Regulations in 2003* (NSW), amendments were made to the *Adoption Act 2000* (NSW) to put beyond doubt the requirement for adoption plans for Indigenous children to include information about their cultural identity and heritage. This is seen as vital for both the Indigenous child and their birth parents, as it ensures that all attempts are made to maintain a positive cultural identity for the child.

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Communicating positively: A guide to appropriate Aboriginal terminology

44. NSW Health produced a guide titled *Communicating positively: A guide to appropriate Aboriginal terminology*³ to provide background information and guidance on appropriate word usage when working with Aboriginal people and communities and when developing policy and programs to improve health outcomes for Aboriginal people. The guide recognises that the use of accurate and non-offensive language is an essential component of Aboriginal cultural respect and communication training.

Queensland (Qld)⁴

45. In the period 2002 to 2007, the Anti-Discrimination Commission of Queensland (ADCQ)⁵ has dealt with a total of 73 race vilification complaints under the *Anti-Discrimination Act 1991* (Qld) complaint process. In the same period, ADCQ dealt with nine complaints of religious vilification.

46. The majority of complaints were resolved through ADCQ's conciliation process. Since the passing of amendments in 2001, no case of race vilification, and only one case of religious vilification, has proceeded to final hearing before the ADCQ.

Tasmania (Tas)⁶

Tasmania's compliance with Article 4 (a) of the Convention

47. Section 19 of the *Anti-Discrimination Act 1998* (Tas) prohibits any act that incites hatred, serious contempt for, or severe ridicule of a person, or a group of persons, on the grounds of, among other things, the race of the person or any member of the group. Further, section 21 of the Act criminalises the aiding of contravention of the Act, while section 20 prohibits the promotion of discrimination. Therefore, the Tasmanian legislative framework effectively prohibits acts of incitement to racial discrimination.

Indigenous-related legislation

48. The following Tasmanian legislation is specific to Indigenous people in Tasmania

- *Aboriginal Lands Act 1995* (Tas)
- *Aboriginal Relics Act 1975* (Tas)

49. The following Tasmanian legislation makes provision for Indigenous people and acknowledges Aboriginal culture in Tasmania:

- *Burial and Cremation Act 2002* (Tas)
- *Children, Young Persons and Their Families Act 1997* (Tas)
- *Coroners Act 1995* (Tas)
- *National Parks and Reserves Act 2002* (Tas)
- *Nature Conservation Act 2002* (Tas)
- *Youth Justice Act 1997* (Tas)
- *Living Marine Resources Management Act 1995* (Tas)

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South Australia (SA)⁷

50. On 26 October 2006, the South Australian Government introduced a Bill into Parliament to update the *Equal Opportunity Act 1984 (SA)*. The Equal Opportunity (Miscellaneous) Amendment Bill 2006 (SA) proposes a number of changes to provide greater protection against unjustified discrimination, victimisation and harassment.

Victoria (Vic)⁸

Multicultural Victoria Act 2004 (Vic)

51. The Multicultural Victoria Act (Vic) came into operation in 2004. It recognises the social, cultural and economic contribution of multiculturalism to Victoria by enshrining the principles of multiculturalism in legislation. It also requires departments to report on their practices in providing appropriate services for people from culturally and linguistically diverse (CALD) backgrounds.

Racial and Religious Tolerance Act 2001 (Vic)

52. The *Racial and Religious Tolerance Act 2001 (Vic)* prohibits racial and religious vilification and promotes racial and religious freedom. It supports the right of all people to be treated with dignity and respect. The purpose of the Act is to prevent people from inciting hatred, serious contempt, revulsion or severe ridicule of others because of their race or religion. The Act provides a community standard for people's behaviour towards each other in Victoria's modern multicultural society.

53. Following consultation with community stakeholders, the Act was amended in May 2006 to clarify its operation in three areas:

- to confirm that the Act does not prohibit proselytising
- to facilitate the early resolution of complaints
- to reduce the risk of costly legal proceedings spent on unmeritorious complaints.

Equal Opportunity Act (Vic) review

54. Victoria is reviewing the *Equal Opportunity Act 1995 (Vic)*. The aims of the review include: removing barriers to equality of opportunity; improving the fairness, efficiency and effectiveness of the discrimination dispute resolution process; and empowering the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) to identify and resolve issues of systemic discrimination. This review will inform future *Equal Opportunity Act 1995 (Vic)* reforms and ensure the Act's consistency with protections provided under the Victorian Charter of Human Rights.

Western Australia (WA)⁹

55. In 2004 the WA Government passed the *Criminal Code Amendment (Racial Vilification) Act 2004 (WA)*. The Act amended the racial vilification provisions of the *Criminal Code (WA)*. It broadened their application with a two-tiered offence structure; increased the maximum penalty to 14 years for the most serious offences; introduced safeguards for freedom of speech; and made 'race' an aggravating circumstance in relation to offences that deal with assault, making threats, or causing criminal damage.

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56. In November 2006, the WA Government introduced the Equal Opportunity Amendment Bill 2006 (WA) into Parliament. The Bill amends the *Equal Opportunity Act 1984* (WA) to make ‘racially offensive behaviour’ unlawful. ‘Racially offensive behaviour’ is the doing of any act, otherwise than in private, that is reasonably likely to offend, insult, humiliate or intimidate another person on the ground of race, or on the ground of a characteristic appertaining or imputed to persons of that race, or to a relative or associate of that person. The Bill is modelled on the corresponding provisions in the RDA.

57. The Bill allows a person, a group of persons, or a representative body on behalf of an affected racial group, to lodge a complaint of racially offensive behaviour with the WA Equal Opportunity Commission. The Commission investigates and attempts to resolve complaints by conciliation. If the complaint cannot be so resolved, it may be referred to the WA State Administrative Tribunal (SAT) for a determination. The SAT may order a person found to have committed racially offensive behaviour to do any reasonable act to redress loss or damage suffered by the victim, including making an apology. The SAT may also order the payment of compensation of up to A\$40 000. The Bill creates defences to a complaint of racially offensive behaviour if the conduct in question was done for a range of genuine purposes in the public interest, for example, artistic works and performances, and fair reporting of events. The Bill is awaiting debate and passage in the upper house of the Parliament. It is expected to commence operation in the second half of 2008.

58. In 2007, the WA Government proposed developing a Human Rights Act for WA. The process involved: establishing an independent committee of prominent citizens to consult widely on human rights issues; developing a draft Human Rights Bill; and setting up a public submission process. The committee met with people across the state, in remote, regional and urban areas, and canvassed the opinions of a wide cross-section of society. The committee also encouraged written submissions.

59. The final report of the committee, released in November 2007, noted that a clear majority of submissions and public consultations were in favour of a WA Human Rights Act. The report is with the Government for its consideration. In addition, the Attorney-General of WA has forwarded this report to the Federal Attorney-General for his consideration.

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Information box A: WA Charter of Multiculturalism

The Western Australian Government endorsed the WA Charter of Multiculturalism in 2004. The Charter articulates the WA Government's commitment to the principles of multiculturalism. It is based on the fundamental principle that a just and fair society must be based on democracy, equality and mutual respect.

The Charter is premised on democratic pluralism, recognising difference as a hallmark of democracy, both at an institutional and individual level. The Charter recognises Aboriginal peoples as the First Australians and acknowledges that Western Australians come from diverse cultural, linguistic, religious and historical traditions.

The Charter recognises the need to go beyond a generic model of service delivery based on equal access to the adoption of a substantive equality approach, which responds to the differing needs of a diverse population.

Anti-racism strategy

60. The former WA Premier established and chaired an Anti-Racism Strategy Steering Committee, comprising representatives from community groups, professional bodies and the public sector. The committee met between 2001 and 2004. The anti-racism strategy developed by the committee included two major components: the Western Australian Charter of Multiculturalism, and extending WA's racial vilification laws.

Information Box B: WA Substantive Equality Policy

In 2005, the Government of WA introduced a 'Substantive Equality' policy designed to assist major public sector departments to eliminate and prevent systemic indirect forms of racial discrimination in their service delivery to Indigenous and ethnic minority groups. 24 departments and agencies are participating in the initial program, with all government agencies and statutory authorities being encouraged to follow.

Under the *Equal Opportunity Act 1984* (WA), indirect discrimination refers to seemingly neutral policies, procedures and practices that may disadvantage particular groups. Participating departments undertake an equality impact assessment to identify systemic discrimination issues, which builds their capacities to address systemic racial discrimination. The program comprises five levels, commencing with (1) a commitment to implementing the Substantive Equality policy, through (2) identifying clients and their needs and (3) developing strategies to meet those needs, and concluding with (4) reviewing and (5) evaluating the policy. Agencies are currently working through levels 1 and 2.

The policy is intended to bring about permanent cultural and structural improvements to Government service delivery over an implementation period of five years.

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AUSTRALIAN GOVERNMENT EDUCATION AND RESEARCH INITIATIVES

Domestic implementation of the Durban Declaration and Program of Action

61. The Committee has queried how Australia implements the Durban Declaration and Program of Action (DDPA) (particularly Articles 2–7). Australia has implemented its obligations under CERD in Australian law through the RDA and, by doing so, already recognises principles set out in the DDPA. Key educational programs that contribute to Australia’s implementation of the DDPA are described in detail in this chapter. Regulatory actions, such as implementation of the NetAlert initiative, also promote the implementation of the DDPA.

Federally funded human rights education

62. The Australian Government promoted education and building public awareness as among the most lasting and effective ways to minimise racial discrimination and promote tolerance of all members of the Australian community (paragraph 86, Common Core Document). Information about Australia’s diverse cultures and religions is available on the Australian Government website www.immi.gov.au.

63. The Living in Harmony program funded schools and community groups around Australia to develop projects to educate all Australians about cultural diversity. The projects funded address issues of racism, prejudice and stereotyping related to people’s cultural, racial and religious backgrounds. Some of the groups funded produced educational materials relevant to their local community. The resources included documentaries, teaching guides, workshops techniques, training manuals and online educational packages. The Government is reviewing the Living in Harmony program, which has operated since 1998.

64. On 23 August 2005, the Australian Government established a Muslim Community Reference Group for a one-year term to provide advice to the Government and to develop initiatives for Australian Muslim communities. At the end of its term, the Muslim Community Reference Group made a number of recommendations to the Government, many of which are now being implemented through the National Action Plan to Build on Social Cohesion, Harmony and Security (the NAP). Consultation with Muslim communities is continuing through the implementation phase.

Information box C: Islamic resource kit

As a partnership project under the NAP, the NSW Government and the Australian Government are developing a resource kit for providers of Islamic Special Religious Education in government secondary schools. The kit will help educate young Muslims about the alignment of aspects of Islam with Australian values. Key community members, including teachers of Islamic scripture in schools, are helping to develop the kit. It will target students between the ages of 12 and 16 years.

65. The Australian Government has provided A\$35 million over four years for initiatives under the NAP to help build resilience within Muslim communities and encourage their engagement in the wider community. This included A\$4.4 million

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over a four-year period for HREOC to develop specialist training, educational materials and forums aimed at bringing law enforcement agencies and Muslim communities together to resolve issues of conflict and discrimination, particularly among young Muslims. This also included A\$1.05 million allocated for three years to the Department of Education, Employment and Workplace Relations (DEEWR) to establish a pilot program which aims to promote interfaith and intercultural understanding in Australian schools; and to strengthen more effectively the interconnectedness between students, their parents and community leaders with different social backgrounds and belief systems, including Christianity, Islam, Judaism and Aboriginal spirituality. See also: www.valueseducation.edu.au/verve/_resources/Encouraging_Tolerance_Final_Report.pdf.

66. Commencing in 2007, these objectives were developed under a new initiative named the Community Partnerships for Human Rights Program-Working with and for Muslim Communities. Using a community engagement and social inclusion framework to build on HREOC's Isma ξ , Living Spirit and Unlocking Doors projects, HREOC's program aims to develop greater awareness and understanding of human rights issues, tackle stereotypes and increase Muslim Australians' sense of social inclusion and participation in Australia's social, economic, cultural and political life.

67. The program delivers coordinated, multi-project, multi-targeted initiatives in the settings of: community policing; justice and the education of the judiciary; art and culture; multi-media; and interfaith. By the end of 2007, six national projects were in their early implementation phases. Further details are available at: http://www.humanrights.gov.au/racial_discrimination/partnerships/index.html and at paragraphs 236 to 237 and 316 of the Common Core Document.

68. The Australian Government Attorney-General's Department will also receive A\$2.9 million over a four-year period to assist the Muslim community to plan for and respond to issues, incidents and crises.

69. In recognition of the disadvantage faced by many Indigenous Australians, Ministers from all states and territories met in June 2006 for the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities. HREOC was subsequently engaged, at a cost of approximately A\$200 000, to develop a community legal education program and associated training resources to promote understanding about the effect of customary law and cultural practice on legal and human rights. The program informs Indigenous Australians about their legal rights and encourages them to report incidents of violence and abuse. HREOC's program is supplemented by a criminal justice program rolled out in 13 service areas across Australia in early 2008 by the Australian Crime Commission, Attorney-General's Department and Department of Families, Housing, Community Services and Indigenous Affairs, costed at A\$4.23 million over four years.

70. The Common Core Document refers in paragraphs 86 to 87 to the World Program for Human Rights Education. Some details of human rights education work undertaken by HREOC during the reporting period are contained in paragraphs 88 to 89 of the Common Core Document. In addition, the following education modules are available on HREOC's website, produced free of charge for schools:

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- *Voices of Australia*: resources and activities to help combat racism and promote a culture of respect and equality among young Australians
- *Bringing Them Home*: Learning about the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families.

71. DEEWR is also promoting the general themes of the Word Program for Human Rights Education through the 'Civics and Citizenship' and 'Values' educational programs. The National Civics and Citizenship Education Forum, titled School education: Civics and citizenship for the future, was held in Canberra in May 2007. It included a showcase of HREOC's educational resources. The same forum was held in Canberra in June 2008, with the theme 'From Curriculum to community: the impact of civics and citizenship education'. These programs encourage students, teachers and parents to develop respectful relationships and attributes within the school community.

72. HREOC is working with states and territories to identify and articulate human rights education in their respective curricula. The Common Core Document, paragraphs 92 to 94, refers to human rights education in schools. HREOC offers an advisory role to the Australian Government and state/territory education departments in their implementation of the United Nations World Program for Human Rights Education. Australia's future direction on human rights education may also be considered in light of planned national consultations on human rights.

73. Another significant educational tool during the reporting period was the United Nations Workshop on Engaging the Marginalised, held in Brisbane on 15 August 2005¹⁰, which was organised by the Secretariat of the United Nations Permanent Forum on Indigenous Issues and HREOC.¹¹

74. The Department of Immigration and Citizenship (DIAC) has recently made a 2008 Calendar of Cultural and Religious Dates available online. Users can search for dates by month, country or religion. This enables wider distribution and access to this information. See: <http://www.immi.gov.au/living-in-australia/a-diverse-australia/calendar-australia>.

75. DIAC has updated Community Information Summaries, based on the most recent (2006) Census data, for the first 50 countries of birth. They are available at: <http://www.immi.gov.au/media/publications/statistics/comm-summ/index.htm>.

Reports by relevant HREOC Commissioners

76. During the reporting period, HREOC continued its independent human rights monitoring and reporting role.

77. The Aboriginal and Torres Strait Islander Social Justice Commissioner provided an annual *Social Justice Report* in accordance with section 46C(1)(a) of the *Human Rights and Equal Opportunity Commission Act 1986* (HREOC Act). Key topics covered in the reports from the years 2002 to 2007 included: capacity building (2002), progress on reconciliation (2003), progress in addressing petrol sniffing on the Anangu Pitjantjatjara Lands (2003), overview of programs to support Indigenous women exiting prison (2004), approaches to Indigenous health (2005), accessibility of mainstream services (2006), building stronger families and communities, the human

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rights implications of the Northern Territory intervention and its consistency with CERD, and tackling family violence and child abuse (2007). A consistent theme of the reports between 2004 and 2006 was the need for engagement with Indigenous communities in policy development.¹²

78. The Aboriginal and Torres Strait Islander Social Justice Commissioner produces an annual *Native Title Report* in accordance with section 209 of the Native Title Act. Topics addressed in the reporting period included whether Australia's native title arrangements met its human rights obligations under international law (2002 and 2003), using native title to improve the economic and social conditions of Indigenous people's lives (2004), the impacts of amendments to the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)* (2005 and 2006) and the workability of the native title system and whether it is protecting Indigenous peoples' rights and interests in land (2007). The 2007 Report also provides an analysis of recent reforms to the native title system (2007).¹³

79. HREOC's *Annual Reports* include a statement from the Race Discrimination Commissioner.¹⁴ The annual statements of the Race Discrimination Commissioner have addressed a range of matters including vilification of Australian Arabs and Muslims and cyber-racism (2002/2003), the impact of 'the war on terror' on the Australian Arab and Muslim community, and bringing the *Commercial Television Industry Code of Practice* into line with the RDA (2003/2004), possible Federal legislation to make discrimination or vilification on the basis of religion unlawful (2004/2005), increased legislative measures in the wake of the riots in the Sydney suburb of Cronulla in December 2005, review of the Commonwealth Government Multicultural Policy (2005/2006), and the debate surrounding multiculturalism in the context of globalisation (2006/2007).

STATE AND TERRITORY EDUCATION AND RESEARCH INITIATIVES

New South Wales

80. The NSW Anti-Discrimination Board performs a community education role in relation to NSW Anti-Discrimination laws. Initiatives include:

- Workplace training: This program is designed to educate employees about their rights and responsibilities; inform managers about how to make equitable decisions; assist managers to take 'all reasonable steps' to prevent bullying, harassment and discrimination; educate organisations about the benefits of complying with equal employment opportunity (EEO) principles; and give managers the skills to handle grievances effectively.
- Community education: This includes training programs for Chinese, Vietnamese and Korean-speaking clothing outworkers; and the Advance Australia Fairly campaign (see information box D).
- Aboriginal outreach service: The outreach program employs three Indigenous officers to link the Anti-Discrimination Board with Indigenous individuals and communities throughout NSW. They investigate and conciliate complaints of discrimination from NSW Indigenous people and develop and implement a planned and structured outreach program.

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Information box D: Advance Australia Fairly Campaign

The NSW Anti-Discrimination Board's Advance Australia Fairly campaign has played a significant role in promoting greater understanding about the role played by people from a variety of ethnic, cultural and religious backgrounds in the community life of NSW. It has also stimulated lively public discussion about migration, racism and community identity.

The aims of the campaign were: to promote respect for, and understanding of, community diversity in the context of human rights; to increase community understanding and respect for diversity; to foster community knowledge and capacity for action; and to counter racist stereotypes and vilification.

The project began in mid-2002 and concluded in mid-2003. It included two series of free postcards, two seminars on racism and the media, and the publication of a detailed study of how racial issues are reported in NSW.

81. The NSW Department of Education and Training also established relevant educational programs during the reporting period. These include:

- Cultural exchange: All schools in NSW are able to participate in an innovative cultural exchange program. Schools register through a website¹⁵ to develop their own cultural exchange programs with other NSW school communities. The aim is to promote greater understanding and acceptance of Australia's cultural, linguistic and ethno-religious diversity.
- Making Multicultural Australia website¹⁶: This website contains current reference materials as well as teaching ideas, student activities and a range of other teaching and learning resources to assist young people, parents, teachers and the community to explore Australia's cultural diversity, tolerance and anti-racism.

Queensland

82. The Queensland Government's Workforce Diversity and Equity Framework for Action 2006–2008¹⁷ contains innovative and responsive programs for all employees, as well as initiatives tailored specifically for women, employees from non-English speaking backgrounds and employees with a disability.

83. The Migrant Work Experience Program¹⁸ operates across the Queensland public sector. This ten-week program provides migrants to Queensland with an opportunity to learn new administrative skills through a four-week technical and further education (TAFE) program followed by a six-week practical work placement in a Queensland public sector agency.

84. The Anti-Discrimination Commission of Queensland's website now contains information in 28 languages. During the past six years, an effort has been made to ensure web material is available to newly emerging communities in Queensland.

85. *Rights cards* in the English, Arabic, Bosnian, Farsi and Indonesian languages have been produced and distributed. These include advice about the unlawfulness of racial and religious vilification.

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86. The Queensland Government has worked on a range of strategies to make complaint processes more accessible for people from culturally and linguistically diverse backgrounds, including newly arrived migrant communities. One initiative involved the distribution of brochures and posters with the theme 'It's OK to Complain -Your Rights are our concern' to reassure and support people about their right to complain. The literature was published in eleven languages.

87. In early 2006, the first *Equal treatment benchbook* was prepared and launched by the Supreme Court of Queensland. The Benchbook provides judges with information to ensure that court proceedings are managed in a way that is fair to all litigants and other participants, irrespective of their circumstances. The Benchbook ensures judges are alert to circumstances, which, if overlooked, could result in an injustice or a perceived injustice. It covers such topics as justice and equality; ethnic diversity in Queensland; religions in Queensland; family diversity; Indigenous Queenslanders; Indigenous culture, family and kinship; Indigenous language and communication; and Indigenous people and the criminal justice system.

88. The Queensland Roars Against Racism¹⁹ campaign is a partnership between Multicultural Affairs Queensland and the Queensland Roar FC, Queensland's national A-League soccer team. The campaign was launched in 2007 and sends positive messages in support of harmony.

89. The first Islamic Awareness Week was held in August 2006 and provided the opportunity for all Queenslanders to learn more about Islam, encouraging understanding and countering misconceptions. Another initiative was the Abrahamic Faiths Forum held at Queensland's Parliament House. The event brought together faith and community leaders and representatives of government agencies to share their perspective on promoting community harmony in Queensland.

90. The Queensland Government provided A\$100 000 per annum over three years to the Centre for Multicultural Pastoral Care to undertake the Confronting Racism in Communities Project, which provides support, education, training and resources to the community sector in order to identify, document and combat racism throughout Queensland.

Tasmania

91. The Tasmanian Office of the Anti-discrimination Commissioner maintains an ongoing program of education in relation to various aspects of Tasmania's anti-discrimination legislation. This includes a number of activities specifically targeting discrimination on the basis of race.

92. The Tasmanian Government, in partnership with the Australian Government Department of Immigration and Citizenship, has initiated the *Tasmanian Multicultural Youth* project. This is being progressed under the NAP.

93. Through its Multicultural Tasmania grants program, the Tasmanian Government also funds community projects that foster awareness of cultural diversity and promote the benefits of multiculturalism.

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Victoria

94. In connection with the introduction of the *Racial and Religious Tolerance Act 2001* (Vic), the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) has delivered a range of education initiatives to inform the community about their rights and responsibilities.

95. The VEOHRC is also responsible for educating the Victorian community about the Victorian Charter of Human Rights, and human rights more generally. Education has targeted the community and not-for-profit organisations through: conferences; education and training workshops; resource development; and specific projects, including a community arts project. A human rights forum targeting Indigenous community workers was hosted by the VEOHRC in conjunction with the Victorian Aboriginal Legal Service, in March 2008.

Western Australia

96. The Western Australian Department of Education and Training has developed syllabuses for early childhood (Kindergarten to grade three), middle childhood (grades four to seven) and early adolescence (grades eight to 10), which address areas related to the elimination of racial discrimination, such as:

- recognising and accepting difference
- accepting and celebrating difference
- challenging discrimination
- appreciating diversity
- identifying discrimination, harassment and vilification.

INDIGENOUS INITIATIVES

Australian Government's Northern Territory Emergency Response (NTER)

97. The NTER is a significant Australian Government initiative announced in June 2007, with bi-partisan support, in response to a report on the prevalence of child abuse in some Indigenous communities. The NTER encompasses a range of measures focusing on community safety, health, housing and living conditions, welfare reform and restrictions on alcohol and pornography. To address these goal areas, the Australian Government is funding programs in the areas of: welfare reform and employment; law and order; enhancing education; supporting families; improving child and family health; housing and land reform; and coordination.

98. The following legislation (passed by the Australian Parliament on 17 August 2007) gives effect to the emergency provisions:

- *Northern Territory National Emergency Response Act 2007* (Cth)
- *Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007* (Cth)
- *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007* (Cth)

Many of the NTER legislative provisions are time-limited.

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99. The Government adopted a multi-sectoral approach to address multi-faceted and deep-seated problems through the NTER. In 2007-08, A\$467 million was expended among seven interlinked measures which were intended to work in combination. The seven measures covered were:

- **Supporting families (A\$28.37m):** Children's services and family support; child at risk workers for NT Child Protection Services; safe places for families escaping family violence; youth alcohol diversionary services.
- **Promoting Law and Order (A\$68.63m):** Increased police presence in remote communities; Australian Crime Commission (and National Indigenous Intelligence Taskforce and Child Abuse Desk) funding; alcohol, drugs and pornography restrictions; Northern Territory Aboriginal interpreter services; expansion of Northern Territory night patrol services; additional legal services for Indigenous Australians.
- **Improving child and family health (A\$54.28m):** Child health checks and medical follow-up and treatment; child special services; drug and alcohol treatment and rehabilitation service.
- **Housing and land reform (A\$75.99m):** five year lease program; urgent repairs to infrastructure; community clean-ups; permits to enter Aboriginal land.
- **Welfare reform and employment (A\$164.52m):** Welfare reform including income management and community stores; increased participation activities for people on income support in remote areas; active school participation; Community Education Brokers.
- **Enhancing Education (A\$21.40m):** Additional classrooms; scaffolding literacy (Accelerated Literacy Program); quality teacher package; school nutrition programs; volunteer teacher initiative.
- **Coordination (A\$53.80m):** Taskforce role; Government Business Managers; community engagement and volunteering programs; logistical support.

