



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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Committee on the Elimination of Discrimination  
against Women (CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 18 OF THE CONVENTION

Second periodic reports of States parties

AUSTRALIA \*

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\* For the initial report submitted by the Government of Australia, see CEDAW/C/5/Add.40 and CEDAW/C/5/Add.40/Amend.1; for its consideration by the Committee, see CEDAW/C/SR.114 and CEDAW/C/SR.118, and Official Records of the General Assembly, forty-third session Supplement No. 38 (A/43/38), paras. 397-457.

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## **CONVENTION ARTICLE 18 REPORT**

### **FOREWORD**

Australia is committed to strengthening international machinery which is instrumental in improving the status of women. As well as the priority given to fulfilling report requirements, Australia has taken a strong regional role in encouraging Pacific countries to ratify the Convention on the Elimination of All Forms of Discrimination Against Women.

### **Preparation of the Second Report**

The Convention on the Elimination of All Forms of Discrimination Against Women, the main international legal instrument which sets minimum standards of equality between the sexes, came into force in Australia on 27 August 1983. Australia's First Periodic Report to the United Nations Committee on the Elimination of Discrimination Against Women, the body established under the Convention to monitor its implementation, was submitted in June 1986, but, as the Report was not considered until February 1988, a Supplement to the Report was provided.

This Second Periodic Report by Australia was prepared and coordinated by the Office of the Status of Women in the Department of Prime Minister and Cabinet with input from all Departments of the Federal Government, the State Governments of New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania, and the Governments of the Northern Territory and the Australian Capital Territory. The preparation of the report has provided each jurisdiction with an opportunity to consider the measures it has taken to ensure the implementation of the Convention. This examination and the consultations convened by the Federal Government have been important in facilitating the implementation of the Convention in Australia.

When Australia's First Report was prepared, non-governmental organisations contributed to the process but there was no formal consultation with them. As a fresh initiative, during the preparation of the Second Report, the views of

non-governmental organisations were formally canvassed. The National Women's Consultative Council, the functions of which are described later in Part 1, held a consultation between representatives of key non-governmental organisations and members of the federal bureaucracy so that views of Australia's progress in the implementation of the Convention could be explored. This Report, therefore, not only describes government action, but draws on the views of non-governmental organisations with respect to that action.

The Second Periodic Report was prepared in accordance with the guidelines adopted by the Convention on the Elimination of All Forms of Discrimination Against Women at its seventh session and, therefore, focuses on information not included in the First Report, and the period between February 1988 and December 1991. Significant developments between January 1992 and April 1992, the date of completion of the Report, have also been included. Issues raised by the Committee at the hearing of the first Report are incorporated within this Second Report, within the relevant Articles. The Report, further, takes into account the nineteen General Recommendations adopted by the Committee during its eleven sessions.

### **Promotion of the Convention**

There are a number of strands to both promoting the Convention within Australia, and to its implementation.

The contribution of non-government organisations in the preparation of the Second Report, described above, has promoted knowledge and understanding of the Convention widely amongst women within Australia.

Wide distribution of the Second Report is intended following its presentation to the UN, both to non-government organisations, and more widely through governments, libraries, academic institutions, etc. As a comprehensive up-to-date account of the status of women in Australia, the Report will be an important source

document and it is expected that demand for the document will be high. The publication and wide distribution of a summary document appending the Convention is planned.

The Prime Minister of Australia will personally present the Report to the Chairperson of the UN's Committee on the Elimination of Discrimination Against Women. This will be publicised within Australia.

Through these measures it is hoped Australians will be encouraged to become familiar with the Convention and the measures adopted in Australia to ensure its implementation; and that their understanding of the obligations Australia contracted on ratification will be broadened.

The Government's commitment to the principles enshrined in the Convention has not been confined to its promotion within Australia. In March 1991, the Australian Government jointly sponsored a seminar on the Convention, in the Cook Islands, with the United Nations' Division for the Advancement of Women, the Governments of New Zealand and the Cook Islands. The aims of the seminar were to increase the knowledge of and support for the Convention within the region, outline the processes and implications of acceding to and implementing the Convention and provide an opportunity for members of the South Pacific Forum to consider the advantages of the Convention.

The Cook Islands seminar was part of Australia's program of overseas development cooperation and not only indicates commitment to the principles of the Convention, but also exemplifies Australia's sensitivity to gender considerations in all development cooperation. Australia's overseas development programs are administered by the Australian International Development Assistance Bureau (AIDAB), and the Australian Government's Women in Development (WID) Policy has been an integral policy to development assistance since the mid 1970s. This Policy aims to ensure that women are involved at all stages of program and project development so that outcomes are equitable and sustainable. All bilateral activities are monitored for the degree of inclusion of women's needs and preferences by use of WID criteria developed by the OECD's Development Assistance Committee. In 1990-91, 27 projects totalling \$A66 095 323 were classified as fully WID integrated. A further 102 projects involved women as active participants during implementation and another 55 utilised WID expertise. In 1991-92 Australia contributed substantially to United Nations development agencies whose

work directly or indirectly concerns women and to non-governmental organisations that undertake development programs of direct relevance to women. Australian delegates to international institutions and agencies are also briefed to help ensure that the organisations adopt and implement policies favouring improved development of women's economic and social status.

In 1991 a comprehensive and independent review was undertaken of the extent of integration of the WID Policy into AIDAB's programs. The Review found that the integration of WID procedures into the processing of bilateral and regional project processing is steadily improving, with 25% of projects identified as WID-integrated and 50% partially WID-integrated. The Review recommended measures to enhance and speed up this process, a process which has since been supported by the provision of additional staff.

## **Core Document**

Australia is currently preparing a 'Core Document' of the initial parts of State Party Reports under the various human rights instruments as requested in a Note by the UN Secretary-General of 26 April 1991. This Document will include sections on land and people, general political structure, general legal framework within which human rights are protected and information and publicity. Part One of this Report therefore provides an overview of the thematic issues, and context for Part Two. It describes the political and economic framework within which the Convention is applied in Australia, contains a statistical overview and a discussion of progress and difficulties. This will be supplemented by Australia's Core Document, which will be received by the UN later in 1992.

Part One also contains more detailed description of three special groups of women. These are:

- women belonging to Australia's indigenous population, Aboriginal and Torres Strait Islander women;
- women of non-English speaking background; and
- women with disabilities.

Part Two provides specific information in relation to substantive provisions of the Convention, indicating the means by which the enjoyment of rights is assured and any factors which may restrict the exercise of such rights.



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# **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

## **ENTRY INTO FORCE FOR AUSTRALIA: 27 AUGUST 1983**

The instrument of ratification of the Convention of the Elimination of All Forms of Discrimination Against Women, deposited by the Government of Australia with the Secretary-General contained the following reservation:

THE GOVERNMENT OF AUSTRALIA states that maternity leave with pay is provided in respect of most women employed by the Federal Government and the Governments of New South Wales and Victoria. Unpaid maternity leave is provided in respect of all other women employed in the State of New South Wales and elsewhere to women employed under Federal and some State industrial awards. Social Security benefits subject to income tests are available to women who are sole parents.

THE GOVERNMENT OF AUSTRALIA advises that it is not at present in a position to take the measures required by Article 11(2) (b) to introduce maternity leave with pay or with comparable social benefits throughout Australia.

THE GOVERNMENT OF AUSTRALIA advises that it does not accept the application of the Convention in so far as it would require the application of Defence Force policy which excludes women from combat and combat-related duties.

However, there have been further developments in Australia's policies with respect to these reservations, and these are discussed in Article 11.

Australia, further, made the following statement at the time of ratification:

Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Federal Government and the constituent States. The implementation of the treaty throughout Australia will be effected by the Federal, State and Territory authorities having regard to their respective constitutional powers and arrangements concerning their exercise.

The effect of Australia's federal constitutional system on the implementation of the Convention follows.

## **PART I**

# **THE CONTEXT OF THE OPERATION OF THE CONVENTION**

## **(a) BASIC GENERAL INFORMATION**

### **Political Framework**

1. Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Federal Government (also known as the Commonwealth) and the six States - New South Wales, Victoria, Queensland, Western Australia, South Australia and Tasmania. In each of these political units there is a parliament elected by the people; an executive, responsible to that parliament, formed by the party or parties in parliament with the confidence of the lower house; and an independent judiciary.

2. In addition to the States, there are also a number of Australian territories, which are those parts of Australia not part of a state. Australia has ten territories in all. The inhabited territories are:

- Mainland territories:
  - the Australian Capital Territory (which includes Canberra, the capital city of Australia and seat of the Federal Government);
  - the Northern Territory; and
  - the Jervis Bay Territory.
- External territories:
  - the Australian Antarctic Territory;
  - Norfolk Island;
  - Cocos (Keeling) Islands; and
  - Christmas Island.

The uninhabited territories, which are all external to the mainland, are:

- the Territory of Ashmore and Cartier Islands;
- the Coral Sea Islands Territory; and
- the Territory of Heard Island and McDonald Islands.

3. Two of the territories, the Northern Territory and the Australian Capital Territory, are self-governing and may be regarded, for the purposes of this Report, as standing in substantially the same position as a state of Australia.

A third territory, Norfolk Island, has more limited legislative and executive government to enable it to run its own affairs to the greatest practicable extent.

4. Under the *Northern Territory (Self-Government) Act 1978* and associated legislation, the Northern Territory has separate political, representative and administrative institutions and its own system of courts. The Northern Territory's Legislative Assembly has power to make laws for the peace, order and good government of the Territory. Since Australia's last Report, the *Australian Capital Territory (Self-Government) Act 1988* has established the Australian Capital Territory as a separate body politic, with its own legislative assembly and executive. The Australian Capital Territory Magistrates Courts have been transferred to the Australian Capital Territory government system from the federal system, and the Supreme Court will be transferred on 1 July 1992. Hereinafter, references to the States include reference to the Australian Capital Territory and the Northern Territory unless otherwise indicated.

5. The Federal Government is responsible for the administration of the remaining territories.

6. In Australia's political system, Local Government is generally the legislative responsibility of the States and the Northern Territory, and is not acknowledged in the Commonwealth Constitution. Local Government bodies in all States are created by Acts of State Parliament which specify the powers and functions of Local Government: these tend to extend to local issues such as planning and civic services. A universal franchise to vote in Local Government elections in the States and Northern Territory applies to all resident citizens over 18 years of age. In most States the franchise is extended to property owners and corporations. There are 914 Local Government bodies in Australia.

### **Legal and Constitutional Framework**

7. The laws applying in Australia fall into two broad categories:

- Legislation in the form of statutes passed by a parliament or subordinate legislation made by the executive pursuant to powers conferred by the Parliament which is subject to disallowance by Parliament; and



- Rules derived from decisions of courts, being:
  - the common law proper (that is, laws developed through judicial recognition independent of any legislative enactment); and
  - judicial interpretation of legislation.

8. The Constitution sets out the division of legislative power between the Federal Parliament and State Parliaments. Most of the heads of power enumerated in the Constitution are concurrent, i.e. both the Federal Parliament and the State Parliaments may legislate on these subjects. In such a case, if both the Federal Parliament and a State Parliament legislate on the same subject and the two pieces of legislation are inconsistent, then the State legislation will be invalid to the extent of the inconsistency and the Federal legislation will prevail. However, if a subject is not explicitly mentioned or necessarily implied in the Constitution, then the Federal Parliament has no power to legislate on it and it remains exclusively a matter for the States.

9. In the Australian legal system, every person, whether private citizen or government official, is equally subject to the law. Governments must operate through and within the law. Government officials must have legal authority for their actions and are subject to legal sanctions if they contravene the law, including sanctions for breach of the criminal law. Disciplinary proceedings may also be brought against government officials.

## **Legal Protection of Human Rights**

10. Human rights are protected in Australia by a range of measures, including some constitutional guarantees, State and Federal legislation, the common law, and the safeguards of a democratic system of government with an independent judiciary and a free press.

11. However, as indicated in Australia's First Report, there is no specific constitutional protection of equal rights for women and men. The Government attempted a more limited form of entrenched protection in the *Bill of Rights Bill 1985*, which would have operated to override inconsistent Federal and Territory statutes and as a guide to judicial interpretation of Federal and Territory laws. The rights protected by the

Bill were based on those enumerated in the International Covenant on Civil and Political Rights, which include the right to equality before the law without discrimination based on sex. However, there was widespread opposition to the proposed legislation. Accordingly, the Government considered that it was not desirable to proceed with such a major human rights initiative without community support.

12. In April 1991, the Constitutional Centenary Conference was held in Sydney. One of the main recommendations in the Conference's concluding statement was for the establishment of a foundation to pursue a public process of education, review and development of the Australian constitutional system, to be completed by the year 2001. The Conference identified twelve key issues to be pursued during the constitutional decade, which included guarantees of basic rights. At present, although a Constitutional Centenary Foundation, headed by a Board, has been established, the machinery and process for the review is not finalised. The Foundation has twelve members, two of whom are women. Although it is likely that the review will impact on women, it is not possible to assess at this stage the nature or amount of such impact.

## **Special Human Rights Machinery**

13. In Australia, Federal protection of human rights have significantly reflected its international obligations under instruments developed through the United Nations system. Other international instruments are also relevant.

14. Although the Australian Constitution contains no guarantee of sexual equality, most jurisdictions in Australia have legislative schemes to make unlawful discrimination on the ground of sex. Comprehensive legislative human rights protection is provided by four Commonwealth Acts - the *Sex Discrimination Act 1984*, the *Racial Discrimination Act 1975*, the *Human Rights and Equal Opportunity Act 1986* and the *Privacy Act 1988* - and State and Territory anti discrimination legislation. The four Commonwealth Acts are as follows:

- the *Human Rights and Equal Opportunity Commission Act 1986*, which gives the Commission functions by reference to the International Covenant of Civil and Political Rights (ICCPR), the Declaration of the Rights of the Child, the Declaration on the

Rights of Disabled Persons, the Declaration on the Rights of Mentally Retarded Persons, and the Discrimination (Employment and Occupation) Convention 1958 (International Labour Organisation Convention No. 111);

- the *Privacy Act 1986*, gives more particular effect to the right to privacy recognised in Article 17 of the ICCPR, and develops this in more detail by reference to guidelines produced by the Organisation for Economic Cooperation and Development (OECD);
- the *Racial Discrimination Act 1975*, implementing most of the provisions of the Convention on the Elimination of All Forms of Racial Discrimination affecting the enjoyment of human rights, as well as making racial discrimination unlawful in specified areas, such as employment, education, and provision of goods and services;
- the *Sex Discrimination Act 1984*, implementing most of the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women. This Act makes sex discrimination unlawful in the administration of Federal laws and programs and in certain specified areas such as employment, education and access to services.

The operation of this legislation is described more fully in Articles 1-3.

15. The Federal public service has had equal employment opportunity programs in force for a number of years. These were reinforced by legislation passed in 1987. In 1986 the Federal Government passed legislation requiring private sector businesses with 100 or more employees to establish affirmative action programs for women. These programs must evaluate the employer's policies and practices to prevent discrimination against women employees, identify statistical or other patterns of discrimination against women employees and set objectives for achieving equality of opportunity for women in employment. Annual public reports of the programs must be prepared.

16. There exists wide ranging anti-discrimination legislation in all States and Territories except Tasmania and the Northern Territory. In most States which have their own anti-discrimination legislation, cooperative arrangements have been negotiated by the Federal Commis-

sion, pursuant to which State authorities act as agents for the Federal Commission, or *vice versa*.

## Economic Framework

17. When the First Report was presented in February 1988, Australia was in the middle of a vigorous economic upswing. This period also witnessed a world boom in commodity prices which, given the nature of Australia's export base, provided a major boost to the domestic economy.

18. Australia's economy relies to a significant extent on bulk commodity exports. Australia is the world's largest exporter of wool, alumina, coal, zinc, ore, manganese, mineral sands, live sheep and refined lead. It ranks among the top suppliers of wheat, beef and veal, sugar, gold, iron ore, bauxite, nickel, mutton and lamb and refined zinc.

19. Australia, like other English speaking countries, has experienced a major recession, which began in 1990. The unemployment rate in Australia troughed in the December 1989 quarter at 5.9% overall, being 6.7% for women and 5.4% for men. In April 1992 unemployment had reached 10.6% overall, being 9.6% for women and 11.3% for men.

20. Although only 6.5% of Australia's workforce is engaged in mining and agriculture, these sectors accounted for 57% of Australia's total export earnings in the first 10 months of the 1991/92 financial year.

21. The urban industrial sectors of Australia's economy have been traditionally subject to high levels of protection. This protection has been decreased substantially in the recent period and is scheduled to further decrease. This is generating pressure for substantial improvements in productivity and/or restraint in living standards in the urban sector.

22. The period from 1990 has also seen Australia's agricultural sector squeezed by the combined effects of local drought conditions and low world prices for Australia's principal agricultural export commodities.

## **(b) GOVERNMENT MACHINERY FOR WOMEN**

23. Since the First Report there has been further refinement of the government machinery for women in Australia which exists at both the Federal and State levels.

24. Executive responsibility for the status of women in the Federal Government lies with the Prime Minister who is aided by the Minister Assisting the Prime Minister for the Status of Women, with policy advice and administrative support being provided by the Office of the Status of Women (OSW), a division of the Department of the Prime Minister and Cabinet. The Head of OSW is a First Assistant Secretary, which is a senior bureaucratic level. OSW also initiates, coordinates and administers Government policies and programs or projects designed to raise the status of women, advises the Government on matters relevant to women and provides relevant information to and about women. Accordingly, the Office examines a broad range of issues including income security, employment and education opportunities, legal rights, violence against women, child care, health, housing and other Government funded services. It is also resourced by the Government to provide secretariat and administrative support to advisory bodies, such as the National Women's Consultative Council (NWCC) and the three year National Committee on Violence Against Women (1990-93) described under Article 5(a), fund programs and projects designed to advance the status of women, and produce publications and other relevant information, including *OSW Women*, a quarterly newsletter, which is distributed widely to individuals and women's groups.

25. Underpinning much of the work of OSW is the *National Agenda for Women*, which represents the Government's blueprint for improving the status of women to the year 2000. The *National Agenda*, which reflects many of the objectives of the *Nairobi Forward Looking Strategies*, was adopted by the Government in February 1988, following more than two years' negotiation and consultation with women around the country as described in the First Report. The *National Agenda* also reflects many of the CEDAW Articles and these are indicated in the introductory page on each Article in this Report. OSW monitors the implementation of the *National Agenda*, which includes the annual publication of a *National Agenda Implementa-*

*tion Report* and the updating of Gender Equality Indicators, a series of indicative measures which measure over time women's changing position in Australian society. The Office of the Status of Women is coordinating the renewal of the *Agenda* through the development, for Government consideration, of a second set of strategies to carry the *National Agenda* through to the year 2000. These strategies will take over from the first set of action plans which run to February 1993. In July 1991, the Prime Minister announced that the new strategies would include a particular focus on women workers, including those with family responsibilities, women with special needs, violence against women and women and the environment.

26. OSW's monitoring function is exemplified further in its production of the annual *Women's Budget Statement*, the first of which was tabled by the then Prime Minister on Budget Night in 1984. The Statement provides a detailed report on the impact of all Federal Government programs and policies, including expenditure, on women. The processes involved in preparing annual contributions to the Statement have served to raise the level of awareness of gender equity issues in Government departments and agencies and have contributed to the development of monitoring procedures which enhance equality of access and provision for women.

27. OSW works closely with the Women's Units and/or women's desk officers which exist in each Federal department to check that women's needs are taken fully into account in the development and administration of Government policies and programs. They also identify whether the departmental implementation of the Government's policy on the status of women, as expressed in the *National Agenda for Women*, is being fulfilled. In most cases, these units are not directly responsible for implementation of the Government's policy on the status of women in each department as this remains the responsibility of the functional areas of the departments. An important part of the women's units' role is to coordinate portfolio input to the Women's Budget Statement and the *National Agenda for Women Implementation Report*.

28. The Women's Bureau was the first bureaucratic women's policy unit established in Australia. The Bureau has been in existence for nearly 30 years. Originally it was a unit which acted primarily as a focus for research and policy advice on labour market issues for women. In 1987 the Bureau was relocated to the Depart-

ment of Employment, Education and Training (DEET) and assumed responsibility for research and policy advice on education and training issues. In 1991 a new approach and structure was put in place by the Department with the aim of main-streaming gender equity issues across the portfolio. The Bureau now has three elements, the central policy unit, now called the Women's Policy Section, outposted officers and the Senior Executive Service (SES). Gender Equity Group. The Women's Policy Section is now part of the Women's Policy Income Support and Participation Branch. A review of the new structure is planned in the latter part of 1992.

29. The NWCC, whose membership is drawn, in the main, from major national women's organisations and other national organisations with large numbers of women members, continues to provide a major link between the Federal Government and the community, as described in the First Report. The NWCC is appointed by the Minister Assisting the Prime Minister for the Status of Women from nominations from all national women's organisations, and organisations with large numbers of women members, in Australia. The Council through its members represents a wide diversity of views from women's groups: however Council members represent the interests of all women and not just those of their organisation. The NWCC provides an important two-way mechanism for consultation by focusing on issues specifically referred to it by the Government and by bringing to the Government the views of women in the community. OSW provides the NWCC Secretariat and there is considerable interaction between the Office and the Council.

30. Since 1988, the work of the Council has included:

- the publication of *Pay Equity in Australia* in 1990, which presents an historical overview of wage fixation in Australia, the situation of women in the workforce and their earnings, and strategies for improving these;
- the hosting of a conference in March 1990, involving 140 participants representing government, unions, industry and the community, to promote International Labour Organisation Convention No 156 on Workers with Family Responsibilities. The conference coincided with the Government's announcement that it would ratify the Convention. Subsequently, the NWCC published a booklet about the Convention aimed at workers and the community generally;
- the publication of networking manual *Making Connection : A Guide to Coalition Building for Women's Groups*, and a reprint of a political awareness booklet *Women Lobbying for Change*;
- a project on work related child care, the primary focus of which is an analysis of existing models of work related child care, including centre based care, home based care, out of school hours care and current issues in the provision of such services. The project pays particular attention to the needs of shift workers;
- the sponsoring of a forum, in conjunction with the Disability Advisory Council of Australia in May 1991 on employment opportunities for women with disabilities;
- the hosting of a consultation in June 1991 between non-government organisations and representatives of Federal Departments as part of the preparation of the Second Report required by CEDAW as mentioned in the Foreword;
- the organising of community consultations on issues related to government policy development including retirement incomes, definition of *de facto* relationships for sole parent pensions, domestic violence, health, superannuation, needs of young women, and housing issues;
- major national Forums on taxation and enterprise bargaining;
- nationwide community consultations on women and ecologically sustainable development, and development of related publications including a major report and recommendations to Government, and community educational material;
- direct representations to Government Ministers on a range of issues including the Federal Budget;
- projects related to women from special groups, for example, an antenatal video for women in the Torres Strait Islands and South Pacific, and research on rehabilitation programs for repetitive strain injury sufferers particularly women of non-English speaking background;

- representation of community women at international forums including sessions of the UN Commission on the Status of Women, in 1990 and 1992.

31. An Inquiry into Equal Opportunity and Equal Status for Australian Women, established in 1989, has been conducted by the House of Representatives Standing Committee on Legal and Constitutional Affairs. The Committee's terms of reference were to inquire into and report on the progress made towards the achievement of equal opportunity and equal status of Australian women as detailed in the *National Agenda for Women*, and the extent to which the objects of the *Sex Discrimination Act 1984* have been achieved by legislative or other means, with particular reference to :

- effective participation by women, including young women, in decision making processes;
- the extent to which women receive appropriate recognition for their contribution to society;
- participation by women in the labour force, with particular attention to the efficacy of equal employment opportunity schemes;
- participation by women in leisure and sport; and
- the extent to which young women are encouraged to participate equally in society.

32. The Committee, which was assisted by three women members of Parliament, established a sub committee which spoke to 181 witnesses and received over 500 submissions. It also published a number of discussion papers, including possible recommendations, which had been provided to the Committee for consideration. The report of the inquiry was released on 30 April 1992.

33. The 79 recommendations of the Committee canvass a wide range of issues. These include:

- employment and issues affecting equal opportunity for women in the paid workforce including part-time work, flexible working hours, variations in industrial awards, unpaid work in the home and by volunteers and workers with family responsibilities;

- education and training including vocational training and non-traditional work for younger women;
- income security and superannuation;
- leisure and sport;
- child care;
- recognition of women, including sexual harassment.

34. OSW is coordinating the preparation of the Government response for Parliamentary presentation in the spring session. This will comment on the recommendations and set out a realistic timetable for the Government's further action. The Government's response will be reported in the Supplementary Report to be presented prior to the Committee's consideration of Australia's Second Periodic Report.

35. In March 1990, the then Prime Minister announced the establishment of the Commonwealth/State Ministers' Conference on the Status of Women, which aims to provide formal ministerial consultation on women's issues. The Conference met twice in 1991 and is expected to continue to meet yearly to allow for greater sharing of information and coordination of policies, especially on issues which cross Federal and State/Territory boundaries.

36. The Conference has considered a wide range of issues including the actions taken relating to workers with family responsibilities; women and economic equality; women and structural adjustment; violence against women; developing policy with Aboriginal and Islander Women and the National Program for the Early Detection of Breast Cancer.

37. At their third Conference the Ministers strengthened their stand on violence against women by asking the Standing Committee of Attorneys' General and Censorship Ministers to develop guidelines on classification of print and video materials which deal with three issues of concern to women:

- material which condones or incites violence against women;
- material which shows women in demeaning sexual poses; and
- banner advertising of restricted magazines.

38. Attorneys' General will also be asked to prepare, in conjunction with the National Committee on Violence Against Women (NCVAW), a discussion paper which specifically addresses the legislative and administrative issues raised by the Ministers and other issues relevant to the operation of the Family Law Act from the perspective of the safety of women and children escaping violence.

39. All State and Territory Governments now have a Women's Adviser who reports to the Premier/Chief Minister or responsible Minister and who is the head of the State or Territory Women's Advisory Unit. The First Assistant Secretary of OSW and her State and Territory counterparts meet quarterly to discuss matters of mutual interest and to coordinate State and Federal policies, and serve as the officials for the Federal/State Ministers Conference on the Status of Women.

40. There are also in most States and Territories separate consultative bodies appointed by Government to consult with women in the community.

## **(c) STATISTICAL OVERVIEW**

41. This section provides a basic socio-demographic overview of the Australian population and Australian women, to give context to the Report. Statistical data relating to the specific Articles are given under those Articles in Part II of the Report.

42. The most recent Australian Census was carried out on 6 August 1991. Final results of this Census will be released progressively from mid 1992. Preliminary figures indicate a growth in the population of Australia of some 8.0% since 1986. Australia's population at 6 August 1991 was 16 849 496. The sex ratio was 98.6 males to 100 females, compared with 99.2 males to 100 females in 1986. In 1991, females outnumbered males in ages 25 to 39, and from 60 onwards. There were 257 333 Aboriginal and Torres Strait Islanders counted in the 1991 Census. This represents a 13% increase since the 1986 Census.

43. Australia's population has more than doubled in the last 45 years, with immigration accounting for about half of the increase. The population is projected, assuming a continuation of current fertility, mortality and migration levels, to increase to 26 million in 2031.

44. Although Australia covers a land area of 768 million hectares, which is 50% greater than that of Western Europe, the population of Australia is only about 5% of the population of Western Europe. The population density of Australia is two people per square kilometre. Nearly 75% of Australians live in or within 50km of Australia's coastal cities, with more than six million people (or 39.6% of the total population) living in the two major cities of Sydney and Melbourne.

45. After 200 years of a relatively youthful age structure, caused by high birth rates and high levels of immigration, Australia is now joining other western countries which, without Australia's relatively high levels of immigration, have been experiencing declining birthrates and greater life expectancy.

46. The proportion of the population aged 0-19 was estimated at almost 30% in 1991, a fall from 31.5% in 1986. In these age groups males outnumber females by a ratio of 95.1 females to 100 males.

47. The proportion of the population aged 65 or more increased from 10.6% in 1986 to 11.2% in 1991. It is expected to reach 12% by 1996. This represents a growth of 13.2% in a decade. The median age increased from 31 in 1986 to 32 in 1991. The average life expectancy for Australian males is 73.86 years and of females 80.1 years.

48. Women greatly outnumber men in the older age cohorts, and the differential increases with age. Of the population aged 65 or more in August 1991, 1 080 744 are women. This represents some 57% of the female population aged 65 or more. At age 80 or more, 65% of older people are women.

49. Because of their greater longevity, women are more likely to be widowed, to live alone or to live in a residential care setting in old age.

50. In June 1991, 58% of all people living alone were women and 56% of those were women aged 65 or over. Twenty-six per cent of women living alone were employed.

51. In 1990, the marriage rate was estimated as being 6.8 per 1000 of the mean resident population. In 1990, the median age for first marriages was 26.4 for men and 24.3 for women, while the median age for all marriages was 28.1 for men and 25.8 for women. Some 39.8% of grooms were over 30 years of age, while 28.9% of brides were over 30.

52. The divorce rate in 1990 was 10.9 per 1000 married of the mean resident population. The proportion of brides in 1990 who had been previously married was 22.9%, and of bridegrooms, 23.9 per cent.

53. In general, males remarried after a shorter interval than females, the median interval before remarriage for men who were divorced or widowed was 2.9 years and for women 3.5 years.

54. Since the 1970s the rate of people between the ages of 20 and 29 marrying has been decreasing. There has, however, been a corresponding increase in *de facto* relationships. Latest reliable figures, culled from the 1986 Census, indicate that between 6% and 8% of all couples in Australia are cohabiting. A survey undertaken by the Australian Institute of Family Studies in 1991 of people aged 27 to over 40, indicated that 43% of those interviewed had cohabited at some stage, while around half of those who had never married had cohabited at some stage. Twenty-five per cent of *de facto* relationships lasted 12 months, approximately half ended after two years and three quarters had ended by four years. Many, however, ended in marriage.

55. In June 1991, 9% of all families in Australia were sole parent families. The parent was a female in about 87% of these families and some 44% of female sole parents with dependents were employed outside the home.

56. In 1988, the total fertility rate reached its lowest point of 1.84 live births per 1000 population. Since then it has been rising and in 1990 the total fertility rate was 1.91. The crude birth rate in 1990 was 15.4 live births per 1000 population.

57. The perinatal death rate in Australia in 1990 was 10.3 per 1000 live births, a slight increase from 9.9 in 1989. As with previous years there were more male perinatal deaths than female, the ratio being 133:100. The majority of deaths are of infants of low birth weight; 56% involved infants weighing less than 2000g at birth and of these 59% weighed less than 1000g. Overall, infant mortality per 1000 live births was 8.2. However, this masks a much higher infant mortality rate for Aboriginal and Torres Strait Islander children. The most recent figures available, based on analysis of 1986 Census data, gives an infant mortality rate for Aboriginal and Torres Strait Islander children of 20.5 per 1000 live births.

58. The latest available figures on maternal mortality is for the period 1985-87, when it was 11.8 per 100 000 confinements, from all causes.