100. Provisions in the three Acts make clear that the NTER and related legislation are 'special measures' for the purposes of the RDA and excluded from Part II of the RDA. They also exempt the NTER from protections against discrimination at the territory level.

101. The Australian Labor Government when in Opposition in 2007 did not support the blanket exemptions of the NTER package of measures from Part II of the RDA. The amendments which it proposed during the passage of the NTER legislation sought to clarify that the measures were special measures under the RDA and were consistent with the RDA and CERD.

102. An independent review of the NTER was conducted in 2008, involving a consultation process, to determine whether the NTER measures are delivering the substantive outcomes envisaged. These include: protecting children; making communities safer; and laying the basis for a sustainable future for Indigenous people in the Northern Territory. The review was asked to have regard to the Government's intention that policy and program measures to be adopted or endorsed by the Government give primacy to the interests of families and children and have regard to the RDA.

103. The Review Board made three over-arching recommendations:

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- there was an on-going need to address issues of ‘urgent national significance in the NTER communities’
- both the Australian and Northern Territory Governments need to re-set their relationship with Aboriginal people, and
- Government actions need to respect Australia’s human rights obligations and conform with the Racial Discrimination Act (RDA) 1975.

104. The Government has accepted these recommendations and has committed to continuing and strengthening the NTER. The Government has announced that legislative amendments to bring existing NTER legislation within the scope of the RDA will be introduced in the 2009 Spring Parliamentary session. The Government will respond in full to the Review Board’s recommendations, including regarding future funding arrangements, over the coming months.

105. In October 2007, the Australian Government received a letter from three United Nations Special Rapporteurs, alleging breaches of Australia’s domestic and international human rights obligations in undertaking measures for the NTER. A copy of the Government response, dated 22 November 2007, is at Annex B.

NT Government initiatives supporting the NTER

106. Closing the Gap is the NT’s Indigenous Generational Plan, aimed at closing the gap in outcomes between Indigenous and non-Indigenous Territorians.²⁰ It contains objectives for the future socio-economic wellbeing of Indigenous Territorians and sets ambitious but achievable targets for the next five, 10 and 20 years. It also identifies priority areas for action in the next five years, based on the best available evidence.

107. The NT Government has committed A\$286.43 million towards five-year actions to implement Closing the Gap. The package includes 223 positions:

- | | |
|--|---|
| • one Children’s Commissioner | • 47 teachers and assistant teachers for remote schools and preschools |
| • 10 child protection workers | • three specialist Department of Employment, Education and Training staff |
| • 37 additional specialist Family and Children’s Services (FACS) staff | • two court clinicians |
| • 40 police—Remote Policing Strategy and Child Abuse Taskforce | • one witness assistance officer |
| • four specialist alcohol rehabilitation workers | • eight alcohol compliance inspectors |
| • 26 family violence support workers | • one Aboriginal and Islander education coordinator |
| • 10 school counsellors | • 23 specialist staff for the Child Abuse Taskforce. |
| • 10 community corrections officers | |

108. Further details of the Closing the Gap measures being implemented follow.

Legislative reforms

- Passage of the Care and Protection of Children Bill in 2007, to replace old legislation and provide for a Children’s Commissioner and other child protection measures

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- Introduction of legislation into the Legislative Assembly in August 2007, to facilitate reform of local government, in particular in remote and rural areas
- Declaration of dry areas under 2006 amendments to the Liquor Act, commencing with Alice Springs on 1 August 2007 and progressing to other areas
- Further amendments to the Liquor Act in August 2007 to empower the Minister to implement urgent liquor supply measures, to implement alcohol restrictions in town camps and to provide power to police to search vehicles
- Passage of the Evidence of Children Amendment Bill in August 2007 to provide greater protection for child victims and witnesses. Further reform of the laws of evidence by possible adoption of the national uniform Evidence Bill
- Introduction of legislation amending the Bail Act so as to protect witnesses and victims, and reverse the presumption in favour of bail in regard to an accused person charged with a (classified) serious sexual offence
- Introduction of new domestic violence legislation into the Legislative Assembly in late 2007 to improve the effectiveness of restraining orders, including their effectiveness in remote communities
- Development of legislation to reform the committal system (and reduce the involvement of victims of crime in the criminal law system)

Safety—child protection—A\$79.36 million

- Strengthen the child protection system by introducing the Care and Protection of Children Bill, establishing a Children’s Commissioner, expanding Child Abuse Taskforce to include 23 Families and Community Services staff and 24 police, recruiting 10 additional child protection workers, expanding Sexual Assault Referral Centres, improving case management, and recruiting 10 school counsellors
- Introduce Evidence of Children Amendment Bill and new domestic violence legislation

Safety—policing, justice and family violence—A\$38.61 million

- Implement the Remote Area Policing Strategy, in partnership with the Australian Government, including 16 additional police
- Establish 10 community courts, employ 10 community corrections officers and establish a witness assistance service in Katherine
- Introduce integrated community based family violence programs
- Continue the Juvenile Diversion Program, within existing resources
- Implement sexual offender rehabilitation and therapy programs and expand the Elders Visiting Program
- Implement a pornography and gambling education program

Safety—alcohol and drug management—A\$10.11 million

- Introduce amendments to the Liquor Act and declare dry areas

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- Implement alcohol management plans and a licensing identification system, recruit eight compliance officers and two court clinicians, and expand the Return to Home program

Health—A\$23.4 million

- Establish integrated family/children centres in remote communities to deliver early childhood education and health programs
- Expand alcohol rehabilitation and treatment services
- Provide sport and recreation programs and infrastructure in each local government shire
- Expand and implement programs targeting hearing loss and preventable chronic disease

Housing—A\$42.32 million

- In partnership with the Australian Government, work to address the backlog in remote Indigenous housing
- Negotiate with the Australian Government for a significant share of the \$1.6 billion ARIA program
- Roll out the \$100 million NT Government commitment to remote housing over five years
- Provide houses for the growth in government employees to be based in remote communities, at a cost of \$42.32 million

Education—A\$70.68 million

- Provide six new mobile preschools and 21 teachers and assistants
- Recruit 26 teachers across the territory, build 15 classrooms, establish a school attendance team, upgrade two homeland learning centres and 15 community education centres
- Develop partnership programs to improve student engagement and community involvement

Jobs—A\$13 million

- Transition Community Development Employment Project (CDEP) jobs supporting Northern Territory Government activities to mainstream Northern Territory Public Sector positions
- Implement Indigenous economic development initiatives
- Develop a component under the 10 Year Infrastructure Plan for road access to remote areas
- Use current and future Indigenous housing construction programs and capital works programs to facilitate opportunities for training and employment of local Indigenous people

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Culture—A\$0.5 million

- Expand Indigenous culture programs in Northern Territory Government schools
- Implement cross-cultural programs in the Northern Territory public sector
- Implement a whole-of-government Indigenous communications strategy

A better way of doing business—A\$8.45 million

- Establish an Indigenous Affairs Advisory Council to the Chief Minister
- Establish local community boards to allow community representation and involvement in local government, to promote Indigenous leadership and provide the basis for Indigenous people to meet their obligations to build a better future for their children
- Provide infrastructure to support local community governance

109. Other states and territories are also committed to combating child sexual abuse in Indigenous communities. For example, the NSW Government has developed the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities 2006–2011, which contains 88 actions to tackle Indigenous child sexual abuse.

Native title system reform

110. The Native Title system reform package has been implemented administratively and through two pieces of legislation: the *Native Title Amendment Act 2007* and the *Native Title Amendment (Technical Amendments) Act 2007*, details of which are mentioned at paragraphs 16ff.

111. Reforms to Native Title Representative Bodies (NTRBs), which perform the role of representing native title claimants, are aimed at achieving greater responsiveness, effectiveness and accountability. For example, the reforms aim to increase accountability through the introduction of a fixed term of recognition for NTRBs. Multi-year funding (up to three years) has also been introduced to assist with long-term planning, including recruiting and retaining skilled staff. The Government also funds capacity building projects for NTRBs.

112. As another part of the reform package, the former Government undertook an examination of the structures and processes of the bodies that hold native title, known as Prescribed Body Corporates (PBCs), with a view to enhancing their effectiveness. The reforms flowing from that examination were set out in a report presented to the former Government in October 2006. The Government accepted all 15 recommendations of the report, which are designed to improve the ability of PBCs to access and utilise existing sources of assistance, improve the flexibility of the PBC governance regime to accommodate specific interests and circumstances of the native title holders, better align existing sources of potential assistance with PBC needs, and encourage state and territory government involvement in addressing PBC needs. These measures have been or will be implemented through amendments to the Native Title Act, associated regulations and administrative processes.

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113. The financial assistance scheme for funding non-government respondents to native title claims was also reviewed, to strengthen the focus on resolving native title issues through agreement-making, rather than through litigation, and to ensure parties act reasonably. The Government undertook extensive consultation with stakeholders in 2005 and 2006 on revised Guidelines that support the Native Title Respondent Funding Scheme. The revised Guidelines commenced on 1 January 2007.

114. The reform package included an independent review of native title claims resolution processes. The *Claims Resolution Review* considered how native title claims can be most efficiently and effectively resolved, primarily through mediation and agreement-making, and how the National Native Title Tribunal and the Federal Court can work together more effectively. The former Government accepted the majority of recommendations in the Review and implemented a number of measures through legislation. The Tribunal and the Court are also implementing administrative measures.

115. The reform package also included technical amendments to the Native Title Act to improve existing litigation and future act processes. For example, it is no longer necessary for some claims which are being amended to undergo the registration test. The final aspect of the reforms is an ongoing process of increasing the level of transparency and communication between all parties involved in native title claims. The former Attorney-General convened two meetings of state and territory Ministers with native title responsibilities, one in 2005 and a second in 2006. The second meeting provided an opportunity to discuss implementation of the reform measures. The current Attorney-General convened a third meeting with state and territory Ministers on 18 July 2008.

116. Paragraph 16 of the Committee's concluding remarks seeks statistical information about the native title system. As at 30 June 2008, there were 112 native title determinations. 77 of these found that native title exists in at least some of the determination area. The National Native Title Tribunal website contains a range of current statistics and maps including about claimant applications, native title determinations and Indigenous land use agreements.²¹

State and territory native title and land rights initiatives

117. During the reporting period, states and territories have engaged proactively to reduce the number of claims in the native title system. For example, the WA Office of Native Title developed Guidelines for the Provision of Information in Support of Applications for a Determination of Native Title in 2004, to assist claimants in providing material with a view to reaching a consent determination. In addition, *South Australia's Strategic Plan* (target T3.15) aims to resolve all SA native title claims by 2014, primarily through a negotiated agreement process.

118. In NSW, over 121 local Aboriginal Land Councils manage communally held Indigenous land. In 2006, the NSW Government amended the *Aboriginal Land Rights Act 1983* to enable the Councils to provide community benefits for Aboriginal people, including education and training, scholarships and other assistance for education and training and cultural activities.

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Preservation of Burrup rock art

119. By letter dated 1 November 2007, the Government received a request from the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, and the Special Rapporteur on Freedom of Religion or Belief, for information concerning the Indigenous rock art complex situated in the Burrup Peninsula, in the Dampier Archipelago in Western Australia. The request set out a summary of alleged facts concerning the possible imminent destruction of the Burrup rock art complex, and asked the Government to respond to two specific questions. The first question asks the Australian Government to confirm whether the alleged facts are accurate. The second question asks the Government to ‘provide detailed information of the measures that have been taken to seek the free, prior and informed consent of the Ngarluma and Western Ngarluma (Wong-Goo-Tt-Oo) communities in relation to the Pluto LNG Project, as well as to preserve the sites of cultural, religious or spiritual significance of these communities in [certain sites] of the Dampier complex’.

120. The Government response was provided to the Special Rapporteurs on 23 June 2008, and addressed by the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People in the addendum to his report to the ninth session of the Human Rights Council in September 2008.²²

United Nations Declaration on the Rights of Indigenous Peoples

121. The Australian Government recognises the importance of the UN Declaration on the Rights of Indigenous Peoples (Declaration) globally. The Government has undertaken consultations on issues contained in the Declaration and studying the Declaration's implications for Australia with Australia's State and Territory Governments and Indigenous and non-Indigenous stakeholders. The Government is currently in the process of considering the outcomes of all stakeholder consultations.

122. Australia participated in negotiations for the Declaration for over a decade. The former Government was unable to support the Declaration when it was adopted on 13 September 2007 in a Plenary meeting of the United Nations General Assembly. Key concerns the former Government had regarding the Declaration were with articles on: self-determination; lands and resources; free, prior and informed consent; intellectual property rights; third party rights; and customary law.

123. As a UN General Assembly resolution, the Declaration is non-binding and does not create new rights for Indigenous peoples. While Indigenous rights are not embodied in an Indigenous-specific treaty, the Australian Government recognises that Indigenous people are entitled to the same rights as all other people under all international treaties dealing with human rights to which Australia is a party. The Government is committed to promoting and protecting the human rights of all Australians, including Indigenous Australians.

Engaging Indigenous peoples in decision-making

124. The Government is committed and working towards building a strong partnership with Indigenous Australians, based on respect, cooperation and mutual responsibility. It is consulting with Indigenous Australians from urban, regional and remote localities across a diverse range of issues, including that of establishing a national Indigenous representative body. Engagement with Aboriginal and Torres

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Strait Islander peoples, peak Indigenous organisations and the States and Territories on the possible role and structure of the body has been fundamental to the consultation process. An issues paper outlining the key considerations for discussion was released by the Australian Human Rights Commission's Aboriginal and Torres Strait Islander Social Justice Commissioner in mid-2008 and a Community Guide to the paper has been used during consultations on the development of a new representative body. The Government's policy-making will continue to be informed through sector-specific Indigenous organisations and formal advisory mechanisms.

125. The Australian Government's approach to representative participation and seeking the 'free, prior and informed consent' of Indigenous peoples in relation to initiatives that affect them in the reporting period prior to 25 November 2007 have been addressed in the following documents:

- Paragraphs 14 (representative networks); and 19 to 20 ('free, prior and informed consent'), Australia's Response to the Committee's Concluding Remarks.
- Paragraphs 181 to 182 (seeking Indigenous participation in decision-making); paragraphs 184 to 185 (the Aboriginal and Torres Strait Islander Commission and its abolition); and paragraph 188 (the National Indigenous Council), Australia's Common Core Document.

State and territory engagement with Indigenous peoples

Information box E: *Two Ways Together* plan

The NSW Government's Aboriginal Affairs Plan for 2003 to 2012 is called *Two Ways Together—Partnerships: A New Way of Doing Business with Aboriginal People*. *Two Ways Together* requires NSW Government agencies to work in partnership with Aboriginal people to ensure that services required by Aboriginal people are accessible, culturally appropriate and deliver results.

Two Ways Together involves Indigenous participation in decision making at the state, regional and community level. At the regional level, *Two Ways Together* Regional Engagement Groups have been established to plan and monitor improvements to government service provision within each region. The Groups are made up of community representatives from peak Aboriginal bodies, and representatives of the NSW and Australian governments. The Groups have developed Regional Action Plans in collaboration with other stakeholders to identify priority actions over a two-year period, with a particular focus on cross-agency actions intended to make a practical difference.

At the local level, the NSW Government is working with 40 communities across NSW as *Two Ways Together* Partnership Communities. These local representative groups will work with government agencies to develop local Community Action Plans for improving outcomes for Indigenous people through improved targeting and delivery of services.

126. Queensland's commitment to the fundamental principle of community engagement based on partnership is evidenced by the Indigenous Partnership Agreement (2007–2010),²³ which was developed with mayors of Queensland's Indigenous communities and signed by them and the Queensland Government in July 2007. The Indigenous Partnership Agreement is put into effect at a local

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community level by individual Local Indigenous Partnership Agreements. The Indigenous Partnership Agreement is supported by a series of Ministerial Indigenous Roundtables with mayors of Indigenous communities, which are held four times a year.

127. In South Australia, the eight-member SA Aboriginal Advisory Council advises the Premier and Minister for Aboriginal Affairs and Reconciliation on the full range of social and service delivery issues, while the recently established Office of the Commissioner for Aboriginal Engagement is responsible for addressing systemic issues that act as barriers for Indigenous people accessing services. It also mentors Indigenous leaders and public advocates for engagement between the broader community and Indigenous people.

128. Victoria has developed accredited Indigenous-specific organisational governance training programs to strengthen the operational capability of Indigenous organisations.

129. In addition to information outlined in paragraph 191 of the Common Core Document, Victoria is establishing Local Indigenous Networks in 38 locations across the state. The networks will provide a local Indigenous voice direct to government, help build the skills of community members, and deliver concrete plans to bring about practical improvements in local communities.

Reconciliation

The Australian Government is firmly committed to the ongoing process of reconciliation. On 13 February 2008, the Prime Minister, the Hon Kevin Rudd MP, made a formal apology to Australia's Indigenous peoples and in particular to the 'Stolen Generations' for past governments' policies that resulted in the removal of Indigenous children from their families and communities. The Government continues to work in partnership with representatives of Stolen Generations organisations to address the distinct needs of Stolen Generations members.

130. An apology was recommended in the *Bringing Them Home* report (1997) which detailed HREOC's inquiry into past governments' policies of forcibly removing Indigenous children from their family and communities.

131. The Government continues to work in partnership with representatives of Stolen Generations organisations to address the distinct needs of Stolen Generations members.

132. The Commonwealth Government has set as a national priority closing the disadvantage gap between Indigenous and non-Indigenous Australians. To do this, the Government is directing its policies and programs at a set of measurable and time-specific targets, namely:

- to close the life-expectancy gap between Indigenous people and other Australians within a generation;
- to halve the mortality gap between Indigenous children and other children under age five within a decade;
- to halve the gap in literacy and numeracy achievement between Indigenous students and other students within a decade;

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- to halve the gap in employment outcomes for Indigenous people within a decade;
- to at least halve the gap in attainment by Indigenous students at Year 12 schooling (or equivalent level) by 2020; and
- to provide all Indigenous four year olds in remote communities with access to a quality preschool program within five years.

133. Since 2001, the Australian Government has contributed A\$20 million to Reconciliation Australia, an independent, non-profit body established to provide a continuing national focus for reconciliation. The Government also invested more than A\$8 million in the ongoing development of Reconciliation Place in Australia's capital, Canberra. Reconciliation Place contains a collection of monuments representing Australia's journey of reconciliation, including art works, sculptures and images symbolising the experiences and contribution of Indigenous people.

134. 2007 marked the 40th anniversary of the referendum in which over 90 per cent of eligible Australians voted to enable the Commonwealth to make laws in relation to Indigenous Australians in the same way as it could for other Australians, and to include Indigenous peoples in Australia's official population census figures. The Australian Government funded Reconciliation Australia to hold events to commemorate the people who were instrumental in achieving the successful referendum.

135. Australian Government departments have prepared and commenced implementation of Reconciliation Action Plans to contribute further to reconciliation in Australia. Over 25 Australian Government departments and agencies have developed Reconciliation Action Plans, outlining their commitment to practical actions towards reconciliation, including through strategies to promote Indigenous employment in the Australian Public Service. At June 2007 there were 3385 Indigenous employees in the Australian Public Service. This process is supported by Reconciliation Australia on whose website the Reconciliation Action Plans can be found.²⁴ For further information, see paragraphs 123 to 125 of the Common Core Document.

State and territory reconciliation initiatives

136. State governments have also initiated reconciliation activities focused on addressing their respective jurisdiction's particular needs. For example, in New South Wales, the state government, in partnership with the NSW Reconciliation Council, supports the Budyari Ngalaya—First Peoples' Business Partnerships. Through this initiative, the NSW Government promotes alliances between Australian businesses and Aboriginal people and facilitates Aboriginal economic development.

137. The Queensland Government has invested significant effort in identifying, registering and making records available to Indigenous people who were subject to historical government controls over many aspects of their lives from the 1890s to the early 1970s. Since 1992, the Community and Personal Histories Unit in the Office for Aboriginal and Torres Strait Islander Partnerships has worked closely with the Queensland State Archives to provide information to people who were subject to these government controls.

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Information box F: Tasmania says sorry - Stolen Generations of Indigenous children

Tasmania is the first Australian jurisdiction to provide monetary compensation to members of the 'Stolen Generations'. In 2006, the Tasmanian Government created an A\$5 million fund to provide payments to members of this group and their children. In November of the same year, both Houses of Tasmania's Parliament unanimously passed the *Stolen Generations of Aboriginal Children Act 2006* (Tas).

Under the legislation, Indigenous people who were forcibly removed from their family from 1935 to 1975 for 12 months or more, or the children of Indigenous people who were taken away but are now deceased, were eligible to make an application within a six-month period for ex-gratia payments under the Act.

Final determinations on claims were made by an independent assessor in February 2007. The Tasmanian Government has announced that a total of 106 claimants will share in Tasmania's landmark scheme providing ex-gratia payments to members of the Indigenous Stolen Generations.

138. In August 2007, the SA Supreme Court awarded damages to Mr Bruce Trevorrow in the case of *Trevorrow v State of South Australia*.²⁵ Mr Trevorrow had been removed from his mother's care in 1957 at the age of 13 months. The court's decision was the first successful Stolen Generations court claim in Australia. The SA Government will pay the compensation to Mr Trevorrow, but appealed to the Full Court of the Supreme Court in March 2008 on matters relating to questions of law.

Australian Government benchmarks for measuring Indigenous disadvantage

139. The Australian Government is committed to monitoring outcomes for Indigenous people systematically, to help tackle the root causes of disadvantage. In 2002, the Council of Australian Governments (COAG) commissioned a regular report against key indicators of Indigenous disadvantage. The *Overcoming Indigenous disadvantage: Key indicators report* (the OID report) is published biennially, and shows how much progress has been made and how much more needs to be done to close the gap.

140. States and territories use similar indicators. For example, Partnerships Queensland: Future directions framework for Aboriginal and Torres Strait Islander Policy in Queensland 2005–2010²⁶ is supported by a robust performance framework, including a Baseline Report published in 2007 from which progress is measured. The performance framework and outcomes reports, which monitor the wellbeing of Indigenous Queenslanders, are based on the Overcoming Indigenous Disadvantage key indicators framework and align with COAG's Working Group on Indigenous Reform agenda.

Addressing Indigenous disadvantage: Australia's strategy for the future

141. The Australian Government is committed to an agreed national objective of closing the 17-year gap in life expectancy between Indigenous and non-Indigenous Australians within the next generation. In addition, the Government aims to:

- halve the gap in mortality rates for Indigenous children under five within a decade

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- halve the gap in reading, writing and numeracy achievements within a decade.

142. COAG met in March 2008. At that meeting, it agreed to an additional three targets, committing to:

- halve the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade
- ensure that all four year olds in remote communities have access to early childhood education within five years
- at least halve the gap for Indigenous students in Year 12 attainment or equivalent attainment rates by 2020.

143. The Government recognises that the pathway to closing the life expectancy gap is inextricably linked to economic development and improved education outcomes.

144. The Government provided an estimated A\$4.4 billion on Indigenous-specific programs in 2007–08. Measures within this package focus on the key areas of health, education, employment, welfare reform and housing, and are aimed at improving the opportunities available to Indigenous people in Australia.

145. The Australian Government recognises the disparity in educational outcomes between Indigenous and non-Indigenous Australians. Some improvements have occurred, for example the most recent statistics relating to school education in Australia show that the Year 12 retention rate for Indigenous students has risen to 42.9 per cent, a rise from 29 per cent in 1996.²⁷

146. In recognition of this disparity, the Australian Government has committed to improving educational outcomes for Indigenous people. All Australian governments, through COAG, have committed to the following Indigenous education targets:

- Within five years all Indigenous four year olds in remote communities will be able to attend a proper early childhood centre or opportunity.
- Within a decade the gap between Indigenous and non-Indigenous students in reading, writing and numeracy benchmark achievement will be halved.
- By 2020 the gap between Indigenous and non-Indigenous Australians in the attainment of Year 12, or its vocational equivalent, will be halved.

147. In the 2008–09 Budget, the Australian Government has introduced a range of initiatives aimed at closing the gap including:

- the Building Strong Foundations Program to assist in the delivery of literacy and numeracy programs and the delivery of Individual Learning Plans
- providing three new boarding facilities in the Northern Territory, and
- increasing teacher numbers in the Northern Territory.

148. The Government is also continuing initiatives under the Northern Territory Emergency Response, such as the continuation of the School Nutrition Program and the Enhancing Education initiatives. These are in addition to existing programs, both Indigenous specific and mainstream, delivered by the Australian and state and territory governments.

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149. Most states and territories have developed complementary strategies and research. For example, in 2007, the NSW Government initiated a NSW parliamentary inquiry into overcoming Indigenous disadvantage. The inquiry is principally focused on identifying strategies to address the lifetime expectancy gap between Aboriginal and non-Aboriginal people (currently estimated to be 17 years). A copy of the submission of the NSW Minister for Aboriginal Affairs is available online.²⁸

150. In November 2006, the NSW Government released its State Plan outlining priority areas for Government action over the next ten years. The priorities were identified in consultation with the people of NSW, and its 14 high-level goals include one titled Addressing Indigenous disadvantage—Strengthening Aboriginal Communities. Under this goal, State Plan Priority F1 aims to improve health, education and social outcomes for Aboriginal people. The objectives under this priority are focused on family safety, education, environmental health and economic development.

151. In addition, the NSW State Plan gives priority to an underlying strategy called Aboriginal People—Building Community Resilience. This strategy was developed in recognition that ensuring stronger communities and affirming Aboriginal culture and heritage are critical to the success of other initiatives that focus on addressing Aboriginal disadvantage.

Information box G: Addressing social service needs on Palm Island

The Queensland Government, Palm Island Aboriginal Shire Council and Palm Island community jointly established the Palm Island Community Company Limited in 2007 to:

- offer business services to non-government organisations on the island
- manage the delivery of a range of human services
- provide business advice and support to Palm Island non-government organisations and community members.

The Board of Directors comprises one independent chair, two Palm Island Aboriginal Shire Council nominees, two Queensland Government nominees, one nominee from the Palm Island family who are the traditional owners of the land, and one nominee from community shareholders.

The company will deliver services on Palm Island including safe haven services for young people, family support, disability and court support services.

Narrowing the gap: Overview of progress during the reporting period

152. Although Aboriginal and Torres Strait Islander peoples are the most disadvantaged group in the Australian community, the 2007 OID report reveals that many Indigenous people have shared in Australia's recent economic prosperity, recording improved employment outcomes and higher incomes. While progress in some areas has been slow, there have been welcome improvements in some educational and health outcomes for Indigenous children. For further information, refer to paragraphs 120 to 121; 405 to 407; 413 to 414; 512; 521 to 524; 532 to 536; 576 to 577; 579 of the Common Core Document, with the following updates:

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153. Quantifiable progress has been made in some areas in reducing the level of social and economic disadvantage experienced by Indigenous Australians. Some examples are that:

- There is evidence that the gap in reading levels for Year 3 Indigenous students and the student population generally has been closing.
- Between 1992–94 and 2000–2004, Indigenous death rates for infectious and parasitic diseases fell from between 15 to 18 times the non-Indigenous average to five times.
- Between March 2005 and March 2006, there was a 13 per cent increase in completions of Indigenous New Apprenticeships, compared with a six per cent increase for completions of all Australian Apprenticeships.

Indigenous education and employment initiatives

Information box H: reform of Federal Indigenous-specific employment programs

The CDEP program is an Australian Government funded initiative for unemployed Indigenous people. The program provides participation opportunities through activities which develop skills and improve employability of participants in order to assist them to move into employment outside the CDEP program. CDEP activities can also lead to the development of business enterprises. The overall aim of CDEP is to support Indigenous Australians to achieve economic independence

The CDEP program has been progressively reformed since 2005 to ensure greater emphasis on employment and business outcomes. From 1 July 2007, significant changes to employment servicing arrangements for Indigenous Australians were implemented including the cessation of the CDEP program in urban and major regional locations and the expansion of Structured Training Employment Projects brokerage services as an alternative. The changes were implemented to further reduce dependency on passive welfare and move people into unsubsidised employment.

154. The Australian Government is committed to effective, evidence based reform of its Indigenous Employment and CDEP programs that will assist people to take up job opportunities in their local areas. In June 2008, the Government completed consultations on Indigenous employment services reforms which will form part of a broader Indigenous Economic Development Strategy. These reforms will include further reform of CDEP, to promote a greater emphasis on enterprise, training and jobs, and to complement the Government's new Job Network arrangements. To provide stability while reforms are developed and introduced, the Government has agreed that up to an additional 12 months funding for 2008-09 will be negotiated with CDEP providers across Australia to ensure people are working while reforms are being developed. It is anticipated that the reforms to CDEP will be introduced from 1 July 2009. The process of converting CDEP jobs into government service delivery jobs will continue, and the Australian Government will work with State and Territory Governments similarly to convert CDEP positions that support State and Territory Government services.

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155. For further information about Indigenous-specific employment and business development programs, refer to paragraph 408 of the Common Core Document, with the following updates:

- A total of 15 330 employment and/or training placements were achieved through Structured Training and Employment Projects in the 2007–08 financial year, with 506 new projects approved.
- A total of 171 Indigenous Small Business Fund Projects were approved during 2007–08. These projects aim to foster the development of businesses owned and run by Indigenous people.
- In 2007–08 CDEP providers across Australia placed 4384 participants in paid employment, an increase of 18.4 per cent on the previous financial year.
- In 2007–08 the Job Network placed over 49 100 Indigenous job seekers into employment. This figure is in line with the previous financial year.

156. The following progress has been made in respect of Indigenous unemployment through services provided by the Australian Government:

- An extensive consultation process was held to discuss *Increasing Indigenous economic opportunity—A discussion paper on the future of the CDEP and Indigenous employment programs*. Sessions were held in 37 urban and regional areas and 18 remote communities. Eight sessions specifically for employers and three focus groups with Indigenous job seekers were also conducted. Written feedback was also received through over 125 submissions.
- In 2007–08, 45 Emerging Indigenous Entrepreneurs Initiatives projects were funded.

157. Also, see paragraphs 575 to 579 of the Common Core Document, with the following updates:

- There have been significant improvements in outcomes for Indigenous students, although disparities remain between Indigenous and non-Indigenous students. Indigenous Australians have a high rate of participation in the Australian training system. While 2.4 per cent of the Australian population is Indigenous, in 2006 Indigenous students comprised around 4.0 per cent of the total students participating in vocational education and training.
- The Indigenous Youth Mobility Program provides access for Indigenous young people from remote areas to higher education, training and employment opportunities in major centres. Currently there are 10 Program host locations. In recognition of a high demand for particular qualifications in remote communities, the Program focuses on pre-vocational training, Australian Apprenticeships, certificate courses and some tertiary pathways including those leading to qualifications in nursing, teaching, accounting and business management.
- The Indigenous Youth Leadership Program supports young Indigenous scholars, generally from remote areas, to access high-performing schools (government and non-government) and universities through the provision of scholarships, practical support and leadership development opportunities.

New South Wales

158. In response to a review of Aboriginal education in 2004 the NSW Department of Education and Training is implementing the NSW Aboriginal Education and Training Strategy 2006–2008. The Strategy aims to link all sections of the department

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to achieving the primary goal of ‘By 2012, Aboriginal students’ outcomes will match or better outcomes of the broader student population’.

159. The NSW Government’s Schools in Partnership Program and related initiatives are designed to assist government schools with significant Aboriginal student populations to build capacity and strengthen partnerships with communities and other agencies.

160. Personalised Learning Plans are being developed for Aboriginal students in New South Wales government schools. More than 9500 plans have been developed to date.

161. The New South Wales Government’s Two Ways Together initiatives (see information box E) include:

- Kids Excel, which seeks to improve educational outcomes for Aboriginal children and young people in communities where there are significant issues in early school disengagement and poor school outcomes
- Youth Excel, a secondary school support strategy, which is being implemented across targeted high schools where there are significant issues in early school disengagement and poor school outcomes
- Aboriginal Student Scholarships, which are awarded annually and aim to improve retention in the later years of schooling.

162. Aboriginal languages programs are operating in a number of New South Wales government schools to enable Aboriginal communities to preserve, teach and use traditional language and to provide opportunities for Aboriginal students from Kindergarten to Year 12 to learn an Aboriginal language.

163. An Aboriginal Cultural Education course has been developed and is available through TAFE NSW for delivery to public sector agencies. It provides a framework which can be used to build the capacity of staff at all levels to work effectively with Aboriginal people and communities.

164. TAFE NSW, working with telecommunications company Optus through the interactive distance learning satellite program, has equipped 15 remote Aboriginal communities in TAFE NSW Western and New England areas with computer and satellite technology to enable students to enrol in courses, including Introductory Computing and Aboriginal Committee Training.

165. The Aboriginal Parenting Strategy, an initiative of the Aboriginal Child, Youth and Family Strategy, prepares books that provide Aboriginal families and family workers with easy-to-read material on child development issues. Local Aboriginal advisory groups are responsible for designing the content, text, language and art work for the books. During 2006 and 2007, three books were developed: *Growing Up Strong Guring*—in the inner west of Sydney; *Bubaa Ngambaa Gaayli—Father Mother Child*—in the New England region, and *Darkinyung Yada Gudjagang—Strong Healthy Kids*—on the Central Coast. More books will be released in other regions during 2008.

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166. The NSW Job Compacts initiative run by the NSW Department of Aboriginal Affairs is exploring innovative and creative measures to combat the high level of unemployment experienced by Aboriginal people. Job Compacts are written agreements identifying how industry groups, chambers of commerce, NSW Government agencies, key Aboriginal organisations and local governments can work together to increase the employment of Aboriginal people locally.

167. By encouraging local businesses and industry groups, organisations and governments to come together, it is anticipated that some of the barriers restricting Aboriginal people from accessing employment opportunities will be overcome.

168. Twelve Job Compacts are being developed across the state. The locations being targeted are large regional centres and urban areas with high Aboriginal populations and viable job markets. A Job Compact is also being developed for the mining industry. All of these Job Compacts will be established by 30 June 2008.

169. Aboriginal offenders in custody access the education and training programs targeting the needs of the general offender population, as well as those specifically targeting the needs of Aboriginal offenders, delivered by the NSW Department of Corrective Services Adult Education and Vocational Training Institute (AEVTI) teachers. They also access TAFE NSW vocational training courses, some of which specifically target the vocational and cultural needs of Aboriginal offenders.

170. The Yetta Dhinnakkal Program at Brewarrina (run by the NSW Department of Corrective Services) is situated on a rural, farming property, where young Aboriginal inmates are taught skills in horticulture, agriculture and a range of other practical skills and also attend courses aimed at specific problematic behaviour. The Warrakirri Program, based at Ivanhoe Correctional Centre, is primarily an employment-based program and undertakes many work-based projects in the community. The Bolwara House program provides intensive accommodation to Aboriginal women, targeting issues associated with alcohol and other drug use in the period prior to release.

Queensland

171. The Partners for Success²⁹ policy provides for regionally based Indigenous strategies based on the unique needs of specific Indigenous communities. The strategies target both student and staff and focus on community engagement in education, provision of high-quality education services and continuous improvement in outcomes and educational reform.

172. The Aboriginal and Torres Strait Islander Education to Employment Program³⁰ is for Indigenous students in years 10, 11 and 12. It is designed to help students complete their education and encourage them to do tertiary study by providing them with practical study support, mentoring and financial assistance, and full-time and school-based traineeships.

173. The Queensland Government has substantially increased the participation rate of Indigenous Queenslanders in employment and training through Queensland Skills Plan³¹ initiatives. These initiatives have provided targeted employment and training support and assistance to enhance Indigenous participation and completion rates in

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employment and training in Queensland. The successful engagement of Indigenous people in employment and training opportunities has occurred through:

- specialist support and assistance by Indigenous Employment and Training Support Officers and Indigenous student support workers
- flexible and innovative training and employment assistance that supports Indigenous employment, community and business development
- allowances for apprentices' travel and accommodation costs.

174. The continued development of Queensland Skills Plan initiatives will focus on: increasing the retention and completion rates for Aboriginal and Torres Strait Islander apprentices and trainees; increasing Indigenous participation in employment and training; increasing Indigenous participation in higher-level training; and enhancing the transition of Indigenous students from school to work, training or higher education.

175. Young Indigenous Leaders Forums³² were established under the Queensland Government's Reconciliation Action Plan and provide opportunities for 20 young Indigenous people aged 18–25 to learn about leadership and how to connect to resources, develop networks with other young leaders and potential mentors, discuss community issues and share stories and gain knowledge of business within the public, private and community sectors. The Forums are held twice a year in South East Queensland and Far North Queensland.

176. The National Indigenous Cadetship Program, in which a number of Queensland Government agencies participate, provides students with opportunities for full-time study in a relevant field, and to gain work experience with the corresponding department. For example, the Department of Justice and Attorney-General may provide 12 weeks paid employment per year and a study allowance for 40 weeks per year to an Indigenous law student.

177. The Indigenous Employment Policy for Queensland Government and Civil Construction Projects (20 per cent Policy)³³ requires that 20 per cent of the employment hours on Queensland government construction projects in designated Indigenous communities and shires be dedicated to employing and training local Indigenous people. Between 1 July 2002 and 30 June 2007, 745 jobs have been provided for Indigenous people as a result of the 20 per cent Policy. The Queensland Government employs 12 Indigenous Employment and Training Managers across Queensland to develop and implement strategies to support the 20 per cent Policy and other local economic development programs for Indigenous people.

178. Wal-Meta³⁴ is the Aboriginal and Torres Strait Islander Public Sector Employment Development unit delivering a range of programs and services designed to attract and retain Indigenous Australians to the Queensland Public Sector. Two outputs are an accredited Indigenous cultural awareness training program delivered to 3683 public servants, and placement of 274 Indigenous job seekers into employment.

Victoria

179. In addition to information outlined in paragraph 39 of the Common Core Document, Victoria has introduced the Aboriginal Land and Economic Development Program, which facilitates and encourages Indigenous business activity and employment in cultural heritage and tourism projects.

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Western Australia

180. The WA Department of Education and Training has partnered with the Western Australian Primary Principals' Association to use its Leading From The Front program, which conducts Principals' seminars and projects designed to foster good practice and experience between Principals, and to promote excellence in Indigenous education. This program complements the national Dare to Lead program, which affirms commitment to Indigenous education amongst educators; promotes strategies to enable Indigenous students to succeed; and disseminates successful initiatives.

181. The WA Department of Education and Training has created programs and resources which provide teachers with information about the historical background and culture of Indigenous Australians to help them provide an inclusive education for Indigenous students and engage Indigenous parents. These programs include:

- an ongoing cultural awareness program, Our Story, for teachers
- a comprehensive website, Aboriginal Perspectives across the Curriculum, which provides online access to regionally specific cultural information
- a two-way learning program to foster teachers' appreciation of Indigenous dialects and how to integrate these into teaching Standard Australian English to Indigenous students.

Improving Indigenous health

182. The National Strategic Framework for Aboriginal and Torres Strait Islander Health (NSFATSIH) 2003–2013 is a framework for action signed by all Australia, state and territory health ministers in 2003. Its goal is to ensure that Aboriginal and Torres Strait Islander peoples enjoy a healthy life equal to that of the general population that is enriched by a strong living culture, dignity and justice.

183. The aims of the National Strategic Framework are consistent with the priorities of the Australian Government in terms of life expectancy and mortality. The Australian Government has committed to closing the life expectancy gap within a generation and halving the gap in mortality rates for Indigenous children under five within a decade.

184. The first Australian Government Implementation Plan against the NSFATSIH was developed for the period 2003–2008 and details the specific activities to be undertaken by the Australian Government to realise the aims and objectives of the Framework. Findings presented in the 2005–06 Australian Government progress report against the NSFATSIH, and the Aboriginal and Torres Strait Islander Health Performance Framework 2006 Report, highlighted the need to refine and refocus efforts under the NSFATSIH. It was decided to bring forward the development of the second Australian Government implementation plan to cover the period 2007–2013.

185. The second implementation plan has an increased focus on a whole-of-government approach, recognising that development of specific responses under the plan may occur through the regional network of Indigenous Coordination Centres and arrangements may be through Shared Responsibility Agreements and State and Regional Partnership Agreements.

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186. Further, the Agreements on Aboriginal and Torres Strait Islander Health (Framework Agreements) are the primary vehicle for ensuring collaboration in resource allocation, joint planning and priority setting for service delivery between key stakeholders in Indigenous health within each state and territory.

187. The mechanism of the Framework Agreement Partnership Forums is compatible with the Australian Government's priorities and continues to be a useful forum for the key partners involved. The Framework Agreements commit signatories to four key areas:

- increased level of resources allocated to reflect the level of need
- joint planning
- access to both mainstream and Aboriginal and Torres Strait Islander-specific health and health-related services which reflect their higher level of need
- improved data collection and evaluation.

188. States and territories have primary responsibility for health services, and a selection of relevant services is described below. Since 2007, the Australian Government has focused primarily on delivery of the NTER, including the health aspects. It is anticipated that initiatives undertaken as part of the NTER will contribute to addressing the underlying causes of the inequality gap, as described by the Social Justice Commissioner.³⁵ The Australian Government's response to NTER recognises that Indigenous Australians do not enjoy equal access to primary health care and health infrastructure (including safe drinking water, healthy food, effective sewerage systems, rubbish collection services and healthy housing). Most of the NTER measures are targeted directly at ameliorating some of the determinants of remote Indigenous disadvantage. Refer also to paragraphs 532 to 536 of the Common Core Document.

Information box I: Boosting health care in remote Indigenous communities

Provision of better healthcare is a key element of the NTER. The Australian Government Department of Health and Ageing has been allocated A\$196.7 million over three years (2007–08 to 2009–10) to:

- provide comprehensive health checks and necessary follow-up treatment for up to 17 000 Aboriginal children living in the NTER prescribed areas
- provide treatment and support to Aboriginal people suffering from the effects of alcohol withdrawal as a result of the introduction of the alcohol legislation under the NTER
- provide specialist counselling and support services for Aboriginal children and their families dealing with the effects of child abuse and trauma
- provide additional doctors, nurses and other health professionals to deliver more regionally based primary health care services in NT remote Indigenous communities.

These initiatives will be supported through establishment of a remote area health workforce agency. The agency will attract and support urban-based health professionals to work in remote Aboriginal communities.

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New South Wales

189. In New South Wales the Aboriginal Health Impact Statement and Guidelines have been developed to ensure the needs and interests of Aboriginal people are embedded into the development, implementation and evaluation of all NSW Health initiatives. The concept of the Statement comprises two elements:

- a declaration as to whether or not the specific initiative will impact on the health of Aboriginal people
- a checklist detailing how the needs and interests of Aboriginal people have been elicited and incorporated where appropriate.

190. The declaration and checklist are available from:
http://www.health.nsw.gov.au/PublicHealth/Aboriginal/impact_sment.asp

191. The NSW Aboriginal Child, Youth and Family Strategy works to coordinate and target existing resources to ensure mainstream services better meet the needs of Aboriginal people. The A\$4 million strategy seeks to empower Aboriginal communities to find solutions and work in partnership with Government to resolve issues. Funding was provided to Indigenous parenting programs; school-to-high school transition programs; supported playgroups; youth development programs; school holiday programs; homework learning centres; and the employment of Indigenous family workers and youth development officers.

192. The Aboriginal Maternal and Infant Health Strategy (AMIHS) aims to improve the health of Aboriginal mothers and their babies by implementing a specific model of service provision that includes a team approach to community maternity services (including midwifery, Aboriginal health workers, specialists and general practice), a flexible and non-judgmental approach, and sensitivity to those social and economic circumstances which have such an impact on the lives of Aboriginal people.

193. A partnership between NSW Health and Department of Community Services has enabled closer links between the AMIHS and the NSW Department of Community Services' Brighter Futures early intervention program. The goal of AMIHS is to improve the health of Indigenous mothers and their infants, and decrease Indigenous perinatal death and illness across NSW.

Information box J: Walgan Tilly Project

Walgan is an Aboriginal word meaning 'Aunty', Tilly is short for Matilda. The Walgan Tilly project implements the Chronic Care for Aboriginal People Redesign program in New South Wales. Goals of this program are: to develop practical steps and real solutions to improving access to chronic disease services for Aboriginal families and communities; to build working relationships between Aboriginal and chronic disease services; and to identify and share best practice in meeting the needs of Aboriginal people with chronic disease.

194. The annual NSW Health Aboriginal Health Awards were established in 2004 to acknowledge the significant contribution made by individuals, teams, agencies and communities to improving health outcomes for Aboriginal people in NSW. The awards ceremony is scheduled to coincide with National Aboriginal and Islander Day

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Observance Committee (NAIDOC) week. Information including awards categories can be viewed at <http://www.health.nsw.gov.au/initiatives/ahawards/index.asp>.

South Australia

195. In May 2007 the SA Children in State Care Commission of Inquiry was extended to include a separate Inquiry into the sexual abuse of children on the APY Lands. The Inquiry was established to provide a better understanding of the nature and extent of child sexual abuse in remote Indigenous communities, something that has been very difficult to determine because of the perceived under-reporting of such abuse in those communities. The SA Government hoped that by establishing and providing victims with a confidential and supportive setting they would be more likely to come forward and speak about their experiences.

196. The Inquiry is also intended to provide a mechanism for healing the individual and community hurt caused by child sexual abuse and help to establish new social norms around appropriate behaviour with children and the reporting of abuse. South Australia is currently drafting an Aboriginal Child Protection Policy.

Victoria

197. Paragraph 536 of the Common Core Document outlines state and territory initiatives in Indigenous health. Victoria has adopted as its primary Indigenous affairs policy goal the challenge of closing the gap in life expectancy between Indigenous and other Victorians. The gap in life expectancy is a product of a cycle of disadvantage. The Victorian Indigenous Affairs Framework outlines a range of strategies to break that cycle through delivery of improved education, health and justice outcomes.

198. In addition to information outlined in paragraph 368 of the Common Core Document, note that Victoria has adopted specific measures to improve access for Indigenous Victorians to antenatal, family support and pre-school programs.

Improving Indigenous mental health and social and emotional wellbeing

Information box K: Improving Indigenous health, mental health and social and emotional wellbeing

To improve mental health and social and emotional wellbeing among Aboriginal and Torres Strait Islander peoples, the Australian Government funds Link Up and Bringing Them Home services. These services provide social and emotional supports, through family reunification and counselling of Aboriginal and Torres Strait Islander people affected by past removal policies and practices of Australian governments. The Indigenous mental health workforce will be enhanced through initiatives under the Council of Australian Government's mental health reform measure 'Improving the capacity of workers in Indigenous communities'.

199. The NSW Aboriginal Mental Health and Well Being Policy 2006–2010 specifically addresses the high level of need related to mental health and wellbeing in Aboriginal communities and the relatively low levels of specialist mental health service utilisation. It highlights a number of best practice initiatives that can be adapted for rural, remote and metropolitan services. The Policy strengthens the partnership between Government and Aboriginal Community Controlled Health

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Services and focuses on whole-of-government programs that build on the resilience and capacity of Aboriginal communities. The policy can be viewed at http://www.health.nsw.gov.au/policies/pd/2007/PD2007_059.html

Commonwealth Indigenous criminal justice initiatives

200. Paragraph 287 of the Common Core Document notes that Indigenous Australians remain overrepresented in the criminal and juvenile justice systems, and are more likely than non-Indigenous people to be victims of violent crime (see Common Core Document at paragraphs 358 to 359). This information remains current, with the following updates:

- Indigenous prisoners represented 24 per cent of the total prisoner population at 30 June 2007 (no change from 30 June 2006). As at 30 June 2007, the age standardised rate of Indigenous imprisonment was 1787 per 100 000 of the adult Indigenous population (13 times higher than the non-Indigenous rate).
- Indigenous women constitute the fastest-growing prison population. As at 30 June 2007, the number of Indigenous women prisoners was 614 (an increase of 13.5 per cent compared to 2006 figures).
- Although the rate of detention for both Indigenous and non-Indigenous juveniles has decreased since 1994, Indigenous youth comprise 54 per cent of persons in juvenile detention and are 21 times more likely than non-Indigenous juveniles to be detained.

201. Many initiatives to address this imbalance are being taken by state and territory governments. However, the Australian Government is also progressing a range of initiatives designed to address Indigenous justice issues, including funding the following:

- professional, culturally appropriate legal services to Indigenous Australians through the Legal Aid for Indigenous Australians Program
- Family Violence Prevention Legal Services which provide a range of services to victims of family violence (including sexual assault and abuse), including legal advice and casework assistance and support
- culturally appropriate support to Indigenous families in the Family Court of Western Australia through the Indigenous liaison pilot program
- the Early Intervention and Prevention Program, which seeks to prevent family violence and sexual assault and abuse from occurring by targeting specific Indigenous groups, such as teenage boys or young mothers or a particular aspect of family violence, such as alcohol abuse
- the Law and Justice Advocacy Program, which provides funding and other support to various Indigenous law and justice policy and advocacy groups
- Indigenous Women's Projects (under the Commonwealth Community Legal Services Program), which provide culturally appropriate legal services for Aboriginal and Torres Strait Islander women
- the Prevention, Diversion, Rehabilitation and Restorative Justice program, which funds activities intended to divert Indigenous Australians away from adverse contact with the criminal justice system, including youth initiatives, night patrols, prisoner support and rehabilitation services and restorative justice initiatives

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- the National Deaths in Custody Program, which provides comprehensive, timely and authoritative data on all deaths which occur in custody and custody-related police operations
- the National Community Crime Prevention Program, which funds grass roots projects that enhance community safety
- the Northern Territory Aboriginal Interpreter Service, under a bilateral agreement between the Australian and Northern Territory governments.

202. The Minister for Home Affairs announced additional one-off funding of A\$4.9million on 18 April 2008, and a further A\$6million on 18 June 2008, allocated by the Australian Government to support Aboriginal Legal Services, bringing Australian Government funding provided for the operation of Aboriginal specific legal services to over A\$64 million for 2007–08.

203. The Australian Government has also been implementing decisions made by COAG following the intergovernmental Summit on Violence and Child Abuse in Indigenous Communities (Summit) on 26 June 2006. This has involved funding initiatives valued at A\$130 million, including the development of community legal education programs, judicial training in customary law and cultural principles, and the interaction between these issues and the criminal law, the establishment of a National Indigenous Violence and Child Abuse Intelligence Taskforce, and the establishment of joint strike teams led by each jurisdiction to provide specialist capacity to intervene against endemic child abuse or violence in remote Indigenous communities.