## **(d) WOMEN WITH SPECIAL NEEDS**

59. This section serves as a special report on the position of women with special needs in Australia: women belonging to Australia's indigenous population, Aboriginal and Torres Strait Islander women; women of non-English speaking background and women with disabilities. Whilst the Convention has identified women with disabilities as particularly vulnerable and requested more detailed reporting, both Aboriginal and Torres Strait Islander and non-English speaking background women in Australia are, or are potentially, vulnerable and belong to those groups identified by Governments as targets in their social justice and equity strategies.

### **Aboriginal and Torres Strait Islander Women**

60. The majority of Aboriginal and Torres Strait Islander people occupy the lowest end of the socio-economic scale and often live in remote localities. This creates serious inequities in the provision of and access to mainstream facilities and programs that are often taken for granted in the general Australian community. As a minority group within Australia's female population, Aboriginal and Torres Strait Islander women face significant cultural, economic, social and personal hurdles in their quest for recognition and equal opportunity. Of Aboriginal and Torres Strait Islander women over 15 years of age, some 90% have no post-school qualifications; only 1% have tertiary qualifications; about 74% have incomes below \$9000 pa; their unemployment rate is 34%; about 35% have 3 or more children; and 1 in 5 could be said to experience marriage breakdown (but 'ever married' figures appear to be understated).

61. For Aboriginal and Torres Strait Islander women in remote and rural areas, further difficulties result from distance, and lack of access to information and services. In many places, language barriers may also act to diminish Aboriginal and Torres Strait Islander women's confidence, and indeed, restrict their usage of community facilities.

62. As stated earlier, the five-year Census of Population and Housing provide the most accurate and complete single source of statistical information on Aboriginal and Torres Strait Islander peoples. The most recent Census, in 1991, has released some preliminary figures of the Aboriginal and Torres Strait Islander population by age, sex and location. Further detailed analysis of the Aboriginal and Torres Strait Islander population will be available later in 1992. A supplementary Report to the Committee will be prepared by Australia, to include detailed analysis of the relevant results from the Census as they relate to Aboriginal and Torres Strait Islander women. Comments that follow therefore, rely heavily on analysis of 1986 data.

63. Aboriginal and Torres Strait Islander people comprised some 1.5% of the total Australian population in 1986. Most of these people were found to be concentrated in central-north New South Wales, Northern, North-west and Central Australia, with some population concentrations in the capital cities. Some 27% of Aboriginal and Torres Strait Islander people live in New South Wales, 26% in Queensland, 16% in Western Australia and 15% in the Northern Territory. Only in the Northern Territory, however, where they represent some 22% of the Territory's population, do Aboriginals constitute a substantial share of the population. Overall, a third of Aboriginal and Torres Strait Islander people live in rural areas, some 24% in major urban areas and the remainder in other urban centres, a pattern which is essentially different from the rest of the population, 15% of whom live in rural areas, 63% in major urban centres and 22% in other urban centres.

64. Over half of all Aboriginal and Torres Strait Islander people were under 20 years of age in 1986, compared to less than a third of all Australians. The difference in age structure was most pronounced in the youngest and oldest age groups. The proportion of Aboriginal and Torres Strait Islander people under 5 years of age (14%) was almost double that of the total population, while only 6% were over 54 years of age, compared to 20% of the total population, indicating the higher fertility rate and shorter life expectancy of Aboriginal and Torres Strait Islander people. In the prime working age group, 20 to 54 years, there were proportionally fewer Aboriginal and Torres Strait Islander people than was the case for the total population, being 41% as compared to 48%. Aboriginal and Torres Strait Islander women outnumber men, by a ratio of

98 men to each 100 women, compared with 98.6 to 100 for the total Australian population.

65. The overall level of child bearing amongst Aboriginal and Torres Strait Islander women is also significantly higher than other Australian women, this difference being apparent among women of all ages, but particularly so between the ages of 15-19 and 20-24 years, where the fertility rates of Aboriginal and Torres Strait Islander women are three times that for all Australian women of the same age. Comparatively, however, the rate of child survival amongst Aboriginal and Torres Strait Islander people is lower, child mortality rates for mothers aged between 15 and 29 years being 26 deaths compared to 15 deaths per thousand for the non-Aboriginal population in 1986.

66. Although school attendance is compulsory throughout Australia between the ages of 6 and 15 years (16 in Tasmania), at the 1986 Census a large number of Aboriginal children of school age, particularly in the rural areas, did not state that they were attending school. Aboriginal and Torres Strait Islander people's retention rate beyond compulsory schooling is also comparatively low. In 1986, 9% of Aboriginal and Torres Strait Islander people aged 15 years and over stated that they had post school qualifications, compared to 26% of all Australians aged 15 years and over. Among men who had recognised qualifications, 75% held trade certificates, while among women the most common qualifications held were non-trade certificates. Almost 1300 Aboriginal and Torres Strait Islander people reported a tertiary qualification and approximately 1500 were attending a university or college of advanced education. Of these, there were more women than men.

67. In common with women in the total Australian population, Aboriginal and Torres Strait Islander women have increased their participation rate in the formal labour market since the early 1970s, but their participation rate remains well below that of the total population. In 1986, the Census identified 56% of Australian women aged 15-64 in the workforce, compared with 38% of Aboriginal and Torres Strait Islander women. This lower participation rate among Aboriginal and Torres Strait Islander women was apparent across each of the States and Territories, with particularly large differences between Aboriginal and Torres Strait Islander women and the total population in the Northern Territory and Western Australia, where partici-



pation rates for Aboriginal and Torres Strait Islander women fell to almost half the level for women in the total population.

68. Results of the 1986 Census also reveal that there are important differences between Aboriginal and Torres Strait Islander women and other women in their labour force status. For Australia as a whole, Aboriginal and Torres Strait Islander women were much less likely to be employed as women in the total population and were more than twice as likely to be unemployed. These differences were also apparent at the States and Territory level. Aboriginal and Torres Strait Islander women also show a lower level of attachment to the labour force over the life cycle than women in general. Further, while the timing of women entering and leaving the labour force is generally related to family considerations, there is no evidence of this pattern in the Census statistics for Aboriginal and Torres Strait Islander women. Aboriginal and Torres Strait Islander people, in general, have characteristics which are associated with lower levels of labour force participation. They are more likely to live in small towns, have less years of schooling and fewer formal qualifications than the rest of the population.

69. Analysis of responses to the 1986 Census indicates that the economic position of Aboriginal and Torres Strait Islander women has improved markedly in terms of median incomes, to a point where median income is virtually the same as that of all Australian women. However, much of this is as a result of Aboriginal and Torres Strait Islander women's greater access to welfare benefits, rather than income from employment.

70. The 1990 National Prison Census indicated that there were 14 305 people in Australia's prisons and correctional centres. Of these, 2041 (14.3%), were Aboriginal and Torres Strait Islander people. From the figures included in that Census, at any given time, a person of Aboriginal and Torres Strait Islander background is more than 17 times likely to be in prison, than a person of non-Aboriginal and Torres Strait Islander background. This rate applies equally to Aboriginal and Torres Strait Islander women and men.

71. In 1990, there were 105 Aboriginal and Torres Strait Islander women in prison, out of the total female prison population of 778. This represents 13.5% of the total female prison population and indicated that Aboriginal and Torres Strait Islander women are over-repre-

sented at a rate of many times that of the general female rate. At the same time, 1936 Aboriginal and Torres Strait Islander men were in prison, out of the total male prison population of 13 527. This accounts for 14.3% of the total male prison population. The most frequently committed offences of Aboriginal and Torres Strait Islander women were non-payment of fines, drunkenness and social security fraud.

72. The Royal Commission into Aboriginal Deaths in Custody was set up jointly by the Federal Government, the States and the Northern Territory on 16 October 1987 in response to concern that deaths in custody of Aboriginal and Torres Strait Islander people were too common and public explanations too evasive. The Royal Commission investigated the deaths of 99 Aboriginal and Torres Strait Islander people, including 11 women, in the custody of police, prison or juvenile detention institutions between 1 January 1980 and 31 May 1989. It looked into the circumstances of the deaths, action taken by authorities following the deaths and underlying causes, including social, cultural and legal factors.

73. Whilst the Royal Commission did not include specific reference to problems faced by women, investigations by the Royal Commission into the individual deaths of the eleven women within the scope of the inquiry revealed the considerable disadvantage that Aboriginal and Torres Strait Islander women face generally and within the criminal justice system in particular. The Commission's investigation revealed that alcoholism, poverty, poor health and powerlessness contributed more heavily to the incarceration of Aboriginal and Torres Strait Islander women than criminality.

74. The Royal Commission's final Report was presented in April 1991. Responses by the Federal, and all State and Territory Governments except Tasmania, were tabled in the Federal Parliament on 31 March 1992. The Government acknowledged the role of Aboriginal and Torres Strait Islander women in its response to the Royal Commission Report.

75. Measures to address the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system generally include the establishment and funding of Aboriginal Legal Services, over 70 of which operate across Australia, to provide legal advice and representation to Aboriginal and Torres Strait Islander clients; Aboriginal and Torres Strait Islander

Prison Visitors' Schemes; Community Justice Panels and other community-based prevention, diversion and rehabilitation schemes. Aboriginal community police aides, including female police aides are recruited where communities specifically request them. Such requests have been made in the Pitjantjatjara lands in Central Australia and Port Lincoln in South Australia.

76. Comprehensive studies of violence in Aboriginal communities, particularly in the Northern Territory, the Kimberleys and in North Queensland have revealed a degree of violence against women which is affecting the future existence of whole communities. Data from recent studies indicate that the numbers of deaths due to homicide of Aboriginal women by their spouses and male relatives well outnumbers deaths in custody. Thus, for example, while there were nine deaths in custody in the Northern Territory between 1 January 1980 and 31 May 1989 (the reporting period of the Royal Commission), Northern Territory police crime reports indicate that 39 Aboriginal women died as a result of homicide. Indeed, it is estimated that Aboriginal women in the Northern Territory are 28 times more likely to die from homicide than any other Australian person.

77. In 1987, the Federal Government established the Aboriginal Employment Development Policy, which primarily focuses on employment and economic development and contains a range of employment, training, education and economic resource measures. These are discussed further in Article 11.

78. Since Australia last reported, a number of changes have been made within the Federal bureaucracy to streamline and improve policy and program development for Aboriginal and Torres Strait Islander people.

79. The *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSIC Act) was proclaimed on 7 February 1990. The Commission, which brought together the Aboriginal Development Commission and the Department of Aboriginal Affairs, commenced operations on 5 March 1990. It is a complex organisation combining representative, advisory, decision making and administrative processes into one statutory organisation. It represents a challenge in the field of public administration and a path-breaking experiment in the field of indigenous affairs internationally.

80. ATSIC provides the base on which Aboriginal and Torres Strait Islander people can now negotiate with Governments at all levels on the implementation of programs to meet their needs and overcome their disadvantages.

81. Four Aboriginal and Torres Strait Islander women are on the 20 member Aboriginal and Torres Strait Islander Commissions' Board of Commissioners, including the Chairperson, Ms Lois O'Donoghue. This Board is the national policy and decision making body on Aboriginal and Torres Strait Islander affairs. In addition, four women have been appointed to the seven-member Torres Strait Islander Advisory Board; the Australian Institute of Aboriginal and Torres Strait Islander Studies has elected three women to its Council of nine members including its new Chair, Ms Marcia Langton; and the Aboriginal Commercial Development Corporation has three women on its Board of nine.

82. In 1990-91, elections were held to establish sixty ATSIC Regional Councils throughout Australia. Of the 791 Councillors elected, 209 were women. Subsequently, 10 women have been elected as Council Chairpersons, and 77 women are included amongst the 236 executive positions. In order to develop strategies to ensure involvement of women, ATSIC held a national women's workshop, *New Directions in ATSIC* in August 1990.

83. Aboriginal and Torres Strait Islander women have had some success in gaining membership of the Aboriginal Land Councils in the Northern Territory, whose councillors are selected by particular Aboriginal communities or particular clans in accordance with the cultural practices and decision making processes accepted by those communities or groups. Of the four councils, two have female councillors: one has 6 out of 80 and the other 6 out of 81.

84. There are positions on the NWCC for ministerial appointment of representatives of Aboriginal women and Torres Strait Islander women, following consultation with representatives of the Aboriginal and Torres Strait Islander community. As well, the State Government member of the NCVAW is an Aboriginal woman from the North Territory.

85. The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) was established in 1964 and is the largest resource centre for information about the cultures and

lifestyles (traditional and contemporary) of Aboriginal and Torres Strait Island people. Since 1988, 120 grants have been awarded to women to conduct research in fields relevant to Aboriginal and Torres Strait Islander studies. Of these, 38 grants were awarded to Aboriginal women. In 1990-91, six of the 12 manuscripts published by the Aboriginal Studies Press were written by women, three of these by Aboriginal women.

86. In 1986, the Aboriginal Women's Task Force which was serviced by OSW, released its Report, *Women's Business*. The Task Force was established to:

- inquire into the involvement of Aboriginal women in land rights, culture, health, housing, education, employment, legal aid, and child welfare;
- seek to have Aboriginal women identify their critical needs in those areas; and
- make recommendations to the Federal Government on what action may be taken.

87. The Federal Government made its formal response to *Women's Business* in May 1989 in which it identified that *Women's Business* had shaped the Government's approach to a range of issues. The Federal Government signalled the importance of Aboriginal and Torres Strait Islander women's issues by upgrading ATSIC's Office of Aboriginal Women, renamed the Office of Indigenous Women (OIW), to advise the Government and the Aboriginal and Torres Strait Islander Commission on Australia-wide matters concerning Aboriginal and Torres Strait Islander women. The Office is advised by a network of 30 Regional Women's Advisers located in the Commission's Regional Offices. The Office also administers the Women's Initiatives Program, which is intended to provide women with the opportunity to design and manage their own projects, improve their access to all services and to encourage their greater participation in the decision making process. Through the Program, funds have been made available for a wide range of projects, including health projects, emphasising traditional health care, projects to assist women with transport, projects concerning family violence and information services.

88. In 1989, the Department of Aboriginal Affairs also published *The Women's Book*, the first national guide and directory to government programs, services and resources specifically related to Australia's Aboriginal and Torres Strait

Islander women; and the *Register of Aboriginal and Torres Strait Islander Women*.

89. In April 1992 the Commission hosted a National Aboriginal and Torres Strait Islander Women's Conference. Participants were nominated by the Commissioners and included one female Regional Councillor per Regional Council as well as Regional Women's Advisers.

90. This Conference was the first of this type and magnitude undertaken by the Commission. The Report of the Conference outcomes will provide officers within ATSIC and other agencies with a reference document which will inform and guide their development of policy and programs to ensure it is more appropriate to the needs, expectations and aspirations of Aboriginal and Torres Strait Islander women.

91. In December 1991 the Federal Government agreed on an Aboriginal and Torres Strait Islander Recruitment and Career Development Strategy for the Australian Public Service, to broaden and make more effective representation of all Aboriginal people at all levels and in all Commonwealth Departments. This is to be achieved through the establishment of a range of recruitment, training and career development programs and support measures. The Department of Employment Education and Training is to receive Aboriginal Employment and Career Plans from all Departments.

92. Under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, Aboriginal and Torres Strait Islander people are able to apply for protection of sites and objects of significance from threat of injury and desecration. Since the Act was introduced in 1984, applications for protection have been received from a broad range of Aboriginal and Torres Strait Islander organisations and individuals, the majority coming from Aboriginal Land Councils and Legal Services, where women currently do not have a high representation.

93. These applications are made, however, on behalf of particular communities and the protection requested often covers sites which are of significance to women. In these cases, women in their capacity as community spokespersons and representatives of Aboriginal community organisations play a major role in consultation and negotiation regarding site protection. It should be noted that Aboriginal and Torres Strait Islander women traditionally do not discuss business matters with men, so it is likely

the degree to which women-only sites are being adequately considered under the Act depends on the involvement of female archaeologists and anthropologists. Aboriginal and Torres Strait Islander women have also played a major role in consultations regarding the return of Aboriginal remains.

94. Aboriginal and Torres Strait Islander women are custodians of cultural knowledge and land, and have similar rights and responsibilities as men. While women's role as land owners and custodians of land and sacred sites has not always been taken into account in the preparation of land rights claims under State and Territory land rights legislation, a number of factors have led to an increase in women's contribution to the land claim process. These factors include changing attitudes of claimants and claim assessors. The Northern Territory Land Councils now engage female anthropologists and researchers to assist Aboriginal women in the preparation of land claims. Aboriginal women have also become more familiar with the processes involved in claiming land, and attending and giving evidence at hearings. Aboriginal Land Commissioners realise that women's knowledge is not confined to the domestic/secular sphere, and women's evidence is included now as a matter of course.

### **Non-English Speaking Background (NESB) Women**

95. In the context of Australian society, an immigrant is defined as a person who is overseas born from English or non-English speaking background who has permanent residence in Australia and who attracts the full rights of a citizen in terms of anti-discrimination and EEO laws and all other social welfare benefits available to citizens. Experience and formal studies have established that language barriers are a major inhibiting factor to settlement and consequently the Federal Government is focussing specifically on non-English speaking background immigrants in the context of settlement issues and service delivery.

96. Within this framework, there are two categories of immigrants from non-English speaking backgrounds:

- NESB 1 is a non-English speaking immigrant born in a predominantly non-English speaking country.

- NESB 2 is a person who is the child of a NESB 1 or who has come to Australia from a predominantly non-English speaking country from before the age of 5.

97. Immigration has been a major feature of Australian history since the beginning of European settlement in 1788. Following World War II, the Australian Government launched a vigorous migration program. While settlers from the United Kingdom and the Republic of Ireland have traditionally been the majority, together with immigrants from continental Europe, immigration from Asia, the Middle East and Oceania increased considerably during the 1970s as a result of changes which made Australia's immigration requirements non-discriminatory. Before 1976 over 80% were born in Europe, compared with 35% arriving between 1976-1986.

98. A significant proportion of the population is of immigrant origin. At the time of the 1986 Census, some 25% of the total population was born overseas. Approximately 14% of the population were from non-English speaking countries and more than one in five were first or second generation immigrants of non-English speaking background.

99. Over 2 million people, or about 14% of the population aged 5 and over at the 1986 census spoke a language other than English in the home. Of the languages spoken, Italian ranked foremost followed by Greek and then by the Chinese languages, German and Arabic/Lebanese. These 5 language groups together represented about half of all people who spoke a language other than English at home. About 28% of foreign language speakers were born in Australia.

100. Proficiency in English varied with age. Over 90% of young people who spoke a language other than English in the home stated that they could speak English well, compared with 57% of those aged 65 or more.

101. Following an extensive series of community consultations last year the Government decided to develop a **National Integrated Settlement Strategy** (NISS) to address the range of settlement problems identified by the community. The Strategy recognises that the specific settlement services provided by the Department of Immigration, Local Government and Ethnic Affairs (DILGEA) are only a small part of the effort that impacts on migrants' settlement ex-

perience. The Strategy brings together a range of Federal, State, Local and Non-Government agencies to develop better coordinated settlement services.

102. The NISS also highlights the importance of community consultation. A national level Settlement Advisory Council is chaired by the Minister for Immigration, Local Government and Ethnic Affairs. State/Territory level planning involves considerable community input.

103. Some specific initial settlement services are provided by DILGEA, including the Adult Migrant English Program (AMEP) which provides English-as-a-Second-Language training; a Translating and Interpreting Service; orientation information for new arrivals; and some specific on-arrival accommodation and related services for refugees. DILGEA also funds community organisations to provide settlement services and to advocate on their behalf.

104. All of the specific services provided and funded under DILGEA's settlement program acknowledge and attempt to address the difficulties faced by immigrant women in adapting to living in a country with a different language and culture. The NISS will also take into account the needs of particular groups, including women, people in isolated areas and those affected by industry restructuring.

105. The Government is also addressing the issue of recognition of overseas skills and qualifications through the National Office of Overseas Skills Recognition (NOOSR).

106. To respond to this diversity of population, the Government has adopted a policy of multiculturalism. This addresses relationships between Australians, their relationship to the country's available resources, and their rights and obligations as residents of Australia.

107. There are approximately 868 000 NESB 1 women in Australia, from some 140 countries, women comprising around 12% of the total Australian female population. The majority reside in large capital cities, especially Sydney and Melbourne.

108. Labour force data (ABS, Labour Force Survey, November 1990, unpublished data) show that when comparing the participation of women on non-English speaking background with that of Australian-born women in the workforce, women are over-represented in lower paid and

less skilled occupations; and while they share with all women a concentration in clerical and sales work, they are under-represented in these areas of white collar work. Moreover, non-English speaking background women, particularly those who have recently arrived in Australia, experience comparatively high rates of unemployment.

109. A recent study on non-English speaking background women in the workforce (OSW, in publication) points out that, firstly, relevant data should be collected and made readily accessible. However, the study warned that whilst the use of the category of 'non-English speaking background' was regarded as an important first step in data collection about immigrant women, this aggregate category could lead to an unintentional evening out of the differentials between the Australian born and particular groups of immigrant women and their daughters.

110. In recognition of the fact that the interests of a multicultural society impinge on all areas of Government activity, the Prime Minister established an Office of Multicultural Affairs (OMA) in his own Department in 1987, to develop, monitor and coordinate policies and programs relating to multiculturalism.

111. OMA has appointed a network of regional coordinators which operates throughout the country, to ensure that effective communication exists with other Government agencies and other State and community-based organisations. Regional Coordinators are assisted by Bilingual Consultants who are engaged on a casual, short-term contract basis to encourage participation by, and consultation with, community members who are not proficient in English.

112. In 1989, the Prime Minister launched the **National Agenda for a Multicultural Australia**, a series of policy initiatives designed to meet both short-term needs and long-term objectives. As a major initiative of direct benefit to women, in the context of the National Agenda for a Multicultural Australia, the Government established a Federal, State and Territory Task Force (now a Commonwealth/State Council) on NESB Women's Issues.

113. The Commonwealth/State Council on NESB Women's Issues was set up in June 1989 to advise the Prime Minister and promote a coordinated approach at inter-governmental level on issues of particular concern to non-English speaking background women.

114. The major contribution made to Australia by immigrant women was emphasised in the Government's **National Agenda**, as a recognition that this contribution has often gone unrecognised and that the attempts of immigrant women to take full part in Australian society have often been frustrated by additional obstacles. The Council, the Secretariat of which is the responsibility of the Office of the Status of Women in the Prime Minister's own Department, brings together Government and community representatives to make recommendations to enable women to gain access to government programs and services.

115. In its first term of operation, the Commonwealth/State Council on NESB Women's Issues identified three priority areas: health, the law, and language services. As a result of this the Council developed the **National NESB Women's Health Strategy**, a report which was published in September 1991 (see Article 12); made a submission to the Australian Law Reform Commission's Multiculturalism and the Law review in 1991; and commissioned an issues paper on the interpreting and translation needs of non-English speaking background women, to be released in July 1992.

116. The first Commonwealth/State Council on NESB Women's Issues completed its term of office at the end of 1991, and the second Council will continue to mid-1994.

117. There are positions on the NWCC for ministerial appointment for women from non-English speaking backgrounds, following consultation with the relevant community-based organisations.

118. A further initiative of the **National Agenda for a Multicultural Australia**, the **Community Relations Strategy**, was implemented during 1991. Whilst this Strategy is of general application, two grants have been made for projects directed at women: to assist non-English speaking background women in rural areas of New South Wales, Victoria and Queensland; and to encourage interaction between non-English speaking background women and women from English speaking backgrounds. A further project is under consideration.

119. Multicultural services and programs, which affect immigrant women also, are monitored across Federal Departments by OMA. In addition, OMA initiates and supports research projects on economic and social aspects of

multiculturalism which are specific to women. Such projects have included immigrant women in small business, non-English speaking background women and award restructuring in the clothing industry, support networks of Indochinese, Filipino and South Asian women in a non-metropolitan environment, non-English speaking background women in white collar public sector occupations and issues for non-English speaking background women in a multicultural Australia. OMA also supports community projects which are relevant to women. Examples include television programs on women from non-English speaking background groups, and a video/workbook package for early childhood educators and child care centres on principles and strategies for a culturally and linguistically diverse society.

120. A major component of OMA's coordinating role has been the implementation and monitoring of the Government's **Access and Equity Strategy**. Under this Strategy, Federal Government Departments are required to identify policies and activities which facilitate equitable access to resources and services to all Australian residents. Emphasis is placed on people from non-English speaking background and on women in these plans, reflecting the double disadvantage. A formal evaluation of the Strategy commenced in mid 1991.

121. The Human Rights and Equal Opportunity Commission (HREOC), established by the Federal Parliament under the *Human Rights and Equal Opportunity Commission Act 1986*, reports that non-English speaking background women have raised various issues with regard to access and equity. These include discrimination in employment, promotion and access to training opportunities, lack of access to English language training, lack of access to adequate child care facilities, poor interpreting services, difficulties in obtaining recognition of overseas qualifications and difficulties with access to legal protection and redress.

122. Various strategies have been introduced at government level to confront these barriers. First, HREOC promotes the acceptance and observance of human rights and equal opportunity by developing public awareness of these rights through public inquiries, community education and individual complaint resolution. The Commission is a permanent independent statutory body and is responsible for the *Sex Discrimination Act 1984* and the *Racial Discrimination Act 1975*, which have particular

relevance for non-English speaking background women. The Racial Discrimination Act makes discrimination on the grounds of race, colour, descent or national or ethnic origin unlawful in the areas of access to public places and facilities, accommodation and the sale of land, provision of goods and services, advertising and employment. Complaints may be lodged to the Commission under the Act on the basis of indirect discrimination and in circumstances where the discrimination is only one factor in the discriminatory action. In 1990-91, for example, HREOC received 352 complaints under the Racial Discrimination Act, of which 153 were from women. Some 135 complaints were lodged by people of non-English speaking background origin and 121 from Aboriginal and Torres Strait Islanders. Australia is currently considering further legislation to address the issue of racial vilification.

123. An effective structural mechanism is thus provided for immigrant women who have been discriminated against on the basis of ethnicity or gender. However, the HREOC has found that few non-English speaking background women use the legislation to combat the discrimination they suffer. This, it appears, is because few such women are aware of their rights and how they can assert them, and do not know of the existence of the authorities, such as HREOC, responsible for protecting them. The OMA 1991 Report *Non-English Speaking Background Immigrant Women in the Workforce* identified lack of information as one of the most fundamental barriers to access and equity for immigrant women. Even where the women did have knowledge of the action they could take, they were reluctant to do so. For example, if such women were victims of sexual harassment in the workplace, they would be unwilling to complain, being ashamed and of the view that the harassment reflected badly on them, while they were reluctant to complain against superiors in the workforce because they were fearful of losing employment.

124. Further barriers were identified in the 1991 Report prepared by the Australian National Consultative Committee on Refugee Women, supported by the Bureau of Immigration Research, *Refugee Women - Still At Risk in Australia*. The Report outlines the needs of refugee women within the first two years of arrival in Australia, assesses the extent to which these needs were being met by existing services, and identifies a number of services essential for successful resettlement. These included English

language provision, access to secure, affordable accommodation, income support, employment services, child care, emotional support and therapy, orientation and information services.

125. HREOC, other anti-discrimination bodies and other government bodies are thus faced with the challenge of providing non-English speaking background women with the information and skills they need to make proper use of the mechanisms available.

126. Accordingly, HREOC has adopted a range of access and equity strategies for non-English speaking background women. In 1988, the Commission undertook a pilot project to address the specific difficulties faced by non-English speaking background women in becoming aware of the provisions of anti-discrimination law, which took the form of radio broadcasts on Sydney community radio stations in Turkish, Spanish and Khmer. The announcements provided dramatised presentations of employment related situations such as sexual harassment, dismissal on the grounds of pregnancy, and access to services such as accommodation. Information kits were distributed to supportive community organisations and the Telephone Interpreter Service was used as a follow up for inquiries. The project was replicated in Melbourne in 1989.

127. The pilot project provided valuable information to the Commission from non-English speaking background women and indicated what they perceived as the most important barriers to achieving access. These included a distrust of the bureaucracy, an incomplete grasp of the mechanisms that would be set in train when laying a complaint, fear of reprisals, lack of witnesses and lack of confidence in written and/or spoken English. These findings echo the OMA and the National Consultative Committee on Refugee Women studies. Most of the women preferred to approach a trusted bilingual community worker or friend, before venturing into any government agency.

128. Following the original pilot project, HREOC is participating in the **Community Relations Strategy** under the National Agenda for a Multicultural Australia. The Strategy is designed to promote tolerance and respect within the Australian community. Particular objectives of the Strategy include the reduction of systemic as well as direct, discrimination against people of different race, ethnicity, religion, culture or language.



129. Within the Strategy, a Community Education Package for non-English speaking background people has been developed in consultation with a non-English speaking background community in Victoria, to enable community workers to give advice on strategies for resolving human rights problems at a local level. The Package covers relevant State and Federal legislation and describes the strategies available through government and non-government agencies for the protection of human rights and other community relations issues.

130. HREOC has also been involved in projects which aim to educate employers so that they avoid discriminatory acts, practices and policies in the workplace. Two pilot projects were undertaken in private sector companies with the cooperation of management and on-site union representatives, which provided the basis of a training package, **Race Relations in the Workplace**. The package will be run in 15 workplaces throughout Australia to demonstrate how employers can improve their ability to manage culturally diverse workplaces for the benefit of industrial relations and productivity.

## Women with Disabilities

131. The 1988 *Disabled and Aged Survey* undertaken by the Australian Bureau of Statistics identified a total of 2 120 600 Australians as handicapped, 1 053 500 men and 1 067 100 women. This represents 13% of all Australians.

132. Of these, 31% had a severe handicap, 26% a moderate handicap and 29% a mild handicap. For 14%, the severity of the handicap was 'not determined'. (These had a schooling or employment limitation only or were aged less than 5 years.)

133. One and a half times more females were severely handicapped than males, this effect being concentrated in the older age groups. Of the total population aged 75 and over, 38% of females were severely handicapped, whereas only 20% of males were severely handicapped.

134. There have been major reforms and new directions set in Australia for policies and programs for people with disabilities in recent years. These have been for all people with disabilities, and the most recent strategies, outlined below focus on employment and income security. There has not been a specific focus on women with disabilities, though the double

disadvantage of those with disabilities who are Aboriginal, from a non-English speaking background or are women has been identified as one of the principles and objectives of the *Disabilities Services Act 1991*:

Programs and services should be designed and administered so as to meet the needs of people with disabilities who experience a double disadvantage as a result of their sex, ethnic origin or aboriginality. (No. 5)

135. The situation for women with disabilities is now being addressed and will be examined further in Australia's Supplementary Report to this Second Periodic Report.

136. As described in Australia's First Report, the Federal Government Report, *New Directions: Report of the Handicapped Programs Review* and the subsequent legislation marked a first step towards establishing a new direction for the provision of services and addressing long standing barriers faced by Australians with disabilities.

137. The subsequent *Disabilities Services Act 1987* was unique in Australian legislation in that it included a Statement of Principles and Objectives which represented a clear policy statement by the Australian Government on the rights of people with disabilities, and key principles and practices that should apply to services provided for people with disabilities.