State and Territory Indigenous criminal justice initiatives

Australian Capital Territory

204. The ACT Government created the ACT Aboriginal Justice Centre (AJC) in response to recommendations of the Royal Commission into Aboriginal Deaths in Custody (1991). The AJC is government-funded though independently managed by a community representative board. The AJC complements other existing justice services and works to reduce the over-representation of Aboriginal and Torres Strait Islander people within the criminal justice system. The AJC provides case management services to clients and promotes, on behalf of the Indigenous community, community needs to government.

New South Wales

205. The NSW Government considered the recommendations of the 1991 Royal Commission into Aboriginal Deaths in Custody Report in developing its Aboriginal Justice Plan 2004–2014. The Government also considered the outcomes of extensive Aboriginal community engagement. The Plan focuses on issues broader than the criminal justice system, such as early intervention and prevention. It particularly targets the needs of Indigenous children, young people and their families. Some of the initiatives undertaken under the Plan, or in conjunction with it, include:

- Circle sentencing: an alternative sentencing court for adult Aboriginal offenders. It directly involves local Aboriginal people in the process of sentencing offenders, with the aims of making it more meaningful and improving confidence in the criminal justice system. It also empowers Aboriginal people to address criminal behaviour within their local communities.

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- Aboriginal Justice Advisory Council: this body comprises Aboriginal community members whose role is to provide advice to the New South Wales Government on law and justice issues affecting Aboriginal people in this state.
- Aboriginal Justice Plan: this 10-year plan, launched in 2005, aims to reduce the number of Indigenous people coming into contact with the criminal justice system and to improve the way the system manages Aboriginal people, whether offenders or victims of crime. AJAC is responsible for holding the NSW Government and its agencies accountable for implementing the Aboriginal Justice Plan.
- Aboriginal Community Patrols: community-based services that operate a safe transport and outreach service for people who are on the streets late at night. The overall aim of patrols is to reduce the risk of people becoming involved in crime and anti-social behaviour, either as a potential victims or offenders. Patrols operate late at night when other support services are not available.
- Tirkandi Inaburra Cultural and Development Centre: this is a residential centre offering youth programs that strengthen cultural and personal identity and resilience.
- Aboriginal Mediation Program: specialist mediation service for Aboriginal people, which aims to resolve disputes before they get to court or escalate into violence. There are 43 Indigenous mediators in NSW available to mediate in their own and other communities. All mediators have specialised cultural awareness training.
- Aboriginal Community Justice Groups: local groups of Indigenous people who come together to develop ways to address local law and justice issues. Groups are able to work with juvenile and adult offenders as well as victims of crime. Groups operate in rural, remote and metropolitan NSW, and often play a role in circle sentencing.
- Aboriginal Client Service Specialist program: Aboriginal Client Service Specialists are liaison officers who support defendants and their families within the Local Court. These officers aim to increase the understanding of court processes and outcomes for Indigenous clients. These officers also provide outreach court support and advice to the Indigenous community, including dealing with unpaid fines, and promoting both victims' services and domestic violence support services.
- Indigenous Justice Clearinghouse: online resource providing information on Indigenous justice research and programs for policy makers. The Clearinghouse, which was launched in November 2006, is a joint project between the Australian Institute of Criminology and the Attorney-General's Department of NSW and is endorsed by the Standing Committee of Attorneys-General. The aim of the Clearinghouse is to promote discussion and disseminate relevant Indigenous justice information to government policy makers and service providers. The project has an advisory group with Indigenous justice experts.
- Aboriginal Strategic Plan: the NSW Department of Juvenile Justice has introduced an Aboriginal Strategic Plan to address Indigenous over-representation in the juvenile justice system. This plan has included the provision of culturally appropriate rehabilitation programs and the utilisation of Indigenous staff in working with Indigenous young people and their communities.

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Information box L: Balund-a

In 2008, the Balund-a Program run by the NSW Department of Corrective Services in Tabulam will open as a residential diversionary program for predominantly Aboriginal offenders. It will provide accommodation, programs and work experience. The full title, 'Bugilmah Burube Wullinje Balund-a', roughly translates as 'Be good now you have a second chance down by the river'.

South Australia

206. In 2007, a report was prepared for the SA Government on ways to address offending by particular people who were the focus of a concerted police operation, most of whom were young and Indigenous. The report focused on the youth justice system in general and the changes required to ensure it could effectively manage all young offenders with whom it came in contact. The report's authors made a number of recommendations targeted specifically to Indigenous young offenders.

207. The SA Government established a Youth Justice Cabinet Committee and appointed a Special Coordinator and SA Government taskforce to implement the recommendations. Ongoing work is being undertaken in respect of all of the 46 recommendations, with over 80 per cent already fully or partly implemented.

Queensland

208. A number of Queensland initiatives are directed at reducing the over-representation of Indigenous people in prisons. The Aboriginal and Torres Strait Islander Justice Agreement (the Justice Agreement) aims to reduce the rate of Aboriginal and Torres Strait Islander people coming into contact with the criminal justice system to at least the rate of non-Indigenous Queenslanders. The goal of the agreement is to achieve a 50 per cent reduction in the rate of incarceration of Aboriginal and Torres Strait Islanders.

209. A number of diversion programs support the aims of the Justice Agreement. These programs include:

- **Murri Court:** a sentencing court for Indigenous offenders who plead guilty to offences. Elders or respected persons advise the magistrate about cultural issues and the offender's personal problems that may have led to the offending conduct, assist the offender in understanding the court processes, and assist the magistrate to decide on the most appropriate sentence that seeks to rehabilitate the offender.
- **Pilot Queensland Indigenous Alcohol Diversion Program (QIADP):** the QIADP commenced in three areas in July 2007. This is a 20-week treatment program designed for Indigenous people who are alcohol-dependent or high-risk alcohol users. It incorporates a treatment and case management program designed to reduce alcohol-related harm to the individual and the community.
- **Community justice groups:** 40 community justice groups across Queensland carry out a range of initiatives to address the over-representation of Indigenous people in prisons. Depending on community needs, activities can range from night patrols through to making bail or sentencing submissions to courts.

210. Youth justice conferencing is a highly successful restorative justice process that operates in Queensland as a diversionary mechanism. Referrals are made by police and the courts throughout Queensland. A number of new initiatives were

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implemented in 2007–08 to increase the conferencing referral rates for Indigenous young people and to improve the understanding and involvement of families and communities in the conferencing process. Initiatives included the employment of Indigenous Conferencing Support Officers and the reimbursement of meeting expenses for Indigenous community members to participate in the conferencing process.

Information box M: Be Strong Be Heard in Queensland

The award-winning Be Strong Be Heard program has resulted in a dramatic increase in reporting of sexual assault and ill-treatment offences against children. Under this program, detectives attend Indigenous communities and present information sessions to police, health practitioners, education employees, child safety officers and Indigenous health agencies to explain the police role in child protection investigation. School-based workshops are also held to encourage children to speak out about abuse.

Originally delivered by the Cairns Child Protection and Investigation Unit, the program has expanded to include detectives from other divisions within Far North Queensland since receiving funding from both the Queensland Police Service's Problem-Oriented Partnership Policing initiative (2004–05) and the Australian Government (2005–06). Police have visited every community in Cape York and many islands in the Torres Strait, in many cases more than once. Almost 50 school-based workshops and approximately 70 information sessions have been held. Police have spoken to more than 1500 children, referring more than 150 of them to the Diversionary Program.

Victoria

211. During the reporting period, Victoria introduced the Victorian Aboriginal Justice Agreement (VAJA), as outlined in paragraph 119 of the Common Core Document. Since 2006, an additional Regional Aboriginal Justice Advisory Committee has been established, bringing the total number of committees to seven.

212. With regard to paragraph 363 of the Common Core Document, it should be clarified that Victoria's Family Violence Court Division provides an outreach support service to Indigenous women and children only, rather than to Indigenous peoples more broadly.

Western Australia

213. Western Australia has entered into a Bilateral Agreement on Indigenous Issues with the Australian Government. One of the primary focus areas under this agreement is 'Law and Order and Safe Places for People'. WA and the Australian Government have developed an Action Plan for this focus area, with its roots in the WA's Aboriginal Justice Agreement, the Commonwealth's Draft National Indigenous Law and Justice Strategy, and WA's Substantive Equality Framework. The four main areas of the Action Plan are:

- safe, secure and sustainable communities
- elimination of the over-representation of Indigenous people in the criminal justice system
- elimination of family violence and child abuse in Indigenous communities
- elimination of systemic racism to produce just outcomes for Indigenous people.

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214. WA's Aboriginal Justice Agreement supports a framework that underpins a whole-of-government approach incorporating improvements in the delivery of justice-related services and outcomes for Aboriginal people in Western Australia.

215. WA Police have made a substantial contribution to address the Western Australian Government's response to the findings of the Gordon Inquiry into Family Violence and Child Abuse in Remote Aboriginal Communities. The Remote Service Delivery Project has developed a Service Delivery Model for the communities serviced by the Multi-Function Police Facilities (MFPFs), in consultation with key stakeholders that include other government agencies, local government, and community representative groups such as the Ngaanyatjarra, Pitjanjatjarra, Yankunytjatjara Women's Council. The Service Delivery Model outlines the collaborative approach by several government agencies, and the manner in which services will be delivered to each community. MFPFs have been developed at 12 locations in remote Western Australia. This approach has seen positive results, including timelier responses to incidences of violence and abuse, increased confidence in reporting offences, greater feelings of safety, and an environment for a safer community.

216. The Cross Border Justice Project (NT, SA and WA) was established in November 2003 to improve police and justice-related services in the Central Australian border region. The project is a result of recognition of the significant levels of domestic violence, sexual abuse and substance misuse in the region. Agreement has been reached to examine the development of legislation and policies to enable the courts and police to operate cooperatively across borders. The Cross Border Justice Bill will facilitate improved cross border justice services by:

- allowing cross-border magistrates to deal with charges from all three jurisdictions
- providing that police may take a person from one jurisdiction to another where that would allow them to conduct investigations and take the person before a magistrate more expeditiously
- ensuring that Police have comprehensive powers to make arrests and investigate offences in the cross-border region
- allowing WA, NT and SA corrective services officers to act on behalf of all corrective services in the region and provide for the enforceability of community-based orders throughout the region
- allowing prisoners from the region to serve their sentences in any of the jurisdictions.

217. The Cross Border Justice Bill was drafted by the WA State Solicitors Office and has been reviewed by Solicitors-General from WA, NT and SA. The Bill has been introduced into the Western Australian Parliament. In late 2007 the Attorneys-General from WA, NT and SA signed an Intergovernmental Agreement that commits the three jurisdictions to progressing the scheme.

218. The WA Drug and Alcohol Strategy 2005–2009 is a multi-agency strategy which involves the WA Drug and Alcohol Office, the Department of Racing, Gaming and Liquor, and community groups in a number of locations in remote WA. They

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assist Indigenous communities to address issues related to alcohol supply and harm. Communities in remote areas have unique needs, and in recognition of this, a case-by-case approach to the development of liquor restrictions is required, based on consultation with the community and collaboration between government and community agencies.

219. The WA Police, in partnership with other government agencies, are continually looking for diversionary strategies to reduce the number of Indigenous Australians in the custodial system. A strategy being used in the Mid-West Gascoyne Policing District is through a partnership between the Geraldton Police, Mid-West Family Protection Coordinator, Geraldton Court House, and Community Justice Services (CJS). They are parties to the Geraldton Domestic Violence Court for Aboriginal Offenders, called the 'Burndimalgu Court'. This involves offenders going to a meeting with two Elders, a police officer, CJS officer, and the Magistrate. The perpetrators of the violence are put on a six-month program run by the CJS officer, and upon completion, return to the court for sentencing, which is usually a Community Based Order rather than a custodial sentence.

Indigenous deaths in custody

220. The Australian Institute of Criminology (AIC) Deaths in Custody in Australia: National Deaths in Custody Program annual report 2006 found that 54 deaths occurred in custody during the 2006 calendar year. This figure comprised 31 in prison custody, 22 in police custody and custody-related operations and one in juvenile detention. Of these, 11 deaths were of Indigenous persons, comprising four in prison custody, six in police custody and custody-related operations and one in juvenile detention. The full AIC report can be accessed at <http://www.aic.gov.au/publications/rpp/85/index.html>.

221. The Australian government, states and territories undertook immediate action in response to the individual recommendations of the 1991 report of the Royal Commission Into Aboriginal Deaths In Custody (Royal Commission). In more recent years, governments have embedded their broader responses to the Royal Commission into strategic planning and policy documents, such as the Productivity Commission's Overcoming Indigenous Disadvantage Indicator Framework and state and territory strategic plans. These strategic documents recognise the identified underlying disadvantage and systemic barriers faced by Indigenous people that contribute to their over-representation in the criminal justice system.

222. In Australia, criminal justice responses are primarily the responsibility of state and territory governments. As a consequence, the substantial majority of the recommendations of the Royal Commission into Aboriginal Deaths in Custody concern state and territory government responsibilities.

New South Wales

223. During the reporting period, there was one apparent unnatural Indigenous death in custody in NSW during the financial year 2002 to 2003, no apparent unnatural Aboriginal deaths in custody in 2003 to 2004, three apparent unnatural Aboriginal deaths in custody in 2004 to 2005, none in 2005 to 2006, two in 2006 to 2007 and one apparent unnatural Aboriginal death in custody in 2007 to 2008.

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224. The total number of Aboriginal deaths in NSW correctional centres in the period commencing with the Royal Commission into Aboriginal Deaths in Custody (that is between January 1980 and April 2008) is 61. Aboriginal deaths represented 13.6 per cent of all deaths in custody during this period. Aboriginal inmates comprised 21.3 per cent of the total inmate population on any given day during the same period. A recently published retrospective cohort study of 85 203 adult offenders who had spent some time in full-time custody in prisons in NSW, between 1 January 1988 and 31 December 2002, has confirmed that the rate of suicide for Indigenous inmates is lower than the rate for non-Indigenous inmates.

225. Since the Royal Commission, the NSW Department of Correctional Services, in conjunction with Justice Health (the agency administering health services within correctional facilities), has introduced a comprehensive range of strategies to manage the complex physical and mental health issues of offenders. These include detailed assessment upon reception and targeted interventions aimed at mitigating the stressors associated with incarceration, and promoting health. Particular attention is given to the specific needs of Indigenous inmates.

Queensland

226. Of the 290 recommendations of the Royal Commission into Aboriginal Deaths in Custody relevant to the Queensland administration, three were not agreed to, and all but 32 have been implemented. The remaining 32 are currently assessed as ‘ongoing’ or ‘partially implemented’. It is anticipated that the majority of these will be completed in the near future.

South Australia

227. Some of the initiatives established by the SA Government in direct response to the recommendations of the Royal Commission include:

- the South Australian Aboriginal Visitor Scheme, which has sought, since its inception in 1991, to ensure the safety and welfare of Indigenous people detained in police cells
- a protocol agreement between the SA Coroner and the state’s Indigenous affairs agency to provide a mechanism for ensuring that policy advice on the Royal Commission can be made available to the Coroner during Coronial Inquests relating to Indigenous deaths in custody.

Western Australia

228. The WA Department of Corrective Services has implemented, or is in the process of implementing, the majority of the Royal Commission’s recommendations for which it is responsible. Only a very small number of the recommendations were not supported by the Department of Corrective Services, and no action has been taken by the Department with regard to these.

IMMIGRATION AND CITIZENSHIP

Australia’s non-discriminatory visa policy

229. Australia’s visa policy is non-discriminatory. Individuals are not asked to divulge information about their religion at any stage of the visa application process.

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Statistics about the grant of visas to particular religious groups are therefore unavailable.

230. The Committee had expressed concern in their concluding remarks that Australia's migration system may discriminate against persons from Asian countries. Statistics on grant of visas during the reporting period are in the Statistical Annex. Indicative figures show that five Asian nationalities feature among the top ten nationalities granted visitor visas. The highest numbers of student visas during the reporting period were granted to individuals of Asian nationalities. Persons from Asia were also granted Temporary resident visas during the reporting period.

231. HREOC issued a media release in July 2007 criticising the Government for its decision to introduce additional questions for persons of Arabic origin applying for permanent residency visas, arguing that the implementation of these special requirements would constitute a breach of the *Racial Discrimination Act 1975*.³⁶ The changes referred to by HREOC are amendments made to the Department of Immigration and Citizenship's (DIAC) Form 80 (Personal particulars for Character Assessment—form design 10/07a). The specific questions are:

Q18 - write your spouse's name in his/her own language or script. Please also write Chinese names in Chinese commercial code numbers. For Russian citizens, include Patronymic name. If your spouse is of Arabic descent, write the full names of his/her paternal grandfather (ie. his/her father's father).

Q19 - write your father's name in his own language or script. Please also write Chinese names in Chinese commercial code numbers. For Russian citizens, include Patronymic name. If your father is of Arabic descent, write the full names of his paternal grandfather (ie. his father's father).

Q20 - write your mother's name in her own language or script. Please also write Chinese names in Chinese commercial code numbers. For Russian citizens, include Patronymic name. If your mother is of Arabic descent, write the full names of her paternal grandfather (ie. her father's father).

Q21 - write their name in their own language or script. Please also write Chinese names in Chinese commercial code numbers. For Russian citizens, include Patronymic name. If they are of Arabic descent, write the full names of their paternal grandfather (ie. their father's father).

232. Confirming a person's identity is a key element in the assessment of any permanent visa application. Arabic names are constructed differently from western names. An Arabic name is made up of a person's given names, followed by elements which indicate his or her father's and grandfathers' names, tribal affiliation or geographical information. The questions asked of applicants are designed to enable more accurate and higher quality identification of visa applicants.

233. It is important to note that for similar reasons DIAC also asks for further information from those applicants of Chinese (Chinese Commercial Code) and Russian (Patronymic Name) descent.

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234. The Australian Government is satisfied that the requirements do not breach the Racial Discrimination Act.

Australia's Humanitarian Program

235. Australia's flexible Humanitarian Program enables it to respond to emerging humanitarian crises globally, and takes into consideration United Nations High Commissioner for Refugees' (UNHCR) assessment of global resettlement priorities.

236. The Government is committed to the Humanitarian Program and its focus on those persons who are in the greatest need of resettlement. Australia consistently ranks in the top three of around ten countries that operate an annual dedicated humanitarian resettlement program, and this offshore program is offered by choice reflecting the desire of Australians to assist those in humanitarian need.

237. The Humanitarian Program is planned on an annual basis after an extensive consultation process with the Australian community and peak refugee and humanitarian organisations including the Refugee Council of Australia.

238. The regional focus of the offshore program has shifted in the past 25 years reflecting particular resettlement needs:

- Indo-China and Eastern Europe in the early-eighties
- former Yugoslavia in the mid-nineties
- Middle East and South West Asia in the late-nineties
- Africa in more recent years, with an increased focus on Asia from 2006–07
- more parity in regional allocations in 2008–09, with an equal 33 per cent of the offshore program to Africa, Asia and the Middle East (including South West Asia) regions.

239. Resettlement from Africa has steadily declined due to the ongoing repatriation activity in the region. As a result, the Africa component of the offshore program has decreased from 70 per cent in 2004–05 to 50 per cent in 2006–07. However, the intake of refugees from Africa has not been suspended. Applications from people in Africa continue to be assessed and considered and, if they meet requirements, visas are being granted for resettlement in Australia. Africa remains a priority region for the Humanitarian Program in 2008–09.

240. Following Senator Evans' appointment as Minister for Immigration and Citizenship following the change of Government in 2007, the Minister met African community representatives. He assured those representatives that the Government is committed to fostering a welcoming environment for those who make Australia their home, regardless of their origin, and to providing them with the means to settle and integrate effectively into the broader Australian community. Senator Evans made it clear that he completely rejected the former Minister's statements concerning African refugee and humanitarian entrants.³⁷

241. The Government is committed to the Humanitarian Program and its focus on those persons who are in the greatest need of resettlement. Australia consistently ranks in the top three of around 10 countries that operate an annual dedicated humanitarian resettlement program, and the offshore program goes beyond any international obligations.

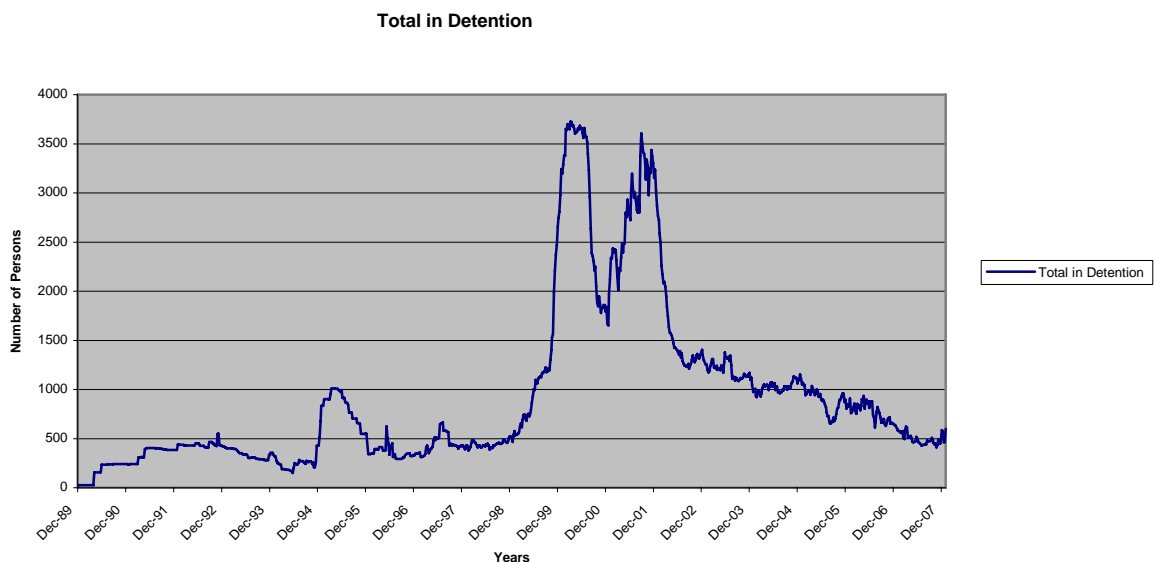
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242. As a demonstration of its commitment to helping refugees and others in humanitarian need, the Australian Government has increased the Humanitarian Program in 2008–09 to 13 500 places with the 500 additional places to be used to resettle Iraqi refugees.

Detention of unlawful non-citizens

243. Some of the immigration-related questions posed in the Committee’s Concluding Remarks may be considered to fall outside of the Committee’s mandate. However, in the interests of providing comprehensive and frank information to the Committee, this report addresses those questions.

244. The information in paragraphs 156, 157 and 261 to 284 of the Common Core Document on detention remains current. The graph below indicates a progressive decline in the numbers of unlawful non-citizens in detention during the reporting period.



The Statistical Annex to this document provides detailed statistics on the detainee population.

245. The Human Rights Commissioner makes annual inspections of immigration detention facilities in order to monitor whether the conditions for immigration detainees comply with human rights standards. In January 2008, HREOC released its *Summary of observations following the inspection of mainland immigration detention facilities 2007*. The report covers immigration detention centre visits conducted in August–October 2007, and it makes a number of recommendations about conditions in immigration detention facilities.³⁸

246. In addition, HREOC can inquire into acts or practices of the Commonwealth that may be inconsistent with, or contrary to, human rights (paragraph 72, Common Core Document). The jurisdiction extends to complaints arising in immigration detention. Since 2002 there have been 11 reports to the Australian Government Attorney-General in relation to complaints of breaches of human rights in immigration detention. HREOC may make recommendations for preventing a

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repetition of the act or a continuation of the practice, the payment of compensation or any other action to remedy or reduce the loss or damage suffered as a result of the breach of a person's human rights.

247. Staff of the contracted detention services provider, GSL, are required to act in accordance with the Immigration Detention Standards (IDS). This differs from DIAC staff who are bound by the Australian Public Service Code of Conduct, set out in Section 13 of the *Public Service Act 1999* (Cth). This sets out appropriate behavioural standards for DIAC staff and, if the standards are found to have been breached, provides avenues of remedy for complainants.

248. As almost the entire IDS document is about ensuring GSL does not breach human rights, examining the complaints-related parts in isolation does not provide a good picture of what the IDS contribute to maintenance of human rights.

249. The parts of the IDS specifically related to complaints are concerned with ensuring that GSL makes people in immigration detention aware of their right to complain, that GSL passes on complaints, and that HREOC information is displayed in immigration detention centres. There is nothing specifically requiring GSL to remedy all complaints, and it would not be reasonable to expect that the contract could impose such a 'blanket' requirement on GSL.

Length of immigration detention

250. The Government understands that the principle of arbitrariness means that immigration detention should not continue longer than can be justified and that indefinite detention is not acceptable.

251. It should be noted that people are detained because they are unlawful non-citizens, not because they are asylum seekers. Currently, about 80% of all people in immigration detention are compliance cases (such as visa overstayers and illegal foreign fishers), most of whom spend only short periods in detention. Most Protection visa applicants are not detained and remain in the community on a bridging visa during processing of their visa applications. The Government has a policy of processing Protection visa applications as quickly as possible and has consistently strived to achieve this.

252. Factors which influence the length of immigration detention are the time required to make an effective assessment of a visa application, the outcome of review procedures and, if necessary, time taken to make removal arrangements. Protection visa applications from people in immigration detention receive the highest priority. A number of measures (such as front-end loading of security, character and identity checks) have been implemented to expedite processing while maintaining the robust and rigorous nature of the assessment process. Further changes to expedite processing times of Protection visa applications were made in 2005 (see below). In the 2007–08 program year, some 80 per cent of Protection visa applicants received a decision on their application within 90 days of applying for protection. Those decided outside the 90-day period were attributable to a number of factors, including the impact of client related delays, awaiting public interest criteria information from external agencies, and DIAC investigation of fraudulent activity.

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253. Protection visa decision-makers are trained to ensure that all claims are thoroughly and objectively examined and resolved before proceeding to make a decision. After it has been determined that Australia does not have protection obligations in respect of a particular individual, an applicant's time in immigration detention may be extended while they pursue their legal rights of review.

Legislative amendments in 2005

254. In 2005 the former Australian Government announced a number of changes to both the law and the handling of matters relating to people in immigration detention and the processing of Protection visa applications. These changes include:

- that where detention of an unlawful non-citizen family (with children) is required under the Migration Act, except as a last resort detention should be under alternative arrangements where and as soon as possible, rather than under traditional detention arrangements. Alternative arrangements means in the community under residence determination arrangements—known as community detention—at a specified place in accordance with conditions that address their individual circumstances. The new Government has recently extended this principle stating that children will no longer reside in Immigration Detention Centres under any circumstances
- all primary Protection visa applications are to be decided by DIAC within 90 days of application lodgement
- all reviews by the Refugee Review Tribunal are to be finalised within 90 days of the date the tribunal receives the relevant files from DIAC
- regular reporting to Parliament on cases exceeding these time limits is required
- where a person has been in detention for two years or more, there will automatically be a requirement that every six months a report on that person be furnished by DIAC to the Commonwealth Ombudsman. The Ombudsman's assessment of each report, including recommendations on whether the person should be released from detention, will be tabled in Parliament
- the provision in the Act of an additional non-compellable power for the Minister for Immigration and Citizenship to specify alternative arrangements for a person's detention and conditions to apply to that person
- the provision in the Act of an additional non-compellable power for the Minister for Immigration and Citizenship, acting personally, to grant a visa to a person in detention
- the amendment of the Migration Regulations 1994 to create a new bridging visa to enable the release of persons in immigration detention into the community whose removal from Australia is not reasonably practicable at the current time. A Removal Pending Bridging visa may be granted using the Minister for Immigration and Citizenship's non-delegable, non-compellable public interest power to grant a visa to a person in immigration detention.

255. In 2005, the former Australian Government also introduced Detention Review Managers (DRMs). DRMs independently review the initial decision to detain a person, including Protection visa applicants, and continue to review the cases of people in immigration detention on an ongoing basis to ensure their detention remains lawful and reasonable.

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256. The detention of unlawful non-citizens, including those asylum-seekers who are also unlawful non-citizens, is intended to achieve legitimate ends—it allows the Australian Government to conduct health, character and security checks, to assess any applications to remain in Australia, to ensure the integrity of Australia’s right to control entry pending these assessments, and to ensure that removal can be effected if they are found not to meet the criteria for a visa to remain in Australia. The Australian Government rejects any implication that its detention of persons for immigration purposes is arbitrary.

Temporary Protection visas

257. The Government is committed to ensuring that Australia has a fair and robust system in place for identifying and protecting refugees. To this end, on 13 May 2008 the Government announced the abolition of the Temporary Protection visa (TPV) arrangements. These changes took effect on 9 August 2008. People arriving in Australia since this date and found to be refugees receive a permanent visa, regardless of their mode of arrival in Australia.

258. TPV holders and former TPV holders who remained in Australia became eligible for a Resolution of Status visa without the need to have claims for protection reassessed (subject to meeting health and character criteria). The Resolution of Status visa provides permanent residency and access to the same benefits and entitlements as the Permanent Protection visa. These new arrangements treat refugees fairly and with dignity and enable them to engage fully in the Australian community.

259. In response to paragraph 24 of the Committee’s concluding remarks, the Government advises that the now repealed migration regulations prescribing criteria for the grant of TPVs applied equally to all unlawful arrivals, regardless of race or nationality.

260. Australia places no restrictions on movement within Australia on TPV holders who have not yet transitioned to the Resolution of Status visa. TPV holders are able to depart Australia should they wish to do so. Travel documents are provided on request in accordance with Article 28 of the Refugees Convention.

261. Data as at 4 July 2008 indicated that 11 195 persons were granted an initial TPV or temporary Humanitarian visa in the period from inception of TPVs in 1999 to 30 June 2008. Of this group, some 9640 were subsequently granted a Permanent Protection visa as at 30 June 2008.

262. As requested by the Committee in its Concluding Remarks, the Statistical Annex contains a table disaggregated by nationality, of grants of TPVs from their inception to date.

Asylum seekers on bridging visas without work rights

263. The Australian Government advises that arrangements for determining eligibility for Bridging visas with work rights are not discriminatory on the basis of race or nationality. Under current migration legislation, asylum seekers in the community may be eligible for a Bridging visa that enables them to work and access

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Medicare only if they applied for a Protection visa within 45 days of arriving in Australia.

264. Although access to Medicare is linked to work rights, all asylum seekers in the community may be eligible for assistance under the Asylum Seeker Assistance (ASA) scheme. ASA is funded by the Government and provides financial assistance, access to general health care, pharmaceutical assistance, torture and trauma counselling services and bereavement assistance via a network of providers coordinated and administered by the Australian Red Cross. Assistance under this scheme is particularly directed to where there are children and/or health conditions in need of attention in asylum-seeker families.

265. The Government is committed to introducing Bridging visa reforms that establish fair and appropriate access to work rights for asylum seekers. The Department of Immigration and Citizenship has been directed to provide the Government with options to progress the implementation of this policy.

Australia's citizenship test

266. The Australian Citizenship Test was introduced on 1 October 2007, for those people applying for conferral of citizenship under general eligibility. The test is the means by which most applicants aged between 18 and 60 can demonstrate their ability to meet certain legislative requirements including: an understanding the nature of the application, a basic knowledge of English language, and a knowledge of Australia and the responsibilities and privileges of Australian citizenship. The aim of the test is to ensure new citizens have the knowledge and skills to participate fully in Australian life and take advantage of the opportunities available to them.

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Information box N: Australia's Citizenship Test

The test is in English, and is computer-based, with 20 multiple-choice questions drawn randomly from a pool of 102 confidential questions. Each test contains three mandatory questions on the responsibilities and privileges of Australian citizenship. The pass mark is 60 per cent, including answering all three mandatory questions correctly. People are able to take the test as many times as they need to in order to pass. Once they pass, their successful test result remains valid indefinitely.

The test questions are based on the contents of a resource book, "*Becoming an Australian citizen*", which is free and widely available in paper and electronic formats. The book has also been translated into 29 community languages commonly spoken in Australia.

There is an assisted test available for those with low English literacy skills who have completed 400 hours of English language tuition and have been assessed as requiring assistance when sitting a test. That assistance is provided by a DIAC officer who reads the questions and multiple choice answers aloud. The client has 90 minutes to complete an assisted test.

There is assistance available for clients sitting a standard test who have minimal computer skills, or have a disability. This may include the test administrator reading aloud the test questions and answers for the applicant and operating the computer. The time allocated for a standard test is 45 minutes.

267. The Federal Government will, commencing in August 2008, provide extra support to citizenship applicants to help them prepare for the test through the Citizenship Supports Grants Program, including:

- funding of A\$13.9 million over four years (from 2008-09) to assist new migrants to prepare for the test, and
- a webpage to help applicants understand the range of assistance available, including links to Australian Government-funded English language programs

268. As detailed in Australia's response to the request for citizenship information from the Independent Expert on Minority Issues (response dated 30 November 2007), some categories of people are not required to possess a basic knowledge of the English language, or knowledge of Australia and the responsibilities and privileges of Australian citizenship when applying for citizenship, and they need not sit the test. These include: people aged under 18 or aged 60 years and over; those with a permanent physical or mental incapacity; or those with a permanent loss or substantial impairment of hearing, speech or sight.

269. On 28 April 2008 the Minister for Immigration and Citizenship, Senator Chris Evans, announced the appointment of an independent committee to conduct a review of the Australian citizenship test since its implementation on 1 October 2007.

270. Senator Evans has stated that, although feedback from participants to date has been positive, a range of concerns have been raised about the test and these will be addressed in the review. He also stated that more work needs to be done to make sure the right questions are asked and there are no unintended barriers for people who wish

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to become Australian citizens.

271. The Government has confirmed it is committed to maintaining the citizenship test and remains confident that the citizenship test can play a valuable role in helping new citizens understand the rights and responsibilities of citizenship

272. The review was commissioned to examine the operation of the citizenship test after six months experience and whether there are ways to improve its operation and effectiveness as the pathway for residents to become Australian citizens. It is expected that the Citizenship Test Review Committee will provide its report to the Minister by mid 2008.

273. As part of the review, the Committee has consulted with a number of community organisations, interest groups and individuals across Australia regarding the current testing arrangements. The Committee also held consultations in most major cities and in several regional areas around Australia and will be able to draw on the experiences of a wide range of clients and stakeholders when making its recommendations to the Minister.

274. The Committee welcomed views on this important matter from organisations such as HREOC and invited them both to participate in roundtable discussions and submit their comments in writing for consideration. The Committee wrote to over 700 organisations and individuals Australia-wide inviting written submissions. Invitations were sent to migration and refugee bodies, businesses, local government, educational bodies and academic, religious and sporting bodies. Over 175 written submissions were received from organisations and individuals from around Australia.

MULTICULTURAL INITIATIVES

275. Details of the Australian Government's multicultural programs are contained in the Common Core Document. Relevant updates to that information are provided below.

Multicultural policy

276. The Government is developing a multicultural policy to replace the previous statement, *Multicultural Australia: United in diversity*, which provided strategic direction from 2003 to 2006 and updated the previous policy statement, *A New Agenda for Multicultural Australia*. The Government is also considering advisory arrangements for multicultural issues. (This information updates paragraphs 582 and 583, Common Core Document.)

277. Through both the NAP and the Community Liaison Officers network, the Government maintains two-way communications with many diverse community groups. When a crisis occurs in Australia or overseas, whether because of a domestic or overseas incident or natural disaster, the network helps the Government to respond appropriately. The network contributes to social cohesion by informing the Government and supporting it in responding to major community relations tensions that may arise and providing communities with a means to raise concerns with the Australian Government.

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Public service programs

278. A revised Access and Equity framework was released in 2007 (under the name Accessible Government Services for All), to encourage Australian Government services to be delivered in a way that is sensitive to the language and cultural needs of all Australians. It built on the original Access and Equity Strategy and the Charter of Public Service in a Culturally Diverse Society, which was established in 1998. The Government will retain the revised guiding framework and approach under the title Access and Equity, and promote its use through Australian Government departments (Update to paragraph 584, Common Core Document).

National Action Plan to Build on Social Cohesion, Harmony and Security (NAP)

279. The National Action Plan to Build on Social Cohesion, Security and Harmony (NAP) was developed under the authority of the COAG to help empower those who may feel disaffected or marginalised. It supports their participation through initiatives including education projects, employment projects, integration programs, community projects and national security initiatives.

280. Under the NAP, the Government pursues programs and projects at federal, state, territory and community levels, focusing on education, employment, integrating communities and enhancing national security (Common Core Document, paragraph 237).

281. Over the coming months, the Australian Government, and state and territory governments, will seek to refine the implementation of the NAP based on knowledge gained through projects and research, and will continue to engage with the wider Australian community to gain better understanding of the issues arising from Australia's cultural and religious diversity.

Living in Harmony program

282. The Living in Harmony program aims to address cultural, racial and religious intolerance by promoting respect, fairness, inclusion and a sense of belonging for everyone. The program, with an annual budget of A\$5.1million, is primarily a community-based education initiative that seeks to strengthen community relations through project funding and information activities, including the celebratory day, Harmony Day. The Government is reviewing the branding of the Living in Harmony program, which has operated since 1998, to ensure the program reaches the broadest possible audience and more effectively targets its activities to local communities.

Impacts of counter-terrorism legislation

283. The Committee asked for further information about the impact of counter-terrorism legislation on specific ethnic groups and people of other national origins (paragraph 13, concluding remarks).

284. Counter-terrorism laws passed during the reporting period have received considerable scrutiny. For example, the Security Legislation Review Committee, in its *Report of the Security Legislation Review Committee (2006)* expressed 'serious concern' about the way in which counter-terrorism legislation is perceived by some members of Muslim and Arab communities.³⁹ The Parliamentary Joint Committee on

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Intelligence and Security found that ‘one of the damaging consequences of the terrorist bombing attacks in the US, the UK, Europe and Indonesia has been a rise in prejudicial feelings towards Arab and Muslim Australia’. It also expressed concern about ‘reports of increased alienation attributed to new anti-terrorist measures, which are seen as targeting Muslims and contributing to a climate of suspicion’.⁴⁰ It is important to note that the counter-terrorism laws have been drafted to ensure that they do not target any particular race or religion and that the laws apply equally to all sectors of the community. In the context of the terrorist organisation listing regime, the PJCIS specifically commented that it did not accept that the preponderance of militant Islamist groups on the current list is a form of discrimination. Overall, the reports of the Security Legislation Review Committee and the PJCIS: found the counter-terrorism legislation to be justified on the basis of the ongoing threat of terrorism to Australia; noted that there had been no excessive or improper use of the powers provided for in the legislation; and further noted that the legislation itself formed an important, although not exclusive, tool in Australia’s counter-terrorism strategy.

285. In its Report on the security and counter-terrorism legislation, the PJCIS also recommended that the Attorney-General’s Department increase its efforts to ensure that comprehensive information about the terrorism law regime is available to the public in appropriate community languages. As an ongoing task, the Government has undertaken considerable work to educate communities and create public awareness of the counter-terrorism laws and national security measures. In 2008, the Government developed an updated information pamphlet covering all key aspects of Australia’s counter-terrorism legislation, including the terrorism offences, the process for listing of terrorist organisations and the exercise of police powers in investigating a terrorism offence. The updated pamphlet is published in English and eight other languages (French, Spanish, Turkish, Arabic, Indonesian, Chinese, Malay and Vietnamese).

286. These reports expressed concern that the perception that counter-terrorism measures unfairly target Muslims can create further isolation and marginalisation of some sections of the Muslim community, which could lead to radicalisation. Both reports supported remedying these problems through measures which promote social inclusiveness and counter discrimination. Paragraphs 233 to 237 of the Common Core Document contain relevant information about such measures. Since its publication, several further relevant projects have been undertaken under the NAP. For example, from December 2005 to May 2007, Muslim youth summits were held nationally and in each state and territory to discuss issues of concern and possible solutions⁴¹ (Update to paragraphs: 235, 236, 237, 316, and 585, Common Core Document).

287. Projects under the NAP have been designed to build links between Muslim communities and emergency management and counter-terrorism coordination agencies. They have involved members of Muslim communities in planning for and responding to issues, incidents and crises. In 2007, a two-day ‘National Security for a Diverse Community Forum’ (a biennial event) brought together some 90 community leaders, of whom approximately two-thirds were Muslims. The Forum aimed to raise awareness of national security arrangements and issues, build understanding between communities and foster greater trust and connection with government.

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288. Also in 2007, National Security and Crisis Management workshops were held in major cities to bring together representatives of Muslim communities, police and emergency services, representatives from state and territory government premiers' and chief ministers' departments and Australian Government representatives. The workshops were designed to increase community knowledge about counter-terrorism measures.

Ismaξ– Listen: National consultations on eliminating prejudice against Arab and Muslim Australians Project⁴²

289. The Ismaξ project commenced in 2003. Its objective was to ascertain the level and type of discrimination that Arab and Muslim Australians had been experiencing since the terrorist attacks in the United States on 11 September 2001 (September 11). It was clear from the consultations and the research conducted that there had been an increase in discrimination and vilification against the Arab and Muslim communities in Australia since September 11.

290. The project had three major components:

- consultations with Arab and Muslim Australians
- an empirical survey using questionnaires and interviews to learn more about Arab and Muslim Australians' responses to racism and abuse, and their experiences and understanding of complaints processes
- an audit of government and non-government strategies that address anti-Arab and anti-Muslim prejudice.

Consultations

291. Through consultations with individual participants, host organisations and reference group members, HREOC gained a graphic description of community experiences of discrimination and vilification. In addition, HREOC contacted relevant federal, state and local government agencies and non-government community organisations requesting information about their response to the Arab and Muslim communities' needs, including their initiatives that specifically address anti-Arab and anti-Muslim prejudice.

Empirical survey

292. To obtain a more comprehensive picture of the nature and extent of incidents of discrimination and vilification, HREOC engaged researchers at the University of Western Sydney to conduct an empirical survey using questionnaires and interviews to learn more about Arab and Muslim Australians' experiences of and responses to racism and abuse, as well as their experiences and understanding of the complaints mechanisms. The research focused on Arab and Muslim Australians in New South Wales and Victoria. The report is available at http://www.humanrights.gov.au/racial_discrimination/isma/research/index.html

Audit

293. The Ismaξ report provides a basic demographic and historical overview of Arab and Muslim Australians, as well as information on current federal and state anti-discrimination laws on racial and religious discrimination and vilification. Finally, the audit includes information on HREOC's previous research and findings relating to religious discrimination and vilification and anti-Arab and anti-Muslim prejudice.

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Findings

294. A report titled *Ismaξ–Listen: National consultations on eliminating prejudice against Arab and Muslim Australians*, was released in 2004.⁴³ The consultations confirmed that, since the terrorist attacks on September 11 2001 and the October 2002 Bali Bombings, members of Muslim and Arab communities have experienced increasing levels of discrimination. The Ismaξ report identified the following trends within the Muslim and Arab communities:

- an increase in fear and insecurity
- the alienation of some members of the community
- a growing distrust of authority
- racial and religious discrimination against Muslim women (especially Muslim women wearing the hijab or other forms of religious dress).

Recommendations

295. Participants in the Ismaξ project identified six key areas for improvement and future action:

- improving legal protections, especially in relation to religious discrimination and vilification
- promoting positive public awareness through education
- addressing stereotypes and misinformation in public debate
- ensuring community safety through law enforcement
- empowering communities
- fostering public support and solidarity with Arab and Muslim Australians.

296. HREOC developed more specific recommendations from these broad areas following investigation of the kinds of initiatives that were already in place at a local, state and federal level across Australia. Key recommendations include:

- enactment of federal legislation to make unlawful discrimination and vilification on the basis of religion
- review of the use of the ethnic descriptor ‘Middle Eastern’ by police in their reporting of crime
- review of the current systems used by police for recording incidents motivated by racial and religious prejudice.

297. Building on the research of Ismaξ, and to help address the issues identified, HREOC completed two further Muslim communities projects in 2006–07:

- African Australians: A Report on the Human Rights and Social Inclusion Issues—A National Consultation and Report
- Freedom of Religion and Belief in the 21st Century—a National Consultation and Report.

Other HREOC projects to engage the Muslim community

298. In 2006, HREOC held community consultations and forums in New South Wales and Victoria as part of the *Unlocking Doors: Muslim Communities and Police Tackling Racial and Religious Discrimination Together* project. The project aimed to:

- strengthen Muslim communities’ relationship with law enforcement agencies, and inform community members about the legal avenues for victims of racial and/or religious hatred and abuse

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- help develop strategies to improve the ability of law enforcement agencies to deal with acts of racial and religious hatred and abuse against Muslim people.

299. The *Unlocking doors report*⁴⁴ documents the key issues and strategies identified in consultations with Muslim communities in NSW and Victoria, conducted in 2006. The consultations confirmed that the use of ethnic descriptors by police and the media in relation to crime reporting continues to be an issue of concern for the community. Communities were also concerned that the system of recording incidents of racial and religious hatred was not uniform or consistently applied by police.

300. In 2006, HREOC conducted a Muslim Women's Project⁴⁵ with the aim of engaging Muslim women in a dialogue about human rights and increasing understanding among Muslim women about anti-discrimination laws. This project responded to the findings of the Ismaḡ report that found that the impact of racial and religious discrimination was most acutely felt by women, especially those wearing the hijab or other forms of religious dress. A one-day forum facilitated discussion about the issues that concerned Muslim women, including media representations of Islam and the legal protections available against racial and religious discrimination and vilification.

301. More recently, HREOC has been responsible for the implementation of projects under a program called Community Partnerships for Human Rights.⁴⁶ The funding for this program is part of the NAP. The program has two areas of focus:

- working with young Muslim Australians to develop education strategies and resources that build understanding and awareness of anti-discrimination laws and human rights
- working with law enforcement agencies to build engagement with Muslim Australian communities to help address discrimination and vilification against these communities.

State and territory initiatives

302. Under the NAP, the previous government pursued programs and projects at federal, state, territory and community levels, focusing on education, employment, integrating communities and enhancing national security (Common Core Document paragraph 237).

Australian Capital Territory

303. The ACT Government released *Facing up to racism: A strategic plan addressing racism and unfair discrimination* in June 2004. This strategic plan facilitates the ACT Government and the community working together to achieve common goals to address racism and unfair discrimination.

304. The aim of *Facing up to racism* is to create an environment that minimises the incidence of racism and unfair discrimination. The seven aims of the policy encourage respect, fairness, inclusiveness and multiculturalism. The ACT Government undertakes strategies to foster stronger community relations and celebrate diversity, which help to combat racism. Reporting against the Strategic Plan is in the form of a report card—the first of which was in 2006 and the second is due mid-2008. The

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Report card 2006 is at http://www.dhcs.act.gov.au/__data/assets/pdf_file/0008/4949/FacinguptoRacism.pdf.

305. The ACT Government funds a range of activities in areas such as sport, health, education, employment and events to celebrate and share heritage and culture. The Islamic community has organised: open days at a Mosque and the Canberra Islamic Centre; sports days to include members of the broader community; professional development for members of the Muslim community; and opportunities for Islamic community members to meet with media representatives to help understand each others' approaches.

306. Other successful programs include offering English language classes and employment programs to migrants and refugees to give them the opportunity to become job-ready and employable in the Australian context.

307. Also, the ACT stages an annual National Multicultural Festival, which attracts participation by international, interstate and local groups. The event is run over ten days and, in 2008, boasted audiences of 170 000, with key attractions such as the Food and Dance Spectacular, Carnivale, Greek Glendi, Chinese New Year, Opera by the Lake, and Pacific Islander Showcase. The festival program included 61 individual events. The festival brings together many facets of the community in Canberra and its region. It is a showcase for multiculturalism, involving ethnic communities that provide cultural performances and organise food stalls; commercial businesses that also organise food stalls; community groups and organisations that share information about their services; volunteers; sponsors; and Diplomatic Missions.

New South Wales

308. In March 2001, the New South Wales Government enshrined the principles of multiculturalism in legislation through proclamation of the *Community Relations Commission and Principles of Multiculturalism Act 2000*. Under the legislation, the Community Relations Commission (CRC) has the responsibility for promoting community harmony, and the participation of all people in NSW, in community and public life, regardless of their ethnic, cultural or religious backgrounds.

309. In October 2002, the CRC established a Community Harmony Reference Group to monitor and counter any community relations issues. The Reference Group included representatives from NSW Police, Department of Education and Training, Department of Community Services and the NSW Anti-Discrimination Board, and members of Sydney's Islamic, Arabic-speaking, Jewish, Iraqi, Indonesian, Turkish and Sikh communities. Under the project, the Commission also coordinated Youth Liaison Teams consisting of members from Muslim, Christian and non-denominational backgrounds, to engage with young people and promote understanding.

310. On behalf of the NSW Government, the CRC conducted an inquiry into the settlement of African refugees in NSW, and the barriers impacting their successful settlement. Subsequently, the CRC released a report publicly in September 2006, which makes 41 recommendations to improve settlement outcomes for refugees and humanitarian entrants from Africa.

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311. Examples of other major community relations initiatives, particularly with regard to racism, include:

- the CityWatch program, established by the NSW Premier (as part of the Cabramatta Anti-Drug Strategy) and administered by the CRC as an initiative to help generate ideas and action to improve police community relations in the Cabramatta area of NSW
- the Arabic Youth Partnership, established in July 2002 as a whole-of-government and whole-of-community project to address the needs of young people from Arabic-speaking backgrounds. The project involved Youth Liaison Teams made up of Muslim and Christian volunteers, who met from May 2002 to June 2005
- Canterbury-Bankstown Community Harmony Round, implemented by the CRC in partnership with the NSW Department of Community Services to promote community harmony across cultures and generations, and to enhance the capacity of the local community and government to sustain community harmony in the Canterbury–Bankstown area
- Youth Partnership with Pacific Island Communities, managed by the CRC, which employed a whole-of-government approach to addressing issues affecting Pacific island communities.

312. The CRC works closely with the NSW Anti-Discrimination Board to respond to instances of racial discrimination which may be brought to its attention.

Queensland

313. Each Queensland Government agency has developed a multicultural action plan to address issues that CALD Queenslanders experience when they interact with the justice system, and to ensure that all services and programs are accessible to Queenslanders from diverse backgrounds. Goals of the current plan are to develop effective relationships with CALD communities, improve accessibility of services, and develop a diverse workforce to provide culturally inclusive and responsive services and policies.