138. The *Disabilities Services Act* provides a program to encourage the development of new and innovative services responsive to individual need, and a transition program to assist older style pre-existing services to move towards quality services.

139. To facilitate the changes to service delivery the *Disability Services Act* has been supported by significant levels of funding. Since 1983 there has been a 60% increase in real terms in spending on disability services.

140. The *Commonwealth/State Disability Agreement*, signed in July 1991 provides that the Federal Government will administer employment services for people with disabilities and State Governments will administer all accommodation and other support services. This ensures that the Federal Government's continued responsibility for employment services is consistent with its national responsibilities for employment services for the general commu-



nity, and enables direct links with the Social Security system.

141. Improvements in employment focused service delivery achieved under the Disability Services Act, have gone hand in hand with reform of the social security system for people with disabilities in Australia. The new Program the **Disabilities Reform Package**, was implemented from October 1991 and gives all people with disabilities improved access to income support, rehabilitation, education and training and labour market programs.

142. The new measures, available to all applicants for the Disabilities Support Pension and the Sickness Allowance, will offer more labour market places, fully subsidised work experience, on-the-job support services, increased access to training and provide supplements to employers and training providers to meet the costs of special equipment and workplace modifications. Further work will be undertaken, including the development of labour market assessment mechanisms and appropriate wage structure for people with disabilities who are unable to participate in open employment. A comprehensive publicity campaign is being conducted to develop widespread awareness of the Package.

143. The Package has been developed for all people with disabilities and does not include anything specifically targeted at women. The current focus of the Package's employment access program is people from the age of 16 years. A recent survey of the use of the employment programs indicates that there remains a gender imbalance, favouring men, in the use of these resources. Strategies to address this gender imbalance are now being explored.

144. The Federal Government's main advisory body is the Disability Advisory Council of Australia (DACA) which was established in 1983 to advise the Minister responsible for disability services on the impact of policies which affect people with disabilities and their families. This Council consists of people with disabilities and people who have first hand experience with disability issues. It currently provides the Minister and the Government with advice drawn from the experience of its members, and from information provided through networks of people who are consumers, service providers and family members. Of the 16 members of the Committee, 10 are women.

145. The NWCC has a position for ministerial appointment of a woman with disabilities, following consultation with the relevant community organisations.

146. There is strong support amongst people with disabilities in Australia for the introduction of national, comprehensive legislation which will ensure that they do not suffer discrimination in employment and other areas. Whilst disability anti-discrimination laws already exist in some State legislatures there are differences in wording, scope and coverage which reduce their effectiveness. The Australian Government is therefore planning to introduce comprehensive national legislation to complement existing State laws and offer equal protection for all people with disabilities.

### **(e) PROGRESS OF AND DIFFICULTIES IN IMPLEMENTING THE CONVENTION.**

147. In the nine years since the ratification of CEDAW, Australia has put in place the structural framework of anti-discrimination legislation and positive legislative measures, strategies and programs to assist women. Although there is no Constitutional guarantee of gender equality, Australian women have formal legal equality with men. A particular Australian achievement is that across all Federal and State and Territory departments, specialised bureaucratic machinery of government has been set up to advise on status of women issues and to monitor and evaluate the outcomes for women of all government policies and programs, based on the recognition that no government activity can be assumed to be gender-neutral in its effects. This has been further strengthened by the establishment of a ministerial forum, through the Commonwealth/State Ministers' Conference on the Status of Women.

148. Australian governments have also established reporting mechanisms which provide annual public reports on progress, for example:

- the implementation report on the National Agenda for Women (the Government's policy framework);
- the report on progress under the Australian Women's Employment Strategy;

- the report on the National Policy for the Education of Girls in Australian Schools; and
- women's budget statements.

149. Some of these reports contain performance indicators related to specific government measures or more general social outcomes, and their progressive updating constitutes a concrete measurement of the extent to which women's position has improved.

150. Australia has also been in the forefront of English-speaking countries in the range of government-funded services developed to meet the specific needs of women and, moreover, run by women for women. Women's information and referral services run in all metropolitan centres and some regional centres act as an access point to government for women. A national network of women's refuges exists for women escaping violence and there are domestic violence crisis services, rape-crisis centres, incest centres and women's health centres. Cultural needs are accommodated within these services, in some cases through separate services such as Aboriginal women's refuges.

151. The period since Australia's First Report has been one of consolidation and implementation. Progress has been achieved in a number of key areas, detailed in discussion under the specific Articles of the Convention. Priority has, for example, been given to measures which address those underlying social attitudes which constitute a serious obstacle to the achievement of equality for women. The reform of school educational curricula from the perspective of gender equity is being undertaken. Violence against women is recognised by all governments as a major area for attention and important reforms have been undertaken, for example in gun control. Significant progress has been made in heightening awareness of the prevalence of violence against women and strengthening services and legal responses. The NCVAW has set as its aim the elimination of violence against women. The Commonwealth/State Conference of Ministers responsible for the Status of Women has endorsed the development, by the NCVAW, of a national strategy on violence against women. The strategy will have a whole-of-government approach to the aim of eliminating violence against women. A highly successful community education program entitled 'Break the Silence' promoted public recognition of the prevalence of domestic violence. The stereotypical and deni-

grating portrayal of women in the media is being challenged by the National Working Party on the Portrayal of Women in the Media, a body which draws together industry, government and community representatives.

152. Important opportunities to improve the position of women in the workforce have been offered through labour market reform and the processes of award restructuring. In the employment and industrial relations context, the gender-gap in wages has been further reduced, with the ratio of women's to men's ordinary time earnings having reached 84%, which is high by international standards. By December 1991, 88 700 additional child care places had been created in the not-for-profit sector since 1983. In addition, the extension of fee relief to the commercial sector from 1 January 1991 extended Government funding to a further 42 800 child care places. Currently 130 000 families receive Federal Government fee relief to assist in meeting the costs of child care. Sole parents, who have been assisted to gain employment or further education and training under the Jobs, Education and Training Program, have been major beneficiaries of this child care expansion.

153. The ratification in 1991 of the International Labour Organisation Convention No 156, Workers with Family Responsibilities, was a landmark decision, in that it commits governments to take measures to enable such workers to be employed without discrimination and, as far as possible, without conflict between their employment and family responsibilities. A national strategy to implement the Convention across Federal policies and programs will be announced later this year.

154. In the legislative arena, there have been several amendments to the *Sex Discrimination Act 1984* to improve and extend its coverage. Reviews of affirmative action legislation and equal employment opportunity strategies are underway. An important finding of the review of affirmative action has been the high level of acceptance in the community and business of the need for these measures and the willingness to contribute constructive comment on making them more effective structurally.

155. The Federal Government has implemented a comprehensive system of income support for low to middle income families with dependent children; such family allowance payments are made directly to the primary carer of the children, generally the mother. In recent years

particular attention has been paid to the need to reduce any workforce disincentives (and therefore poverty traps) for those on pensions or benefits, such as sole parent pensioners, and in this regard the interaction between income support payments and the taxation system is critical. The Government has also established the Child Support Scheme to ensure that non-custodial parents assist in the support of their children and that children of separated parents receive adequate financial support.

156. Women's health has also been a priority area for government action and the National Women's Health Program is a joint Commonwealth/State funded program for implementation of the National Women's Health Policy. Major health initiatives for women include the Cervical Cancer Screening Program and the Commonwealth/State National Program for the Early Detection of Breast Cancer.

157. While the achievements in implementing the Convention over nearly a decade have been significant, it is recognised at all levels of government in Australia that full equality for women is still some way off. Vigilant monitoring of progress and continued readjustment of government policies will be necessary to maintain the momentum.

158. Nowhere is this more evident than in looking at the needs of Australia's indigenous women. While the strategies and consultative measures have been put in place to assist Aboriginal and Torres Strait Islander people, including women, their social and economic position remains very disadvantaged. There are special measures required to assist certain immigrant women of non-English speaking background. Women with disabilities require assistance tailored to the double disadvantage they face.

159. For all Australian women, their right to economic security and independence remains central to government policies. Key areas still to be fully addressed are the high degree of occupational segregation and the impact on women's pay and conditions of the shift to a more decentralised wage-fixing system. The access of young women to vocational education must improve if women are to be able to achieve a broader spread of post-compulsory schooling qualifications and concomitant access to traditionally male occupations. Superannuation has been predicated on male work force patterns and women's access to adequate retirement income

will remain a critical issue. Paid maternity leave is still not available outside some areas of the public sector. The balance of family responsibilities will also need to be negotiated to enable women to have equal employment opportunity. This will be an issue not only for government but also employers, unions and families themselves.

160. In achieving these reforms, it will be important to increase the level of female political participation and participation on government-appointed bodies. Women's representation at these decision-making levels continues to be below target levels.

161. Australia's population has remained more youthful than those in Europe and North America but is now ageing rapidly. Governments are beginning to face the challenge of the issues associated with an older population - health and residential care, the role of women as the primary carers of elderly relatives, retirement income provision and income support measures.

162. Overall, Australia is committed to consolidating and increasing the gains made towards establishing full equality for women.

## **PART II**

### **INDIVIDUAL ARTICLES OF THE CONVENTION**

#### **Measures Adopted**

## **ARTICLES 1-3**

### **ELIMINATION OF DISCRIMINATION**

#### **Article 1**

For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

#### **Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

#### **Article 3**

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

## ARTICLES 1-3

### ELIMINATION OF DISCRIMINATION

1. The Federal *Sex Discrimination Act 1984* is the pivotal legislative instrument which relates to sex discrimination. There is one other Federal anti-discrimination Act - the *Racial Discrimination Act 1975* - while the *Human Rights and Equal Opportunity Commission Act 1986* invests the Human Rights and Equal Opportunity Commission with limited powers in relation to complaints of discrimination in employment on certain other grounds.

2. The majority of States and Territories now have some form of anti discrimination legislation. New South Wales operates under the *Anti Discrimination Act 1977*, South Australia, the *Equal Opportunity Act 1984*, Victoria, the *Equal Opportunity Act 1984*, Western Australia, the *Equal Opportunity Act 1984*, the Australian Capital Territory under the *Discrimination Act 1991* and Queensland under the *Anti Discrimination Act 1991*, which is the newest legislative measure introduced in Australia to combat sex discrimination. Victoria, New South Wales and Western Australia are reviewing their existing legislation. The Northern Territory is currently considering the introduction of its own sex discrimination legislation, and anti discrimination bills have been considered by the parliament. The Tasmanian Government is considering the introduction of Anti-Discrimination legislation. Until the implementation of their own legislation, both the Northern Territory and Tasmania are subject to the Federal Sex Discrimination Act except in relation to discrimination in employment by the State/Territory government.

3. The State and Territory legislation has the same philosophy and general approach as the Federal Sex Discrimination Act, but covers a number of different grounds of discrimination as well as sex. The operation and progress of the Federal legislation which has now been in effect for eight years is outlined below and the experience of the other statutes is then briefly indicated.

4. The objects of the *Federal Sex Discrimination Act 1984* are:

- to give effect to certain provisions of the Convention on the Elimination of All Forms of Discrimination Against Women;

- to eliminate, as far as possible, discrimination on the ground of sex, marital status or pregnancy in the areas of work, accommodation, education, the provision of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Federal laws and programs;
- to eliminate, as far as possible, discrimination involving sexual harassment in the workplace and in educational institutions; and
- to promote recognition and acceptance within the community of the principle of the equality of men and women.

5. The Sex Discrimination Act (SDA) covers:

- employment;
- education;
- the provision of goods, services and facilities;
- accommodation;
- land;
- clubs; and
- the administration of Federal programs.

It makes it unlawful to discriminate in these areas on the grounds of sex, marital status or pregnancy. While the SDA does not expressly include potential or intended pregnancy as a ground of discrimination, it does cover discrimination based on a characteristic which generally appertains to or is imputed to persons of a particular sex. Pregnancy is a characteristic which appertains to and/or is generally imputed to women and discrimination based on pregnancy has been regarded as sex discrimination under State discrimination legislation. The Act also contains express provisions on sexual harassment, rendering such harassment unlawful in employment and education.

6. The Act allows for individual or group action by way of complaint after a discriminatory action is alleged to have occurred and for broader action on a policy and educational level.

7. All complaints must be in writing and lodged by someone who is 'personally aggrieved' by the Act complained of. A complaint may also be

lodged by an aggrieved person on behalf of a group of aggrieved persons, or by a trade union on behalf of an aggrieved person or persons. Complaints are received by the Human Rights and Equal Opportunity Commission (HREOC) which refers them to the Sex Discrimination Commissioner for investigation and conciliation.

8. The complaint is then investigated to establish the facts and to identify the areas of agreement and disagreement between the parties. This is followed by discussion and negotiation between the parties aimed at achieving a settlement.

9. The majority of complaints are either settled by conciliation or not proceeded with. Conciliation is a confidential process. In order to facilitate conciliation, the Act empowers the Commissioner or her delegate to direct attendance at compulsory conferences or to order the production of documents.

10. Conciliated settlement conditions are entirely flexible and determined by the parties. They can involve a wide range of terms including for example, in employment cases, an apology, the provision of a reference, reinstatement, training, promotional opportunities and financial compensation. The process is informal, flexible, low cost and confidential. Further, the process has an educative effect on participants and may have a general 'ripple effect', in that a settlement term to which an employer agrees may affect many beyond the individual complainant.

11. Some criticisms are, however, levelled at conciliation. It is said to take too long, to be intimidating for some people, take control from the individual and put the complainant, who is usually not powerful, in comparison with the respondent, in a weak negotiating position. Critics also suggest that the confidentiality of the conciliation process does not allow for public exposure of systemic discrimination and, further, it encourages complainants to withdraw complaints.

12. However HREOC, which administers the Sex Discrimination Act, has drawn attention to the advantages of conciliation. In particular, HREOC noted the high success rate of conciliation as a means of arriving at a solution acceptable to both parties. The informality and confidentiality of the conciliation model facilitates the utilisation of the complaint procedures, which are more accessible and user-friendly

than the adversarial procedure of a court and more likely to allow for a successful on-going relationship between complainant and respondent where this is required, such as in employment cases. Conciliation has the further advantage of being far less costly than litigation, both for the parties and indirectly for the community as a whole which would otherwise often bear the cost of legal assistance to the parties.

13. The small minority of cases that cannot be conciliated are referred to HREOC for hearing, at which point the complaint becomes public knowledge. HREOC may dismiss the complaint or find it substantiated and make a determination. Such a determination may include a declaration:

- that the respondent has engaged in unlawful conduct and should not repeat or continue such conduct;
- that the respondent should perform any reasonable act, specifically including variation of any termination of contract or agreement, or (except in the case of a representative complaint) the payment of damage, to redress loss or damage suffered by the complainant;
- that the respondent should employ, re-employ or promote the complainant; or
- that further action would be inappropriate.

Determinations are reviewable in the Federal Court, but are not binding on the parties. Enforcement proceedings may be taken in the Federal Court.

14. Although only a small minority of cases are not successfully conciliated, those that cannot be and therefore go to a formal hearing frequently attract significant publicity, particularly where they concern sexual harassment. Accordingly, settlements that complainants are satisfied with, and from which long term broader benefits are gained, are not widely known. This makes it difficult to present a positive profile of the process and encourage women to take up instances of discrimination on the basis of past successes. Furthermore, the publicity which attends a small number of cases which have not been successfully conciliated gives respondents an adverse impression of the process, making them unwilling to cooperate in conciliation.

15. In the period November 1987 to November 1991, a total number of 2406 complaints have been lodged under the Act and accepted as being within jurisdiction. The number of complaints has been increasing in each year. Most complaints concerned discrimination on the basis of sex and sexual harassment as Table 1-3.1 below, setting out the grounds of discrimination complained of, indicates. The majority of complaints have been in the area of employment.

16. Although men are not precluded from using the legislation, the majority of complaints received under the Act are lodged by women. Thus in 1987-88, 380 complaints were lodged by women, 37 by men, and 23 by a group or association; in 1988-89, 409 by women, 52 by men, and 8 by a group or organisation; in

1989-90, 538 by women, 49 by men, 2 by husband and wife and 4 by a group or organisation, while in 1990-91, 728 by women, 70 by men and 5 by a group or organisation.

17. Although the Act specifically covers indirect discrimination, which has been identified by HREOC as one of the major obstacles to achieving full equality for women in the workforce, in that it involves treatment which appears to be neutral or simply 'common practice' but which may be discriminatory because it has an impact which is borne unequally by a particular group, very few complaints of indirect discrimination have been lodged. The Sex Discrimination Commissioner accordingly initiated in 1991 a series of seminars on indirect discrimination in Sydney, Melbourne and Brisbane to inform legal

**Table 1-3.1**

**Complaints Under the Sex Discrimination Act by Category, 1987-1991**

Category of complaint	87-88	%	88-89	%	89-90	%	90-91	%
Sex	193	43.9	175	30.7	212	35.8	239	29.8
Sexual harassment	121	27.5	150	26.3	140	23.6	292	36.4
Sex and sexual harassment	14	3.2	24	4.2	83	14.0	18	2.2
Marital status	48	10.9	46	8.1	45	7.6	69	8.6
Pregnancy	41	9.3	52	9.1	83	14.0	156	19.4
Other	23	5.2	17	2.9	30	5.1	29	3.6
<b>Total number of complaints</b>	<b>440</b>		<b>[575]</b>		<b>593</b>		<b>803</b>	

Source: Human Rights and Equal Opportunities Commission

[ ] denotes an incomplete total as figures for 1988-89 do not include NSW.

**Table 1-3.2**

**Complaints Under the Sex Discrimination Act by Complaint, 1987-1991**

Area of complaint	87-88	%	88-89	%	89-90	%	90-91	%
Employment	338	76.8	375	65.2	504	85.0	680	84.7
Accommodation	2	0.5	11	1.9	4	0.7	13	1.6
Goods/Services/Facilities	52	11.8	37	6.4	49	8.3	76	9.5
Clubs	37	8.4	15	2.6	14	2.4	20	2.5
Federal Law Programs	1	0.2	5	0.9	-	0.0	-	0.0
Education	2	0.5	5	0.9	4	0.7	10	1.2
Application Forms	1	0.2	3	0.5	1	0.2	-	0.0
Land	1	0.2	-	0.0	-	0.0	-	0.0
Advertising	4	0.9	13	2.3	6	1.0	-	0.0
Other	2	0.5	5	0.9	11	1.9	4	0.5
<b>Total number of complaints</b>	<b>440</b>		<b>[575]</b>		<b>593</b>		<b>803</b>	

Source: Human Rights and Equal Opportunities Commission

[ ] denotes an incomplete total as figures for 1988-89 do not include NSW.



practitioners, advocates, equal employment opportunity officers and trade union representatives about this important area of discrimination.

18. Again, although the Act allows complaints to be made on a representative basis by trade unions, only a very few have been made. The Sex Discrimination Commissioner has been involved in discussions with the Australian Council of Trade Unions to develop strategies to inform unions about the provisions and procedures under the Act. The Commissioner and her staff have addressed trade union meetings and conferences, discussing the conciliation process and the role unions can play under the Act.

19. The average time (from opening to closure) for a complaint by HREOC is 8.5 months, although over 80% of conciliated complaints take less time than this. Some of the State and Territory agencies with which HREOC has co-operative arrangements usually have a longer average time for conciliation. Although this period is significantly shorter than the period that would elapse were the complaint referred to the courts, HREOC recognises that delays can cause difficulties for complainants and respondents. Accordingly, a number of measures have been introduced to ensure that delays are minimised and all necessary steps are taken promptly.

20. Recently, the process of conciliation has been affected by increasing 'legalisation', whereby parties on either side request legal representation more frequently and sooner than in the early years of the Act's operation. Although lawyers who are familiar with the Act and conciliation can assist in the conciliation process, problems can arise where lawyers do not have an effective understanding of the Act and its procedures. Further, most lawyers are more familiar with an adversarial role, which is inappropriate when using conciliation as a form of dispute resolution. Accordingly, HREOC has conducted a number of seminars for lawyers on anti discrimination law and the conciliation process.

21. The *Sex Discrimination Act 1984* aims to prohibit discrimination in most areas of public life on the grounds of sex, marital status and pregnancy. However, there are a number of exemptions from this prohibition. In December 1990, HREOC commenced a review of these as the Act had been operating for more than six years and it was considered timely and appropriate to review the following exemptions:

- sec. 13 - which exempts an 'instrumentality of a State': a body or authority established for a public purpose by a law of a State and includes a technical and further education institution conducted by or on behalf of the government of a State, but does not include any other institution of tertiary education;
- sec. 38 - which exempts educational institutions established for religious purposes;
- sec. 39 - which exempts voluntary bodies;
- sec. 40 - which exempts acts done under statutory authority; and
- sec. 42 - which exempts certain sporting activities on the basis of consideration of strength, stamina or physique of competitors.

22. The purpose of the Review will be to assess whether these exemptions are still appropriate. Submissions have been invited from interested parties and the Sex Discrimination Commissioner plans to consult extensively with community groups before reporting to the Attorney-General in mid 1992. Currently, 72 submissions have been received, the majority concerning educational institutions established for religious purposes. Considerable interest has also been generated by the review of sec. 40, which excludes specific legislation, including the *Social Security Act 1947* and even more crucially, industrial awards, from the provisions of the Act. Currently, the *Social Security Act* establishes 60 as the age-pension age for women and 65 as the age-pension age for men. This matter is being treated separately from the general Review, with HREOC preparing a paper explaining the basis of women's earlier entitlement to the pension.

23. Sec. 37 provides an exemption from the operation of the Act to religious bodies in the following areas:

- the training, education and ordination or appointment of priests, ministers of religion or members of any religious order;
- the selection or appointment of persons to perform duties or functions for the purposes of any religious observance or practice; or
- any other act or practice which conforms to the doctrines, tenets or beliefs of that religion or is necessary to avoid injury to the religious susceptibilities of adherents of that religion.

24. The exemption reflects the traditional separation between church and state, as well as the view that the Act is designed to regulate the public areas of people's lives, not the private areas which include religion. The application of the exemption has been highlighted recently by debate on the ordination of women as priests in the Anglican Church of Australia.

25. Legislation to amend the Sex Discrimination Act in accordance with a 1986 review of the exemption relating to superannuation in that Act received Royal Assent on 25 June 1991. The main effect of the amendments, which are described under Article 11, is to replace the former blanket exemption with a more limited exemption which will make superannuation coverage more accessible to women working part-time, and improve the superannuation arrangements for women in the paid workforce.

26. The *Sex Discrimination Act 1984* has been the subject of a number of amendments since 1988.

27. In 1990, following the commencement of self-government in the Australian Capital Territory, the Act was amended to place the Australian Capital Territory on the same footing as the Northern Territory insofar as the Act was concerned.

28. Substantial amendments were introduced by the *Sex Discrimination Act 1991*. Initially, inconsistent legislation was exempted from the operation of the Act by regulations. In 1991, these were replaced with statutory exemptions for taxation laws (which include legal and *de facto* spouses in certain definitions); and provisions in the National Health Act, the Income Tax Assessment Act and the Norfolk Island Social Services Act which mirror the different ages for pension eligibility in the Social Security Act which is already exempted from the *Sex Discrimination Act 1984*. The *Sex Discrimination Act 1991* provides a three-year temporary exemption for the various student assistance schemes under the Student Assistance Act, to allow a review of these schemes which discriminate on the basis of marital status. As indicated above, the *Sex Discrimination Act 1991* replaced the blanket exemption for superannuation with more limited exemptions.

29. Two further areas of amendment to the Sex Discrimination Act are currently under consideration. In response to the Human Rights and Equal Opportunity Commission Report *Insur-*

*ance and the Sex Discrimination Act*, the Government will be considering amendments to the current exemption in sec. 41 of the Act which allows for discrimination in the terms on which insurance is offered. The changes will provide for greater accountability of insurers and access for insurance clients to the statistical data on which discrimination is based.

30. The HREOC has also written to the Government proposing amendments to the Sex Discrimination Act and the Racial Discrimination Act to streamline the complaints procedure. The Government will consider removing the automatic rights of a complainant to a full Commission hearing in cases where the complaint is found by a Commissioner to be frivolous, stale, vexatious or misconceived, or where the person aggrieved by the conduct complained of does not wish an inquiry to continue.

31. Like the Federal legislation, the various State and Territory anti discrimination Acts emphasise negotiation and conciliation as the main means of resolving complaints, with a quasi-judicial tribunal to inquire into complaints which cannot or should not be resolved during the conciliation process. All Acts proscribe discrimination on the grounds of sex in employment, education, provision of goods and services, accommodation and club membership. South Australia also proscribes such discrimination in relation to land, while Victoria adds discrimination with respect to membership of municipal or shire councils, the Australian Capital Territory access to premises and Western Australia access to places and vehicles and application forms. Queensland also proscribes discrimination in relation to superannuation, disposition of land, local government, insurance and the administration of State laws and programs. Each Act covers both direct and indirect discrimination and a number of different grounds of discrimination other than sex:

- New South Wales - sex, race, marital status, physical impairment, intellectual impairment, homosexuality and racial vilification;
- South Australia - sex, sexuality, marital status, pregnancy, race, physical impairment, intellectual impairment and sexual harassment;
- Western Australia - sex, marital status, pregnancy, race, religious conviction, political conviction and impairment;

- Australian Capital Territory - sex, sexuality, transsexuality, marital status, status as a parent or having responsibilities as a carer, pregnancy, race, religious or political conviction and physical, mental or intellectual impairment;
- Queensland - sex, marital status, pregnancy, parenthood and breastfeeding (only in the provision of goods and services), race, religion, trade union activity, lawful sexual activity, age, impairment, political belief or activity, association with or relation to a person identified on the basis of any of the above attributes.

32. The Victorian legislation departs from the model of the other legislation in its definition of grounds of discrimination, and establishes 'status', 'private life' and 'sexual harassment' as criteria of unlawful discrimination. In this context, 'status' is defined as meaning in relation to a person: sex, marital status, race and impairment of that person or the status or condition of being a parent, childless or a *de facto* spouse. 'Impairment' is defined to cover intellectual and physical impairment (including the presence in the body of organisms causing disease) and intellectual impairment, while 'private life' means, in relation to a person, the holding or not holding of any lawful religious or political belief or view by the person, or engaging or refusing or failing to engage in any lawful religious or political activities, by the person.

33. Queensland has an *Equal Opportunity in Public Employment Act 1992*, the objective of which is to ensure the development of equal employment opportunity in the Queensland public sector by requiring agencies to develop and implement equal opportunity management plans.

34. At present, Tasmania does not have legislation proscribing discrimination, although the *Anti Discrimination Bill 1991*, which extends the legal protections provided by the Federal Act and prohibits discrimination on the grounds of gender, marital status, pregnancy, parental status, sexual orientation, race, social status, impairment, trade union activity or association, was introduced into Parliament in November 1991. This Bill lapsed with the prorogation of Parliament, however consideration is being given to the re-introduction of an amended Bill. Limited protection from discrimination is provided by the *Tasmanian State Service Amendments (Equal Employment Opportunity) Act 1991* which

indicates that the Government is an equal opportunity employer, and requires Heads of Agencies to develop and implement equal employment management plans in accordance with procedures and practices determined by the Commissioner for Public Employment, who is also charged with monitoring and reporting to Parliament on the outcomes of those plans. In support of this legislation, the Commissioner for Public Employment has issued employment instructions and guidelines detailing principles and policy on equal opportunity, merit based recruitment and selection, appropriate language and behaviour, access to staff training and development, counselling and workplace harassment.

35. The Northern Territory is also considering anti discrimination legislation, which will examine discrimination on the grounds of parenthood as a cause for complaint.

36. The current Victorian and new Australian Capital Territory and Queensland Acts have the widest coverage and importantly extend the definition of discrimination to cover discrimination against a person for being a parent, and in the case of the Australian Capital Territory, having responsibilities as a carer. The Queensland Act additionally prohibits discrimination against nursing mothers, in the provision of goods and services. It is expected that New South Wales and Western Australia will soon widen the coverage of their anti discrimination acts. In New South Wales, the Anti Discrimination Board is reviewing the adequacy of existing legal protection against discrimination for workers with family responsibilities as part of a broad review of their anti discrimination legislation, while in early 1989, the Western Australian Government undertook to amend the *Equal Opportunity Act* to make discrimination on the ground of family responsibility unlawful. It is expected that the Western Australian amendments will go to Parliament in late 1992.

37. All State and Territory anti discrimination legislation prohibits direct as well as indirect discrimination, but as with the Federal Act, there have been few complaints of indirect discrimination. The Western Australian Equal Opportunity Tribunal, however, made its first decision on indirect discrimination in 1991 in the case of *Kemp v The Minister of Education* where the complainant alleged that the selection of persons to fill acting and relieving positions by the use of the criteria of total length of service with the Ministry, discriminated against

women on the grounds of sex. The Tribunal found that of any group of teachers appointed at the same time, men were more likely to have a greater length of service than women, as women interrupt their service because of bearing children and family responsibilities. Accordingly, the Tribunal concluded that the criteria for selection was discriminatory as they would inevitably weigh against the claims to a senior position of a woman because of sex related factors.

38. The existence of the State/Territory and Federal legislation has not only provided an avenue for complaint for thousands of women who have been discriminated against in Australia, but it has served to heighten community awareness of the existence of discriminatory practices, particularly in the workplace and the need to eliminate such practices. HREOC is the recipient of many inquiries concerning discrimination and is consulted by employers to ensure that policies and practices do not include acts of unlawful discrimination.

39. Since Australia last reported, it has become State Party to two international instruments which have relevance to the issue of discrimination against women.

40. In March 1990, Australia announced that it would ratify *ILO Convention 156: Workers With Family Responsibilities*. This came into effect in March 1991. The Federal Government is considering legislative options to enhance the protection afforded to workers with family responsibilities.

41. Australia acceded to the First Optional Protocol to the International Covenant on Civil and Political Rights on 25 September 1991. The Protocol came into force for Australia on 25 December 1991. Article 2 of the Protocol allows individuals to lodge complaints with the United Nations Human Rights Committee if they believe that any of their rights protected by the Covenant have been violated and if they have exhausted all domestic remedies.

42. Although all of the rights in the Covenant are of importance, of particular interest for women is Article 3 which states the States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

43. Accession to the Protocol, therefore, has provided a valuable additional means for all Australians, including Australian women, to seek redress for breaches of any of the human rights set out in the Covenant.

## ARTICLE 4

### SPECIAL MEASURES

#### Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

## ARTICLE 4

### SPECIAL MEASURES

#### 4.1 TEMPORARY SPECIAL MEASURES

##### Legal Framework

1. Since Australia last reported, the legal framework to promote equality of women has been strengthened and governments are continuing to take measures to achieve both social and legal change. Such measures remain necessary given that Australian women continue to earn lower wages than males, work in the lower ranks of most occupational groups and have fewer qualifications and training opportunities to allow a wider variety of jobs and careers.

2. The passage and implementation of anti discrimination and equal opportunity legislation at the Federal, State and Territory level, testifies to the commitment of government to policies which give women who wish to enter the labour force the opportunity to participate fully in employment.

3. Under anti discrimination and equal opportunity legislation, the emphasis is on individual solutions to discrimination, such as ensuring that all persons with requisite qualifications for particular employment may apply and be considered without reference to extraneous, discriminatory considerations. Although they are vital, anti discrimination and equal opportunity legislation and measures do not directly address the structural discrimination and underlying policies of employment which continue to disadvantage women.