314. The multicultural employment strategy encompasses a range of programs including job preparation and paid work placements to assist jobseekers from CALD backgrounds, particularly migrants and refugees. In 2006 to 2007, 1279 CALD jobseekers were assisted with job preparation or work placement (22.6 per cent of all job preparation and work placement participants). Between October 1998 and June 2007, 13 707 multicultural jobseekers were assisted with job preparation, paid work placements, accredited training or a funded apprenticeship or traineeship.

315. Backing Indigenous Arts⁴⁷ is a Queensland Government program investing A\$10.73 million over four years to strengthen Aboriginal and Torres Strait Islander arts in communities across Queensland. The program will provide and enhance the places, tools and skills to help Aboriginal and Torres Strait Islander artists to create their art, and will also assist these artists in getting broader recognition and economic return for their work.

316. The program includes four main initiatives: the development of Arts Centres in 15 Indigenous areas, a Cairns Printmaking Centre, a Cairns Indigenous Art Marketplace, and programs to build skills and opportunities. The funding for these centres will address establishment costs, as well as funding for training and skills

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development, business planning and marketing, employment opportunities and other resource requirements.

Victoria

317. The Victorian Government has implemented a range of initiatives to strengthen intercultural and interfaith dialogue and to support newly arrived migrants and refugees. Highlights include:

- the Premier's Multifaith Forum 2005, which was attended by over 30 faith leaders. At the forum, those leaders released a joint statement on racial and religious tolerance, expressing in-principle support for the *Racial and Religious Tolerance Act 2001* (Vic) and a commitment to encourage and support local interfaith groups, particularly youth and women's networks. A subsequent forum was held in 2007.
- a multifaith advisory group met for the first time in early 2008, and will continue to meet regularly to advise the Victorian Government on issues of relevance to Victoria's faith communities, and ongoing opportunities for interfaith dialogue.
- provision of support to migrants and refugee communities. Specific initiatives include the Community Grants Program (grants to Victoria's CALD communities to develop and sustain local community organisations and programs), the Refugee Nurses Program (provision of culturally appropriate and holistic healthcare to refugees) and the Refugee Brokerage Program (provision of joined-up services across government to refugee communities to increase their participation in the community).

Western Australia

318. The Integrated Services Centres project uses schools as hubs to improve the delivery and coordination of critical settlement services to humanitarian entrants, and to relieve pressures on mainstream services.

319. The Training Subsidies Program addresses systemic and attitudinal barriers for people from CALD backgrounds accessing apprenticeships and traineeships.

320. The WA Government has developed a program to address barriers faced by some ethnic young people in accessing sporting clubs and engaging in mainstream sporting and recreation activities. It has also funded a mental health service targeted at people from ethnic backgrounds with a particular focus on, but not limited to, humanitarian entrants.

321. The WA Government developed the Community Relations Integration Officers Grants Program to assist migrants and refugees from new and emerging communities to attain knowledge of and to access government and non-government services and programs.

322. The Inclusion and Integration Grants Program funds projects designed to build community capacity, and promote integration and active participation by all members of WA's diverse community. The WA Government has developed a program for the placement of Community Relations Integration Officers in the WA Career Development Centre to establish links between ethnic communities and key training and employment services.

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323. The WA Government has commissioned research to examine the context underpinning the level of participation of CALD artists in arts activities in WA and make recommendations to inform state government arts policies, programs and strategies.

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ANNEX A: CONSULTATION

The following individuals and organisations made submissions on the report:

Aboriginal Legal Rights Movement
Amnesty International Australia
Australian Bahá’i Community
B’nai B’rith Anti-Defamation Commission
Catholic Social Services Australia
David Faulkner
FAIRA
Federation of Ethnic Communities’ Council of Australia
Human Rights and Equal Opportunity Commission
Uniting Justice Australia

The following Australian Government agencies contributed to the report:

Attorney-General’s Department
Department of Foreign Affairs and Trade
Department of Families, Housing, Community Services and Indigenous Affairs
Department of Health and Ageing
Department of Education, Employment and Workplace Relations
Department of the Prime Minister and Cabinet
Department of Immigration and Citizenship

The following state and territory governments contributed to the report:

Australian Capital Territory Government
New South Wales Government
Northern Territory Government
Queensland Government
South Australian Government
Tasmanian Government
Victorian Government
Western Australian Government

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ANNEX B: RESPONSE TO SPECIAL RAPORTEURS

Australian Government response to a letter dated October 2007 from three United Nations Special Rapporteurs, alleging breaches of Australia's domestic and international human rights obligations in undertaking measures for the NTER.

Rodolfo Stavenhagen, Yakin Ertürk and Doudou Diène
Special Rapporteurs
OHCHR
Special Procedures Services
United Nations Office at Geneva
CH-1211 Geneva 10

Dear Mr Stavenhagen, Ms Ertürk and Mr Diène,

Response to your letter regarding the Northern Territory Emergency Response to combat violence and child abuse in Indigenous communities

The Australian Government presents its compliments to the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and thanks you for your joint letter dated 10 October 2007 regarding the Northern Territory Emergency Response (NTER).

The Australian Government considers that the measures which comprise the NTER are necessary to ensure that Indigenous Northern Territorians, and in particular Indigenous women and children in relevant communities, are able to enjoy their social and political rights on an equal footing with other Australians.

Because of the Australian federal election on 24 November 2007, the Australian Government is currently in a 'caretaker' role. The attached draws on previous statements of the Australian Government to explain its position.

The Australian Government would like to thank you for your continued interest in Indigenous peoples around the world and in particular your interest in the wellbeing of Indigenous Australians, and avails itself of this opportunity to renew the assurances of its highest consideration.

Caroline Millar
Australian Ambassador and Permanent Representative
to the United Nations, Geneva

On 21 June 2007 the Prime Minister, the Hon John Howard and the Minister for Families, Community Services and Indigenous Affairs, the Hon Mal Brough announced emergency measures to protect Indigenous women and children in the Northern Territory from violence and sexual abuse. The Northern Territory Emergency Response (NTER) involves a range of measures to protect women and children and make communities safe in the first instance, then to lay the basis for a sustainable future for Indigenous people in the Northern Territory.

The Australian Government's decision to take immediate action followed the *Little Children are Sacred* investigation and report (the Report) prepared for the Northern Territory Government which concluded that child abuse in Indigenous communities throughout the Northern Territory is at crisis levels. The Report confirmed the strong link between alcohol abuse, violence and the sexual abuse of children and provided a catalyst for immediate and significant action.

The Australian Government acknowledges that these are both exceptional and necessary measures to enable all, particularly women and children, to live their lives free of violence and to enjoy the same rights to development, education, health, property, social security and culture that are enjoyed by other Australians. In this regard it is important to note that many of the provisions are time limited and designed to stabilise communities so that longer term action can be taken.

The Australian Government acknowledges that child abuse and neglect are not unique to Indigenous Australians and while the measures in the Northern Territory will impact more on Indigenous than on non-Indigenous people, they apply equally to all those living in the prescribed areas. The NTER implements Australia's obligations under human rights treaties such as the UN Convention on the Rights of the Child (CROC), to protect children from abuse, neglect and exploitation and to ensure that children survive, develop, have an adequate standard of living and benefit from social security. The Government also acknowledges that the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) requires that such measures must not result in persons of a particular race being treated differently so as to diminish their equal enjoyment of human rights and fundamental freedoms. This will not be the case where different treatment is based on objective and reasonable criteria that implement a legitimate purpose under relevant treaties, including the CROC. The Government is confident that the measures meet this test.

Many Indigenous people in the Northern Territory face significant social and economic barriers to the enjoyment of their rights to health, development, education, property, social security and culture. Each measure in the response is therefore designed to ensure that all Indigenous people have the chance to enjoy human rights on an equal footing with other Australians. In particular, the measures are necessary to ensure that there is real improvement before it is too late for many Indigenous children.

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The legislation implementing the NTER clarifies that certain measures are ‘special measures’ for the purposes of the *Racial Discrimination Act 1975* which implements Australia’s obligations under the CERD. As ‘special measures’ the NTER measures do not seek to take away rights and freedoms. Rather, the measures provide the foundation for rebuilding social and economic structures and give meaningful content to Indigenous rights and freedoms.

In addition to the immediate measures being taken in the Northern Territory, the Australian Government has introduced broader changes to respond to child neglect in all Australian states and territories. State and territory child welfare authorities will be able to request the Australian Government to income manage parents’ welfare payments in circumstances where they consider it is necessary to ensure that parents meet their obligations to provide for their children’s basic needs. Parents and guardians receiving welfare payments will also be required to ensure children are enrolled at school and attend regularly. These measures represent very significant changes to social welfare delivery arrangements in Australia. They will be progressively introduced over the next three years, with the school enrolment and attendance measure commencing in the Northern Territory as soon as possible. Again, the decision to prioritise the Northern Territory in the implementation of this measure reflects the crisis in Indigenous communities in the Territory.

Consultation

The Government’s response to the crisis in the Northern Territory has been informed by the views and concerns put to the Minister for Families, Community Services and Indigenous Affairs and officials in formal and informal consultations and meetings with members of the affected communities.

Since the announcement of the emergency response, all prescribed communities have been visited by teams from the Operations Centre, which comprises an on-the-ground dedicated team to advise and coordinate the emergency response. This team reports to a Taskforce appointed by the Government with an advisory role. A series of regional community engagement workshops is underway. As at 9 November, representatives from 61 communities had attended. These workshops are informing community members about the emergency response, providing an opportunity for discussion, building relationships and seeking their involvement in the implementation of the response. The Australian Government’s welfare payment delivery agency, Centrelink, is also meeting individually with those affected by the welfare reform measures. These meetings give individuals the opportunity to discuss and have input into their income management arrangements.

Further, Government Business Managers (GBMs) have been appointed for each community to provide an on-the-ground Australian Government presence. While assisting in the implementation of the emergency response and ensuring government services are effectively coordinated and delivered, GBMs play a key role in working cooperatively, and liaising, with the local community (including community organisations), and provide a direct point of contact for community members to discuss any issues and concerns they may have, with the Australian Government.

Alcohol and pornography reforms

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The consequences of widespread alcohol abuse for Indigenous Territorians are damaging for all, but this is especially true for women and children. The Report found a strong association between substance abuse, particularly alcohol (known as ‘grog’), and the sexual abuse of children. It referred to ‘rivers of grog’ fuelling community dysfunction.

The Australian Government’s view is that the scale of the problem required urgent and significant action. In response, the Government has imposed alcohol restrictions including a general ban on *all* people in prescribed areas possessing, selling, transporting and drinking alcohol. The alcohol measures are being supported by extra policing during the emergency period, and will help to track, investigate and prosecute any person bringing alcohol into vulnerable communities.

The measures recognise that small, remote communities are particularly vulnerable to the effects of excessive alcohol consumption and therefore need a special response. These measures complement measures currently being introduced by the Northern Territory Government to deal with alcohol problems in the larger towns, such as making public areas ‘dry’. The intention is that the measures will remain in force for six months, subject to review. This reform will help stabilise these communities and provide a chance for recovery.

Coupled with the new legislation, the Australian Government Department of Health and Ageing is implementing a package of measures which will provide alcohol withdrawal interventions, family support, referrals for withdrawal, rehabilitation and treatment and linkages with primary health care services.

Further, the Australian Government Department of Families, Community Services and Indigenous Affairs has been allocated an additional AUD\$9.2 million in 2007–08 for a new Alcohol Diversionary Activities initiative including rehabilitation services focused on providing activities to divert young people, living in remote Northern Territory Indigenous communities, away from alcohol and drugs. These services will provide intensive support in communities and will assist with the engagement of young people back into schools and employment (where appropriate).

The Report also found that young children were being exposed to sexually explicit material in Indigenous communities and that this was having an adverse effect on the wellbeing and safety of these children. To protect Indigenous children from the damaging effects of exposure to inappropriate material, the Government has banned both the possession of pornography within prescribed areas and the supply of pornography into those areas. The Government has also introduced audits of publicly funded computers to identify illegal material. In addition the Australian Government is working with the Northern Territory Government on training needs for pornography education in Indigenous communities.

Compulsory acquisition of leases and reform of the permit system

Leases

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As part of the response, the Australian Government will compulsorily acquire leases over towns and communities specified by legislation for a period of five years. The area of land involved is less than 0.1 per cent of all Indigenous land in the Northern Territory. The Government considers that acquiring leases over these townships is crucial to removing barriers to implementing the NTER in a timely fashion. The acquisition of leases will allow the Government to stabilise communities and ensure that children live in a cleaner environment with more sustainable housing.

Indigenous people, particularly Indigenous women and children, cannot enjoy their social and economic rights equally with non-Indigenous people, including rights to their land, if living conditions in communities are dangerous. Further, the Government cannot repair buildings and infrastructure in a crisis situation without access to the land and assets in question. The leases will only do what is necessary to address the current crisis. The underlying rights, title and interest of the Indigenous owners over the leased land will be preserved and appropriate compensation will be provided for the lease should compensation be payable.

Permits

The Australian Government believes that the existing permit system has created closed communities which has hidden problems from public view and allowed some people to create a climate of fear and intimidation. The current system has not stopped crime, child abuse, drug running or violence.

The Government has been considering changing the permit system since it announced a review in September 2006 and a discussion paper was released in October 2006. Following the release of the discussion paper, over 40 communities were visited during consultations. The Government decided to retain the permit system for 99.8 per cent of Indigenous land in the NT. Public access will be allowed for common areas in major communities and for access to those communities. Homes will remain private, sacred sites will continue to be respected, and the NT Government will be able to legislate for the temporary closure of common areas and access roads for cultural events including ceremonies and public health and safety.

Welfare reforms

The Australian Government has introduced welfare reforms in the NTER to stem the flow of cash being used to buy substances such as alcohol, drugs and pornography, and to ensure that money meant for children's welfare is used for that purpose. In most cases up to 50 per cent of welfare payments will be subject to income management. The level of individual entitlements will not be reduced, but rather redirected to ensure that the priority needs of the person, their partner, children and other dependants are met. These new arrangements apply to all people who receive welfare payments and live in prescribed communities in the Northern Territory.

Customary law issues in bail and sentencing measures

In 2006, COAG agreed that no customary law or cultural practice excuses, justifies, authorises, requires or lessens the seriousness of violence or sexual abuse and that their laws would reflect this.

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The Australian Government's legislative amendments reflect this decision by providing that in the assessment of bail and sentencing decisions under Northern Territory law, the seriousness of criminal behaviour cannot be excused, lessened or aggravated because of customary law or cultural practice. This is in line with the Australian Government's previous legislative amendments applicable to bail and sentencing for Commonwealth offences.

The Australian Government's amendments ensure that customary law or cultural practice cannot be used as an excuse for any type of criminal behaviour, including unlawful violence or sexual abuse against women and children.

A court or bail authority will still be able to consider customary law in limited circumstances, but the Government's legislation makes it clear that the decision to grant bail or impose a particular sentence should not be based on whether the criminal behaviour would be assessed as less, or more serious, due to customary law or cultural practice.

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ANNEX C: STATISTICAL ANNEX

Visas granted during the reporting period

Table 1: Protection and Humanitarian visas granted—citizenship of recipients

Temporary Protection visa (TPV) and temporary Humanitarian visa (THV) grantees by citizenship. Grants from inception* to 30 June 2008. Data current as at 4 July 2008.

Citizenship	TPV/THV grantees
Iraq	5 160
Afghanistan	4 120
Iran	684
Sri Lanka	231
China, People's Republic of	220
Palestinian Authority	98
Stateless	82
Indonesia	61
Vietnam	59
Pakistan (Islamic Republic)	50
Turkey	43
Somalia	34
Syria	28
Albania	26
Burma (Myanmar)	20
Egypt, Arab Republic of	15
Bangladesh	15
Korea, Dem People's Rep of	14
Nigeria (Africa)	14
Kuwait	13
Russian Federation	13
Algeria	12
Other** (59)	183
Total	11 195

*TPV first granted in November 1999. THV first granted in March 2002

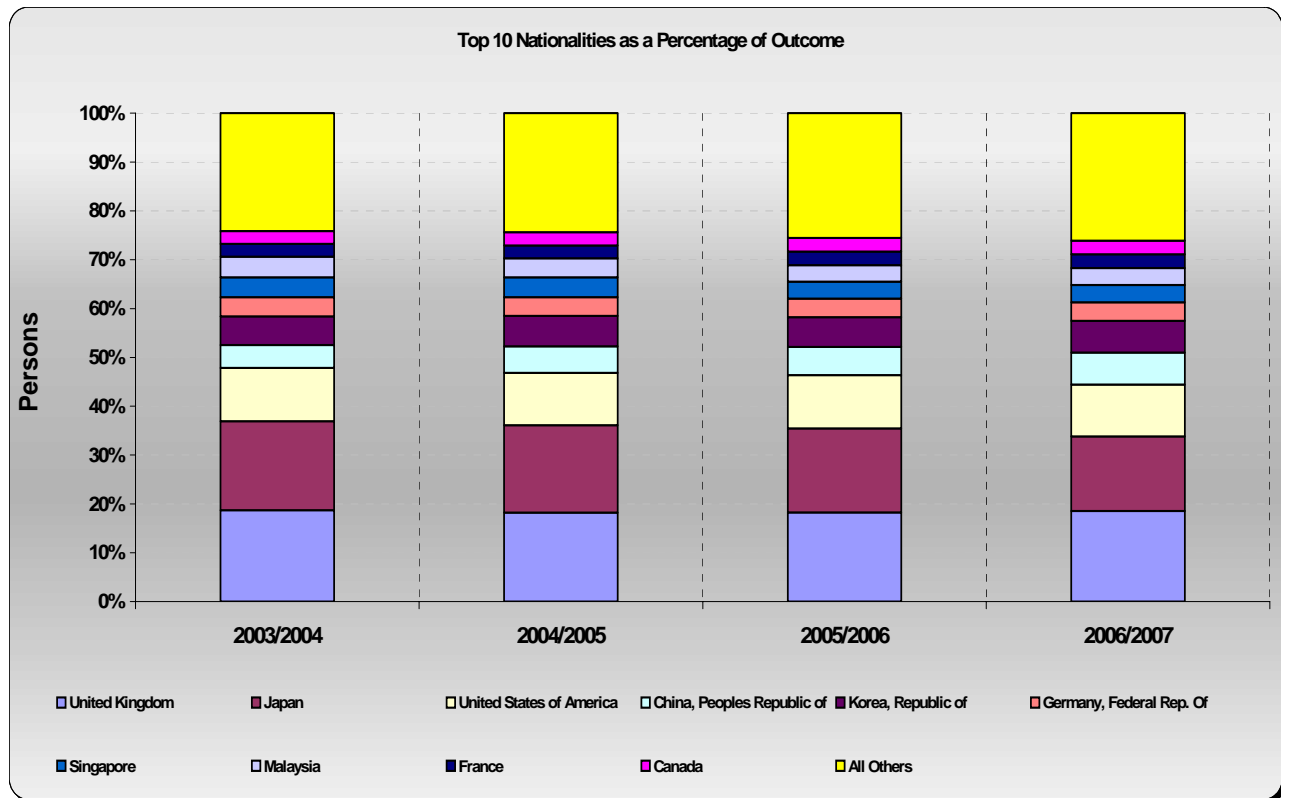
** Includes citizenships where grants are less than 10

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Figure 1: Visitor visa grants (persons)—2003–04 to 2006–07

Visitor Visa Grants (Persons) - 2003/2004 to 2006/2007

Top 40 Nationalities* - All Grants



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Table 2: Visitor visa grants (persons)—2003–04 to 2006–07

Rank*	Citizenship	2003/04	Rank in 2003/04	2004/05	Rank in 2004/05	2005/06	Rank in 2005/06	2006/07
1	United Kingdom	651,783	1	658,944	1	654,362	1	677,850
2	Japan	636,719	2	644,595	2	617,959	2	557,493
3	United States of America	380,261	3	387,773	3	390,735	3	387,028
4	China, Peoples Republic of	163,338	5	196,296	5	207,212	5	239,890
5	Korea, Republic of	206,598	4	225,052	4	217,972	4	237,313
6	Germany, Federal Rep. Of	134,818	8	137,613	8	137,621	6	139,277
7	Singapore	142,907	7	148,916	6	123,404	7	128,842
8	Malaysia	148,535	6	139,750	7	122,320	8	127,111
9	France	91,671	9	94,461	10	98,449	10	102,007
10	Canada	90,727	10	98,097	9	99,030	9	101,916
11	India	52,385	15	57,044	13	71,406	13	76,360
12	Taiwan	89,185	11	89,244	11	85,925	11	75,349
13	HKSAR of the PRC	62,385	12	74,258	12	76,700	12	67,054
14	Indonesia	59,900	13	51,421	16	53,598	14	58,436
15	Netherlands	51,682	16	52,886	15	53,330	15	55,327
16	Irish Republic	49,246	17	49,730	18	51,443	16	55,036
17	Italy	46,793	18	50,774	17	51,024	17	53,519
18	Thailand	53,179	14	52,950	14	47,941	18	44,982
19	South Africa, Republic of	33,729	20	31,274	20	35,169	19	38,552
20	Switzerland	35,693	19	34,885	19	33,996	20	36,921
21	Philippines	25,637	22	26,856	22	29,004	22	31,321
22	Sweden	28,418	21	29,694	21	31,051	21	30,629
23	Denmark	18,962	24	21,322	23	21,568	23	22,506
24	Austria	19,152	23	18,964	24	19,259	24	19,632
25	Spain	14,128	25	14,784	25	15,347	25	17,523
26	Vietnam	7,938	31	8,630	31	11,442	29	16,740
27	Fiji	13,513	27	13,950	27	15,128	26	16,078
28	Norway	13,808	26	13,952	26	12,972	27	13,486
29	Belgium	10,120	29	10,438	29	10,836	30	11,938
30	Israel	10,210	28	11,748	28	11,766	28	11,842
31	Brazil	6,691	33	7,450	33	9,410	32	11,244
32	Sri Lanka	8,219	30	9,092	30	9,465	31	10,472
33	Russian Federation	4,604	38	6,095	37	7,187	35	9,709
34	Finland	7,624	32	8,526	32	8,847	33	9,629
35	Papua New Guinea	6,275	34	6,236	35	7,480	34	9,155
36	Poland	5,717	36	6,228	36	6,619	38	6,982
37	United Arab Emirates	3,890	**	5,112	39	6,802	37	6,979
38	Greece	6,106	35	6,673	34	6,858	36	6,925
39	Lebanon	4,588	39	4,569	40	4,539	**	6,008
40	Portugal	5,113	37	5,786	38	6,090	39	5,721
	All Others	86,991		100,014		104,803		116,983
Total		3,489,238		3,612,082		3,586,069		3,651,765

Notes:

**Indicates ranking in that program year was outside top 40 nationalities.

*Ranking in latest program year.