4. In contrast, affirmative action measures seek to address these structural factors, placing emphasis on analysis of, and remedies for, discrimination which is reflected in an individual employer's pattern of employment. They predicate an overall review of employment policies and practices so as to confront the underlying policies that are being pursued by an employer and promote their reform. The onus is placed on employers, rather than the disadvantaged employee or prospective employee, to examine and if necessary change organisational and institutional practices that disadvantage women because of their sex.

5. Sec. 33 of the Federal *Sex Discrimination Act 1984* provides that it is not unlawful to do an act if its purpose is to provide 'equal opportunities' to specified groups. These groups are those covered by the Act - persons of a particular sex (usually these would be women), a particular marital status or pregnant women. The section presupposes, therefore, that an employer can, for example, conduct a special training program for women employees (to overcome the effects of past disadvantage and provide them with equal opportunities to compete with male employees for a job or promotion) and not be held to discriminate on the basis of sex.

6. The meaning of sec. 33 has been considered in two cases which concern affirmative action policies within unions, and one case concerning government funding of special health services for women.

7. In 1986, the Australian Journalists Association (AJA) adopted rules governing the election of its Federal Council which ensured a minimum and proportionate representation of women AJA members at the Council, which is the supreme policy making body of the Association and comprises 52 delegates from around Australia. On an appeal by the AJA from a decision of the Industrial Registrar, who had refused to certify the rule changes designed to implement the policy in the election of delegates, the Conciliation and Arbitration Commission declined to recognise the structural inequalities which had faced women in that union or the effect those barriers had on their capacity to participate in the affairs of the union, and decided that women already had 'equal opportunities' with men to participate in the affairs of the AJA by standing for election as Federal Council delegates.

8. Following the disallowance of the rule change, the AJA applied to the Human Rights and Equal Opportunity Commission for an exemption pursuant to sec. 44 of the *Sex Discrimination Act*. The Commission granted the exemption for a two year period on the basis that the proposed affirmative action program was consistent with Parliament's intention, revealed by the passage of the Act, of promoting the equality of men and women.

9. The decision of the Conciliation and Arbitration Commission in the AJA case meant, in effect, that unions proposing affirmative action programs by means of rule changes could do so only by successfully acquiring an exemption pursuant to sec. 44 of the Act.

10. The effect of sec. 33 was reconsidered by the Industrial Relations Commission in early 1991 in the Municipal Officers Association (MOA) Case. Here the MOA, which was seeking to amalgamate with two other unions, was proposing a new set of rules which involved an affirmative action program for women and the Commission was required to determine whether the proposed rules were contrary to the Sex Discrimination Act.

11. The Commission was of the view that the proposed rules were discriminatory as they would deny male members a benefit provided by the organisation on the ground of their sex. However, the proposed rules were preserved by a liberal interpretation of sec. 33, the Commission holding that the existing rules did not contain actual barriers for women which would prevent or limit their ability to stand and vote, but that structural barriers, including lack of child care facilities and lack of encouragement by the union, discriminated against women.

12. In 1991-92, the Human Rights and Equal Opportunity Commission held an inquiry into complaints by three men to the effect that they were discriminated against on the basis of sex in relation to the provision of health services made available to women. The particular services complained about included the Australian Capital Territory Women's Health Service and its funding by the Australian Capital Territory Government to provide clinical services, and the Canberra Women's Health Centre and its funding by the Australian Capital Territory and Federal Governments under the **National Women's Health Program** to provide information, education and referral services for women. A complaint was also lodged in relation to the Federal Government's **National Women's Health Program** on the basis that services were provided for women in the absence of the provision of comparable services for men. The President of the Commission dismissed the complaints. The Women's Health Services was held to be lawful as its primary orientation to the distinctive concerns of women rendered its services of a nature which could only be provided to women (sec. 32 of the Act). The complaints against the Canberra Women's Health Centre, the **National**

**Women's Health Program** and the ACT Women's Health Service were also dismissed on the basis that they were made lawful by sec. 33 of the Act. The President accepted that all that is required under sec. 33 is that a purpose of the measures in question is to promote equality and that it be reasonable for those undertaking the measures to conclude that the measures would further that purpose.

13. The legislative framework for affirmative action in Australia is provided through both Federal and State Acts. The three Federal Government Acts are: the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986*, which covers all private sector employers with 100 employees or more and all institutions of higher education, the *Public Service Act 1922* (as amended by the *Public Service Reform Act 1984*) covering employment in the Federal Public Service and the *Equal Employment Opportunity (Commonwealth Authorities) Act 1987*, covering statutory authorities such as Australian Airlines, the Commonwealth Bank, Australia Post and the Australian and Overseas Telecommunication Corporation (AOTC). The New South Wales *Anti-Discrimination Act 1977*, Part IXA, covers State government departments and statutory authorities and the New South Wales *State Owned Corporations Act 1989* covers employees of state owned corporations. The Western Australian *Equal Opportunity Act 1984*, covers the state public service. In Victoria, the Affirmative Action legislation framework comprises three Acts: the *Local Government Act 1989* which covers employees of local government; the *Public Authorities (Equal Employment Opportunity) Act 1990* which covers employees of statutory and other public authorities; and the *Public Service Act 1974*, which covers public servants. Further, South Australia operates a scheme for equal employment opportunity in the public sector, which has not been legislatively enacted.

## Private Sector Employers and Higher Education Institutions

14. The *Affirmative Action (Equal Employment Opportunity for Women) Act 1986* covers private sector employers with 100 or more employees and higher education institutions. Organisations covered by the Act are required to develop and implement an affirmative action program, which essentially involves the identification and elimination of barriers which women face in employment.

15. The Act defines an affirmative action program as:

a program designed to ensure

(a) appropriate action is taken to eliminate discrimination by the relevant employer against women in relation to employment matters; and

(b) measures are taken by the relevant employer to promote equal opportunity for women in relation to employment matters. (sec. 3)

16. The Act came into effect in October 1986. It is administered by the Director of Affirmative Action, who heads the Affirmative Action Agency. The Act was developed in consultation with employers, trade unions, women's groups and other organisations, and after full consideration of the findings of a one-year pilot program involving 28 major Australian companies and 3 higher education institutions. The Act was phased in over three years:

- Higher education institutions - 1 October 1986
- Private sector employers (1000+ employees) - 1 February 1987
- Private sector employers (500-999 employees) - 1 February 1988
- Private sector employers (100-499 employees) - 1 February 1989.

17. The Act sets out eight steps of an affirmative action program in which employers are required to:

- (i) issue a policy statement on affirmative action to all employees;
- (ii) confer responsibility for the program on a senior person(s);
- (iii) consult with trade unions on members affected by the program;
- (iv) consult with employees, particularly women, on the program;
- (v) establish and analyse the employment profile on a gender basis;
- (vi) review employment policies and practices;
- (vii) set objectives and forward estimates within the program;
- (viii) monitor and evaluate the program.

18. The Act leaves details of the affirmative action program to the individual employer. Thus, the Act allows considerable flexibility for employers to address issues according to their own priorities and in ways appropriate to their organisation.

19. Organisations covered by the legislation are required to report annually on the progress of their affirmative action program to the Director of Affirmative Action. Organisations must submit a public report giving a statistical breakdown of employees by gender and job classification and an outline of their affirmative action program. They must also provide, either in the public report, or in a separate confidential report designed to protect any sensitive information, detailed analysis of the affirmative action program. An organisation's initial report should describe the processes used to develop and implement the program, while later reports should indicate the further development and implementation of the program.

20. In 1991, the Director received 65 reports from higher education institutions. The Agency identified 2414 relevant private sector reporting units for the 1990-91 reporting year: 741 were 1000+ employers; 301 were 500-999 employers; 1372 were 100-499 employers. By 10 October 1991, 2320 of those reporting units had submitted reports, giving a reporting rate of 96 per cent.

21. The Affirmative Action Act provides for employers who fail to lodge a report without reasonable excuse, or who fail to provide further information upon request, to be named by the Director in a report to the Minister for Industrial Relations for tabling in Federal Parliament. Before 'naming', the Director is required to give the employer notice in writing of the intention to name and the reasons for it. 'Naming' is the only sanction provided under the Act.

22. Reporting levels have been high throughout the Act's operation. In 1987-88, when the first round of private sector reports were lodged with the Director, only three employers were named (99% compliance). Eight companies were named in 1988-89 (97% compliance), and 75 companies in 1989-90 (99% compliance). The increase to 75 in 1989-90 reflected the fact that this was the first year that the smaller companies, which are the largest pool of reporting companies, were required to report. In 1990-91, a compliance



rate of 96 per cent was achieved, with 44 companies being named. No higher education institution has been named.

23. It has been argued, particularly by some unions and women's groups, that more stringent measures are needed to ensure that employers comply with the Act. However, employer organisations have publicly stated that the threat of being named in Parliament for non-compliance is a powerful one and responsible employers will not want to put themselves in this situation. A number of informal measures reinforce the naming sanction. The peak union body, the Australian Council of Trade Unions, encourages its affiliates to approach named companies to discuss compliance. The Victorian Government has a policy that none of its agencies or authorities can provide industry assistance or let contracts to any firm named as failing to comply with the Act. This policy has worked effectively.

24. The Director of the Affirmative Action Agency, the body that administers the Act, has noted that a small group of companies persistently fail to lodge reports within the reporting period specified by the legislation, relying on the Director to exercise her discretion and accept late reports. This, she suggests, indicates lack of commitment to affirmative action for women and might be sanctioned, in future, by refusal to accept a late report which, would lead inevitably to 'naming'.

## **Impact of Affirmative Action**

25. The legislatively based affirmative action measures described above have been in force for a relatively short period of time. All involve a review and reassessment of all personnel policies and practices operated by employers to determine their impact on women employees and potential employees. This is a complex process, requiring consideration of a number of internal and external factors. As the schemes are new and the processes they establish complex, it is difficult to determine yet what effect they have had on women's employment opportunities.

26. The high level of compliance with the reporting requirements of the Affirmative Action Act is seen as evidence of employers' strong in-principle support for it. Unions and women's groups are also generally supportive of the Act, although there is some concern that the Act does not attach a sanction to the quality of employers' affirmative action programs.

27. The Director of Affirmative Action has a number of specific statutory powers in the areas of:

- providing advice and assistance;
- monitoring and evaluation;
- community education; and
- review of the Act.

28. The Affirmative Action Agency undertakes a range of activities to assist employers with their programs. This includes the publication of guidelines and other advisory materials, a program of training seminars, and a telephone advisory service. In 1990-91, the Agency received about 2560 phone enquiries from employers and other parties; the Agency's newsletter goes to some 8500 individuals and organisations. Each year the Agency organises a major conference on women, management and industrial relations. It has also established the annual **Affirmative Action Awards** which give public recognition to best practice affirmative action initiatives in both the private and higher education sectors.

29. The Agency's evaluation activities are based on an evaluation strategic plan. It incorporates an annual audit program which aims to ensure employers' accountability for their reporting obligations and to provide feedback. The information and findings also assist the Agency to target advice more effectively to employers. The majority of reports in the 1990-91 audit met the minimum compliance standards but the quality varied widely. Companies continue to have difficulty with some of the program steps, particularly steps 3, 7 and 8. There is also a tendency to see each step as separate rather than as part of an integrated and interdependent process.

30. The first review of the effectiveness of the operation of the Act was announced in September 1991. The review will assess the awareness of relevant employers of their responsibilities under the Act; the extent to which relevant employers have developed the affirmative action programs required by the Act; the general quality of these programs; the extent to which the programs have been implemented; and the effectiveness of the programs in promoting equal employment opportunity for women.

31. Submissions were publicly invited. Key groups were also approached for submissions. An Issues Paper set out the terms of reference, summarised experience with the legislation,

described research being undertaken and identified specific topics for consideration. Consultations with key groups were also held. A Discussion Paper was then issued in March 1992. It provided analysis of submissions received (a total of 90), progress reports on the research projects and suggested directions and recommendations for change. It formed the basis for further consultations. The Effectiveness Review will be completed in mid 1992 in time for any changes to the legislation identified by the review to be introduced in the 1992 Budget sittings of Federal Parliament.

32. Submissions and consultations on the review reveal wide-ranging and strong support for maintaining the existing general structure of the legislation. They indicate also that there is a need for consolidation of existing activity. In particular, there is a strong call for the next phase of the legislation to focus on increasing the quality of employers' programs. Measures which will be considered in the next phase of the legislation include: development of performance standards and codes of practice based on best practice benchmarks; cooperative research projects and training programs with employers, employer bodies, and unions; and strategies to provide more detailed feedback to employers on their reports.

33. A number of research projects on aspects of the operation of the Act were undertaken for the review:

- in August 1990 a three-year survey of attitudes to and knowledge of affirmative action in the workplace was commenced;
- a study of the processes and outcomes of affirmative action programs in ten companies was also commenced in 1990 and will run for three years;
- interviews are being conducted with 100 EEO contacts in companies to assess reasons for compliance and non-compliance with the Act;
- studies were undertaken on employers' views on affirmative action program development and reporting, and data from employer's reports on changes in levels of performance from 1988 to 1991 (separate studies were undertaken for the private and higher education sectors).

The Director's final report on the Effectiveness Review will discuss the findings of these projects.

## Public Sector

34. The Federal *Public Service Act 1922* enables the Public Service Commissioner to require Commonwealth departments and agencies covered by this Act to develop and implement equal employment opportunity programs for women, Aboriginal and Torres Strait Islander people, people of non-English speaking background and their children, people with physical or mental disabilities and other groups which may be declared by the regulations. Departments, authorities and other organisations covered by the Act must lodge statements and reports with the Public Service Commissioner. The Commissioner has the power to recommend action to be taken to improve the effectiveness of a program and is required to report to the Prime Minister on the operation of the legislation. The Commission also provides information on the operation of the Act in its annual report which is tabled in Parliament. Similarly, the *Equal Employment Opportunity (Commonwealth Authorities) Act 1987* which requires statutory authorities to implement affirmative action strategies for the same categories as the Public Service Act obliges authorities to submit an annual report with either the Public Service Commissioner or the relevant Minister.

35. The Public Service Commission (PSC) is presently undertaking a wide consultation process with people across the Federal Public Service on its draft *Strategic Plan for Equal Employment Opportunity in the 1990s*.

36. Copies of the draft Plan have been sent to all Heads of Departments and Agencies, to all senior executives responsible for EEO and to all members of the Senior Executive Service in recognition of the key leadership role of senior decision makers in making EEO a reality in the workplace. It has also been distributed to EEO coordinators, unions and community groups.

37. The draft Strategic Plan sets out the objectives, strategies and action planned as a basis for the continued and improved achievement of EEO in the Australian Public Service (APS) to the year 2000:

- to ensure that EEO principles and practices are integrated with all people management activities across all streams of employment in the APS;
- to ensure the structures and processes to implement EEO in the APS reflect contemporary needs;

- to confirm and communicate the vision that in the context of contemporary people management in the APS in the 1990s 'equal employment opportunity' as well as describing special measures, means fairness for everyone;
- to ensure that the APS, as a major public sector employer, provides a good example of best EEO practice through implementing policies and measures for women and members of designated groups;
- to aim by the year 2000 to have implemented and evaluated the initiatives in this Strategic Plan, to ensure the future advance of relevant practical EEO measures and arrangements in the APS.

38. All of the objectives have actions planned to achieve them. The third action under objective five states that:

An initial evaluation of progress with implementing the objectives in this Strategic Plan will be undertaken in 1993 concentrating on results of reviews undertaken and on practical work done. Thereafter evaluation work will be undertaken at intervals determined in the light of circumstances, culminating in an evaluation in 1998/99.

39. It is expected that after collation of the results of the consultations, the final Strategic Plan will be available by the end of 1992.

40. The following actions planned for women are listed in the draft Strategic Plan under Objective 4 which states:

As a result of the highly successful 1991 International Women's Day Conference, at which participants expressed the need for more opportunities to confer together on changes in the APS and on career development options, the PSC will:

- develop a self-help career kit and program of seminars, especially for women in the lower level classification;
- look at commencing a new program of research covering, over time, such issues as the experience of women managed in the APS, implications of demographic changes on the profile of women in the APS and flexible working arrangements;

- seek the cooperation of agencies in presenting a coordinated program of relevant work and career-oriented activities related to International Women's Day.

The PSC will continue to support training and development initiatives for women, for example: the **Senior Women in Management (SWIM) Program**, which was introduced in 1988 for senior officers with potential to develop their management, personal, career planning and presentational skills.

Together with agencies, the PSC will seek to provide opportunities for consultation with Aboriginal and Torres Strait Islander women, women with disabilities and women of non-English speaking background employed in the APS.

41. The New South Wales *Anti Discrimination Act 1977* obliges State Government departments, statutory authorities, universities and colleges of advanced education to prepare and implement Equal Employment Opportunity management plans for women, members of racial minorities and persons with physical disabilities; and requires the submission of annual reports to the Director of Equal Opportunity in Public Employment. If the Director is not satisfied with any part of the plan, she/he may refer it, for investigation, to the New South Wales Anti Discrimination Board, which may make recommendations to the Director and/or the organisation, or furnish a report with or without recommendations, to the Premier. The Premier may, by written instrument, direct the organisation to amend its management plan. To date, the Director has not exercised this reference power. Again, the Western Australian Equal Opportunity Act, which requires the Western Australian public service to prepare and implement Equal Employment Opportunity management plans to eliminate discrimination on the ground of sex, marital status, pregnancy, race or religious or political persuasion, obliges organisations to lodge annual reports with the Director of Equal Opportunity in Public Employment. As in New South Wales, the Director may refer any unsatisfactory part of a management plan to the Western Australian Equal Opportunity Tribunal for investigation. The Board is also vested with the same powers as the New South Wales Anti Discrimination Board. This power of reference has been exercised on two occasions, but the matters have been resolved before reaching the Tribunal.

42. Finally, the Victorian affirmative action legislation, which is more general in nature than the Federal and other State schemes, lists eight principles that are to be observed in the administration of the Act, including the direction that 'all officers and employees shall receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, colour, religion, national origin, sex, marital status or physical disability'. This legislation has no enforcement mechanism but directs the Public Service Board and the chief administrator of each organisation to give effect to the principles 'in exercising any power or carrying out any duty or function under the Act'.

## Appointment of Women

43. Affirmative action measures have not been confined to the introduction of legislation. The Office of the Status of Women in the Federal Department of the Prime Minister and Cabinet continues to maintain the *Register of Women*, which is a database of about 1000 women with particular skills, including information on their work experience, interests and areas of expertise, used by Federal Government departments as a source of names for possible appointment to committees, boards and authorities.

44. In 1991, the Office of the Status of Women designed and implemented a management information system, APPOINT, to provide the Federal Government and departments with an effective way of measuring progress in increasing the appointment rate to statutory and non-statutory bodies of women; people of non-English speaking background, Aboriginal and Torres Strait Islander people, and people with disabilities. The system is monitored by four central bodies, including, in the case of women, the Office of the Status of Women.

45. The system was designed in such a manner that it would streamline data management within Federal government departments whilst at the same time allowing statistical reports to be available on demand. Any initial resistance to introducing a new system is rapidly overcome when those working with it realise the range of benefits that accrue.

46. The implementation of the APPOINT system will be further enhanced by a change to the Annual Reporting guidelines which require Federal Departmental Annual Reports from

1991-92 to use data held by the system when reporting on the composition of statutory and non-statutory bodies.

47. The APPOINT system conforms with the provisions of the Australian Privacy Act, allowing the Federal Government and departments to provide equal opportunity statistical data on appointments and details of committees required by quarterly and annual report directives. All personal information is removed prior to dissemination of these reports. The software is not designed for networking, to ensure protection of the confidentiality of stored personal information.

48. Interest in the system has not been confined to Australia. The president of the International Association of Volunteer Effort promoted the software package at a convention in Botswana which had representatives from 80 countries. Recognition of the package internationally increased at the 1991 Convention on the Elimination of All Forms of Discrimination Against Women Conference in Vienna.

49. APPOINT is being installed in nearly all of the eighteen Federal departments targeted and there is considerable State and Territory interest in the system. Women's organisations in Western Australia, New South Wales and the Australian Capital Territory have also installed the system for managing specialists on committees and other bodies.

50. A number of State and Territory governments have introduced measures to address the appointment rate of women. In July 1991, the Western Australian Premier announced the new position of Assistant Commissioner for Equity in the Public Service Commission. The Assistant Commissioner's functions include the promotion of women in the State Public Service. In Queensland, a Commissioner for Public Sector Equity has been appointed by the Public Sector Management Commission to increase employment opportunities in the public service for specific target groups, including women. Also, the Women's Policy Unit of the Queensland Office of Cabinet maintains a Register of Women suitable for appointment to government boards and statutory authorities which is referred to by Ministers when selecting members for such bodies. The Australian Capital Territory Government is committed to 50 per cent representation of women on all boards and committees. The Australian Capital Territory Women's Unit maintains a *Government Nominees List*, which

registers people from varied backgrounds and with different interests, whose names can be forwarded when positions on boards and committees advising the Government become vacant. In Western Australia the *Women's Register* maintained by the Office of Women's Interests fulfils the same function and a target of 40 per cent representation by women on all Government boards and committees has been set for 1995. The Tasmanian Office of the Status of Women maintains a *Women's Register* of over 350 women who have indicated their interest in sitting on Government boards and committees. The Government has committed itself to increasing women's membership of such bodies. A Women's Register was established in Victoria in 1982. The Register contains the *curricula vitae* of approximately 1200 women, and is used to provide suitably qualified women nominees for vacant positions on government boards and committees. The Register is also used to monitor appointments of women. The Premier of New South Wales is committed to improving the representation of suitably qualified women on Boards and Significant Committees. The Women's Advisory Council (WAC) has established a *Women's Register* which identifies women with a range of skills, knowledge and expertise. The Premier is encouraging government departments to use this Register. The WAC maintains a watching brief, receives quarterly reports from the Office of Public Management and will pay for a part-time project officer to update the Register and monitor its use. In South Australia the Register is being upgraded and computerised.

## 4.2: MEASURES TO PROTECT MATERNITY

### Special Measures

51. As noted in Article 4.1, sec. 33 of the Federal Sex Discrimination Act provides that it is not unlawful to do an act if it has as a purpose the achievement of equal opportunities for specified groups. In addition to this 'special measures' provision sec. 31 of the Sex Discrimination Act provides for an exemption from the operation of the Act where 'rights and privileges' are afforded to women in connection with pregnancy and childbirth. There is no requirement or limitation as there is under sec. 33, that a purpose in affording these rights and privileges be 'to achieve equality'.

52. Sec. 32 of the Sex Discrimination Act also provides for an exemption from the operation of that Act in relation to the provision of services which, due to that nature of the service, can only be provided to women. Accordingly, services relating to pregnancy and childbirth would fall within the terms of the section.

### Lead Industry

53. There are certain legislative measures intended to protect maternity. For example, health and safety legislation in most States restricts the employment of women in the lead processing industry, because exposure to lead is detrimental to the foetus. Concerns have been raised as to whether such measures promote or restrict the rights of women to employment. In New South Wales, Regulation 2 of the Lead Regulations made under the *Factories, Shops and Industries Act 1982* provides for discrimination against women in lead processing areas, although the *Factories, Shops and Industries Act 1962* allows the employment of women in lead processing industries, other than in the manufacture of electronic accumulators, by approval of the Chief Inspector and with a medical certificate of fitness for employment in a lead processing area. The Victorian *Occupational Health and Safety (Lead Control) Regulation 1988* requires employers to reduce, as far as is practicable, the exposure of employees to lead. In Queensland Part XXVIII - Lead Regulations 200-211 of the *Workplace Health and Safety Act 1989* contains provisions restricting women's employment in lead processing as does the Tasmanian *Industrial Safety, Health and Welfare Act 1977*. In Western Australia the *Occupational Health, Safety and Welfare Act and Regulations 1988* establish non-discriminatory regulations to govern employment in the lead industry; Sec. 19 (Duty of Care) of the WA Act effectively protects maternity in women working in the lead industry by making it incumbent on the employer to provide a safe, healthy environment for workers.

54. In the past, exemptions from anti discrimination legislation have been granted to States and Territories with such legislation, while in those States and Territories where no such exemption was sought, individual companies were required to seek exemption from both State/Territory and Federal sex discrimination legislation. Currently, no State enjoys exemption with respect to the lead industry, but the South

Australian Broken Hill Associated Smelters Pty Ltd (BHAS), the largest producer of primary refined lead in the world, was granted exemption by the Human Rights and Equal Opportunity Commission (HREOC) in May 1991 expiring on 31 December 1992. This exemption was granted conditionally upon BHAS's satisfactorily reporting to HREOC on 1 January and June 1992 on a number of issues including exploration of appropriate avenues for the further employment of women at BHAS.

55. In 1990, figures indicated that 5100 people were employed in lead mining, but of these only 256 were women: 4300 people were employed in smelting and refining, of whom 256 were women; and battery manufacture supplied employment for 1962 people, of whom 362 were women. In addition to the direct denial of access to employment, prohibition of women from work in lead risk areas has significant indirect effects, especially on promotion, provision of facilities and reinforcement of male employment stereotypes.

56. The National Occupational Health and Safety Commission (Worksafe Australia), is a body with representation from industry, the unions and Federal, State and Territory governments, established by the Federal Government to develop, facilitate and implement a national approach to occupational health and safety. In 1990, Worksafe Australia released a Public Discussion Paper on the *Control and Safe Use of Lead at Work* to which it appended a *Proposed National Lead Control Standard* and a *Draft National Code of Practice for the Control and Safe Use of Lead at Work*, for discussion and comment.

57. Through these documents, Worksafe Australia sought to formulate a new national occupational health and safety standard designed to protect the health and safety of all workers exposed to lead through any work process, and to redress the exclusion of women from employment in the lead industry. However, in the Preface to the Discussion Paper it was stated that it is impossible to reconcile occupational health and safety with equal employment opportunity, because of potential risk to foetal health and that it would be necessary for an amendment to be made to the *Sex Discrimination Act 1984* so that legislation precluding women of child bearing age from working in the lead processing industry would be outside the provisions of the Act.

58. Various bodies, including the Human Rights and Equal Opportunity Commission, the Affirmative Action Agency and the Office of the Status of Women, were critical of Worksafe's proposals, arguing that they were overtly discriminatory towards women, ignored the dangers of lead processing work to men's reproductive health and the need to reduce progressively the exposure of all workers to lead.

59. A draft standard and draft code was prepared by Worksafe for declaration under sec.38 of the *National Occupational Health and Safety Commission Act 1985*.

60. Mount Isa Mines Ltd (MIM) took proceedings in November 1991 in the Federal Court against Worksafe, seeking a number of declarations in respect of the proposed declaration by Worksafe of a National Lead Standard which would, *inter alia*, set down the criteria on which people could be excluded from employment involving exposure to specified levels of lead.

61. The draft Standard which had been proposed by Worksafe provided for the exclusion from lead-exposed work of women who were pregnant or breast-feeding but did not endorse the exclusion of all women of child bearing capacity from lead exposed jobs, which has been the practice in the lead industry to date. Rather, the Standard envisaged that employers wishing to exclude women other than those who were pregnant or breast-feeding would need to apply to HREOC for a temporary administrative exemption from the Sex Discrimination Act.

62. The matter was heard by Mr Justice Davies in February 1992. The Human Rights and Equal Opportunity Commission was joined as a respondent. The decision of the Court was handed down on 13 March 1992. The Court declared invalid those sections of the draft Standard and Code which indicated that the exclusion from lead-exposed work of women other than those who were breast feeding or pregnant could only be done under an exemption from the SDA granted by HREOC.

63. The decision of Davies J turned on the proper role and function of Worksafe rather than directly on the operation of the SDA; however, His Honour made a number of comments to the effect that, while it was unnecessary to decide the matter, he thought that discrimination on the ground of health or effect on reproductive capacity would not be discrimination on the ground of sex.

64. His Honour said that, while Worksafe was entitled to take account of the object of the SDA in order to achieve a Standard which was practical and acceptable in industry, Worksafe was not limited in its consideration of occupational health and safety matters by the terms of the SDA. The task of Worksafe was to recommend work practices which are desirable in the interests of health and safety, not to implement the SDA. His Honour noted, in reaching his view that Worksafe had misunderstood its proper function, that the draft Standard and Code were framed so as not to exclude women other than those who were pregnant or breast-feeding and that this appeared to be because officers of Worksafe thought that any more wide-ranging exclusion to cover all women of child bearing capacity would infringe the SDA. He concluded that the Standard and Code were drafted by Worksafe under a misapprehension as to the effect and ambit of the SDA.

65. On 29 April 1992 HREOC lodged an appeal to the Full Federal Court. Worksafe also lodged an appeal which was subsequently withdrawn. At the time of publication, no hearing date had been set.

## **Other Industries**

66. Until now, the debate concerning protection of maternity has been confined to the lead industry. Recently, however, a number of other industries have indicated that they are considering similar measures. Telecom, for example, which employs 80 000 workers, has a draft policy on the protection of the health of the unborn child which provides that women of child bearing age may be excluded from certain work if (a) there is significant risk of harm to the unborn child through exposure to a hazard at work; (b) the risk of harm does not apply to the unborn children fathered by male employees with the same exposure and (c) the risk to the unborn child is substantially reduced by removal of the woman from exposure to the hazard. The policy also provides that in work where there is a potential hazard to the unborn child, exposure to the hazard should be reduced or a temporary transfer to alternative duties without loss of entitlements should be arranged for the remainder of the worker's pregnancy. This latter provision, which amounts to a true measure to protect maternity and should in no way disadvantage women workers, also exists in agreements between workers and employers and in maternity leave provisions in other industries.

67. The Public Sector Union, for example, which represents all Federal employees and has approximately 85 000 members, has negotiated, as part of its agreement with the employer, that visual display unit (VDU) operators, who may be women or men, who are contemplating pregnancy in their families will be given the option to move to duties which do not require the operator to use a VDU or work near a VDU (within two metres). Such a move is not to financially or vocationally disadvantage the employee. Further, the 1979 determination on maternity leave made by the former Conciliation and Arbitration Commission (now the Industrial Relations Commission) contains provision for transfer to a safe job with the same pay and conditions, where in the opinion of a medical practitioner, it would be inadvisable for an employee to continue in the work to which she has been assigned and where this is deemed practicable by the employer. (For more detailed discussion see Article 11.)

## **ARTICLE 5**

### **ELIMINATION OF PREJUDICES**

#### **Article 5**

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.



## **ARTICLE 5**

### **ELIMINATION OF PREJUDICES**

#### **ARTICLE 5(a)**

#### **ELIMINATION OF**

#### **STEREOTYPES**

#### **PORTRAYAL OF WOMEN IN**

#### **THE MEDIA**

#### **Australian Media Regulation**

1. Australian media is largely self-regulatory, particularly in regard to advertising. Current arrangements include a broadcasting regulatory body, the Australian Broadcasting Tribunal (ABT), and a film, videotape and publications classificatory body, the Office of Film and Literature Classification (OFLC). Media regulation is currently the subject of legislative change, reflecting rapid developments in communications technology.

#### **Research and Consultations**

#### **on the Portrayal of Women**

2. Consultations held in 1986 as part of the preparation of the National Agenda for Women confirmed that the depictions of women in advertisements were a major concern to a broad range of Australian women. Issues of stereotyping, violence, and sexuality have been identified as particular areas of concern. Stereotyping ignores the diversity amongst women; in background, physical form and personal expectations. Portrayal of violence against women is seen by a number of researchers and individuals to be becoming increasingly graphic and widespread and a code has been devised for broadcast media (see para 16 below). Recent technological developments, particularly in the field of telecommunications, have raised additional concerns regarding the portrayal of women which filters across new and established forms of media.

3. In 1987, a content analysis of advertisements was undertaken for the Office of the Status of

Women to provide an accurate description of the ways in which women are portrayed. The project consisted of three parts: a random telephone survey, conducted nationally to verify that the portrayal of women in advertising was of concern to Australian women generally; a national consultation with women conducted through the National Women's Consultative Council, to identify in detail how women respond to different aspects of advertisements; and interviews with advertising agencies to discover why women are shown as they are in advertisements.

4. The random telephone survey of 1002 women aged eighteen years and over, culled from both urban and rural Australia, was conducted in July 1988. The survey verified that there was major dissatisfaction by Australian women about the ways in which women are shown in advertisements, despite the research effort being made within the advertising industry. Specifically, a majority of the women thought that women were portrayed as valued for sex rather than as people, as young, slim and good looking, silly, incompetent or childish, as providers of food and house cleaners and not in a position to provide expert advice.

5. The national consultation, which involved 407 women, a high proportion of whom had tertiary qualifications, was also conducted in 1988. The consultation revealed that women believed that advertising reinforces and in some cases, actually promotes, expectations that undervalue the position of women in society, tending to promote them as either single handedly responsible for household chores or as 'sex objects' to the exclusion of other, more realistic social roles. Particular concern was expressed by women at consultation meetings about the effect of advertising on children, who are perceived as learning social behaviour from what they see in advertisements.

6. Advertising agencies expressed the view that advertising merely reinforces existing values, did not form social aspirations and that stereotyping of roles in advertisements was an unavoidable consequence of having only 30 seconds to develop a characterisation that appeals to the widest possible audience.

## National Working Party on the Portrayal of Women in the Media

7. The research resulted in a Public Forum in October 1988, following which a National Working Party on the Portrayal of Women in the Media was established by the Minister Assisting the Prime Minister for the Status of Women. The Working Party is a tripartite body comprising seventeen representatives from the media industry, Federal Government agencies and the community sector. The Head of the Office of the Status of Women was appointed as chair and the Office provides secretariat support. The Working Party's terms of reference for its first two years focussed particularly on advertising and included:

- development of mutual understanding of sex role stereotyping and women's concerns about the portrayal of women in advertising, with a view to achieving a more positive and realistic portrayal of women in the media;
- formulation and recommendation of means of improving the advertising industry's self regulatory codes, including the feasibility of drafting and advocating a separate code on sex role stereotyping and the portrayal of women in advertising;
- development and suggestion of methods for the education and sensitisation of the advertising industry on the issues of sex role stereotyping and the positive portrayal of women; and
- development of a forward program on the broader issue of portrayal of women in the media.

The Working Party was required to report annually to the Minister Assisting the Prime Minister for the Status of Women.

8. In fulfilling its terms of reference, the Working Party has published a compact guide to advertising research on women's attitudes, *Women and Advertising: A Reference Directory*, distributing 1500 copies to tertiary institutions and libraries around Australia. The Working Party organised a one day workshop for people in advertising, *Communicating to Women in the 1990s*. The Workshop, an industry oriented occasion attended by over 130 people, was co-sponsored by the Working Party, the Advertis-

ing Federation of Australia Ltd and the Association of National Advertisers. The Working Party also developed an education kit called the *Women and Advertising Resource Package*, comprising lecture notes, overhead transparencies, workshop material, reference guides and a video, for use in advertising and related tertiary education courses and industry in-service courses. This was launched in June 1991. Although the Package does not specifically target school students, secondary educators may use sections of the package in a way suitable for secondary students, and a large number of high schools have purchased it for this purpose. A total of approximately 440 packages have been purchased so far by community and educational institutions, advertisers and advertising agencies, and government bodies. It is hoped that this package will have an impact on training of future advertising professionals.

9. The Working Party also agreed to a set of advisory notes entitled *Portraying Women in Advertising*, which has been produced in poster form for easy access and are intended to encourage and educate the advertising industry to recognise and reflect the significant changes in women's attitudes and their roles in society. To date, 2000 copies have been circulated through peak industry bodies. It is significant that these were agreed by representatives of peak industry bodies as well as the community and government members.

10. The Working Party was reconstituted as the National Working Party II for a two-year term from 1 July 1991 with a leading media figure as the Chair. While retaining an interest in the portrayal of women in advertising, the second Working Party now has terms of reference which encompass the media generally. As part of its current work plan, the Working Party II prepared a submission to the Federal Government on draft broadcasting legislation, making a series of recommendations for improving the operational effectiveness of the proposed regulatory arrangements and improving the capacity of these arrangements to deal with issues arising from the portrayal of women. In addition the Working Party is currently developing projects which include conducting a survey of current attitudes on the portrayal of women, preparing a position paper, repeating an earlier survey of women's employment in the media industry and undertaking a program of industry liaison promoting issues affecting the portrayal of women.

11. The Working Party has also published a brochure, *Media Complaints*, for those concerned about the portrayal of women in the media. The brochure was launched by the

Minister Assisting the Prime Minister for the Status of Women at the Women's Electoral Lobby National Conference in January 1992. It explains the self-regulatory system, advises on how to make a complaint and the information required in order for the complaint to be effectively investigated by the appropriate body. The publication has been well received by the general community, with requests for 10 000 copies in the first two weeks after it was launched. A total of 30 00 copies have been distributed.

12. Although it is too early to assess industry reaction to the activities mentioned above, it is believed that by creating a successful forum for constructive discussion and a targeted work program, substantial progress has been made within a conservative and self-regulatory industry towards developing an understanding of sex role stereotyping and women's concerns about their portrayal in the media. In addition, the existence of the Working Party has an impact on the wider community by maintaining a greater level of awareness of arising issues.

## **Advertising**

13. Federal Government advertising and publicity materials are monitored by the Office of Government Information and Advertising (OGIA) in order that such materials constructively and positively portray and present women. The Office disseminates standards which apply to such materials and provides seminars and other training on the subject. Although the work of the Office has not been formally evaluated, evidence of some success is indicated by absence of complaints from the public about government advertising and information materials. Further, industry standards have begun to conform to the standards set by the OGIA.

14. The advertising industry is self-regulated, although the Trade Practices Commission (TPC) regularly monitors the effectiveness of the system. Five codes were authorised in 1988 by the TPC as standards for those advertising agencies which are members of the Media Council of Australia and these are:

- The Advertising Code of Ethics;
- The Cigarette Advertising Code;
- The Alcoholic Beverages Advertising Code;
- The Therapeutic Goods Advertising Code;
- The Slimming Advertising Code.

15. There is however no specific code to address the issue of sexism in advertising. In 1990, the

Trade Practices Commission released a discussion paper on the self-regulation system, which included a draft of the advisory notes on portraying women in advertising prepared by the National Working Party (see para 9) and recommended that the Advertising Standards Council, Code of Ethics Committee continue to consult with organisations interested in women's issues and then to consider the revision of those clauses of the Codes of Ethics which cover the portrayal of women in advertising. A public seminar was held in 1991 to discuss the recommendations in the paper. The TPC will begin its next period of assessment of the operation of the Codes in July 1992. The assessment will specifically focus on whether the codes are delivering the public benefits anticipated by the Tribunal in its authorisation.

## **Regulation of Broadcast Media**

16. The Australian Broadcasting Tribunal, the independent statutory authority established under the Broadcasting Act to regulate broadcasting in Australia can grant, renew, suspend or revoke broadcasting licences and make program standards. There are program standards for both radio and television. While the standards do not specifically address the portrayal of women in the media, they do forbid licensees from broadcasting a program which is likely to incite or perpetuate hatred against, or gratuitously vilify, any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, religion, or physical and mental disability. This particular standard, covering both television and radio, is currently the subject of a public inquiry to assess its effectiveness. It should be noted that unlike most other systems of voluntary regulation, the Tribunal's program standards are reinforced by the possibility of real sanctions on licensees. Further, an industry-wide Code on the Portrayal of Violence in the Media was devised during 1990 by industry representatives in cooperation with the Tribunal. This Code, which provides a framework for decision making about the representation and portrayal of violence in news, current affairs and drama programs, draws attention to situations in which violence may occur and urges 'sparing or modified use' of footage showing 'violence directed at women'. There are also television program standards covering criteria for the classification of programs in terms of sex and nudity, violence and language and the times at which programs can be shown. A review of these standards is also the subject of a current public inquiry by the Tribunal.

17. Ministerial guidelines for the content of existing Video and Audio Entertainment and Information Services (VAEIS) licensed under the Radio Communications Act were introduced in 1986. The guidelines cover non-domestic video and audio material, the best known of which is the Sky Channel 'pub and club' satellite service, and relate primarily to frequency regulation rather than content. The potential does exist for the Minister for Transport and Communications to cancel licences under the guidelines, although it is doubtful that Sky Channel viewers are aware of their existence and there are no established mechanisms for complaint.

## **Pornography**

18. The Federal Government's policy with regard to censorship is that adults should be entitled to read, hear and see what they wish in private and public subject to safeguards against conduct exploiting or detrimental to children and adequate protection against people being exposed to offensive unsolicited material.

19. The broad objective of this censorship is to regulate the availability of films and publications by establishing a system of classification and by restricting sale, display or public exhibition. The classification system is administered nationally through the Office of Film and Literature Classification (OFLC).

20. The classification of films and videos differs from the classification of printed matter in that the classification of films and videos is compulsory, whilst the classification of publications is both voluntary and varies between States.

21. The OFLC allocates one of the five classifications to films and videos outlined below:

G General (suitable for all ages) may only contain mild, infrequent expletives; very discreet verbal references or implications to sexual matters and mild, minimal and incidental violence all of which must be justified by the context;

PG Parental Guidance (parental guidance recommended for persons under 15 years of age) may contain low level coarse language; discreet verbal and/or visual depictions and references to sexual matters; mild depictions of violence and minimal nudity in a justifiable context;

M Mature (recommended for mature audiences 15 years and over) may contain crude language which is not excessive, unduly assaultive or sexually explicit; discreet sexual intercourse or other sexual activity and realistic violence of medium intensity;

R Restricted (restricted to adults 18 years and over) may contain virtually any language, realistic sexual activity, highly realistic and explicit violence if not unduly detailed, relished or cruel. Sexual violence is also allowed to the extent that it is necessary to the narrative and not exploitative;

X Contains Sexually Explicit Material (restricted to adults 18 years and over) may contain explicit depictions of sexual acts between consenting adults and mild non-violent fetishes, but not the depiction of sexual violence, coercion or non-consent; and

### **Refused Classification**

child sexual abuse, bestiality, exploitative incest fantasies, sexual activity accompanied by offensive fetishes, detailed/relished acts of extreme violence or cruelty, explicit or unjustifiable depictions of sexual violence against non-consenting persons.

22. Community concern regarding X-rated videos and films has resulted in their being banned by all States except the Northern Territory and the Australian Capital Territory, from where X-rated videos are available by mail order to people residing elsewhere in Australia.

23. A national system of voluntary classification of literature is administered by the OFLC. A minority of States also operate their own system. There has been community concern over recent months about some 'unrestricted' and easily available pictorial magazines depicting women as sexual objects or in degrading or humiliating poses. As a result of this concern OFLC guidelines for the covers of magazines and related posters advertising the magazines have been tightened to more strictly apply the principles that people should not be affronted in public by unsolicited exposure to suggestive magazine covers and their posters, particularly in circumstances where they may be seen by younger children. The OFLC has removed two issues of the magazines from general sale and placed them in the restricted category, in one case because of the offensiveness of the cover

and in the other because of the combination of nudity and the suggestion of violence in an article in the magazine. A 'restricted' classification requires that the publication may only be sold to persons 18 years and over, and in some instances only if sealed in a wrapper or only from restricted premises. Independent action has been taken in some States to restrict the availability and advertising of the magazines. Publishers of the affected magazines have voluntarily agreed to a range of changes in response to community concerns.

24. The literature classification guidelines are to be discussed at the July 1992 meeting of the Federal, State and Territory Ministers with censorship responsibility.

25. The availability of material which depicts violence against women, sometimes with sexual overtones, and sexually exploitative depictions which degrade women continues to cause concern amongst a wide cross-section of the community.

## **Telecommunications**

26. New forms of communication, such as computer games, adult 'dial it', teletext services and 'pay per play' videos, allowing viewers to have the video of their choice delivered by means of telecommunications, can involve material which degrades women or contains violence against them. Currently, a Federal Parliamentary Senate Select Committee on Community Standards relevant to the Supply of Services Utilising Telecommunications Technologies has considered submissions, including one from the National Women's Consultative Council canvassing new means of communication and including recommendations concerning the portrayal of women.

27. The Australian and Overseas Telecommunications Corporation (AOTC, formerly Telecom Australia) provides telephone information services through what is known as the '0055 and 0051 Services'. After complaints about the operation of 0055 services, particularly 'adult' recorded messages, an independent review of the service resulted in the establishment of the Telephone Information Standards Committee. This Committee formulated Codes of Practice for 0055 and 0051 service providers which came into effect in late 1991. The Code requires 'adult' messages be available through the 0051 service

only, which is only accessed through a personal identification number. Currently, however, 'adult' messages remain on the 0055 service. The Select Committee described above has examined this issue and has recommended new Codes to control messages on the 0055 and 0051 services. AOTC has responded positively to the recommendations and is working with the Office of Film and Literature Classification with a view to implementing these following the Government's response to the Committee's final report. The Committee has also recommended sanctions which include termination of services which breach the Code. As part of its current Codes of Practice, AOTC has also established a toll-free phone number to receive complaints or comments from the public on the service, which may then be examined by an independent Arbitrator.

28. Fundamental changes to broadcasting regulation are proposed by the Federal Government in the draft Broadcasting Services Bill. It brings a greater range of services within the ambit of broadcasting regulation and regulates them according to their ability to influence community views. In the area of program standards, the Bill proposes the maintenance of standards for Australian Content and children's programs for commercial television. In other areas, it proposes self-regulation by the broadcasting industry developing codes of practice in consultation with the Australian Broadcasting Authority (ABA). The ABA is to register a code if it considers it deals adequately with the matters covered by the code. Although industry imposed sanctions would be expected for breaches of codes of practice, if codes are breached by individual broadcasters the ABA may make compliance a licence condition. This would make further breaches an offence with a broad range of sanctions. If the industry sector failed to develop a code, or non-compliance is widespread, the ABA could impose a standard. Breaches of standards are offences with significant penalties. The National Working Party on the Portrayal of Women in the Media prepared a submission to the Federal Government canvassing the way in which the proposed Bill might affect the portrayal of women in the media. The submission recommends changes in two areas: improving operational effectiveness of the regulatory arrangements proposed by the Bill and improving the capacity of the proposed arrangements to deal with issues arising from the media portrayal of women. The Bill is currently being redrafted for consideration by the Government.

29. The Federal Government acknowledges that access to telecommunication services is often particularly important to women, who, in many instances may be socially isolated through factors such as their age, location, family responsibilities or low incomes.

30. The *Telecommunications Act 1991* places a universal service obligation (USO) on the AOTC which ensures that the standard telephone service and pay phones are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. In addition, from 1 July 1992, price controls will be strengthened and variation in prices for a broader range of services must then be kept to an average of 5.5% below the rate of inflation. These initiatives ensure that the real price of telecommunications services continues to fall over time.

31. The Government has also put in place consumer protection measures and has enhanced the consumer protection role of AUSTEL, the telecommunication industry's independent regulator.

## NON-DISCRIMINATORY LANGUAGE

32. The Australian Government Publishing Service (AGPS) has responsibility for the provision of guidance and recommendations to Federal bodies on editorial style in accordance with Government policy.

33. In 1988, the Fourth Edition of the AGPS's Style Manual for Authors, Editors and Printers included a chapter on Non-Sexist Language to make authors and editors fully aware of sexist language and to provide them with guidance on ways of avoiding it.

34. The chapter was later developed into a monograph, the first comprehensive guide to non-discriminatory language in Australia, *Non-Discriminatory Language*, which went on sale on 1 May 1991. The monograph discusses the ways in which language can contribute to discrimination, describes various linguistic mechanisms used to express discrimination and provides extensive guidelines on how to avoid discriminatory language relating to sex, race and ethnicity as well as disability. Advice is also given to those who need to prepare guidelines on non-discriminatory language use in specific organisations. *Non-Discriminatory*

*Language* has been publicised widely and by January 1992, 1244 copies had been sold.

35. The Australian Broadcasting Corporation's (ABC) Standing Committee on Spoken English distributed *A Guide to Non-Discriminatory Language* nationally through the ABC in 1990. This updated an earlier guide on gender neutral language issued in 1984.

36. In addition to providing policy direction in regard to the general principles of gender-neutral language, these guidelines provided specific policy direction on neutral language in relation to Aboriginal women, women of non-English speaking background and women with disabilities.

37. Training on the use of non-discriminatory language has been incorporated in the training of new journalist cadets within the ABC and in the training of Communications students at Sydney's University of Technology.

38. Policies on the use of gender neutral language and the portrayal of women in the media were incorporated in the ABC's 1991 Editorial and Program Policies, which sets out the editorial and program policies determined by the ABC Board of Directors. These Policies refer staff with editorial responsibility to the Guide and are distributed to all those who have editorial responsibility for ABC programs.

39. Program makers, journalists and reporters generally are using the ABC's Guide as a reference in preparing material for broadcast. It is proposed that training on the use of non-discriminatory language is incorporated in the core skills training of broadcasters. It is expected that about 898 broadcasters under award restructuring will receive this training. In addition, the Australian Journalists' Association has published guidelines on non-sexist language which are

## VIOLENCE AGAINST WOMEN

40. Violence against women continues to be an issue of serious concern in Australia. Accordingly, action at both Federal and State/Territory levels has remained a priority and has been addressed in a number of contexts.

### Major Initiatives

41. The Federal Government has taken a number of initiatives relevant to violence against women.

Following the allocation of \$A2.1 million to a community education program on domestic violence in 1987-90, a further allocation of \$A1.35 million over three years 1990-93 was made to establish a National Committee on Violence Against Women (NCVAW). The NCVAW terms of reference broadly refer to all forms of violence against women in both the domestic and public spheres. The NCVAW has a research, policy and community education role (discussed in detail under NCVAW). Following the Strathfield massacre on 17 August 1991, the Federal Government approved a \$A12.7 million package of measures aimed at changing the culture of violence in Australia.

42. Many States and Territories have recently taken significant initiatives in the overall area of violence against women (mentioned in detail below). In New South Wales, for example, one central initiative has been the development of a Domestic Violence Strategic Plan and Queensland is also developing a strategic plan in relation to violence against women. In Tasmania, a Child Protection and Family Violence Branch which has a policy and coordination function and resources the Tasmanian Domestic Violence Advisory Committee (TDVAC), has been set up within the Department of Community Services. The TDVAC is comprised equally of government and community representatives.

### **National Committee on Violence**

43. A National Committee on Violence (NCV) was set up in December 1987 following two mass firearms killings in Melbourne's Hoddle and Queen Streets earlier that year, and given three principal tasks:

- to assess the state of violence in Australia;
- to look at explanations for violent behaviour; and
- to make specific recommendations for its prevention and control.

44. The NCV report, *Violence: Directions for Australia* was published in early 1990. Although concerned with violence generally, the NCV did make a number of recommendations specific to violence against women, indicating that domestic violence, particularly, was widespread, costly to the individual and the community and affected all groups in the Australian community. The NCV found that one of the most striking aspects

of violence in Australia is that the vast majority of those who commit acts of violence are males and by contrast, victims of sexual assault and domestic violence are overwhelmingly female.

45. Recommendations included uniform domestic violence legislation across the states and territories, a policy of police charging in cases of domestic violence, which should be publicised widely, police powers to seize firearms and weapons, rigorous evaluation of police practice and continuing education of judicial officers.

46. As a result of the recommendations of the National Committee on Violence, the Violence Prevention Unit in the Australian Institute of Criminology was established in January 1991. The work of the Unit consists of national monitoring of actions taken to implement the recommendations of the National Committee on Violence, national monitoring of trends in the level of violence in the community, which will be assisted by the implementation of a computerised data base, development of methods of evaluation of responses to violence, operation as a clearing house of information about projects dealing with violence and the development of training workshops on violence issues, including violence against women.

### **National Domestic Violence Education Program**

47. The Federal Government made a major contribution to community education on the issue of domestic violence through the **National Domestic Violence Education Program**, which ran over a three year period ending June 1990. The Program, which formed one part of the Government's National Agenda for women, aimed to raise awareness about domestic violence as an issue of community concern, provide accurate information on domestic violence, encourage widespread community participation in the campaign and motivate community and professional groups to become involved.

48. The Program was managed and coordinated from within the Federal Office of the Status of Women. State, Territory and community input was assured by a Commonwealth/State Domestic Violence Coordinating Task Force which met approximately every two months. The Task Force included State and Territory domestic violence policy officers, relevant Federal Government Departments and representatives from Aboriginal and Torres Strait Islander and NESB



women, women's emergency services and the National Women's Consultative Council.

49. In its first year, the Program undertook both qualitative and quantitative research into the attitudes of Australians towards domestic violence. This study, which was the first of its kind in Australia, determined from a representative sample, that nearly half of the respondents personally knew of someone involved in domestic violence. One in five thought that physical force by a man against his wife is acceptable in some circumstances, approximately 6% approved of extreme forms of violence being used in the home, more than a quarter said they would ignore the situation and mind their own business if they found out that a neighbour beat his wife and one third thought that domestic violence was a private matter to be dealt with in the family.

50. To complement the national survey, further research studies were commissioned into attitudes and behaviours towards domestic violence using group discussions and in depth interviews with a broad cross section of women and men from the Australian community.

51. In the second year of the Program, there were a number of strategies used for both awareness raising and educating the community. The first such activity was the Prime Minister's launch of Domestic Violence Awareness Month in April 1989, which under the theme 'Break the Silence' aimed to make the community more aware of the issue, provide accurate information and help change attitudes. This part of the Program included television and other media advertising, the production and distribution of materials, including pamphlets and posters in English and a variety of community languages. Surveys conducted pre and post Awareness Month indicated a 30% increase in awareness of domestic violence. Subsequently, 26 April has been proclaimed National Stop Domestic Violence Day with States/Territories holding various public activities to raise community awareness.

52. During the second year, activities were promoted at the local level. Community networks were mobilised and there was a significant level of interest and activity from a broad range of groups, who used the information, material, posters, kits and pamphlets published by the Office of the Status of Women. To supplement the **National Campaign**, the various State and Territory Governments allocated funds from

their own programs aimed at preventive education, the better training of a range of service providers and the police.

53. In the final year of the Program, the needs of Aboriginal and Torres Strait Islander, NESB, young women and women from rural and isolated communities were addressed. A video and booklet called *Beyond Violence Finding the Dream* was produced for use in Aboriginal communities, as was a booklet for young people called *Violence at Home - The Big Secret*. A Rural Discussion and Resource Kit, multilingual radio announcements and posters and information cards were produced. During the year, television and print advertising continued and a radio kit was produced for the general community to target Australian Broadcasting Corporation regional and metropolitan stations, and selected commercial and community radio stations. A further initiative was a booklet and video for child care workers and pre-school teachers, which has been published in conjunction with the Australian Early Childhood Association, called *Breaking the Silence on Domestic Violence*. These resources were distributed widely, continue to be available and are in great demand.

54. The final year of the Program culminated in a National Forum on Domestic Violence Training held in April 1990. This Forum was addressed to members of relevant professions including those with a policy role with regard to training, providers of on the job training and trainers of trainers. It was attended by over 500 people from around Australia.

## **National Committee on Violence Against Women**

55. Following the conclusion of the **National Domestic Violence Education Program**, the NCVAW, comprising Federal, State and Territory Government representatives, community members from each State and Territory and the police, was established. The secretariat of the NCVAW is located in the Federal Office of the Status of Women.

56. The NCVAW terms of reference require it to focus on the experience and needs of women subject to violence in all its forms and aim for the elimination of violence against women from Australian society. The NCVAW is required to take account of women with special needs. The terms of reference state that the NCVAW will:



- enable State, Territory and Federal Governments to share experience and policy responses on violence against women;
  - assist the coordination and development of policy, programs and legislation and law enforcement on a national basis;
  - guide and formulate and/or commission research required for effective policy making and to further community awareness;
  - conduct further community education on a national scale and facilitate the coordination of community education at the national level;
  - seek to empower women through greater access to information, resources and services;
  - monitor and facilitate the implementation of appropriate recommendations of the NCV as they affect women; and
  - ensure consultation with community members and groups including women with special needs: Aboriginal and Torres Strait Islander, NESB, rural and isolated, women with disabilities, young women, older women, and adult incest survivors, and workers with those who have suffered violence.
- training and education of the legal profession;
  - the effectiveness of protection orders;
  - a project on violence against Aboriginal and Torres Strait Islander women; and
  - a project to address the particular needs of rural and isolated women.

58. The NCVAW is examining current access which women who have disabilities and are victims of violence have to existing police, legal and support services. This task will involve particularly the identification of barriers and the development of specific strategies to overcome these barriers. The report will cover intellectual sensory and physical disabilities.

59. The NCVAW is also developing a national strategy on violence against women which will provide a whole of government approach to work towards the elimination of violence against women. At their inaugural meeting in February 1991, the Commonwealth/State Ministers' Conference on the Status of Women supported the development of the strategy by NCVAW. The Strategy will incorporate short, medium and long term goals which will relate to key portfolio areas. It will identify key issues and formulate a set of strategic goals aimed at eliminating violence against women. The **National Strategy** will be referred to relevant ministerial councils by the Ministers' Conference on the Status of Women.

57. Initiatives already undertaken by the NCVAW, whose work program extends to June 1993, include:

- the publication of a *Position Paper* on issues relating to violence against women;
- a national audit of services for women who have been raped;
- a submission to a review of certain aspects of the Family Law Act;
- an investigation into current data collection methods in relation to violence against women statistics in Australia;
- a survey of training of trainers' programs in Australia;
- an investigation into the training of key occupational groups (police and health professionals);
- exploration of the feasibility of a national clearing house;
- development of a community education strategy;
- the publication of a *Position Paper* on Mediation;

## National Community Education

60. The Federal Government has indicated its commitment to the elimination of violence against women by allocating a total of \$A3.48 million over 1991-95 to the Office of the Status of Women to augment the community education work of the NCVAW and for the implementation of a national community education program. Further, \$A1 million has been allocated to the Curriculum Corporation for the development of school curriculum materials which will address the link between gender inequality and violence against women.

## State Government Committees

61. Most States and Territories have government committees which oversee the provision of services with respect to domestic violence. In New South Wales there is the Domestic Violence

Committee and a Sexual Assault Committee; in Victoria, there is a Family Violence Prevention Committee, established in 1987 and a Community Council Against Violence; in Queensland the Domestic Violence Council, established in 1989; in South Australia, the Domestic Violence Prevention Committee; in Western Australia, the Domestic Violence Advisory Council, set up in 1990, following the final report to Cabinet of the Domestic Violence Coordinating Committee and in Tasmania there is a Domestic Violence Advisory Committee.

## **State/Territory Government Community Education**

62. Community education has been carried out at State and Territory level. In New South Wales, the Women's Coordination Unit, which chairs and provides the secretariat for the New South Wales Domestic Violence Committee has produced a detailed pamphlet on domestic violence for service providers, as well as a shortened and simplified version of this pamphlet in English and fourteen community languages. The Committee has also produced wallet-sized 'Stop Domestic Violence Cards' in English and eighteen community languages. Further, a poster and pamphlet have been specifically designed for Aboriginal women. This material is distributed by the Women's Coordination Unit, by community and government agencies and the police on call out. The New South Wales Police Service on 1 May 1992 launched a \$A700 000 campaign to promote new gun laws. Material includes pamphlets, magazine and newspaper advertisements and information and telephone messages in eight community languages. The campaign is intended to highlight the role of policing in domestic violence and in particular their power to seize firearms.

63. In Victoria, a media community awareness campaign, entitled **Violence is Ugly**, was conducted in 1991. This campaign, which was designed to prevent, reduce, challenge and change attitudes with respect to violence and assault against women, encompassed advertisements on three commercial television channels, as well as the Special Broadcasting Service (SBS) and the production of print material in sixteen community languages. The materials specifically relate to safety and security in the community with particular reference to women and the prevention and reporting of violence and sexual assault of women.

64. In the Northern Territory, a three month public awareness campaign was conducted following the proclamation of the legislation providing for protection orders. This campaign utilised 30-second black and white television advertisements, cinema slides and radio advertisements. In order to introduce the legislation to Aboriginal people, the Aboriginal Project Officer regularly visits Aboriginal communities, and with the help of a video discusses the issues of 'family fighting'. The new legislation was translated into eight community languages and the Women's Advisory Council produced a video entitled *It's a Crime*, accompanied by an information package, explaining the legislation.

65. Queensland initiatives have included a domestic violence information kit, a video on the effects of domestic violence on children and a booklet on domestic violence for general practitioners. Queensland also funds a Domestic Violence Resource Centre which provides information, referral and community education services. Other Queensland Government initiatives include the establishment of five regional domestic violence services, the funding of early intervention domestic violence projects on a non-recurrent basis and the funding of an 008 Domestic Violence Telephone Crisis Service.

66. In Western Australia, the Domestic Violence Policy and Research Unit in the Office of the Family (now the new Department for Community, Family and Children's Services) provides information and advice to the community about domestic violence. One particular priority of the Unit is the fostering and resourcing of local domestic violence action groups. These enable local service providers and interested people in the community to work together to raise knowledge of the issue in their area and improve service delivery to victims of violence and their families. The Domestic Violence Policy and Research Unit also administers the Domestic Violence Community Initiatives Grants Program. A maximum of \$A10 000 is available for non-profit community groups to enable them to undertake projects or conduct research consistent with the Unit's objectives.

67. In some States and Territories, community awareness initiatives are undertaken at the local level. For example in New South Wales, eighty Local Domestic Violence Committees undertake local awareness initiatives with the minimum of funding. Initiatives have included community seminars and appropriate slogans - such as 'Break the Silence' or 'Domestic Violence

is a Crime' - for use on buses and taxis. A one-off grant program funded awareness raising and community education projects with particular emphasis on rural Tasmania.

## Violence Against Aboriginal Women

68. The serious problem of violence in Aboriginal and Torres Strait Islander families was addressed in 1990 by the **National Aboriginal and Torres Strait Islander Family Support Program**, which has been allocated \$A700 000 over two years for programs concerning family violence. In 1991, the Secretariat of National Aboriginal and Torres Strait Islander Child Care published posters and a 60 page handbook, entitled *Through Black Eyes*, listing services available around Australia and describing the law relating to domestic violence in each Australian state and territory.