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Table 3: Offshore visitor visa grants for program year 2007–08

Rank	Citizenship	Granted
1	United Kingdom	631 900
2	Japan	464 878
3	United States of America	400 906
4	China, Peoples Republic of	261 016
5	Korea, Republic of	197 450
6	Germany, Federal Rep. Of	144 852
7	Malaysia	134 819
8	Singapore	129 364
9	Canada	114 457
10	France	112 143
11	India	88 994
12	Taiwan	67 933
13	HKSAR of the PRC	63 581
14	Indonesia	61 080
15	Italy	60 331
16	Irish Republic	56 605
17	Netherlands	55 708
18	Thailand	49 400
19	South Africa, Republic of	43 562
20	Switzerland	34 083
21	Philippines	33 862
22	Sweden	30 775
23	Vietnam	26 613
24	Spain	24 448
25	Denmark	22 859
26	Austria	17 291
27	Fiji	15 591
28	Norway	14 415
29	Brazil	13 132
30	Belgium	12 165
31	Russian Federation	11 140
32	Israel	11 014
33	Sri Lanka	10 896
34	Poland	10 837
35	Papua New Guinea	10 546
36	Finland	9 524
37	Portugal	7 162
38	United Arab Emirates	7 141
39	Mexico	6 907
40	Greece	6 297
	Others	134 251
	Total	3 609 928

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Table 4: Migration program outcome 1996–97 to 2007–08

Citizenship	Program year											
	1996–1997	1997–98	1998–99	1999–00	2000–01	2001–02	2002–03	200304	2004–05	2005–06	2006–07	2007–08
Afghanistan	100	90	114	126	98	104	141	221	942	949	649	808
Africa (so stated)	1	10	37	5	2		2	1		3	1	4
Albania	74	81	40	51	78	59	398	126	134	128	101	94
Algeria	33	34	25	17	17	34	30	23	20	22	25	24
American Samoa	1					4	1	0	3	5		1
Andorra	1										1	
Angola	1		2	3		11					7	2
Antigua and Barbuda				1		6					1	
Argentina	133	77	83	84	120	132	255	464	313	245	175	159
Armenia	38	27	33	21	29	26	38	21	7	22	28	34
Aust. Ext. Terr. (so stated)	1											
Austria	111	104	123	125	134	144	164	138	137	141	160	138
Azerbaijan	1	12	4	13	10	7	9	30	18	15	11	14
Bahamas			1			1			1	3	1	2
Bahrain	4	3	7	1		7	0	3	6	6	9	6
Bangladesh	546	330	396	306	327	689	775	1 127	1 304	1 735	2 318	2 852
Barbados		4	2	2	1		2	5	3	3	3	2
Belarus	39	25	33	28	33	36	49	36	64	72	60	41
Belgium	110	83	87	101	128	126	145	111	111	136	143	158
Belize	5	9	3	3	7	2	4		2		5	2
Benin	1	1				2				1	2	
Bermuda	1	2	2	1	7	3			1		1	1
Bhutan	1	6	5					1		3	4	2
Bolivia	14	10	26	13	27	9	24	16	13	14	25	18
Bosnia-Herzegovina	78	92	106	119	120	169	148	200	159	164	128	203
Botswana	6	3		2		10	27	11	22	28	31	46

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Brazil	167	125	161	174	270	330	343	388	438	527	714	770
British Indian Ocean Terr										2		-1
British West Indies (stated)	1									1		
Brunei Darussallam	6	11	11	14	34	28	42	62	36	53	44	38
Bulgaria	102	123	117	137	107	115	100	116	103	95	88	99
Burkina Faso	2			2		2	2				1	
Burma (Myanmar)	140	76	99	83	122	195	215	184	259	273	235	283
Burundi			1				1				8	5
Cambodia, the Kingdom of	469	465	388	279	340	519	613	556	620	564	725	629
Cameroon	2	5		3	7	4	9	6	4	13	18	16
Canada	1 416	1 326	974	1 059	1 274	1 338	1 292	1 425	1 450	1 665	1 568	1 745
Cape Verde	2	1			1				1			
Cayman Islands				1								
Central African Republic									1			
Central America (so stated)	1	1										
Chad	1									1		
Chile	215	173	238	149	168	189	232	193	192	185	176	189
China, Peoples Republic of	7 451	4 909	6 533	8 056	8 473	9 276	9 825	13 651	13 880	17 708	20 729	21 063
Colombia	98	86	108	133	198	225	358	386	375	366	372	461
Comoros	1				3	1				1	3	
Congo			2	1	2	5	3	3	3	10	9	9
Cook Islands						1					1	
Costa Rica	2	6	1	1	9	9	5	6	6	9	8	11
Cote d'Ivoire	1	2	4	2	1	1	3	6	4	3	4	2
Croatia	210	177	178	131	168	154	152	115	73	129	124	87
Cuba	7	11	18	11	13	14	24	24	17	27	26	40
Cyprus	40	40	41	31	25	19	21	24	7	16	15	7
Czech Republic	71	72	89	87	135	163	132	151	166	215	187	198
Czechoslovakia	17	20	12	11	5		5	2	2	2	5	1
Dem Republic Of Timor-Leste				2	17	37	122	63	14	28	31	38
Democratic Republic of	8	3	1		2					7	9	12

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Congo												
Denmark	216	143	101	129	178	199	157	160	165	165	168	192
Djibouti		2		1	1	1	2	1	4	1	3	2
Dominica	1						1	4	1	1		3
Dominican Republic	3	4	3		4	6	7	1	5	7	4	10
East Africa (so stated)				1								
Ecuador	25	19	18	27	42	40	38	37	45	62	28	44
Egypt, Arab Republic of	416	284	349	276	259	250	399	504	500	598	657	680
El Salvador	36	27	23	23	28	34	20	23	18	27	30	51
Eritrea	41	32	61	47	32	50	45	71	74	50	70	79
Estonia	16	8	5	15	12	17	23	17	9	16	26	28
Ethiopia	175	223	174	233	121	163	172	224	166	204	338	300
Europe (so stated)		2							1			
Faeroe Islands						1						
Falkland Islands							1					
Fed. States of Micronesia	3	1	1			1	5		2	1		3
Fiji	2 018	1 649	1 800	1 550	1 983	1 686	1 897	1 740	1 577	2 012	1 517	1 772
Finland	59	49	60	59	89	70	70	74	100	104	117	120
Fmr Yugo Rep of Macedonia	446	494	460	310	370	424	420	349	291	318	352	384
France	549	487	440	414	524	656	693	630	645	747	766	858
French Guiana							1			2		
French Polynesia	1		6	2	4		1	2		7	4	1
Gabon	1								1		1	5
Gambia	4	2	5	1	-1		2		1	4	6	2
Gaza Strip	1	2		2	2				2	2		
Georgia	20	13	9	21	7	10	7	10	9	10	19	10
Germany, Federal Rep. Of	1 036	901	916	960	1 014	1 242	1 249	1 231	1 417	1 528	1 670	1 736
Ghana	140	137	106	97	81	87	150	155	143	196	179	180
Gibraltar					2			1				
Greece	275	235	180	121	172	169	127	131	125	127	133	135
Grenada		1		2	1		1	2	2	-1		3
Guatemala	9	4	5	9	9	7	4	4	3	5	8	13

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Guinea		2	3		0	3	1	3	3	2	8	14
Guinea-Bissau		2	1			1	1			1		
Guyana	7	1		5	5	6	6	3	6	9	2	1
Haiti		3		2						1		
HKSAR of the PRC	3 591	3 491	1 921	1 472	1 516	1 359	1 894	2 248	2 476	2 526	2 188	1 919
Honduras	8	5	6	1	2	1	7	1	8	5	1	8
Hungary	144	101	92	99	106	115	131	145	152	161	208	223
Iceland	5	4	4	8	6	3	9	5	4	9	8	11
India	3 196	3 095	3 231	5 041	5 812	7 573	9 749	11 225	11 823	16 661	19 505	23 317
Indo-China (so stated)			1									
Indonesia	1 916	2 420	3 180	3 667	4 921	5 600	4 373	3 693	2 906	2 728	2 806	3 109
Iran	410	324	247	350	339	353	457	323	459	545	657	853
Iraq	388	338	328	399	413	424	489	306	364	554	472	615
Irish Republic	1 194	1 122	1 042	983	1 032	1 118	1 294	1 475	1 585	1 773	1 852	1 989
Israel	243	271	221	210	225	381	452	631	573	488	515	513
Italy	425	408	399	318	431	533	403	468	469	496	497	585
Jamaica	10	17	6	13	13	12	6	9	24	22	17	17
Japan	1 068	1 110	997	964	1 210	1 347	1 416	1 559	1 774	1 998	2 059	1 904
Jordan	322	187	194	174	285	172	253	320	345	312	189	257
Kazakhstan	53	41	39	60	35	39	43	61	48	52	56	78
Kenya	76	197	186	174	234	379	394	466	423	460	460	447
Kiribati	6	6	4	4	8	15	7	4	5	3	23	7
Korea, Dem Peoples Rep Of	1		2	2	4	8	27	9	2	6	7	11
Korea, Republic of	991	961	955	875	1 499	2 075	2 223	2 906	3 528	4 178	4 050	5 317
Kuwait	4	4	5	6	7	6	7	16	4	6	4	6
Kyrgyzstan	4	17	9	15	18	17	33	38	34	29	20	30
Lao Peoples Democratic Rep	45	66	62	60	59	57	46	48	74	59	106	98
Latvia	30	21	24	22	29	41	39	42	48	31	31	41
Lebanon	1 142	1 230	1 082	1 432	1 462	1 035	1 675	1 243	1 338	1 289	1 321	1 589
Lesotho	1					4			4	2	1	2
Liberia	5	1			1		2	8	5	5	10	28
Libya	2	2	2	6	3	2	5	3		8	10	6

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Liechtenstein				1	2	1	2	2			1	2
Lithuania	22	17	21	29	41	46	36	29	32	31	29	36
Luxembourg	2		1	1		1	2	0		4	1	6
Macau Spec Admin Rgn	7	5	5	39	31	53	49	45	29	61	48	43
Madagascar		1	2	2	3	4	3		2	2	3	3
Malawi	3	4	3	1	4	4	12	15	7	13	29	11
Malaysia	1 297	1 188	1 684	2 017	2 705	2 631	4 825	4 194	4 488	4 886	4 654	5 001
Maldives	3	3	5	3	10	11	4	12	27	21	24	36
Mali						1	2	1	1	1		1
Malta	40	47	42	29	40	26	81	52	78	62	129	110
Marshall Islands		3	4	3		3	2	2		2		
Mauritania			1			2		1			3	1
Mauritius	116	136	102	120	158	234	268	361	402	511	571	676
Mayotte							1					
Mexico	41	53	35	44	59	59	75	85	118	196	202	297
Middle East (so stated)		1										
Moldova	25	16	23	22	19	27	35	38	32	44	25	38
Monaco		1				1				1		1
Mongolia	1		1	3	5	9	16	11	8	16	30	35
Montenegro											2	18
Morocco	37	34	30	45	25	35	34	32	38	37	52	46
Mozambique	2	9	2		9	6	4	7	10	4	9	7
Namibia	9	8	16	20	17	30	47	29	30	25	18	23
Nauru	6	2	6	1	10	13	2	14	20	9	14	13
Nepal	60	82	66	143	204	386	438	506	532	625	713	900
Netherlands	498	467	490	545	570	631	745	722	772	832	921	965
Netherlands Antilles	2			1	3		2		1	1	1	1
New Caledonia	3	4	6	8	2	8	1	5	4	1		5
Nicaragua	8	3	3	1	1	5	1	0	1	8	10	3
Niger		3	1	16	4	2	-1	5	3	11	3	2
Nigeria	57	100	64	68	94	131	114	188	181	181	233	280
North Africa (so stated)			1									

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Northern Mariana Islands											1	
Norway	52	47	55	61	47	97	154	153	151	184	172	127
Oman	3	2	7	1		2	1	0	9	10	8	11
Pakistan	654	609	692	877	1 032	1 070	1 087	1 464	1 555	1 581	1 686	1 733
Palau			1	2	2					1		
Palestinian Authority			17	11	35	51	39	52	68	67	45	61
Panama	1	4	6	5	1	4	4	4	7	4	4	5
Papua New Guinea	136	132	144	112	192	182	283	208	189	255	262	329
Paraguay	3	2	2	5	17	7	2	5	9	14	4	10
Peru	154	92	139	136	146	165	214	193	247	348	332	321
Philippines	3 389	3 454	3 883	3 899	3 495	3 644	3 773	4 622	4 571	5 643	6 280	6 956
Poland	517	384	324	277	288	296	343	409	451	526	509	529
Portugal	233	194	146	103	110	123	146	142	172	170	164	176
Puerto Rico											1	
Qatar		5			1	3	2	1		1	4	2
Refugee	1	7			2	4	13	5	13	5	6	5
Reunion			3				1	1				
Romania	405	344	378	306	299	299	341	272	254	280	347	297
Russian Federation	632	379	539	508	656	738	648	782	903	854	677	1 016
Rwanda	4			1	2	1	3		2	4	3	3
Samoa	104	59	82	53	56	62	56	62	57	63	36	64
San Marino						1						
Saudi Arabia	3	10	2	5	3	4	3	7	6	14	4	13
Senegal	11	11	6	8	1	10	5	7	7	9	6	5
Serbia											63	199
Serbia and Montenegro								80	189	217	244	40
Seychelles	14	17	9	18	11	50	34	40	22	39	37	45
Sierra Leone	14	3	8	3	4	1	1	17	8	19	24	31
Singapore	1 018	821	843	1 011	1 786	2 064	2 656	3 382	3 558	3 538	2 267	2 245
Slovakia	106	73	58	78	103	105	147	138	177	133	184	139
Slovenia	33	28	21	17	28	39	24	28	28	45	58	66
Solomon Islands	33	41	33	53	51	59	59	32	69	32	43	39

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Somalia	212	207	73	82	55	76	87	74	85	108	159	90
South Africa, Republic of	3 876	5 751	6 319	5 306	7 029	7 110	7 202	6 388	4 746	4 787	5 282	7 472
South America (so stated)										2	3	1
Southeast Asia (so stated)	1											
Spain	99	92	61	67	105	121	136	129	129	125	177	159
Sri Lanka	1 369	1 143	945	1 166	1 651	2 442	2 093	2 072	2 780	3 299	3 476	4 363
St Kitts-Nevis							2				1	1
St Lucia	1	1	1					1	4	1	1	1
St Vincent & the Grenadines	2				1	1	1					
Stateless	1 140	229	205	80	123	81	94	66	89	97	64	71
Sudan	35	24	33	24	27	38	55	58	56	106	196	231
Suriname	2					2	4	2				3
Swaziland	2	2	4	1	2		1	2	5	1	5	6
Sweden	214	181	176	192	232	289	350	370	375	331	337	414
Switzerland	356	275	251	246	271	305	279	313	276	287	259	292
Syria	197	198	177	228	229	159	222	186	206	221	215	205
Tadjikistan	6	5		2	2	7	2		4	1	1	1
Taiwan	2 014	1 609	1 416	1 337	1 719	1 584	1 375	1 115	966	1 060	1 008	975
Tanzania	6	13	14	14	28	34	31	44	23	41	44	36
Thailand	686	576	763	814	1 014	1 935	1 708	1 669	1 737	2 031	2 435	2 574
Togo					1	1		1	0	2		
Tonga	463	245	283	173	219	255	200	201	174	201	170	243
Trinidad and Tobago	6	33	6	8	20	12	13	21	13	9	21	15
Tunisia	7	18	9	2	10	2	13	1	5	9	9	8
Turkey	868	759	548	517	467	620	735	809	602	553	360	509
Turkmenistan				4			2	1	5	4	8	0
Tuvalu	3		1	10	6	3	4	2	5		1	
U.S.S.R.	148	72	79	87	23	36	30	40	12	5	6	1
Uganda	11	4	7	12	11	16	22	26	37	19	31	49
Ukraine	492	302	365	249	267	325	298	367	338	346	357	308
UN Convention Refugee	11	13	9	6	3	5	8	4	7	2	1	19
United Arab Emirates		3	7	4	1	10	6	32	6	20	22	20

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United Kingdom	13 265	12 651	11 999	10 120	11 735	15 006	22 188	22 092	25 942	32 152	31 401	29 428
United Nations Organisation						1						1
United States of America	2 456	2 022	1 716	1 858	2 300	2 678	2 547	2 941	2 871	2 937	2 816	2 963
Unknown	408	47	34	2 118	478	290	104	-46	410	1 890	772	361
Uruguay	39	28	25	20	46	33	45	62	58	60	34	38
Uzbekistan	47	21	20	34	18	48	33	42	61	46	62	78
Vanuatu	16	8	11	19	22	19	19	24	20	24	27	26
Vatican City									1			
Venezuela	125	60	25	35	51	72	80	92	168	203	184	296
Vietnam	2 000	1 976	2 461	1 865	1 929	2 376	2 930	2 487	2 374	2 816	3 476	2 921
West Bank	7	12	3		0	1		1	1		1	
Yemen	19	11	6	5	11	12	2	3	10	5	9	11
Yugoslavia, Fed Republic of	580	443	478	427	398	587	444	266	151	109	98	89
Zambia	28	11	6	5	13	55	33	53	54	64	79	105
Zimbabwe	103	89	203	337	575	968	1 190	1 365	1 019	1 111	1 228	1 298
Sao Tome & Principe												2
Total	73 587	66 840	67 821	70 237	80 597	93 054	108 072	114 362	120 064	142 933	148 200	158 630

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Table 5: Student (Offshore) visa grants—2002–03 to 2007–08

Passport held	Program year					
	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08
Afghanistan	2	3	4	14	18	44
Albania	7	2	11	9	10	18
Algeria	3	2	3	6	8	7
American Samoa			0			1
Andorra	1					1
Angola	1	2	1	2	3	1
Antigua And Barbuda					1	
Argentina	81	97	67	78	109	89
Armenia	1	1	4	2	3	4
Australia				0		
Austria	253	296	307	295	309	301
Azerbaijan	1	1	1	2	4	2
Bahamas	1	2	3	4	2	2
Bahrain	73	60	101	126	60	79
Bangladesh	1 883	2 292	2 009	1 566	2 609	1 713
Barbados	2	2	5	2	4	3
Belarus	7	3	10	10	3	7
Belgium	179	176	178	167	130	126
Belize	1	2	1			3
Benin			1	2	1	
Bermuda		0	0		1	
Bhutan	69	78	93	91	142	168
Bolivia	19	8	19	7	13	7
Bosnia-Herzegovina	5	4	5	6	9	5
Botswana	253	272	163	96	101	127
Brazil	1 774	2 134	3 118	4 439	5 223	6 857
Brit Dependent Terr Citz	2					
British Indian Ocean Territory				0		
Brunei Darussallam	251	216	187	237	227	243
Bulgaria	12	17	20	16	25	12
Burkina Faso				1	2	1
Burma (Myanmar)	58	95	135	110	202	248
Burundi			2	1	1	3
Cambodia, The Kingdom Of	112	99	122	171	216	212
Cameroon	5	3	3	5	7	9
Canada	1 736	2 043	2 211	2 453	2 359	2 656
Cape Verde	1	0	0	1	1	
Chad			0			0
Chile	116	165	179	348	513	559
China, Peoples Republic Of	14 215	17 279	17 506	15 877	24 915	31 511
Colombia	676	454	560	1 184	2 295	2 966
Congo	4	2	2	1	1	6
Congo, Democratic Republic Of			4		0	1
Cook Islands						0
Costa Rica	13	13	16	8	15	9
Cote D'ivoire		1	2	0	1	1

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Croatia	12	12	21	15	25	32
Cuba	1	0	2		2	6
Cyprus	11	9	6	9	14	9
Czech Republic	1022	831	897	841	948	830
Czechoslovakia	2	84	1	1		
Democratic Republic Of Timor-Leste						96
Denmark	324	383	436	429	413	470
Djibouti					0	
Dominica	1	0	0	2	1	1
Dominican Republic	1	4	2	2	3	8
Ecuador	30	33	31	42	55	62
Egypt, Arab Republic Of	58	70	147	316	613	698
El Salvador	4	9	2	10	8	15
Equatorial Guinea					1	0
Eritrea	8	1	2	3	1	2
Estonia	14	15	8	10	19	19
Ethiopia	9	8	16	24	16	21
Fed. States of Micronesia						12
Fiji	197	182	194	238	215	147
Finland	244	190	218	225	225	257
Fmr Yugo Rep of Macedonia	8	11	9	29	54	62
France	1 303	1 291	1 205	1 374	1 468	1 538
Gabon					0	
Gambia		5		2	1	
Georgia		1	1		5	3
Germany, Federal Republic of	2 588	3 145	3 266	3 727	4 144	4 174
Ghana	25	32	43	35	42	42
Greece	20	29	16	23	24	41
Grenada		2		0	1	
Guatemala	4	2	6	3	8	7
Guinea		2	1	2	1	1
Guinea-Bissau				1		0
Guyana		0	1	1		
Haiti		2				1
HKSAR of the PRC	6 576	5 413	4 838	4 561	4 609	4 011
Honduras	3	1	3	4	4	3
Hungary	312	276	289	282	402	512
Iceland	12	24	35	25	21	40
India	5 901	9 611	10 000	15 396	28 949	39 015
Indonesia	6 061	5 194	4 751	5 059	5 403	5 933
Iran	283	364	277	445	631	680
Iraq	4	9	64	70	72	157
Ireland	88	104	115	127	133	
Irish Republic						119
Israel	146	110	143	197	184	242
Italy	468	475	470	539	623	560
Jamaica	9	2	9	2	6	4
Japan	6 319	6 650	5 829	5 406	4 806	4 074
Jordan	129	138	128	217	280	274
Kazakhstan	8	4	4	17	9	43
Kenya	445	369	373	436	583	625
Kiribati	35	28	32	32	30	63

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Korea, Dem Peoples Rep Of	6	6	0	5	0	0
Korea, Republic Of	7 323	8 214	9 328	11 657	12 910	12 013
Kuwait	35	47	56	79	77	102
Kyrgyzstan	2	6	4	3	1	14
Lao Peoples Democratic Rep	110	104	84	113	122	156
Latvia	26	20	16	18	17	17
Lebanon	105	102	142	170	217	300
Lesotho	7	3	11	8	8	8
Liberia		0	1	1	0	0
Libya	15	37	33	18	90	210
Liechtenstein	3	4		4	5	6
Lithuania	15	10	6	31	20	46
Luxembourg	3	7	7	7	7	16
Macau Spec Admin Rgn	86	69	80	107	152	151
Madagascar		2	2	2	4	3
Malawi	68	31	34	44	37	37
Malaysia	8 032	7 081	6 609	6 446	7 175	8 004
Maldives	117	133	115	89	88	131
Mali	1		0	1	1	
Malta	5	12	6	3	6	5
Marshall Island	11	6	8	2		2
Mauritania			8	1	1	
Mauritius	455	405	550	744	1 098	2 764
Mexico	540	575	632	694	875	865
Micronesia, Federated States Of	7	7	13	11	11	
Moldova	1	2	4	4	6	7
Monaco	1			2	1	1
Mongolia	43	92	83	76	95	164
Morocco	5	9	5	5	11	3
Mozambique	45	64	40	47	30	43
Namibia	7	5	3	5	7	16
Nauru	22	17	2	0	3	
Nepal	231	280	361	835	4 471	7 879
Netherlands	315	361	411	431	412	447
New Zealand		2	1	0	0	16
Nicaragua	3			3	0	2
Niger	4	1	1	2	0	0
Nigeria	22	36	46	65	83	50
Norway	1 765	1 473	1 171	1 044	962	1 006
Not Recorded			362	37	299	
Oman	330	350	306	247	292	339
Pakistan	671	714	808	1 286	1 925	2 236
Palau	11	12	3	5	5	3
Palestinian Authority	5	6	18	8	19	11
Panama	4	10	9	8	6	12
Papua New Guinea	474	473	606	582	660	715
Paraguay	15	23	14	15	17	14
Peru	54	82	135	275	449	675
Philippines	567	772	693	1 062	1 191	1 567
Poland	799	800	606	698	785	752
Portugal	126	112	121	134	163	190
Puerto Rico						2

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Qatar	96	165	138	88	50	23
Refugee	1				1	
Reunion			0		0	
Romania	24	59	73	83	107	72
Russian Federation	200	135	159	238	276	343
Rwanda		2	8	1	11	7
Samoa	23	79	51	60	43	41
San Marino			2			1
Saudi Arabia	249	350	740	1 278	2 659	5 107
Senegal		0	1	2	1	
Serbia						34
Serbia And Montenegro		18	4	27	34	0
Seychelles	69	52	115	63	75	85
Sierra Leone	5	2	2	1	0	2
Singapore	4 179	3 739	3 368	3 209	2 871	3 230
Slovakia	714	649	498	410	495	451
Slovenia	5	11	15	16	27	27
Solomon Islands	49	92	86	77	94	73
Somalia	1	1	0	1	0	0
South Africa, Republic Of	272	235	218	250	336	431
Spain	290	315	412	464	418	569
Sri Lanka	940	1 026	1 328	2 108	2 756	3 092
St Kitts-Nevis						1
St Lucia	1		1		0	1
St Vincent & The Grenadines	1	0			1	
Stateless	63	42	55	61	49	49
Sudan	1	9	10	7	8	5
Suriname					1	
Swaziland	4	6	10	5	10	3
Sweden	1 459	1 246	1 273	1 100	989	962
Switzerland	875	848	817	878	870	915
Syria	7	10	22	15	22	19
Tadjikistan	2		1	1	2	4
Taiwan	2875	2246	2 527	2 899	2 738	2 441
Tanzania	49	57	48	63	67	59
Thailand	5 537	4 946	4 818	5 391	5 986	6 709
Timor, East (So Stated)		54	39	33	70	
Togo		1	0	3		1
Tonga	64	40	69	111	95	82
Trinidad And Tobago	5	9	7	9	10	12
Tunisia	2	4	0	3	2	1
Turkey	254	220	314	410	586	676
Turkmenistan		1	1	1	0	0
Tuvalu	30	31	29	21	27	15
U.S.S.R.	1					
Uganda	37	37	32	33	41	44
Ukraine	17	17	19	33	24	53
Un Convention Refugee		1		0		3
United Arab Emirates	242	237	377	496	447	516
United Kingdom	1 640	1810	1 977	2 022	2 156	2 249
United States Of America	10 477	10 723	10 367	9 635	9 289	9 167
Unknown	4	2	1	4	3	54

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United Nations travel document					3	
Uruguay	16	18	5	13	12	12
Uzbekistan	22	17	29	21	26	29
Vanuatu	42	59	34	39	26	58
Venezuela	85	60	45	60	95	196
Vietnam	981	1 378	1 417	2 046	2 978	5 648
Yemen	7	3	3	11	11	19
Yugoslavia, Federal Republic Of	20		9	7	4	
Zambia	316	273	215	201	232	249
Zimbabwe	363	387	428	517	586	666
Grand total	109 610	115 248	116 715	129 175	167 129	198 417

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Detainee population during the reporting period