69. An amount of \$A4.69 million over 3.5 years (1992-95) has been allocated to the Aboriginal and Torres Strait Islander Commission for a **Family Violence Intervention Program**, to enable Aboriginal and Torres Strait Islander people to train other Aboriginal and Torres Strait Islander people in the use of intervention strategies and educative programs.

70. An example of an exemplary program, based on sound principles of empowerment, is the **Women Out West Project** operating in New South Wales. The Project aims to provide information for Aboriginal women in western New South Wales on domestic violence, sexual assault and child sexual assault and other legal and women's health issues.

## Criminal Status of Violence Against Women

71. All criminal laws have always applied to violence against women. There is, however, reluctance on the part of the criminal justice system to recognise that violence perpetrated against women by their male partner is an assault of the same order as an assault by a stranger on a person outside the home. The objective is to have the criminal justice system take violence against women seriously and to impose appropriate sanctions.

72. Concern is mounting about the use of 'battered woman syndrome' (see discussion under Article 15), 'rape trauma syndrome' and victim impact statements in court proceedings because of the risk that they detract from the criminal nature of male violence against women and instead, pathologise the effects of male violence on women. In May 1991, for the first time in Australia, an Appeal Court in South Australia ruled that expert evidence of the 'battered women's syndrome' (BWS) was improperly excluded from the trial of two women convicted of false imprisonment and causing grievous bodily harm with intent. Because the evidence was wrongly excluded, the convictions were set aside and a new trial ordered. Subsequently, in March 1992 a woman was acquitted of a charge of murdering her violent *de facto* partner after the Court heard evidence of the BWS.

## Protection Orders

73. All States and Territories now have legislation which provides for the issuing of court orders, which can be obtained on the civil standard of proof, to the victims of domestic violence. The aim of protection orders is to ensure the safety of the applicant. Generally this is done by obtaining an order which provides for the restriction of contact between the respondent and the applicant; they can restrict telephone contact, can require that the respondent not come within a certain distance of the home of the applicant, and require that the respondent not threaten, intimidate, harass or assault the applicant. There are generally provisions for the respondent to be removed and excluded from the home; however, many women report that it is very difficult to obtain an order in these terms given a general reluctance by the courts to exercise this power. (Also see discussion under Guns).

74. Breach of such an order, which can be obtained quickly and drafted to apply to the individual's particular circumstances, is a criminal offence and the police have the power to arrest without warrant. The legislation varies from jurisdiction to jurisdiction. In New South Wales, Western Australia, South Australia and Tasmania, orders may be sought by all persons who fear either personal violence or conduct amounting to harassment or molestation, whether they are in a domestic relationship or not. In the Australian Capital Territory and Victoria, orders may be sought against any

violent relative or household member; while in Queensland and the Northern Territory, orders may only be sought against married and unmarried spouses, who are separated or living together. Further, in the Australian Capital Territory, the *Magistrates Act 1930* has been amended to provide protection to people experiencing violence outside domestic relationships.

75. Amendments to legislation listed in Australia's last report, for example, in the Australian Capital Territory and New South Wales, have tended to widen the coverage of protection orders beyond current and former spouses and de facto spouses. Queensland is currently investigating the possible broadening of coverage of protection orders.

76. In all cases, either the victim of violence or the police may apply for a protection order, while some legislation allows a refuge worker to apply on the woman's behalf. Police are most willing to proceed on behalf of victims in South Australia, where they seek orders in 97% of cases, while in Queensland they apply in 51% of cases. On the other hand, women in New South Wales, Victoria and Tasmania usually seek orders themselves and require representation in Court.

77. It is difficult to give a national profile of the number of women who seek protection orders, because in a number of States and Territories gender disaggregated statistics are not kept. In Western Australia, for example, in 1989-90, 3540 orders were obtained and although gendered statistics are not kept, it is estimated about 60-80% were applied for by women. South Australia, similarly, does not keep gender disaggregated statistics, although of the 1714 orders issued against males in 1989-90, it is assumed that the majority relate to domestic violence. In the Australian Capital Territory, where statistics are disaggregated by gender, in 1990 there were 557 orders. Of these, 86% were applied for by women against their violent partners, 5% by men, and the remaining 9% concerned complaints in the context of relationships such as daughter and father. In Victoria in 1987, the Victorian Family Incident Database, which collates statistics by gender, age and relationship of complainant and perpetrator, was initiated. During the period 1 July 90 to 30 June 91, amongst a total 5180 complaints (applications for an intervention order), 4450 were made by females (86%) resulting in 3232 intervention orders being made under the Crimes (Family Violence) Act. In Queensland, as at

January 1992, it was recorded that 12 000 protection orders had been applied for in 1991 of which 8000 became orders, an 80% increase on the preceding 12 months.

78. In a number of jurisdictions, such as Western Australia, research is currently being undertaken into the effectiveness of protection orders. An earlier evaluation in NSW revealed that women found apprehended domestic violence orders useful. The NCVAW is currently doing research into the effectiveness of protection orders.

## Breaches of Protection Orders

79. Although such orders are available, failure to take breaches of such orders seriously has been identified as an area of concern in a number of recent State and Territory reports on domestic violence, including the *Victorian Community Council Against Violence Report* (February 1991) and the *New South Wales Domestic Violence Committee Report to the Domestic Violence Strategic Plan* (July 1991).

## Portability of Protection Orders

80. Another specific problem concerning protection orders has been the fact that such orders have not been enforceable interstate. The National Committee on Violence recommended that the portability of domestic violence orders should be treated as a priority by the Standing Committee of the Attorneys-General, to ensure that women who have obtained an order from their original State or Territory of residence should be able to retain its protection in a new State or Territory. The matter was also taken up by the NCVAW. The Standing Committee has endorsed the portability of orders provided that the duration of the order in the new State or Territory should be that specified by the original State or Territory and that penalties for breaches should be enforced as for the receiving State or Territory and not the original State or Territory. The Federal Government, States and Territories are preparing legislation to give effect to this proposal. Legislation to allow for portability of restraint orders will be introduced into the Tasmania Parliament as part of the *Justice Legislation Amendment (Domestic Violence) Bill 1992*.

## Legislative Reforms

81. A number of legislative changes were suggested by the National Committee on Violence Against Women, following a spate of family murder suicides during December 1990 and January 1991. The calls for reform included:

- automatic preventative detention or refusal of bail to violent offenders who breach domestic violence protection orders;
- automatic confiscation of firearms and other dangerous weapons when a domestic violence protection order is issued against a violent offender;
- mandatory arrest and custodial detention of violent offenders; and
- automatic cancellation of custody and access orders in favour of violent offenders when protection orders are breached and death threats have been made.

82. An Issues Paper addressing the above reforms was written for the Commonwealth/State Ministers' Conference on the Status of Women and subsequently referred by them to the relevant ministerial councils.

83. In the Australian Capital Territory, the Law Reform Committee is reviewing the law and its practice concerning domestic violence, while the Australian Law Reform Commission, concerned with the particular difficulties of NESB women in this context, has invited submissions on how to design culturally appropriate programs to ensure that such women have real access to protection. In Tasmania, the Justice Legislation Amendment (Domestic Violence) Bill 1992 will soon be introduced to Parliament. It seeks to provide for interstate portability of restraint orders, cancellation of gun licences on issue of a restraint order, and extension of police powers to include arrest without a warrant, under the Police Offences Act (Section 55), on reasonable belief that an assault has occurred.

84. Legislative reform is ongoing in most States/Territories. For example, the Law Reform Commission of Victoria has recently published a report *Rape: Reform of Law and Procedure* and legislation was changed as a consequence. (Further details below under **Rape**). The Queensland Government will shortly release its review of the Criminal Code, including a review of the law regarding rape.

85. In Western Australia the Government will introduce new legislation based on recommendations of the Domestic Violence Advisory Committee. The legislation will clarify the powers of entry of police to premises where domestic violence has occurred. It will also give them the right to search for and seize firearms where domestic violence has occurred. The Bail Act will also be amended to allow the conditions of bail in cases of domestic violence to include denial of contact or cohabitation with the victim.

86. The Federal Government has introduced new provisions in the Migration Regulations to allow applicants for permanent residence on spouse (married or *de facto*) grounds to remain eligible for permanent residence if:

- they are proven victims of domestic violence as evidenced by an injunction under the *Family Law Act 1975* or a State/Territory order for protection of the applicant from domestic violence; or
- a court has convicted (or has recorded a finding of guilt against) the spouse in respect of assault or some other offence of violence committed against the applicant; or
- they have court-ordered access or joint custody of any children of the relationship or have formal financial maintenance obligations.

87. The provisions were part of new arrangements introduced in April 1991 which provide for two years' conditional residence before a person applying on spouse grounds can be granted permanent residence, and a more stringent assessment of relationships. They recognise that in the past, some applicants had felt they had to stay in a relationship which involved domestic violence or give up their hopes of obtaining residence. Special provision was also made for people who had applied for permanent residence on spouse grounds before April 1991 and whose applications had not been decided.

## Guns

88. The Australian Police Ministers' Council recently resolved:

- to require the suspension of relevant firearms licences, prohibit the issue or renewal of licences, and require the seizure of all

firearms in the possession or control of a person against whom a protection order is in effect, or other violent offenders;

- that police be granted a discretion to seize firearms temporarily where such action is warranted; and
- to request jurisdictions, in accordance with the recommendations of the NCVAW, to introduce a 28 day cooling off period after expiration of a Protection Order before the person subject to that Order may be issued with a firearms licence.

89. Some States have already introduced legislation in accordance with the Australian Police Ministers' Council resolution and others are at different stages of the process.

## Police Education in Domestic Violence

90. In the Northern Territory, recruits receive twenty 50 minute periods of training in relation to domestic violence and in-service seminars are provided on an *ad hoc* basis. Northern Territory Police Aides have recently received a one day training program on the subject. It is expected that this will be expanded in future programs.

91. Western Australian recruits receive four 35 minute periods of instruction dealing with crisis intervention in domestic disputes, 35 minutes on the theoretical context of domestic violence and three 35 minute sessions on problem solving.

92. In the Australian Capital Territory, police participate in training workshops and seminars, often with workers from the Domestic Violence Crisis Service.

93. In the training of New South Wales recruits, domestic violence forms the basis of a case study in the investigators course and the detectives education program incorporates lectures on domestic violence. In 1990, further, a comprehensive education package on domestic violence, comprising four booklets - *Policy, Background and Myths, Police Powers, Police Procedures* and *Apprehended Violence Orders* - was prepared for distribution to police at the patrol level.

94. In South Australia the Domestic Violence Service and the sixteen Domestic Violence Action Groups provide opportunities for all service provider groups, including the police, the Department of Social Security, the South Australian Housing Trust and women's refuge workers, to participate in three-day domestic violence workshops.

95. In Victoria, the Family Violence Project Office of Victoria Police provides training to police. There, at recruit level, two days of an 18 week course are dedicated to family violence, while family violence issues are integrated into other parts of this course. The theme of the two day course is that family violence is criminal violence and police are instructed to look for evidence of a criminal offence, make applications for a protection order and to refer parties to other agencies. Further, after spending time in the field, Probationary Constables attend a revision training course that includes a half day session on family violence.

96. Officers who wish to become sergeants undergo training which includes two sessions on family violence, examining the current force instructions, the importance of taking action on family violence and the importance of the supervisor in ensuring that subordinates take appropriate action. Further training in this area continues through an officer's career as district training officers provide ongoing training through lectures on family violence and the current Force Instructions. It has been estimated that the Victoria Police have doubled their training time in the area of family violence, at both recruit and in service level, in the twelve months to June 1991 and that increased resources, including the development of print and video materials, have been applied to the area.

97. Although police forces throughout Australia have made significant progress in sensitising officers to the issues concerning domestic violence and training them in techniques of intervention, there is still some dissatisfaction with police action. The National Committee on Violence, for example, received a number of submissions expressing dissatisfaction with police action, particularly in rural areas, where police are not often adequately trained. Some police still do not regard domestic violence as a crime and are often reluctant to lay criminal charges or initiate protection orders. In Queensland, the police force includes training in relation to domestic violence in its training courses and ac-

tion to be taken in relation to occurrences of domestic violence is contained in the police codebook. Evaluation in New South Wales indicates that although legislation was put in place in 1983, it was not until 1987 that police began to initiate complaints on a widespread basis.

## Training and Education in Violence Against Women

98. Training in domestic violence issues has not been confined to the police. In Victoria, staff of the Ministry of Planning and Housing have received specific training with respect to family violence, as have clerks of courts. In the Australian Capital Territory, workers in housing, family services and school counselling receive such training. The Australian Capital Territory Department of Education and Training has also employed a counsellor to train all teachers and staff in protective behaviour, with a view to implementation in primary and secondary schools. In Western Australia, funding has been given for the training of lawyers and Grant-In-Aid workers. In New South Wales, the **Domestic Violence Core Training Program**, which includes a multi-disciplinary training package, using a 'train the trainer' model, was developed in early 1991 and is being used to train health and hospital workers, refuge, family support, women's health and other domestic violence workers. In Western Australia, funding is being provided for the training of a wide range of workers in the area of domestic violence and related issues. Central to the Western Australia Strategy is the development of local domestic violence action groups, comprising local service providers and representatives of the community. A training package has been developed and is to be implemented on a local, cross-agency level. The Government also funds community-based organisations to develop and run specialist programs on domestic violence for victims and perpetrators. The three regional Domestic Violence Crisis Service Coordinators have participated in the New South Wales **Train the Trainers Program**.

99. Some States and Territories have produced special training resources for particular groups. For example, the South Australian Domestic Violence Prevention Unit has produced handbooks for legal and medical practitioners; while in Victoria, a textbook - *Family Violence, Everybody's Business, Somebody's Life* - for use in training professionals in schools of law, medi-

cine, social work, education and interpreter training, was published in 1991. In Queensland, the Domestic Violence Resource Centre has received a \$A250 000 grant for training of domestic violence workers. Funding to the five regional domestic violence services includes a component for training.

100. In Western Australia, the Ministry of Education, through its **Prevention Education in Child Abuse, Neglect and Domestic Violence Program** has developed resources to assist teachers to instruct students in people's right to be safe and strategies for protection and prevention. These are used in Health Education Syllabuses in the State for Years 1 to 10.

## Safe Shelter for Victims of Violence

101. The Federal Government's **Supported Accommodation Assistance Program** (SAAP) provides funding for refuges in Australia and many of the shelters for women who are victims of violence are funded by the program. National data on the clients of SAAP collected in a census conducted in November 1990 revealed that about 10 000 people are accommodated in SAAP assisted accommodation on any one night, 38% of whom are women, the majority of whom are escaping from domestic violence.

102. In each State and Territory there is a network of refuges for battered women, some of which cater for women with special needs:

- Tasmania has 13 refuges for women. Of these two are specifically for young women under 26 years of age;
- the Australian Capital Territory has 12 refuges for women, three of these are for single women and the balance for women with children;
- five of South Australia's refuges are in rural areas, one refuge caters for Aboriginal and Torres Strait Islander women only;
- there are six women's refuges in the Northern Territory, all located in urban centres, as the particular problems of more remote communities has not yet been specifically addressed. A refuge specifically for Aboriginal and Torres Strait Islander women is situated in Darwin, there is no refuge specifically for non-English speaking women;

- three of the 62 refuges in New South Wales are ethno-specific and there is one new refuge for Indo-Chinese women. Two services cater for Aboriginal women, one of which is based on an outreach service for far western New South Wales. All refuges have a policy of employing Aboriginal and bi-lingual staff;
- in Victoria there are 24 refuges, one for Aboriginal and Torres Strait Islander women, one for NESB women and one for young women who have been the victims of incest;
- in Queensland there are 39 refuges, eight of which are for Aboriginal and Torres Strait Islander women. A Migrant Women's Emergency Support Service exists to assist NESB women with emergency support and referral; and
- Western Australia has 26 refuges, of which 16 are metropolitan. One of these caters for single women without children and another for Aboriginal and Torres Strait Islander women. Four Safe Houses for Aboriginal women living in rural and remote Western Australia will also open this year. The Government provides funding for the Multicultural Women's Refuge Service, a body of 27 ethnic workers who provide support and advocacy for women from a non-English speaking background who are victims of domestic violence. The Government also funds the Women's Refuge Group, a resource and support organisation for refuge workers.

103. There are no refuges specifically for women with disabilities, but the New South Wales Department of Housing has provided funds to women's refuges in New South Wales to upgrade their premises to ensure that women with physical disabilities have adequate access to premises.

104. Refuge for women living in remote areas is a particular problem in Australia, although in Western Australia, the Crisis Care Unit will pay for transport to a refuge for women living in remote areas.

105. Although there appears to be comprehensive coverage, the SAAP census estimated that about 50% of women needing refuge in Australia each year cannot be accommodated.

106. A pamphlet which seeks to encourage women who are victims of violence to take advantage of refuge provision has been prepared by the Western Australian Women's Refuge Group and is available in five community languages. The pamphlet attempts to portray refuges as not only safe places to stay, but as providing support and information from trained workers. For those women who do not require a refuge or who may be unable to move into one, support is offered in Victoria by fourteen domestic violence outreach services.

## Medium Term Housing

107. Some States and Territories provide accommodation for battered women after the refuge. In New South Wales the **Supported Accommodation Assistance Program** funds 22 projects which provide medium term - three to twelve months - accommodation for women, while the State Government's **Women's Accommodation Scheme** sponsors a further ten projects that provide longer term options, such as subsidised rental houses. In the Australian Capital Territory there are seven medium term supported accommodation services to assist women following their stay in a refuge and the ACT Housing Trust has two transit flat programs to provide safe housing for survivors of domestic violence. South Australia, similarly, has shelter transition houses. Twelve half-way houses are provided for women leaving a refuge, but requiring further support. In all States and territories, except Victoria, where priority housing is given on the basis of domestic violence, such women can apply for priority public housing, but their entitlement to such housing is measured by the extent to which they have other housing arrangements. In Queensland, half-way houses are provided for women leaving refuges and are then referred to the Department of Housing.

108. In Victoria other strategies exist to assist women leaving a refuge. The **Bond and Relocation Scheme** allows for the provision of up to \$A600 to help eligible applicants with bond and removal expenses for private rental accommodation, while priority loans are given to refinance an existing mortgage or purchase other accommodation under the **Priority Property Settlement Program**, which was established to assist people retain their equity and remain in home ownership where they are custodial parents or following domestic violence or breakdown of a relationship. In the year 1990-91, 83% of priority loans were provided on the basis of domestic violence or breakdown of a relationship.



109. The Office of the Status of Women and the Women's Housing Issues Working Party carried out a joint project to produce a resource manual for housing personnel who come into direct contact with women who are victims of violence. The State/Territory specific manuals aim to assist housing personnel to respond effectively, to give relevant information regarding options for safety for priority housing and to better understand the unique circumstances of this client group.

## Crisis/Counselling/Support Services

110. Most States and Territories operate counselling services for victims of domestic violence.

111. Currently, a total of \$A0.3 million is granted annually by Department of Immigration, Local Government and Ethnic Affairs to groups working on projects specifically for women victims of violence; another \$A0.3 million is granted to organisations whose clients include women victims of violence.

112. In Western Australia, the women's refuge group has run facilitated support groups, funded through the Office of the **Family's Domestic Violence Research Grants Program** since 1989. These groups replaced the 'self help' groups which were found to be unsuccessful.

113. In the ACT, the Domestic Violence Crisis Service operates 24 hours a day seven days a week and provides information, crisis intervention and counselling support on all matters including legal rights or options and crisis accommodation. Crisis Workers attend domestic violence incidents with the police at the time that police are called. The ACT Women's Health Service and the Aboriginal Health Service also offer counselling.

114. In the Northern Territory counselling is provided by Welfare Officers located in all urban centres. Remote areas are catered for by remote area teams who include welfare officers who counsel in domestic violence situations. Within the welfare services, Aboriginal community workers are employed, as are workers who deal with the concerns of NESB women.

115. In New South Wales, 25 women's health centres, funded by the Department of Health, provide a range of services, including counselling, information and referral for victims of domestic violence, as do some community health

centres. In Queensland, part of the recurrent funding program for domestic violence services is available for counselling services.

116. In some States/Territories, telephone counselling for victims of domestic violence is available. In Queensland, New South Wales and Western Australia a 24-hour, toll free crisis telephone service is available. In Tasmania the Domestic Violence Crisis Service operates a 9.00am - 5.00pm weekday and 6.00pm - 12.00pm nightly crisis counselling service. Two medium to long term support groups for domestic violence survivors have been funded as pilot projects.

## Mediation

117. Currently, the question of the appropriateness of mediation in domestic violence cases is under discussion in Australia. Importantly, the fact of violence should never be mediable, nor should a woman's entitlement to a protection order. The use of mediation involving a woman who is a victim of violence is contentious because of the extreme inequality between the parties when one is a perpetrator and the other a victim of violence.

118. The National Committee on Violence Against Women published a *Position Paper* on Mediation in December 1991, which establishes guidelines if a woman gives free and informed consent to mediation, sets out minimum standards for the training of mediators and delineates the relationship between mediation and legal remedies, stating clearly that mediation should never be seen as an alternative to criminal action or other legal protection.

## Perpetrator Programs

119. A number of perpetrator programs operate in Australia, although there is concern about a general lack of evaluation for effectiveness in actually stopping violence and the contentious nature of therapeutic responses to male perpetrators of violence.

120. In Western Australia, Marriage Guidance WA operates a 26-week **Domestic Violence Intervention Program** to educate perpetrators to accept responsibility for their actions and their consequences.

121. In April 1990, the Australian Capital Territory introduced a **Violent Offenders Program**,

consisting of twelve sessions spread over four months, as an alternate non-custodial sentencing option for those found guilty of violent offences or drink driving.

122. In the Northern Territory, the Crisis Line Service offers face-to-face counselling for men. In Queensland, part of the recurrent funding program for domestic violence services is available for counselling services, including perpetrator services.

123. In Tasmania, **Men Overcoming Violent Emotions** (MOVE), was provided, until an evaluation in 1990, with government funding to operate a pilot perpetrator program in southern Tasmania. Two further regional associations operate on a voluntary basis.

124. In Victoria, the availability of programs for violent men is described in the Victorian Community Council 1991 report *Treatment and Counselling of Perpetrators*. The Victorian Domestic and Social Violence Service has also compiled a directory of such services, which include a program initiated in a Victorian prison in 1990 and individual and group counselling programs for violent men.

125. Some evaluation has been made of the Victorian programs and the Western Australian scheme is currently being evaluated. Courts which issue protection orders in Victoria are empowered to direct the defendant to participate in prescribed counselling. This is not common, however, as of the 1427 orders issued between 1 July 1990 and 31 December 1990, only nine contained an order that the perpetrator undergo counselling.

## Rape

126. Significant changes to the substantive and procedural law relating to sexual offences were made in the early 1980s and are described in Australia's last report. However, few of the changes have been evaluated.

127. Rape within marriage is now a crime in all States and Territories. This reform is regarded as having great symbolic significance. However, there have only been three convictions in Australia of husbands in this context - two in Western Australia and one in Tasmania.

128. The High Court recently considered a constitutional challenge to the South Australian

legislation criminalising rape in marriage. It was argued that the State law was inconsistent with the *Commonwealth Family Law Act 1975* and the *Marriage Act 1961*; it was argued that the Commonwealth law covers the field and that a State law cannot alter the legal incidents of marriage by denying the right of a husband to have sexual intercourse with his wife without her consent. The High Court rejected these arguments, stating that 'if it was ever the common law that by a marriage a wife gave irrevocable consent to sexual intercourse with her husband, it is no longer the law'.

129. Some evaluation of the prohibition on raising the sexual reputation of the complainant in cases of sexual assault has been undertaken in New South Wales and Victoria. In New South Wales, the Bureau of Crime Statistics and Research found that there has been a significant reduction in references to sexual experience in both committal and trial stages which has greatly improved the position of the complainant. In Victoria, research carried out by the Law Reform Commission indicates that judges admit evidence of past sexual history in approximately 25% of cases, while the experience of workers in the field in Western Australia is that defence lawyers frequently introduce evidence of past sexual history of the woman indirectly. Recent legislation in Victoria has extended the restriction on past sexual history evidence to cover past sexual relations with the accused.

130. All States and Territories have legislation in place which precludes the publication of particulars which may identify the complainant in sexual assault cases. In 1991, a Tasmanian journalist was prosecuted and fined for breach of this provision.

131. A number of States and Territories, such as Victoria, the Australian Capital Territory and New South Wales, allow evidence of children in sexual assault cases to be taken by video link in some Courts.

132. Further reform to the law relating to sexual offences occurred in New South Wales, where the *Crimes (Amendment) Act 1989* increased the penalties for sexual assault. In Victoria in 1991, the *Crimes (Sexual Offences) Act 1991* extended the conduct which constitutes rape to the penetration of a person's vagina or anus by a part of the body other than the penis and to include the continuation of penetration after the perpetrator becomes aware that the other person is not or might not be consenting. The Act

also creates a specific offence of harassing a person because she or he has taken, or is about to take part in criminal proceedings as a witness or in any other capacity; and abolished the rules requiring the corroboration of children's evidence. The Act includes the further provision that if delay in making the complaint becomes an issue during the trial, the judge must warn the jury against presuming that the delay reflects upon the truth of the allegation, and that there may be good reasons why victims of sexual assault hesitate to complain. It also permits judges and magistrates to close the court to the public to protect complainants from undue distress and embarrassment and allows the complainant to have a support person present throughout the committal and trial proceedings, even where the court is closed to the public.

133. Further, in December 1990, the Victorian Parliament passed the *Crimes (Rape) Act 1991*, which clarified the law in relation to the meaning of 'consent' by defining 'consent' as 'free agreement' and listing circumstances in which free agreement does not exist, increased the penalty for rape, and further defined penetration. The Queensland Government will shortly release its review of the Criminal Code which is expected to include recommendations for review of the law of sexual assault.

134. It is likely that reform of the law of sexual assault will also occur in the Northern Territory, where the Law Department is currently preparing a discussion paper on the area.

135. The NCVAW is currently undertaking an audit of sexual assault/rape crisis services in Australia, with a view to making recommendations relating to the provision of services and service models. Services generally operate within hospital departments, are run by independent community committees or collectives or some combination of these arrangements. The majority of services in New South Wales are run by Area Health Services, and are generally based in hospitals. In addition, there is one service run by a collective, and funded by the Department of Health. The Women's Health and Sexual Assault Training Unit provides support and training for all sexual assault workers in New South Wales and for other workers who are likely to come into contact with sexual assault cases. Victoria has three models; hospital/community committees, independent community committees, and one service run by a collective. South Australia has one hospital based service run as a hospital department and one service run by a collective.

The Australian Capital Territory has five services, one operates as part of a hospital department, one within the Women's Health Service, one through the Australian Federal Police and two are run by collectives. Tasmania has four services, three are run by community centres and funded through the Departments of Health and Community Services, the fourth is funded by the Southern Regional Health Board and is currently operated by a hospital. The Northern Territory has one collective service and one service auspiced and housed by the Department of Health Housing and Community Services. Western Australia has two services run by independent community committees and one combined community hospital committee. Queensland has four services throughout the State.

136. The majority of services provide direct crisis support to recent victims of rape/sexual assault. Only 40 services are able to offer some form of 24 hour support while twelve are only able to provide a service during office hours.

137. Although there has been much legislative activity in the area of sexual offences, women's groups in Australia still see further areas which require revision. They include the definition of consent to sexual intercourse, the required mental state of the accused, the capacity of the accused to make an unsworn statement, rather than give evidence under oath which is permitted in some jurisdictions, the penalties for the offences and the conduct of the trial which, despite improvements, remains an ordeal for the victim of such crimes.

## Rape of a Prostitute

138. In a trial in Victoria involving the rape of a woman working as a prostitute, the judge applied case law (*R. v. Harris* 1981) in his conclusion that the likely psychological effect of the offences on a prostitute would be less than on other victims.

139. Taking this, and mitigating factors associated with the accused into account, the judge handed down sentences of three years' imprisonment for the count of rape with aggravating circumstances, 19 months' imprisonment for the count of indecent assault with aggravating circumstances and 15 months' imprisonment for the count of kidnapping. All but four months of the sentence was to be served concurrently, resulting in a sentence of three years and four months imprisonment. The judge ordered a minimum period of 16 months' imprisonment

be served before the offender was eligible for parole, but with pre-release and remissions, the effect of the sentence was that the offender would serve four and a half months' imprisonment.

140. The Victorian Director of Public Prosecutions (DPP) appealed against the leniency of the sentence. On December 11, 1991, the Supreme Court of Victoria sitting as the Court of Criminal Appeal concluded that the trial judge had given insufficient weight to the gravity of the offences and had erred in placing too much weighting on the mitigating circumstances of the accused. The Appeal Court increased the sentence to four and a half years with a minimum term of two and a half years to be served before parole.

141. The Supreme Court did not concern itself with the victim's occupation as the Director of Public Prosecutions decided not to proceed with this ground of appeal. The DPP conceded that the trial judge had correctly applied the case law.

142. The trial judge's decision attracted considerable criticism from women's groups, the wider community and the media.

143. The Victorian Government also expressed concern about the case law applied by the trial judge, and therefore referred the matter to the Victorian Law Reform Commission. The Commission is due to report on this matter in late July 1992.

## **Men Against Sexual Assault**

144. In a number of States and Territories, men's groups campaign against the sexual assault of women. In Victoria and Western Australia, **Men Against Sexual Assault** undertakes educative and counselling work, which, in Victoria, has included the preparation of educational materials for use in secondary schools.

## **EDUCATION CONCERNING DISCRIMINATION**

145. The Federal Sex Discrimination Commissioner considers that public awareness of the provisions of the Federal Sex Discrimination Act is of central importance in the modification of social and cultural patterns of conduct of men and women so that substantial improvement in the status and position of Australian women can occur. Accordingly, much of her work in-

volves the promotion of aspects of the Act which can further promote the position of women. Promotional activities since 1988 have included the **SHOUT** campaign concerning sexual harassment (described under Article 11); projects to encourage non-English speaking women to lay complaints; and two major school projects: the development of resource kits for in-service courses for teachers to support their work in non sexist education, Aboriginal education and multicultural education, undertaken jointly with the New South Wales Education Department; and the development of teaching modules to enable students to examine and discuss international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women, conducted with the Tasmanian Education Department. The Sex Discrimination Commissioner and her staff frequently address conferences and meetings and conduct training programs on the legislation, including workshops for young women on women's rights under the Act, conducted in Sydney and Brisbane in 1989. HREOC has also issued numerous brochures on the Act. In response to the increasing number of complaints regarding pregnancy, these have included *The Rights and Responsibilities of Pregnant Workers*.

146. State and Territory anti discrimination commissions also conduct this educative function. For example, the South Australian Equal Opportunity Commission conducts community education programs to inform women of their rights in relation to Equal Opportunity laws and remedies available under those laws. Since 1988, particular target groups have included women in the workforce with respect to sexual harassment, non-English speaking background and Aboriginal and Torres Strait women, women with disabilities, women in unions and local government, women in rural areas and women working in non traditional areas.

## **ARTICLE 5(b) FAMILY EDUCATION**

### **Common Parental Responsibility**

147. Under Articles 11 and 12, the strategies implemented by the various Australian Governments since 1988 to ensure that family education includes a proper understanding of mater-

nity as a social function and recognises the common responsibility of men and women in the upbringing and development of children are described. These have included the ratification and implementation of ILO Convention 156; and extension by the Industrial Relations Commission in July 1990, of the availability of parental leave to fathers, thus expanding the availability of parental leave to both parents.

148. Submissions to the Industrial Relations Commission included an intervention by the Sex Discrimination Commissioner who supported the claim on the basis of Articles 3, 5 and 16 of the Convention on the Elimination of All Forms of Discrimination Against Women, arguing that the introduction of parental leave for fathers was the second step in a two step process of ensuring equality between the sexes. The first step, she suggested, required the acknowledgment of de facto inequality of opportunities for women as a result of their traditional role of primary responsibility for the care of young children and their consequent loss of career opportunities. These inequities could be remedied by, among other things, the provision of maternity leave. The second step required the acceptance and recognition of the fact that men should share equally in family responsibilities. The introduction of parental leave and other measures to enable men to assume this role without sacrificing their careers would help to remove the coercive nature of existing stereotypes and reduce the expectation that it will be the mother who continues to have the major responsibility for child care. Many of these submissions were adopted by the Industrial Relations Commission in its decision.

## School Books, Curricula and Family Life Education

### Gender Equity

149. In 1990, the Victorian Ministry for Education and Training published *Gender Inclusive Curriculum Guidelines*, which provide assistance for teachers to develop gender inclusive teaching methods and materials. The Australian Capital Territory Department of Education and Training introduced a *Gender Equity Policy* in 1987. In 1992 the Department introduced a new *Sexual Harassment Policy*, relating to students with set procedures for dealing with complaints

of sexual harassment. In 1991, the Western Australian Ministry of Education produced *Social Justice in Education, Policy and Guidelines* for a range of social justice issues, including Gender Equity. The document sets out gender equity objectives that are to be met in order to achieve optimal educational outcomes and to assist schools in setting priorities and planning high quality gender-inclusive programs.

### Family Life Education

150. Family life education is conducted in various States and Territories. For example:

- the Victorian Department of School Education has a Personal Development Curriculum Framework and Victorian schools have personal development policies, the curriculum of which focuses on health education, sexuality, personal and family relationships and the roles of men and women in child care and family responsibilities;
- the New South Wales Education Department has a mandatory core curriculum of Personal Development, Health and Physical Education for years 7 - 10 with a major emphasis on family life. In primary schools family life studies are incorporated into the key learning areas of Human Society and Its Environment and Personal Development and Family Studies;
- in the Australian Capital Territory, individual schools incorporate family life education into Life Sciences Programs, Health Programs and Care Programs;
- in Western Australia, new emphasis on parent education has emerged as part of the Government's *Social Advantage* package. A recent review of parent education indicated that there was a need for greater awareness and debate about parenting issues. Positive parenting practices needed to be encouraged and people needed to know where they could get information on the subject. The Parent Help centre will have an extended role and provide a free telephone information service, face-to-face counselling, printed material, workshops and seminars;
- the Government currently funds a **Parenting Skills Program** which provides courses to promote positive parenting skills.

The Program will be expanded throughout the State to include courses on how to help children to learn, controlling behaviour without violence and resolving parent-teen conflict. In addition, materials will be made available to schools which conduct parenting education courses;

- the Government is producing an information kit for new parents and families. The kit will provide information on the stages of child development, as well as details of facilities and services available to families. It will be produced in a number of languages and made available through Family Centres, Community and Neighbourhood Houses, hospitals, pre-schools, shopping centres and other outlets;
- parenting skills and early childhood studies are taught as optional subjects in secondary schools; and
- Health Education is a compulsory subject for all Tasmanian schools and colleges. Personal and Social Development is a core strand of the curriculum framework from Kindergarden to Year 12. Personal relationships and family life are incorporated within this strand.

## **ARTICLE 6**

### **EXPLOITATION OF AND TRAFFIC IN WOMEN**

#### **Article 6**

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

## ARTICLE 6

# EXPLOITATION OF AND TRAFFIC IN WOMEN

1. In Australia, as elsewhere, many women enter prostitution for complex reasons, which are primarily economic and are located within the overall context of gender inequality. Many appear to have made a considered, rational choice and seem unaffected by the work or the lifestyle it entails. Others feel that they have little choice and are forced into the work through economic necessity. Therefore, the lack of alternative well-paid employment opportunities is seen to be a significant factor in perpetuating prostitution and the exploitation of women.

### Laws Regulating Prostitution

2. Laws regulating prostitution, which is generally defined as acts of vaginal, anal, oral or manual sex between persons of the same or different sexes, including transsexuals, for financial gain, vary between the States and Territories.

3. Throughout Australia, the act of prostitution itself is legal, but activities surrounding and associated with prostitution attract criminal sanction. These activities fall into three broad categories:

- laws applying directly to prostitutes, for example, soliciting or loitering in specified places, working in a brothel or assisting in the management of a brothel;
- laws applying to those associated with prostitution, for example, living off the earnings of prostitution, keeping or managing a brothel, owning or occupying premises used as a brothel and procuring a person for the purposes of prostitution; and
- laws criminalising the clients of prostitutes, for example, those who 'kerb crawl' to enlist the services of a prostitute, and consorting with prostitutes.

Appendix II summarises the laws which apply throughout Australia to prostitution. There have been no substantive changes to these laws since Australia's First Report but there have been a number of reports made to State and Territory Governments recommending legislative change.

### Decriminalisation of Prostitution

4. Since 1985, the trend in Australia has been to decriminalise and regulate prostitution, which has become known as the sex industry, with prostitutes described as 'sexworkers'. This policy has not arisen out of a desire to encourage or promote prostitution, but rather out of the recognition that throughout the world, criminal sanctions have proved to be ineffective in reducing its incidence, have created opportunities for police corruption and allowed the exploitation of the human rights of prostitutes. Moreover, the AIDS epidemic has highlighted the need for laws which do not discourage prostitutes and their clients from openly seeking safe sex education and health services.

5. In Victoria, under the partially proclaimed *Prostitution Regulation Act 1986*, brothels with planning permits granted by local governments under town planning legislation are legal and their owners are exempt from the criminal penalties for offences such as living on the earnings of prostitution that apply to all others. Single prostitutes are not allowed to use their own homes without a valid planning permit, while soliciting, loitering and other activities outside the officially sanctioned brothels are still illegal. Procuring is only an offence where force or violence is used or children under the age of 18 years are involved. Advertising employment in a brothel is prohibited and advertising for services is regulated under the *Prostitution (Advertising) Regulations 1990*.

6. Similarly, in 1986 the New South Wales Select Committee of the Legislative Assembly on Prostitution recommended a scheme, which has not yet been acted upon, of decriminalisation and regulation under planning requirements with controls being placed on the ownership of brothels. In Western Australia, a Community Panel on Prostitution released a Report in September 1990 which also recommended the establishment of a Licensing Board to register any premises used for the purposes of prostitution and to license owners/managers of them; and that zoning laws should allow Local Councils to prevent such premises being set up in residential areas, except where they are single home



operators. Conditions of licences would relate to the applicant's good character, lack of involvement in organised crime or pimping and to the prohibition of drugs and alcohol on the premises. Records would be maintained of prostitutes whose health would be monitored and adequate health standards, such as condom use, as set out in a Code of Ethics to be made under the Health Act, would have to be met. The police would retain special powers of entry to licensed premises and criminal sanction would remain for soliciting in a public place, advertising explicit sexual services, child prostitution, unlicensed prostitution and unlawful inducement, by coercion or force, for a person to become or remain a prostitute. Similar proposals involving decriminalisation and regulation have been made in the Northern Territory and the Australian Capital Territory.

7. In 1990, the Northern Territory Attorney-General tabled the Prostitution Regulation Bill under which brothels would continue to be illegal, but escort agencies which provide prostitution services of more than one worker would be regulated under a licensing scheme. Prostitutes would require police certification that they have not been convicted of various drug offences. Operators would be licensed after satisfying eligibility requirements and being found to be suitable persons by the Escort Agency Licensing Board. Registers of operators would be public, and private in the case of small businesses providing services of three or less people. Various offences, including those relating to child prostitution, inducing a person by violence, coercion, false representation or supply of drugs to work as a prostitute, street prostitution, advertising contravening certain standards, such as advertising for employment as a sex worker, are established under the Bill. It is likely that this legislation will be introduced in 1992.

8. In the Australian Capital Territory, an *Interim Report on HIV, Illegal Drugs and Prostitution* was released in April 1991. It recommends the decriminalisation and regulation of brothel and escort agency prostitution, but the retention of criminal sanction for street prostitution. It also proposes a Licensing Board which would issue two classes of licenses, for up to ten or up to forty workers, to brothel and/or escort agency owners and operators, who must be persons residing in the Australian Capital Territory and whose names would be maintained in a public record. Premises would be sited in areas defined as

'industrial'. Licences would not be granted to a person convicted of an indictable offence punishable by imprisonment for three or more years. Licences would incorporate conditions precluding the employment of under age and 'illegal aliens' as workers and each licensee would be required to display a notice in the premises identifying the licensee.

9. Although no special powers would be conferred on police in relation to licensed brothels and escort agencies, various offences would be established under the proposed scheme of regulation. These proposed offences, which are similar to those included in the Northern Territory Bill, include:

- the display of advertisements contravening regulations as to size, form and content;
- soliciting, unlawfully inducing a person to continue to or engage in prostitution, or receive payments derived from prostitution by violence;
- intimidation;
- false representation or the supply of drugs;
- owning or operating an unlicensed brothel or escort agency, living on the earnings of such a business, knowingly permitting the use or letting premises for such purposes or working as a prostitute in such premises;
- failing to ensure or discouraging the use of condoms by clients and workers, or working as a prostitute without using condoms;
- child prostitution, including the sexual exploitation of young people; and
- knowingly working as a prostitute while infected with a sexually transmitted disease (STD) or allowing such a worker to work unless it is reasonably believed that the worker was undergoing regular medical examination and was not infected.

10. The New South Wales Select Committee does not recommend mandatory testing or the use of health cards for sex workers, but recommends regulations concerning cleanliness and the provision of information on sexually transmitted diseases which are to be enforced by Public Health Inspectors. The Select Committee does, however, recommend the extension of occupational health and safety and workers'

compensation legislation to the sex industry.

11. In Queensland, the Government recently decided on its approach in relation to prostitution. Having considered the report of the Criminal Justice Commission (CJC) on the issue of prostitution which recommended a combined criminal law/regulatory approach, the Government has opted for an Enforcement of the Criminal Law approach, placing an emphasis on targeting laws and police powers to ensure the prosecution of big business and organised crime groups involved in prostitution. As well, a range of health and social programs are to be considered as part of the approach, with the aim of maintaining public health, discouraging acceptance of prostitution and providing encouragement, support and assistance to those who wish to leave the industry.

12. For the purposes of the regulatory framework, the CJC recommends the recognition of two categories of sex workers: those operating individually from their place of residence and those operating in groups of no more than ten people, regardless of how such operation is organised. Where the former is concerned, s/he should be permitted to operate from her/his home, subject to local authority planning provisions, while the latter should be entitled to operate subject to approval by the Local Authority and a Registration Board. In this context, guidelines for Local Authorities, canvassing matters such as the size of the proposed business, hours of operation, proximity to residential areas, churches, schools etc, would be developed. The Registration Board, comprised of a representative of Queensland Health, the Local Authority, the Criminal Justice Commission, sex workers and the Workplace Health and Safety Division of the Department of Employment, Vocational Education, Training and Industrial Relations and chaired by an independent senior legal practitioner, would have the task of ensuring that there is no criminal involvement in the sex industry and that workers were ensured of the maximum safety, self-determination, employment conditions and have access to, and are accessible to health workers and other social service providers. The Report has been considered by the Parliamentary Criminal Justice Commission Committee which has presented a report to Parliament. Following parliamentary consideration, the Government will consider whether it will act on any of the recommendations of the Report.

13. Although most Australian jurisdictions appear to favour decriminalisation and regulation of prostitution, Victoria is the only jurisdiction at this stage which has implemented such a policy legislatively.

## HIV/AIDS

14. The existence of the AIDS virus has provided significant impetus to the review of laws criminalising prostitution. Indeed, the **National HIV/AIDS Strategy** recommended:

- State and Territory governments should review legislation, regulations and practices which may impede HIV education and prevention programs among prostitutes and their clients; and
- laws regulating and/or penalising ....prostitution impede public health programs promoting safer sex to prevent HIV transmission, by driving underground many of the people most at risk of infection...Whilst such activities remain illegal, people engaging in them will be deterred from presenting for testing, counselling, support and treatment. State governments should review legislation, regulations and practices which may impede HIV education and prevention programs amongst people who work as prostitutes...and people who work with them...Where prostitution is not decriminalised, States/Territories should enact legislation to prevent the possession or use of condoms being used as evidence of prostitution-related offences.

15. Studies suggest that very few Australian prostitutes are HIV infected and currently there is health legislation in most States and Territories to discourage the spread of sexually transmitted diseases generally, and sometimes by prostitutes in particular. Some States and Territories have specific legislation dealing with HIV/AIDS, while in some instances, prostitutes themselves have developed codes of practice to preserve health.

16. Public health legislation varies throughout the States and Territories. Acts in some States and Territories provide for a general offence of knowingly or recklessly infecting another person with an infectious disease, which include STDs and HIV, without consent as to risk of transmission, and allow for various orders to be made with respect to the infected person. These may include isolation or detention where the infected person's activities are perceived as posing a serious risk to public health. Other States and Territories have specific venereal disease legislation which place an obligation on persons suffering from such diseases to consult a

medical practitioner for treatment and continue treatment until they are notified in writing that they are no longer infectious. Most of these Acts oblige patients to notify their partner or proposed spouse of their infection and provide that the medical practitioner treating such a person must inform the Department of Health of the person's occupation and possible contacts. Further, most allow for compulsory medical examination, treatment, isolation and detention of the infected person.

17. At present, only New South Wales and Victoria have legislation which specifically addresses the issue of prostitution and the HIV virus.

18. The *Public Health Act 1902* of New South Wales as amended, penalises any HIV infected person who has sexual intercourse without the informed consent of her or his sexual partner as to the risk of transmission of the virus and allows a public health order, which may contain coercive measures such as refraining from unsafe sex, undergoing counselling or supervision or isolation, to be made in respect of a HIV infected person who is behaving in such a way that it is endangering or likely to endanger public health. Liability is also imposed on owners or occupiers of premises who permit HIV infected prostitutes to engage in sexual intercourse without the informed consent of the client.

19. In Victoria, the unproclaimed Prostitution Regulation Act imposes liability on any HIV infected prostitute who continues to work and for brothel owners who allow such prostitutes to work. In the latter context, the brothel owner has a defence where she or he reasonably believes that the prostitute was having fortnightly checks. Under the *Health (Brothels) Regulations 1990* which are in force, brothel owners are prohibited from requiring prostitutes to provide services to clients who are suspected of having an infectious disease or refuse to use a condom. A specific obligation is placed on brothel owners to provide information about STDs and free condoms and lubricants for workers and clients and to take reasonable steps to ensure their usage in penetrative sex.

20. Much of the response to the AIDS virus amongst prostitutes has come not from government, but from prostitutes themselves. Recent years have seen the emergence of prostitute advocacy organisations who promote the rights of prostitutes and who have been at the forefront of HIV/AIDS education and prevention programs. The national prostitutes organisa-

tion, the Scarlet Alliance, was established in 1988 and there are individual organisations in each jurisdiction. These individual organisations have established practices and protocols to prevent the spread of HIV/AIDS amongst prostitutes. For example, the Prostitutes Collective of Victoria has established a *Safe House Scheme*, whereby institutions which ensure that only safer sex practices are performed are endorsed by use of a logo. Pamphlets are given to clients in various languages informing them of this fact and workshops for clients on safer sex are run for clients. In New South Wales, a Voluntary Code of Practice has been developed concerning the standard use of condoms in brothels.

21. As a result of recommendations in the National HIV/AIDS Strategy, tabled in Parliament on 31 August 1989, a Legal Working Party of Federal, State and Territory Attorneys-General and Health Departments was established as a subcommittee of the Intergovernmental Committee on AIDS. The Legal Working Party's brief is to review the laws which impact on HIV/AIDS issues and suggest reform where appropriate. Accordingly, the Legal Working Party has released a series of Discussion Papers, including one specifically relating to HIV/AIDS, sex workers and their clients.

22. The Legal Working Party is of the view that the current criminality surrounding prostitution and related activities forces prostitutes into a criminal subculture, thereby isolating them. It discourages prostitutes from seeking medical advice or from indicating that they are prostitutes when they seek medical attention. It also militates against the use of health measures. For example, the Legal Working Party cites cases where the fact that a woman was in possession of a large number of condoms or material providing information about HIV infection have been used as evidence that the woman was working as a prostitute or that premises were being used for the purposes of prostitution.

23. The Discussion Paper advocates the repeal of all laws which render brothel, escort agency and street prostitution criminal, and the repeal of all offences, except those relating to violence or coercion and exploitation of minors, which apply to those associated with prostitution. Consistently, it suggests that police practices restricting the movements or associations of sex workers which are not as prescribed by law, should be discontinued. It makes no general recommendation for regulation of prostitution, apart from regulation of the working conditions

of prostitutes, but suggests that where governments establish special laws to control prostitution, no regulation should be made which requires registration or mandatory testing of individual sex workers. Mandatory registration or testing is regarded as contravening human rights and stigmatising, making it difficult for a woman to leave prostitution. The Discussion Paper does state that regulations controlling land use by premises used for prostitution and licensing of brothel operators, with reference to whether they have breached occupational health and safety requirements or been convicted of specified offences, would be acceptable.

24. In order to preclude the spread of the HIV/AIDS virus, the Discussion Paper suggests the enactment of some form of legislative instrument to regulate the working conditions of premises used by two or more prostitutes. This instrument would include provisions requiring management to supply free condoms and sexual health educational material including, where appropriate, translations into community languages. It would be an offence for the employer of a prostitute to require the provision of sexual services without the use of a condom. HIV would be deemed an industrial disease and governments would be encouraged to classify prostitutes as employees for the purposes of industrial benefits, such as holiday and sick leave, superannuation and workers' compensation and taxation.

25. No recommendations are made in the Discussion Paper for the enactment of special offences for prostitutes, brothel operators or owners of premises used for prostitution where a prostitute is HIV infected. Public health offences of knowingly transmitting HIV should not specifically target prostitutes, but there should be general offences of transmitting HIV where the HIV infected person has penetrative sex, whether commercially or otherwise, which results in transmission or carries a risk of transmission. A partial defence would apply where safer sex measures were used, and a full defence in the case of consent. Finally, there should be a prohibition of HIV testing by employers generally, and production or display of any medical certificates or evidence of medical attendance to clients should be prohibited in the sex industry.

## International Traffic

26. The Government continually reviews procedures for the issue of visitors and immigrant visas to Australia so as to preclude international traffic in girls and women for the purposes of

prostitution. Australian Immigration authorities in overseas embassies closely monitor applications for visitors' visas to ensure as far as possible that women travelling to Australia will not be drawn into prostitution. This monitoring is, however, constrained by resources and equity and privacy considerations.

27. The Australian Government cooperates with a number of governments in the field of criminal investigation and narcotics control, which, because of their close connection with prostitution and traffic in women, allow exposure of activities involved with the exploitation of women. For example, an *Extradition Treaty* between the Australian and Philippine Governments came into force in January 1991, and a *Treaty on Mutual Assistance in Criminal Matters* is awaiting ratification in the Philippines Senate before it can be brought into force in either country. Further, the Law Enforcement Assistance Project funded by the Australian Government provided computer facilities, training and equipment to improve the capability of Philippines authorities to monitor criminal activities. The Australian Government also funds a computer program in Bangkok which is run by Thailand's Office of the Narcotics Control Board. Although these activities are primarily concerned with narcotics related crime, they can provide information to assist criminal investigations involving the movement of Thai and Filipino women to Australia for the purposes of prostitution.

28. There is some evidence to suggest that women from abroad are entering Australia illegally for the purpose of prostitution. The majority enter voluntarily, enticed by the promise of lucrative payments by organisers abroad, but some are subject to coercion and are placed in brothels without their knowledge or agreement. In order to prevent this, all visa issuing staff at Australian embassies in countries regarded as 'high risk' are briefed in detail concerning the problem and given guidelines for the identification of high risk applicants, there is liaison with the authorities overseas who investigate and if necessary prosecute organisers. A warning list of known and suspected sponsors, organisers and couriers has been compiled and officers at ports of entry have been trained to detect and hold for questioning persons or groups of persons who fit the prostitution profile. The *Migration Act 1958* established penalties for those who import women to work illegally as prostitutes, which are currently a maximum fine of \$A12 000 or imprisonment for two years or both. The individual woman would be subject to deportation and be liable for the costs of deportation and custody.

29. Allegations often are made that the migration of wives and fiancés of Australian residents from certain nations to this country represents a form of exploitation of women, particularly as domestic violence becomes a feature of some of the marriages. Australian embassies in those countries provide additional counselling to the wives and fiancés. For example, the Australian Government has been concerned about the activities of Australians in the Philippines, which might involve the exploitation of women. This concern has been heightened by media reports of 'mail order brides' and supply of Filipino women to the Australian sex industry. The Australian Embassy in Manila has two Australian-based staff, specially trained in the cultural issues facing Australian-Filipino couples and the provision of migration counselling, who are allocated full-time to a specialised unit which processes spouse and fiancé applications.

30. Significant attention is given to the concerns of Filipinos (most often the female partner) in such marriages, as disruptions stemming from resettlement are greatest for them. All applicants are interviewed and there are several opportunities for applicants to raise matters of concern to them. Pre-embarkation counselling may be undertaken by the applicant alone or with her sponsor and comprise:

- individual counselling when the application is lodged, which includes advice on Australia's social system and welfare facilities for women and families;
- individual counselling during the interview to determine migration eligibility; and
- group information counselling held once a week, incorporating the showing of a thirty minute video which deals with Australian-Filipino marriages and shows interviews with such couples in Australia. This provides the basis for discussion and is often complemented by discussion about the Australian way of life, cultural differences and possible tensions which a couple may be expected to face.

31. There is provision for separate counselling of applicants whose sponsors are identified as likely to have problems, such as where they have had previous sponsorships which have failed. Although men who have had past sponsorships are encouraged to tell their prospective spouses about this fact, they are not legally obliged to do so and evidence of past poor behaviour of sponsors, such as domestic violence, is difficult to detect and is protected by privacy regulations. The Department of Immigration, Local Government and Ethnic Affairs is currently involved in a study of the scope of this issue and options, such as bilateral arrangements, that may be available to address it.

32. Under Philippine legislation, all Filipinos applying for passports as spouses or fiancés of foreign nationals must attend a counselling session with the Commission on Filipinos Overseas (CFO). The Australian Government works closely with CFO so that their counselling activities are complementary.

33. The Government has granted \$A313 000 in 1992 to nine organisations in Australia which provide welfare assistance to a substantial number of Filipino migrants to enable them to employ welfare workers to assist Filipinos and others in their settlement. This direct assistance was part of a 1991/92 budget of around \$A150 million on all forms of settlement assistance to migrants, including \$A100 million on the **Adult Migrant English Program**, for which these women are eligible.

## **ARTICLE 7**

### **WOMEN IN POLITICS AND PUBLIC LIFE**

#### **Article 7**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organisations and associations concerned with the public and political life of the country.

## ARTICLE 7

# WOMEN IN POLITICS AND PUBLIC LIFE

1. The overall pattern of women's participation in decision making and public life remains one of under-representation. Notwithstanding this, the numbers of women participating in parliament, unions and on boards is increasing, although they remain relatively low.

2. A variety of factors contribute to restricting women's full and active participation in public life. These include, *inter alia*:

- continued segregation of Australia's workforce, and entrenched social attitudes;
- emphasis on length of experience in employment, rather than ability, in determining merit for positions;
- lack of risk-taking in managing promotions or appointments, based on the belief that the stereotype of successful leadership is male;
- lack of female mentors and role models;
- women's double load, of having to combine income-earning and public activities, with family responsibilities; and
- undervaluing of women's skills, especially those gained from their unpaid work in the home.

### Enfranchisement

3. Women and men in Australia have the same rights to vote in Federal and State elections. Some indirect discrimination exists in relation to local government elections. In all States, residents are entitled to vote in local government elections, regardless of whether they are rate-payers. In most states, non-residents can also vote if they own property in the local government area. As women are less likely to own or lease property than men, there is *de facto* restriction on their capacity to vote in such elections. However, as non-resident voters usually account for a very small proportion of the vote in such elections, the extent of indirect discrimination is minimal.

### Vice Regal Representation

4. Dame Roma Mitchell became the first female Governor in Australia, when she was sworn in as Governor of South Australia in early 1991; a second female Governor, Leneen Forde, will be sworn in as Governor of Queensland on 29 July 1992.

### Parliamentary Representation

5. One political party in Australia, the Australian Democrats, currently has a woman as National President, Ms Heather Southcott. The Australian Democrats have also had a woman as head of their parliamentary party; Ms (then Senator) Janine Haines was elected leader of the parliamentary party in December 1977. She resigned her seat in the Senate to contest a seat in the House of Representatives at the 1990 federal election. She was unsuccessful and resigned as parliamentary party leader in March 1990. Senator Janet Powell succeeded Ms Haines as head of the party from July 1990 until August 1991.

6. As at March 1992, there were twenty women Senators in the 76 member Senate (25%), and ten women out of 148 members (6.8%) of the House of Representatives in Federal Parliament. As of May 1992 there were two female ministers out of a total of 30 ministers (6.6%).

7. Of Australia's six States and two Territories, three have female heads of Government (and thus also female heads of the relevant parliamentary party): the Australian Capital Territory (ACT), Western Australia and Victoria. All three lead Labor Governments. The ACT became the first Australian jurisdiction to have a female head of government when the Chief Minister, Ms Rosemary Follett, MLA, was elected in the first ACT election in May 1989. She was subsequently deposed as Chief Minister during the life of the first parliament, but resumed the position in 1991 and was subsequently re-elected. As of March 1992, the ACT has 6 women in the 17 member Legislative Assembly (35.3%). Ms Roberta McRae was elected as Speaker of the second ACT Legislative Assembly, and the ACT

became the first government to have both a woman head of government, and a woman speaker. In addition to a woman Premier, Western Australia has 5 women (32%) in the Ministry and 13 Members of Parliament (14.3%). In Victoria, women hold 7 out of 44 (15.9%) seats in the upper house and 9 out of 88 (10.2%) in the lower house. Four of Victoria's women parliamentarians are currently Ministers. In the South Australian House of Assembly, 4 of the 47 members are women (8.5%), while 5 of the 22 members of the Legislative Council are women (22.7%). Three of the 13 Ministers in South Australia are women (23.1%). Tasmania has 8 female Members of Parliament, 7 in the House of Assembly and 1 in the Legislative Council. As the Tables 7.1 and 7.2 below indicate, women's representation in parliament varies between 8% and 35.7%, and is generally higher in the upper houses of parliament (Legislative Councils, Senate) than in the lower houses (Legislative Assemblies, House of Representatives).

## Political Parties

8. Women's representation in political parties in Australia is generally higher than their representation within parliament, although, as elsewhere, women rarely hold decision making po-

sitions in proportion to their membership. In South Australia, for example, women comprise 44.4% of membership of the South Australian Liberal Party, and 33% of the State Council. The South Australian State Branch of the Australian Labor Party (ALP) has had a voluntary affirmative action program in place since 1983. Nonetheless, although women comprised 38% of the total party membership in 1990-91, the goal of women constituting at least a quarter of the State Executive has not yet been met. Rule changes adopted at the December 1990 Special State Convention may assist in redressing this; at the sub-branch, district assembly, and federal electorate councils, the rules provide that where there are two or more positions to be filled, all elections for two or more positions shall be counted to ensure that at least one-third are filled by each gender; and no ballot shall be invalid by reason of less than the required number of each gender nominating.

9. In the Northern Territory, women make up 36.8% of the membership of the Country Liberal Party (the governing party as at May 1992), and hold between 20% and 33.3% of elected positions in the Party Executive. Women comprise 45% of party members in the Northern Territory ALP and hold five of the twelve elected positions on the Administrative Committee (41.7%), includ-

**Table 7.1**  
**The Representation of Women in Federal Parliament**

<b>SENATE</b> (Upper House)	<b>Total Seats</b>	<b>Number of Women</b>	<b>Women as % of total</b>
	76	19	25.0
<b>Party Representation</b>			
Liberal	29	7	24.0
Australian Labor Party	32	5	15.6
National Party	5	1	20.0
Australian Democrats	8	5	62.5
Independent	2	1	50.0
<b>HOUSE OF REPRESENTATIVES</b> (Lower House)			
	148	10	6.7
<b>Party Representation</b>			
Liberal Party	55	3	5.5
Australian Labor Party	77	7	9.1
National Party	14	0	0
Independent	2	0	0
<b>FEDERAL PARLIAMENT - TOTAL</b> (Senate & House of Representatives)	224	29	12.9



**Table 7.2**  
**Representation of Women in State/Territory Parliaments**

<b>Parliaments</b>	<b>Total seats</b>	<b>Number of Women</b>	<b>Women as % of total</b>
<b>New South Wales</b>			
Legislative Assembly (Fiftieth Parliament)	99	9	9.1
Legislative Council	42	15	35.7
<b>Victoria</b>			
Legislative Assembly (Fifty-First Parliament)	88	9	10.2
Legislative Council	44	7	15.9
<b>Queensland</b>			
Legislative Assembly (Fifty-first Parliament)	89	10	11.2
<b>South Australia</b>			
Legislative Assembly (Forty-seventh Parliament)	47	4	8.5
Legislative Council	22	5	22.7
<b>Western Australia</b>			
Legislative Assembly (Thirty-third Parliament)	57	9	15.8
Legislative Council	34	4	11.8
<b>Tasmania</b>			
Legislative Assembly (Forty-second Parliament - includes figures for 1992 election)	35	7	20
Legislative Council	19	1	5.3
<b>Northern Territory</b>			
Legislative Assembly	25	2	8
<b>Australian Capital Territory</b>			
Legislative Assembly (Second Parliament - includes figures for 1992 election)	17	6	35.3
<b>All States/Territories</b>	<b>618</b>	<b>88</b>	<b>14.2</b>

ing Vice President and Assistant Secretary. A woman holds one of the two Northern Territory positions at the ALP National Conference. The Affirmative Action Policy of the Northern Territory ALP states that women must hold positions within the Party in proportion to their membership.

10. In Victoria in December 1990, women comprised 40% of the membership of the ALP. One-third of all policy committees are automatically filled by women. Women's representation is generally higher than this, although it varies according to the policy area concerned. Two-

thirds of elected positions at the Branch level are currently held by women, and half of all Branch Secretaries are currently women. The Victorian Branch of the Australian Democrats estimates that women comprise over 52% of the membership. In Tasmania in May 1992 women comprised a little under 50% of the ALP membership.