Table 6: Detainee population from 5 July 2002 to 27 June 2008

By calendar year with detainee numbers in all detention locations

Calendar year	Date	Total in detention
2002	5-Jul-02	1368
2002	12-Jul-02	1290
2002	19-Jul-02	1263
2002	26-Jul-02	1 241
2002	2-Aug-02	1249
2002	9-Aug-02	1232
2002	16-Aug-02	1240
2002	23-Aug-02	1260
2002	30-Aug-02	1213
2002	6-Sep-02	1241
2002	13-Sep-02	1261
2002	20-Sep-02	1303
2002	27-Sep-02	1348
2002	4-Oct-02	1295
2003	4-Sep-03	1092
2003	11-Sep-03	1086
2003	18-Sep-03	1097
2003	25-Sep-03	1117
2003	2-Oct-03	1109
2003	9-Oct-03	1114
2003	16-Oct-03	1124
2003	23-Oct-03	1158
2003	30-Oct-03	1151
2003	6-Nov-03	1133
2003	13-Nov-03	1138
2003	20-Nov-03	1131
2003	27-Nov-03	1161
2003	3-Dec-03	1169
2003	11-Dec-03	1097
2003	18-Dec-03	1119
2003	23-Dec-03	1047
2004	1-Jan-04	974
2004	8-Jan-04	988
2004	15-Jan-04	1008
2004	21-Jan-04	931
2004	28-Jan-04	922
2004	4-Feb-04	977
2004	11-Feb-04	990
2004	18-Feb-04	955
2004	25-Feb-04	929
2004	3-Mar-04	957
2004	10-Mar-04	1009

Calendar year	Date	Total in detention
2003	30-May-03	1377
2003	6-Jun-03	1323
2003	13-Jun-03	1318
2003	20-Jun-03	1312
2003	27-Jun-03	1333
2003	3-Jul-03	1289
2003	10-Jul-03	1346
2003	17-Jul-03	1247
2003	24-Jul-03	1109
2003	31-Jul-03	1134
2003	7-Aug-03	1106
2003	14-Aug-03	1092
2003	21-Aug-03	1120
2003	28-Aug-03	1114
2004	28-Jul-04	966
2004	4-Aug-04	979
2004	11-Aug-04	1000
2004	18-Aug-04	991
2004	25-Aug-04	1031
2004	1-Sep-04	1030
2004	8-Sep-04	1029
2004	15-Sep-04	996
2004	22-Sep-04	1033
2004	29-Sep-04	1029
2004	6-Oct-04	1010
2004	13-Oct-04	1031
2004	20-Oct-04	1068
2004	27-Oct-04	1080
2004	3-Nov-04	1133
2004	10-Nov-04	1123
2004	17-Nov-04	1117
2004	24-Nov-04	1118
2004	1-Dec-04	1061
2004	8-Dec-04	1095
2004	15-Dec-04	1096
2004	22-Dec-04	1154
2004	29-Dec-04	1107
2005	5-Jan-05	1052
2005	12-Jan-05	1067
2005	19-Jan-05	1039
2005	26-Jan-05	1045
2005	2-Feb-05	942

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2004	17-Mar-04	1038
2004	24-Mar-04	1052
2004	31-Mar-04	1028
2004	6-Apr-04	1041
2004	14-Apr-04	1049
2004	21-Apr-04	1031
2004	28-Apr-04	995
2004	5-May-04	1030
2004	12-May-04	1067
2004	19-May-04	1074
2004	26-May-04	1029
2004	2-Jun-04	1032
2004	9-Jun-04	1065
2004	16-Jun-04	993
2004	23-Jun-04	1011
2004	30-Jun-04	1029
2004	7-Jul-04	971
2004	14-Jul-04	980
2004	21-Jul-04	962
2005	22-Jun-05	872
2005	29-Jun-05	844
2005	6-Jul-05	817
2005	13-Jul-05	764
2005	20-Jul-05	726
2005	27-Jul-05	729
2005	3-Aug-05	663
2005	10-Aug-05	653
2005	17-Aug-05	670
2005	24-Aug-05	671
2005	26-Aug-05	667
2005	2-Sep-05	714
2005	9-Sep-05	678
2005	16-Sep-05	701
2005	23-Sep-05	748
2005	30-Sep-05	806
2005	7-Oct-05	814
2005	14-Oct-05	872
2005	21-Oct-05	896
2005	28-Oct-05	898
2005	4-Nov-05	931
2005	11-Nov-05	961
2005	18-Nov-05	957
2005	25-Nov-05	874
2005	2-Dec-05	895
2005	9-Dec-05	805
2005	16-Dec-05	847
2005	23-Dec-05	824
2005	30-Dec-05	824
2006	6-Jan-06	908

2005	9-Feb-05	956
2005	16-Feb-05	973
2005	23-Feb-05	985
2005	2-Mar-05	993
2005	9-Mar-05	943
2005	16-Mar-05	988
2005	23-Mar-05	1035
2005	30-Mar-05	1007
2005	6-Apr-05	970
2005	13-Apr-05	940
2005	20-Apr-05	955
2005	27-Apr-05	999
2005	4-May-05	982
2005	11-May-05	925
2005	18-May-05	928
2005	25-May-05	954
2005	1-Jun-05	898
2005	8-Jun-05	884
2005	15-Jun-05	897
2006	26-May-06	880
2006	2-Jun-06	811
2006	9-Jun-06	881
2006	16-Jun-06	862
2006	23-Jun-06	881
2006	30-Jun-06	739
2006	7-Jul-06	714
2006	14-Jul-06	611
2006	21-Jul-06	667
2006	28-Jul-06	768
2006	4-Aug-06	821
2006	11-Aug-06	784
2006	18-Aug-06	762
2006	25-Aug-06	715
2006	1-Sep-06	662
2006	8-Sep-06	693
2006	15-Sep-06	668
2006	22-Sep-06	701
2006	29-Sep-06	641
2006	6-Oct-06	628
2006	13-Oct-06	657
2006	20-Oct-06	697
2006	27-Oct-06	709
2006	3-Nov-06	718
2006	10-Nov-06	651
2006	17-Nov-06	666
2006	24-Nov-06	652
2006	1-Dec-06	652
2006	8-Dec-06	638
2006	15-Dec-06	638

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2006	13-Jan-06	758
2006	20-Jan-06	768
2006	10-Feb-06	858
2006	17-Feb-06	780
2006	24-Feb-06	754
2006	3-Mar-06	855
2006	10-Mar-06	819
2006	17-Mar-06	840
2006	24-Mar-06	788
2006	31-Mar-06	829
2006	7-Apr-06	901
2006	14-Apr-06	878
2006	21-Apr-06	935
2006	28-Apr-06	803
2006	5-May-06	893
2006	12-May-06	896
2006	19-May-06	852
2007	27-Apr-07	466
2007	04-May-07	463
2007	11-May-07	466
2007	18-May-07	470
2007	25-May-07	517
2007	1-Jun-07	502
2007	8-Jun-07	473
2007	15-Jun-07	460
2007	22-Jun-07	452
2007	29-Jun-07	439
2007	6-Jul-07	428
2007	13-Jul-07	437
2007	20-Jul-07	435
2007	27-Jul-07	435
2007	3-Aug-07	445
2007	10-Aug-07	439
2007	17-Aug-07	483
2007	24-Aug-07	468
2007	31-Aug-07	474
2007	7-Sep-07	474
2007	14-Sep-07	477
2007	21-Sep-07	508
2007	28-Sep-07	490
2007	5-Oct-07	457
2007	12-Oct-07	440
2007	19-Oct-07	451
2007	26-Oct-07	412
2007	2-Nov-07	433
2007	9-Nov-07	493
2007	16-Nov-07	461
2007	23-Nov-07	449
2007	30-Nov-07	487

2006	29-Dec-06	604
2007	5-Jan-07	582
2007	12-Jan-07	577
2007	19-Jan-07	576
2007	26-Jan-07	561
2007	2-Feb-07	556
2007	9-Feb-07	577
2007	16-Feb-07	502
2007	23-Feb-07	494
2007	2-Mar-07	585
2007	9-Mar-07	621
2007	16-Mar-07	617
2007	23-Mar-07	509
2007	30-Mar-07	508
2007	6-Apr-07	522
2007	13-Apr-07	528
2007	20-Apr-07	498

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2007	7-Dec-07	585
2007	14-Dec-07	575
2007	21-Dec-07	464
2007	28-Dec-07	464
2008	4-Jan-08	598

2008	11-Jan-08	539
2008	18-Jan-08	521
2008	25-Jan-08	464
2008	1-Feb-08	482
2008	8-Feb-08	492
2008	15-Feb-08	484
2008	22-Feb-08	458
2008	29-Feb-08	475
2008	7-Mar-08	481
2008	14-Mar-08	456
2008	21-Mar-08	472
2008	28-Mar-08	494
2008	4-Apr-08	490
2008	11-Apr-08	508
2008	18-Apr-08	500
2008	25-Apr-08	461
2008	2-May-08	492
2008	9-May-08	557
2008	16 May 08	694
2008	23 May 08	537
2008	30 May 08	461
2008	6 June 08	408
2008	13 June 08	418
2008	20 June 08	377
2008	27 June 08	390

Since 1 December 1989, the maximum number of people in detention was 3728 (10 March 2000). The minimum number of people in detention was 26 (from 1 December 1989 to 30 March 1990). The average number of people in detention was 949.13 (from 1 December 1989 to 25 May 2005).

Immigration detention statistics

The following statistics are updated weekly and published on the Department of Immigration and Citizenship's website at the following location:

<http://www.immi.gov.au/managing-australias-borders/detention/facilities/statistics/index.htm>

As at 27 June 2008, there were 390 people in immigration detention, including 44 in community detention. Of these 390 people, 26 were illegal foreign fishers (IFFs); 20 illegal foreign fishers were in the Northern Immigration Detention Centre (IDC)

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and six were in correctional facilities. Most of the IFFs remain in immigration detention for only a short period of time, pending their removal from Australia.

Table 7: Place of immigration detention by men, women and children at 27 June 2008

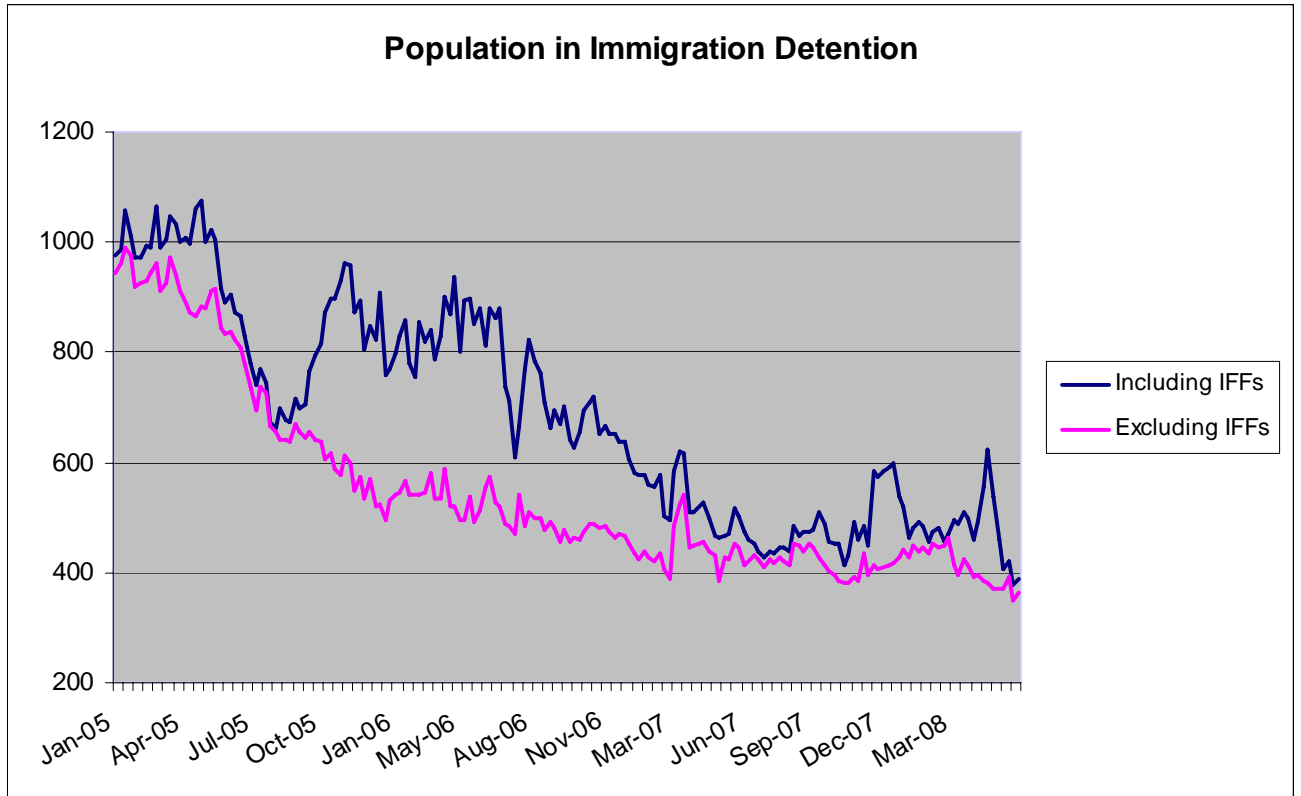
Place of immigration detention (Regular use capacity)	Men	Women	Children	Total	Change from last week
Villawood IDC (560)	189	21		210	+14
Northern IDC (Darwin) (420)	20			20	-1
Maribyrnong IDC (70)	48	8		56	-9
Perth IDC (42)	23	1		24	+4
Christmas Island IDC (104)				0	0
Sydney Immigration Residential Housing (34)	8	2	2	12	+1
Perth Immigration Residential Housing (12)	4	1		5	0
Brisbane Immigration Transit Accommodation (21)	2	1		3	-2
Total in IDCs, Immigration Residential Housing and Immigration Transit Accommodation (1263)	294	34	2	330	+7
Community Detention ¹	25	7	12	44	0
Alternative Temporary Detention in Community ²	12	2		14	+4
Restricted on Board Vessels in Port ³	2			2	+2
Total	333	43	14	390	+13

¹ Community Detention does not require the person to be accompanied by a designated person.

² Includes detention in the community with a designated person in private houses / correctional facilities / watch houses / hotels / apartments / foster care / hospitals.

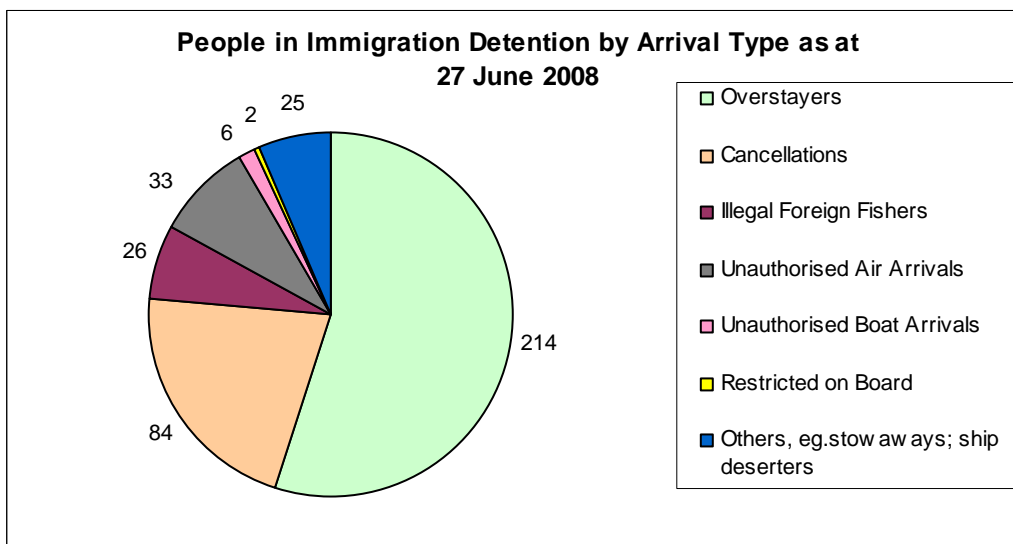
³ The requirement for ships' crew who visit Australian ports without an appropriate visa to remain on their vessel while it is in port (under section 249 of the *Migration Act 1958*) has been enforced for each of these people.

Figure 2: Population in immigration detention



Of the 390 people in immigration detention as at 27 June 2008, 298 are detained as a result of compliance action, i.e., overstaying their visa or breaching the conditions of their visa, resulting in a visa cancellation.

Figure 3: People in immigration detention by arrival type as at 27 June 2008



Of the 390 people in immigration detention as at 27 June 2008, six were unauthorised boat arrivals and 33 were unauthorised air arrivals.

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As at 27 June 2008, 67 people in immigration detention are seeking asylum or a merits or judicial review of a decision in relation to their application for a protection visa. Of these, 12 people were waiting for DIAC to decide a protection visa application outcome. The majority of asylum seekers arrive in Australia with a valid visa and live in the community while they pursue their claims.

Figure 4: People in immigration detention by protection visa status as at 27 June 2008

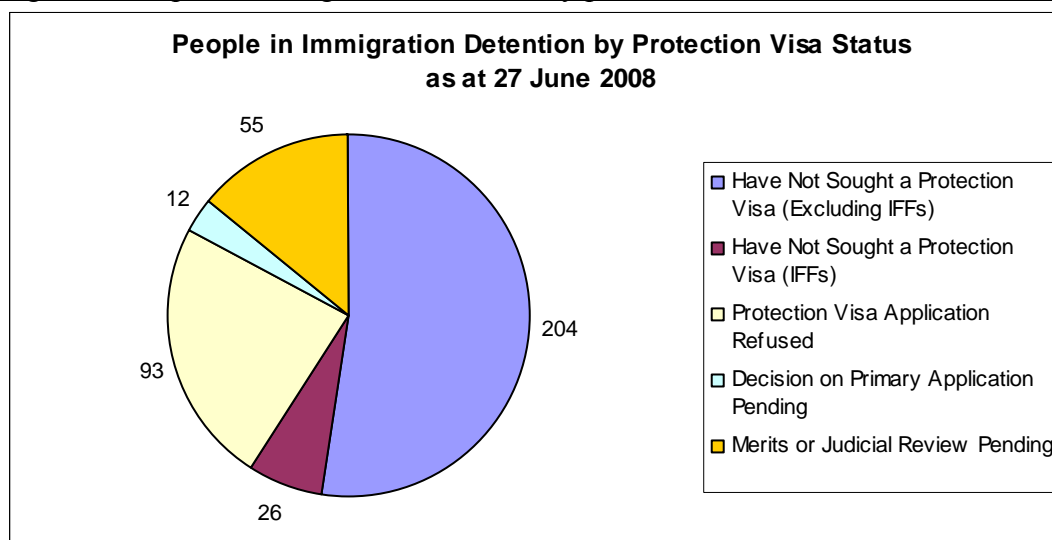


Table 8: Location of people in immigration detention as at 27 June 2008

	No. of people as at midnight census
Immigration Detention Centres (excluding IFF)	
Immigration Detention Centres (excluding Christmas Island)	290
Christmas Island Immigration Detention Centre	0
Total in Immigration Detention Centres (excluding IFF)	290
Immigration Residential Housing (excluding Christmas Island)	17
Immigration Residential Housing Christmas Island	0
Immigration Transit Accommodation	3
Alternative Temporary Detention in the Community	8
Restricted on Board Vessels in Ports	2
Total in Alternative Temporary Detention Arrangements	30
Community Detention (excluding Christmas Island)	40
Community Detention, Christmas Island	4
Total in Community Detention Arrangements	44
Immigration Detention Centres (IFFs)	20
Alternative Temporary Detention in the Community	6
Total IFF	26
TOTAL IN IMMIGRATION DETENTION	390

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Table 9: People in immigration detention by nationality as at 27 June 2008

Nationalities	Adult		Child (<18 years)		Total
	Male	Female	Male	Female	
China, People's Republic of	103	21	1	3	128
Indonesia	41	4	2	2	49
Vietnam	22	2			24
India	18	1			19
New Zealand	16	2			18
Bangladesh	11				11
Malaysia	9	1			10
United Kingdom	8	1			9
Korea, Republic of (Sth)	6	2			8
Pakistan	7				7
Other	92	9	2	4	107
Total	333	43	5	9	390

Table 10: Children in immigration detention as at 27 June 2008

Type	Total
Immigration Detention Centres	
Immigration Residential Housing	2
Immigration Transit Accommodation	
Alternative Temporary Detention in the Community	
Community Detention	12
Total	14

As at 27 June 2008 there were 12 children in community detention and two children in immigration residential housing.

Table 11: Length of time in detention as at 27 June 2008

Period detained	Total	per cent of total
7 days or less	44	11 per cent
1 week – 1 month	42	11 per cent
1 month – 3 months	58	15 per cent
3 months – 6 months	46	12 per cent
6 Months – 12 months	71	18 per cent
12 months – 18 months	45	12 per cent
18 months – 2 years	32	8 per cent
Greater than 2 years	52	13 per cent
Total	390	100 per cent

Of the 390 people in immigration detention as at 27 June 2008, 144 have been detained for less than three months.

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ENDNOTES

- ¹ Paragraphs 320 and 321 of the Common Core Document provide details.
- ² New South Wales legislation is available at www.legislation.nsw.gov.au/
- ³ See www.health.nsw.gov.au/pubs/2004/abterminology.html
- ⁴ Queensland legislation is available at www.legislation.qld.gov.au/
- ⁵ <http://www.adcq.qld.gov.au>
- ⁶ Tasmanian legislation is available at www.thelaw.tas.gov.au/
- ⁷ South Australian legislation is available at www.legislation.sa.gov.au/
- ⁸ Victorian legislation is available at www.legislation.vic.gov.au/
- ⁹ Western Australian legislation is available at www.slp.wa.gov.au/
- ¹⁰ Conference papers and workshop report are available at:
www.humanrights.gov.au/social_justice/conference/engaging_communities/index.html
- ¹¹ Conference papers and workshop report are available at:
www.humanrights.gov.au/social_justice/conference/engaging_communities/index.html
- ¹² Social Justice Reports can be accessed at:
http://www.humanrights.gov.au/social_justice/sj_report/index.html.
- ¹³ Native Title Reports can be found at:
http://www.humanrights.gov.au/social_justice/nt_report/index.html
- ¹⁴ Available at: http://www.humanrights.gov.au/about/publications/annual_reports/index.html.
- ¹⁵ <http://www.culturalexchange.nsw.gov.au>
- ¹⁶ See <http://www.multiculturalaustralia.edu.au> - a joint project of the NSW Department of Education and Training, in conjunction with the University of Technology Sydney and the NSW Board of Studies.
- ¹⁷ <http://education.qld.gov.au/workforce/diversity/equity/index.html>
- ¹⁸ http://jobs.qld.gov.au/working/Migrant_work_experience_info.pdf
- ¹⁹ <http://www.maq.qld.gov.au/community/roar/index.php>
- ²⁰ Detailed information concerning Closing the Gap, including both Northern Territory Government initiatives and complementary Australian Government programs, is available at: www.action.nt.gov.au
- ²¹ www.nntt.gov.au
- ²² See UN document number A/HRC/9/9/Add. 1.
- ²³ <http://www.atsip.qld.gov.au/partnerships/partnership-agreement/about-partnership-agreement.html>
- ²⁴ <http://www.reconciliation.org.au>. 52 Reconciliation Action Plans were published on the website as at 18 May 2008.
- ²⁵ *Trevorrow v South Australia*
- ²⁶ <http://www.atsip.qld.gov.au/partnerships/partnership-qlld/>
- ²⁷ *Schools Australia 2007*, Australian Bureau of Statistics, www.abs.gov.au.
- ²⁸ See
<http://www.parliament.nsw.gov.au/prod/PARLMENT/Committee.nsf/0/436AEA1282D978D7CA2573EC007C5062>
- ²⁹ <http://education.qld.gov.au/schools/indigenous/strategies/part-for-success.html>
- ³⁰ http://www.trainandemploy.qld.gov.au/client/about_us/skillsplan/index.html
- ³¹ http://www.trainandemploy.qld.gov.au/client/about_us/skillsplan/index.html
- ³² <http://www.reconciliation.qld.gov.au/events/leaders.html>
- ³³ <http://www.deir.qld.gov.au/employment/programs/sqw/indigenous/policy/index.htm>
- ³⁴ <http://www.wal-meta.qld.gov.au/>
- ³⁵ www.hreoc.gov.au/social_justice/health/index.html
- ³⁶ http://www.humanrights.gov.au/about/media/media_releases/2007/50_07.html.
- ³⁷ http://www.humanrights.gov.au/about/media/media_releases/2007/81_07.html
- ³⁸ http://www.humanrights.gov.au/human_rights/idc/idc2007.html.
- ³⁹ http://www.ag.gov.au/www/agd/agd.nsf/Page/Nationalsecurity_Reviews_SecurityLegislationReviewCommittee_SecurityLegislationReviewCommittee.
- ⁴⁰ , 'Chapter 3: Effectiveness and Implications: Impact on Arab and Muslim Australians', *Review of Security and Counter Terrorism Legislation*, December 2006. This report can be found at <http://www.aph.gov.au/house/committee/pjcis/securityleg/report.htm> .
- ⁴¹ Information about the NAP community projects can be found at <http://www.immi.gov.au/living-in-australia/a-diverse-australia/national-action-plan/index.htm>
- ⁴² Details are available at: http://www.humanrights.gov.au/racial_discrimination/isma/.

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⁴³ The *Isma* Report can be found at:

http://www.hreoc.gov.au/racial_discrimination/isma/report/index.html

⁴⁴ The report on the *Unlocking Doors* project can be found at:

http://www.humanrights.gov.au/racial_discrimination/unlocking_doors/index.html

⁴⁵ The report on this project can be found at:

http://www.humanrights.gov.au/racial_discrimination/livingspirit/1.html#1

⁴⁶ Information about the Community Partnership projects can be found at

http://www.humanrights.gov.au/racial_discrimination/partnerships/projects.html .

⁴⁷ <http://www.arts.qld.gov.au/funding/backing-indig-arts.html>