11. At the Federal level, the Liberal Party of Australia has an eleven member Federal Women's Committee, of which nine members are women (82%). Women hold four of the 32 positions on the Federal Executive (12.5%). At the

national level within the Australian Labor Party, women comprised 32 of the 101 individuals with voting rights (delegates, proxy delegates and party leaders) at the 1991 National Conference. On the National Executive of the party, women hold six of the 32 places (18.7%). Women's representation among party office bearers within the State branches is shown in Table 7.3.

12. All State branches of the ALP have affirmative action policies, part of which includes tagging a certain number of delegate positions and other decision-making positions for women, although these details of the policies vary from state to state.

13. Across all parties, women are generally pre-selected for parliamentary seats at a lesser rate than would be expected given their representation within political parties. For example, at the State elections in New South Wales in May 1991, the percentage of women who were nominated, were successful at pre-selection and were elected is as follows (NB: only half of the Legislative Council seats were open for election):

- the Liberal Party nominated sixteen women as Liberal Candidates, nine were pre-selected for the Legislative Assembly and three were placed on the ticket for the Legislative Council. Out of a total of 88 Liberal candidates standing for election, twelve, or 13.6% were women. Four Liberal Party women were elected - three in the Legislative Assembly and one in the Legislative Council;

- the Labor Party pre-selected twenty women for the Legislative Assembly and three were placed in positions that could be won on the Legislative Council ticket. Out of a total of 109 Labor candidates standing for election, twenty-three or 21.1% were women. As a result of the elections, seven Labor Party women were elected - four in the Legislative Assembly and three in the Legislative Council;

- twenty-three candidates stood for the National Party, of which two, or 8.7% were women, one in each of the Legislative Assembly and Legislative Council. Both candidates were elected;

- a total of eighty-five Australian Democrat candidates stood for the Legislative Assembly, of which twenty-eight, or 35.5% were women. One woman candidate was elected to the Legislative Council;

- The Call to Australia Party stood a woman candidate who was elected to the Legislative Council, and a woman Independent was elected to the Legislative Assembly;

- of the seventy-five women who stood overall, 15 were elected (20%). Of a total of 114 positions contested, 109 (87%) were won by men and 15 (13%) by women. These women joined 9 sitting women members of the Legislative Council whose positions were not open for election.

**Table 7.3**  
**Women Office Holders within ALP State Executives**

State	Women	Total	% of Women
ACT	1	4	25.0
New South Wales	1	7	14.3
Northern Territory	1	3	33.3
Queensland	7	20	35.0
South Australia	1	4	25.0
Tasmania*	2	5	40.0
Victoria	2	4	50.0
Western Australia	1	5	20.0

\* In Tasmania the Status of all committees is under review.

14. In 1987, in an attempt to raise awareness of the continuing under-representation of women in political life, and to provide women with advice on organising at the individual and community level to overcome barriers to their participation, the National Women's Consultative Council produced a kit entitled *Political Awareness Seminars for Women* which included the booklet *Women into Action: Women Lobbying for Change*. There has been a high level of interest in the kit and the publication was reprinted in 1988.

## Local Government

15. Historically, women have been poorly represented in local government. The 1986 National Census found that approximately 13% of elected representatives in local government were women; by May 1992 this figure had increased to 20%. In all of the States and Territories, there has been at least one round of local government elections since 1988. In some recent elections there has been a marked increase in the number of women. For example, in New South Wales, women's representation increased from 15.9% (following the 1987 elections) to 20.2%; in Queensland, women's representation increased from 11.45% (following the 1988 elections) to 19.9%; and in South Australia, the number of women elected to local government rose from 16.7% (1989 elections) to 19.2 per cent.

16. The 1986 Census indicated that women comprised 25% of the Local Government workforce, and tended - as elsewhere - to be under-represented in the higher managerial positions. The proportion of women employed in Local Government increased to 28% by 1988, although women remain significantly under-represented at the level of town clerk or chief executive officer. Those in senior management positions are usually found in the welfare or community service areas, or in librarian positions.

17. A national committee to promote and coordinate strategies for ensuring that women and other groups such as people of non-English speaking background, Aborigines and Torres Strait Islanders, and people with disabilities have an equal opportunity to participate in Local Government employment, has been set up under the guidance of Federal and State Local Government Ministers.

18. The three year *National Review of Local Government Labour Markets* which reported in 1989 highlighted inadequacies in local government personnel management, labour markets and administration, including lack of clearly defined career paths, a large number of job classification barriers preventing internal mobility, and lack of training opportunities and funds. The National Local Government Productivity Council was established to lead the re-

**Table 7.4**  
**Women as Elected Members in Local Government**

<b>At May 1992</b>			
<b>State</b>	<b>No. of Women</b>	<b>Total</b>	<b>% of Women</b>
NSW	375	1861	20.2
Victoria	434	2212	19.6
Queensland	236	1181	19.9
Northern Territory	68	224	30.4
Tasmania	70	484	14.5
Western Australia	246	1403	17.5
South Australia	225	1170	19.2
Total	1654	8535	20.2

sponse of local government to the challenges outlined in the review, including improving the position of women in the local government workforce. Acceptance of Equal Employment Opportunity principles and the adoption of modern recruitment practices should help to increase the proportion of women employed in Local Government. In addition, funding to develop issues of particular interest to women will continue to be made available through the **Local Government Development Program**. Women are also one of the groups given priority in the **Local Government Scholarship Scheme** to attend the Australian Centre for Local Government Studies, University of Canberra. The Centre provides the opportunity for participants to enhance their management and administrative skills.

## The Legal Profession

19. There now seems to be no barriers to women's entry into the legal profession. In the decade 1978-87 the proportion of women graduates grew to almost half at some law schools. The number of women practising as lawyers has also expanded. In 1986, 17% of all practising lawyers were women; by 1991 this had increased to an estimated 25%.

20. However, aggregate statistics showing women's greater participation in the legal profession mask gender segregation within the occupation. The few empirical studies on the profession in Australia were undertaken in the early eighties, but it is likely that their findings are still valid. They indicated that significantly more men than women work as barristers, and were likely to be partners of firms. In 1991, only 6% of all partners in law firms in New South Wales were women. On the other hand, women are more likely to be employees in private practice, particularly small firms. Men and women are evenly distributed in corporate or public service employment. Family law and probate/estate administration accounted for almost twice the proportion of work hours amongst women than amongst men, as did property law. In contrast, women spent less time than men in commercial, company and criminal law work.

21. As in other areas of work, family responsibilities were far more likely to interrupt women's careers and various options to conventional legal practice were more attractive to women. Therefore, although more women are entering the legal profession, they are not generally competing with men for the same positions or jobs within the legal profession. Women earn less, are more likely to experience interrupted careers, specialise in gender specific areas and are less likely to reach the top of the particular branch of the profession.

**Table 7.5**  
**Law Professionals**

Year	Men	Women	Total	Women as % of total
1947	4 467	109	4 576	2.4
1961	6 478	258	6 636	3.9
1976	11 939	970	12 909	7.5
1981	15 523	1993	17 516	11.4
1986				
Full-time	17 995	3628	21 623	16.8
Part-time	1 433	768	2 201	34.9
1991 <sup>2</sup>				
Full-time	24 453	8182	32 625	25.1
Part-time	661	789	14 501	54.4
<b>Rate of increase</b>	<b>4.0</b>	<b>33.3</b>	<b>4.7</b>	
(based on 1986 full-time employed lawyers)				

1. Law Professionals - judges, magistrates, barristers, solicitors and legal officers.
2. Australian Bureau of Statistics, 1991. Labour Force Survey (unpublished data)

## The Judiciary

22. Out of the 7 High Court judges in Australia, 1 is a woman, as is 1 out of the 33 Federal Court judges, 6 of the 52 Family Court judges, and 2 of the 141 State and Territory Supreme Court judges. Women's level of representation in the judiciary varies between the States and Territories:

- in the Northern Territory, there are 2 women amongst 9 Magistrates (1 of which is the NT Chief Magistrate); however there are no women judges;
- South Australia has 3 women Magistrates out of 38 (7.9%), 2 out of 28 judges (7.1%), and 9 out of 45 members on boards and tribunals (20%);
- in Western Australia, there are no women amongst the 14 judges, 3 masters, and 3 registrars. Women are represented as judges in the District Court (1 out of 15, or 6.6%), Family Court (1 out of 15, or 6.6%) and the Magistrates Court (3 out of 36, or 8.3%);
- there are no women members in the judiciary in Tasmania;
- there are no female judges in the Victorian County or Supreme Courts. Of the 88 magistrates in Victoria in 1991, 13 (14.8%) are women, 1 of these being the Chief Magistrate;

- the Australian Capital Territory's first female magistrate was appointed in 1991. There are 7 full-time ACT magistrates (all male), and 5 special magistrates (part-time), 1 of whom is a woman;
- New South Wales has 4 female members of the judiciary, 1 in each of the Supreme Court, Industrial Commission, District Court, and Compensation Court;
- women are currently appointed to a number of commissions and the judiciary in Queensland, representing 1 out of 20 judges of the Supreme Court, 2 out of 29 judges of the District Court, 3 out of 7 Members of the Law Reform Commission, 2 out of 9 Members of the Legal Aid Commission, 1 out of 5 Members of the Grants Committee, and 3 out of 12 Members of the Solicitors' Disciplinary Tribunal. In addition, 2 out of 72 magistrates are women.

## The Bureaucracy

23. While women are increasingly represented within all levels of government bureaucracy, they remain concentrated at lower levels, as can be seen in Table 7.6 below. While women currently constitute 46.1% of the Australian Public Service (APS), they hold only 12.6% of Senior Executive Service (SES) positions (compared with 10.9% in June 1990 and 3.9% in 1984 when the SES was formed), despite a number of programs to encourage women to compete for

**Table 7.6**  
**Women as a Percentage of Staff in the Clerical/Administrative Structure of the Australian Public Service**

Level	30 June 1988 %	30 June 1991 %
ASO1	71.7	68.3
ASO2	68.4	70.9
ASO3	52.1	63.1
ASO4	42.4	51.7
ASO5	35.8	43.6
ASO6	26.5	33.4
SOG C	20.1	26.1
SOG B	12.8	17.7
SES	8.2	12.6
<b>Total</b>	<b>53.2</b>	<b>54.1</b>

Source: Continuous Record of Personnel, Department of Finance

positions in the SES. However, a more significant indicator is the percentage of women entrants to the SES from the Senior Officer Grade B level. In 1990, women gained 23.5% of promotions from Senior Officer Grade B staff to SES positions - a significant proportion given that at June 1990, women represented 17.7% of all Senior Officer Grade B staff. There are no women permanent Heads of Federal Government Departments. There is one Associate Secretary who had been a Head of Department prior to the amalgamation of that Department.

24. In Western Australia, the percentage of women employed in the public sector increased from 47% in 1988, to 51% in 1991. This rate of increase partly reflects the introduction of permanent part-time employment in the State in 1989. Segregation continues to be reflected in women's employment status in the Western Australia public service (21.1% temporary compared with 8.1% of males), and their concentration in the lower classification levels. At Level 1 (lowest level), there are over three times as many females as males, while at all levels above Level 2, males are at least double the number of females.

25. Women constitute some 14% of the New South Wales SES, a figure comparable with their representation at executive level in the private sector in that State. In the Australian Capital Territory, 22% of SES positions are held by women.

26. Since 1984, Victoria has been implementing an Action Plan to remove barriers to the employment of women in the Victorian Public Service, and to take positive steps to improve their career opportunities within the Service. The Victorian Public Service Board has also developed a number of key performance indicators to help direct government agencies in improving the position of women in the Service. As a result of these initiatives, the percentage of women in senior management positions increased from 14% in 1987 to 19% in 1990; the percentage of senior executives increased from 15% to 19% over the same period, while employment in middle management positions increased from 22% to 28 per cent.

27. In South Australia, the total number of women employed in the public sector increased by 24.7% between 1982 and 1991. The proportion of women employed has also increased in this time, from 37.9% in 1982 to 45.5% in 1991. Some 14.8% of women employed in South Australia's public sector are employed on a

temporary basis, while the number of women employed on a part time basis has increased dramatically (121%) since 1982, indicating that women have been taking advantage of the more flexible working conditions now available. However, just under two-thirds of women in the public sector are employed in the clerical officer group, and they remain poorly represented in executive and management positions.

## **Trade Unions and Professional Organisations**

28. In September 1991, Ms Jennie George became the first female Assistant Secretary of the Australian Council of Trade Unions. She has a long history of involvement with the trade union movement, having held positions as President of the NSW Teachers Federation and Deputy President of the Australian Teachers Federation. She was the Director of the Trade Union Training Authority before being elected to the full-time position of Assistant Secretary.

29. Professor Priscilla Kincaide-Smith, became Chairman of Council of the Australian Medical Association in 1991.

30. There is little readily accessible data on women's representation within decision-making positions in unions. The Australian Council of Trade Unions does not regularly collect data on the number of women holding positions within trade unions, but has indicated that they work on the basis that about 10% of positions are held by women. Although progress has been slow, the Council maintains a strong commitment to affirmative action, and has three positions reserved for women on its 38 member Council.

31. The States and Territories similarly report relatively poor data in relation to the number of women involved in senior positions in trade unions. Table 7.7, compiled from figures from the 1991 edition of the South Australian United Trade and Labor Council (UTLC) directory, gives some indication of the current situation. The figures generally refer to elected positions. There is some evidence to suggest that women are more strongly represented in the non-elected position of industrial officer than in the elected categories.

32. The South Australian UTLC now has a Vice President position reserved for women, and is conducting a **Women in Trade Union Project**

**Table 7.7**  
**Women's Representation in Senior Positions in Trade Unions: South Australia**

	<b>Women</b>	<b>Men</b>	<b>Women as a % of total</b>
United Trades and Labour Council			
Executive (UTLC)	1	4	20
UTLC Executive Committees	3	12	20
Union Secretaries	4	69	5.5
Union Presidents	8	59	11.9
Organisers	4	45	8.2
Labour related Government Boards	10	51	16.4

Source: South Australian United Trades and Labour Council Directory 1991.

**Table 7.8**  
**Office Bearing Positions of Surveyed Unions: Victoria**

<b>Position</b>	<b>Male Office Bearers</b>	<b>Female Office bearers</b>	<b>Total</b>	<b>% of female office bearers*</b>
Branch Secretary	52	8	60	13
Branch President	14	5	19	26
Branch Asst. Secretary	34	10	44	23
Branch Vice President	75	33	108	30
Branch Treasurer	35	8	43	19
<b>Total</b>	<b>210</b>	<b>64</b>	<b>274</b>	<b>23</b>

\* The figures for females as a percentage of all office bearers relate to those unions included in the survey, not all unions in Victoria.

Source: Victorian Trades Hall Council, 1991.

to more accurately determine the extent of women's involvement in unions and encourage female participation.

33. A survey undertaken by the VTHC in 1991 similarly indicated that the representation of women in office-bearing and decision-making positions within trade unions is still relatively low (see Table 7.8 and 7.9).

34. Women occupy only three of the 21 ordinary executive positions on the Victorian Trades Hall Council. The VTHC Affirmative Action Plan has created three additional positions reserved for women, including one Vice President position,

increasing women's representation on the executive from 14% to 25 per cent.

## Religious Groups

35. Women in Australia are precluded from acting as priests or ministers in a number of the Christian denominations. Women can serve as ministers in the Uniting Church (formed in 1977 by an amalgamation of Baptist, Presbyterian and Congregationalist Churches). In New South Wales, for example, women comprise 55 of the 383 ordained Ministers not currently retired (14.4%). The Religious Society of Friends

**Table 7.9**  
**Women on Union Decision-making Bodies: Victoria**

<b>Decision-making body</b>	<b>Men</b>	<b>Women</b>	<b>Total</b>	<b>% of women</b>	<b>No. of Unions responding</b>
Branch Council	809	309	1118	28	45
Branch Executive	410	140	550	25	56
Branch Conference delegates	707	367	1074	34	16
Delegates to federal executive	74	18	92	20	46
Delegates to federal Council*	194	78	272	29	38
Delegates to federal conference	92	13	105	12	16
<b>Total</b>	<b>2286</b>	<b>925</b>	<b>3211</b>	<b>28</b>	

\* Some unions have a pooling system rather than a permanent delegation

Source: Victorian Trades Hall Council, 1991.

(Quakers) Australia does not have ordained ministers but has always had equality between men and women in ministering.

36. The ordination of women has recently become an issue of concern in a number of the denominations and in the community generally. In August 1990, the Anglican Bishop of Canberra and Goulburn, Bishop Dowling, announced that Australia's first female priests would be ordained in February 1991, but suspended the ordination pending a ruling of the National Appellate Tribunal of the Church. Since that time, the issue has been the subject of a series of legal challenges. The central issue has been one of whether individual diocese are able to take decisions to ordain women or whether this requires a formal decision of the General Synod.

37. On 1 February 1992, the New South Wales Court of Appeal issued an injunction, on the application of two Anglican priests and a male member of the laity, to prevent the ordination of eleven women priests by Bishop Dowling. This decision overturned an earlier decision of a single judge of the New South Wales Supreme Court who refused to issue an injunction on the grounds that it was inappropriate for the civil courts to intervene in a matter of church law.

The New South Wales Court of Appeal issued an injunction on the ground that there was a question of law to be determined (namely whether, under the Constitution of the Anglican Church, individual diocese could make a decision on ordination in the absence of enabling legislation passed by the General Synod) and that it was therefore appropriate to maintain the status quo pending determination of the issue by way of a full hearing. The Court of Appeal did note, however, that 'the view that women are not eligible for ordination is one of great antiquity' and that the main proceedings should be heard and determined as a matter of urgency. At the time of writing a hearing had been held but no judgement issued.

38. On 7 March 1992, ten women were ordained as Anglican priests by the Archbishop of Perth, Dr Peter Carnley. The ordinations occurred after opponents of the ordination of women failed to obtain a Supreme Court injunction. Further legal proceedings have occurred in relation to the ordination of women as priests in Western Australia but at the time of writing the matter was still with the courts.

39. The Melbourne and Tasmanian Synods of the Anglican Church have voted in favour of the ordination of women. On 4 April 1992 the Tas-



manian Anglican Synod passed an ordinance clearing the way for the ordination of women. The Synod passed a further motion urging the Bishop of Tasmania to 'proceed with such ordinations as soon as he believes it is right to do so'. The issue of women's ordination will be considered by the General Synod in July. Members of the Diocese of Sydney who have been in the forefront of opposition to the ordination of women have announced that a proposal to amend the Church Constitution to allow secession by individual dioceses will be put to the General Synod.

40. The issue of the ordination of women has also been discussed within the Roman Catholic and Presbyterian Churches. The General Assembly of the Presbyterian Church decided that in future, although the Church had five women ministers and one studying in a theological college, only men could be ordained. This decision was challenged in the NSW Supreme Court on 7 February 1992, which has adjourned the case until later in the year.

41. The Ordination of Women by religious bodies is exempt from the major provisions of the *Sex Discrimination Act 1984* under Part II, Division 4, sec. 37. This section, titled 'Religious Bodies', includes exemption in relation to the ordination or appointment of priests, ministers of religion or members of any religious order, and any other act or practice of a body established for religious purposes that conforms with the doctrines, tenets or beliefs of that religion.

42. The exemption under the Act conforms with the tradition of separating the church and the state, and also stems from the fact that the Act is designed to regulate discrimination in 'public' life and religious activity is perceived as 'private' life. The decision of the Court of Appeal with respect to the ordination of women in the Anglican Church has led to some questioning in the community about whether religious bodies should continue to enjoy their current exemption. The President of the New South Wales Anti Discrimination Board, has argued in the current context that the use of the civil courts by the Anglican Church to prevent the ordination of women has put at issue the original justification for the exemption.

43. There is currently no proposal by the Federal Government to amend or repeal sec. 37.

## The Honours System

44. Twice yearly, honours are awarded to Australians who are regarded as having made an outstanding contribution to Australian society. In its current form, the honours system has been operating since 1975 and, during that time, only 6.9% of the most senior award, the Companion of the Order of Australia (AC), 10.9% of the award of Officer of the Order of Australia (AO), 18.1% of the Member of the Order (AM) and 31.7% of Medals of the Order (OAM) have been awarded to women. In sum, therefore, women have received some 24% of all awards.

45. Various reasons, which include the relative lack of nomination of women for awards, are offered to describe the disparity apparent in the allocation of these awards. The Honours system was one of the areas examined by the House of Representative Standing Committee on Legal and Constitutional Affairs' inquiry into Equal Opportunity and Equal Status for Women in Australia.

## **ARTICLE 8**

### **WOMEN AS INTERNATIONAL REPRESENTATIVES**

#### **Article 8**

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.

## ARTICLE 8

### WOMEN AS INTERNATIONAL REPRESENTATIVES

#### Diplomatic Representation

1. Although women face no legal barriers, and every effort is being made to encourage their recruitment and to ensure that they have the best possible access to development opportunities, including representation on Australian delegations to international conferences, they remain heavily under-represented at senior levels. This is in large part a reflection of past limitations on women's social roles and workforce opportunities rather than of current restrictions.

2. Since 1988, there has been no separate career structures for policy, consular and administrative officers in the Australian Department of Foreign Affairs and Trade. The following table indicates the total numbers of female staff employed in the Department who are serving overseas:

**Table 8.1**  
**Dept. of Foreign Affairs and Trade: Officers serving overseas**

Year	Female	Male	Total	%
1988	303	491	794	38.2
1989	97	773	870	11.1
1990	322	539	861	37.4
1991	314	537	851	36.9
1992	275	407	682	40.3

3. Currently, there are only three female Heads of Mission and one female Senior Executive Service (SES) Officer serving overseas. Similarly, while there has been no measure or analysis of the participation of women on Australian delegations abroad, it is likely that they remain under-represented on many delegations. Of the six departmental Regional Offices, three are headed by women, one of whom is at the SES level.

4. In recent years, the Department has come under criticism because of the relatively few women at senior levels and serving in heads of mission positions. It is the case that compared with the Australian Public Service average, the Department has fewer women at the SES and SES 'feeder' levels. The current position is explained, to a certain extent, by past gender

imbalanced recruitment practices which have meant that there are now far fewer women than men at the feeder levels for the Senior Executive Service and the Senior Officer or middle management structure. The current under-representation of women is also likely to be explained in part by the additional difficulties which overseas service brings for female officers seeking to balance career and other aspirations.

5. Over the last decade, the Department's recruitment practices have changed significantly. Current data indicates that women are now performing marginally better in selection processes than men. In 1991, seventeen of the graduate intake of 27 officers were women (63%), and in 1992, 56% of the graduate intake were women. Table 8.2 below also confirms that in a range of promotion rounds below SES level in 1991, women performed better than men.

6. Female officers are also well represented in the Department's training courses. The gender balance in these programs, to which entry is competitive, is approximately equal.

7. The Department completed a comprehensive review of its 1989 Equal Employment Opportunity (EEO) Plan in December 1991. The revised Plan addresses some of the problems identified during the review process with the previous EEO plan, namely, that the lack of performance indicators and an adequate data base on which to base assessment of effectiveness, and the absence of mechanism to monitor and evaluate implementation which made it difficult to determine whether the Plan was achieving its objectives. Accordingly, the current Plan has been rewritten to reflect these factors. Departmental efforts to ensure that women are included in conferences, delegations and short term missions were also reinforced in the Department's 1991 EEO Plan.

8. The Department recognises that female officers, especially sole parents, most of whom are women, and those with accompanying spouses, face more obstacles than their male counterparts in meeting the requirements for regular overseas service. This is not because of difficulties that the Department places in the way of women, but because cultural and sociological factors still make it harder for some female officers with

**Table 8.2**

**Dept. of Foreign Affairs and Trade: Middle Management Appointments, 1991**

		Applications		Promotions/ Appointments/Transfers		% of Applications which were successful	
		M	F	M	F	M	F
March	SOGB*	169	31	13	7	7.7	22.6
July	SOGC*	162	57	30	12	19.7	21.1
Aug	ASO6**	149	86	21	22	14.1	25.6
Nov	ASO5**	104	79	14	16	13.5	20.2

\* SOGB - Senior Officer Grade B; SOGC - Senior Officer Grade C. These are the middle management classifications used in the Australian Public Service. The Senior Officer structure comes immediately below the Senior Executive Service.

\*\* ASO5 and ASO6 - Administrative Service Officer classes 5 and 6. These are the feeder

family responsibilities to go on posting, than for male officers in a similar position.

9. The Department is seeking to mitigate or at least compensate for those factors which can make service overseas difficult for some women. Improved overseas conditions of service continue to be negotiated with the Department of Industrial Relations, the regulatory authority responsible for conditions across the Australian Public Service. The Department is currently seeking agreement to provisions, through the overseas allowance system, which would provide some compensation for the loss of a second income - an issue which affects both male and female officers. The Department is continuing to negotiate reciprocal arrangements with foreign governments providing for employment of spouses overseas, building on the significant number of bilateral agreements already in place. The Department has also removed all formal obstacles to the employment of spouses as locally-engaged staff at its overseas posts.

10. It is Departmental policy to arrange for joint postings for married and de facto spouses where possible. The Department is also examining other ways in which general conditions overseas can be improved for officers with family responsibilities. The proposals focus on child care, flexible working hours and compassionate travel.

11. One of the areas of attention for workers with family responsibilities is work related child care. Provision for a child care centre has been incorporated into the plans for the new headquarters for the Department in Canberra. In the

interim, consideration is also being given to the more immediate establishment of a child care centre for officers. The initiative is supported by the Senior Executive of the Department.

## Women in the United Nations System

12. The Australian Government remains concerned about the low level of participation of women within the United Nations system, and has called for greater efforts to advance the status of women, particularly at senior levels, in the United Nations Secretariat. Australia has sought actively to improve that status through contributing to the drafting of resolutions at the General Assembly and the Commission on the Status of Women, urging the Secretary General to increase the number of women in the Secretariat, especially at senior levels, and overcome the main obstacles to the improvement of the position of women in the Secretariat.

13. In April 1992, Australia was elected to the Commission on the Status of Women for the period 1993-1996. The position of head of delegation to the Commission is normally filled by the First Assistant Secretary of the Federal Office of the Status of Women. Membership of the Commission will provide Australia with an important opportunity to contribute fully to preparations for the Fourth World Conference on Women, to be held in China in 1995. One of the areas for concern is likely to be the continuing under-representation of women in decision-making positions, whether nationally, regionally or internationally.

## **ARTICLE 9 NATIONALITY**

### **Article 9**

1. States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

## **ARTICLE 9 NATIONALITY**

1. An amendment to the *Australian Citizenship Act 1948*, which came into operation on 18 June 1991 removed the only area of discrimination between men and women with respect to the acquisition and loss of citizenship.

2. Prior to this amendment, persons born outside Australia prior to 1949 to an Australian mother, were unable to gain citizenship by descent, a restriction which did not apply to persons born of an Australian father.

3. The Act now provides that any person born outside Australia before 26 January 1949 to an Australian mother may become an Australian citizen if the person's natural mother is an Australian citizen and the person has lived in Australia at any time before 1 May 1987. Application for registration must be made before 18 June 1996.

## **ARTICLE 10**

### **ELIMINATION OF DISCRIMINATION IN EDUCATION**

#### **Article 10**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:
- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training.
  - (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
  - (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programs and the adaptation of teaching methods;
  - (d) The same opportunities to benefit from scholarships and other study grants;
  - (e) The same opportunities for access to programs of continuing education, including adult and functional literacy programs, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
  - (f) The reduction of female student drop-out rates and the organisation of programs for girls and women who have left school prematurely;
  - (g) The same opportunities to participate actively in sports and physical education;
  - (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

## ARTICLE 10

# ELIMINATION OF DISCRIMINATION IN EDUCATION

1. The major responsibility for administering education lies with the States and Territories. The Federal Government has specific roles. It supplies most of the funding for higher education. Consistent with its responsibility for social security and income support, it provides financial assistance to students. It also provides supplementary funding to the States and Territories for special purposes, such as assistance to disadvantaged schools. Proposals for the Federal Government to take a bigger role in technical and further education are at present being considered.

### SCHOOLS

2. State and Territory legislation requires that all children between 6 and 15 (16 in Tasmania) must attend an educational institution approved by the Government. In exceptional circumstances, private arrangements may be approved. Children who live too far from school or who suffer physical, mental or social disability may be exempted from these requirements. Alternative provisions for these children include correspondence and other forms of distance teaching and special education services for children with disabilities.

3. In each State and Territory there is a system of government schools at primary and secondary level. Education at these schools is free, although parents are expected to pay something towards the cost of textbooks, other school equipment, excursions and other optional activities. Financial assistance is available to low income families to assist them to meet such expenses and also to cover transport costs. Non-government, fee charging schools also operate in each State and Territory and over one in four Australian students attend such schools. These schools operate under conditions determined by government authorities in each State and Territory. In general terms, they are non-profit, and they cannot operate until they are registered. Provided they meet minimum educational standards they are eligible for support to meet both capital and recurrent expenditure, from the State/Territory and Federal Governments.

4. When children reach the age of compulsory school attendance, they may leave education and join the labour market; they may move into vocational education; or they may stay in the secondary school system until they are 17 or 18 years of age.

### Women's Participation and Retention Rates

5. The proportion of female students remaining to the completion of secondary education has increased faster than for males. In 1975, the female retention rate was 34%, compared to 35% for males. In 1990, the rate for females was 70% compared with 58% for males.

### Government Strategies to Increase the Participation of Women and Girls

6. The **National Policy for the Education of Girls in Australian Schools** is a comprehensive national policy for improving schooling and its outcomes for girls. The Policy was endorsed by the Australian Education Council, and forms an element of the Federal Government's **National Agenda for Women**. It also continues to be the basis of strategies to encourage female participation in education. The four objectives of the Policy are:

- . raising awareness of the education needs of girls;
- . equal access to and participation in appropriate curriculum;
- . provision of a supportive school environment;
- . equitable resource allocation.

7. One such strategy is the **Gender Equity in Curriculum Reform Project**, initiated in early 1990, with the objective of ensuring that the curriculum in schools is equally relevant to girls



and boys. The Project, with \$A3 million over three years, supports the incorporation of the principles and objectives of the **National Policy for the Education of Girls**. Through this Project, funding is being provided to ensure that all curriculum statements and profiles currently being developed are gender inclusive. In order to achieve this, five experts in gender equity in curriculum have been appointed to work in national curriculum development teams in science, technology, English, studies of society and environmental education. Funding is also being provided to undertake innovative projects which will extend the work being undertaken by each curriculum expert.

8. A review of the **National Policy** is being undertaken to evaluate its objectives, priorities and efficiency. The results of the review, which is chaired by the Tasmanian Department of Education and the Arts, are expected to be presented to the October 1992 meeting of the Australian Education Council. They will include an action plan for the next cycle of the policy, from 1992 to 1996, and two major reports: *Listening to Girls*, a snapshot of how girls saw their lives in 1991; and an investigation and analysis of girls' subject choices in Years 11 and 12.

9. State and Territory Governments have also initiated various strategies to ensure equal access for girls and boys to education. For example, the Office of School Administration in the Victorian Ministry of Education and Training produced an *Equal Opportunity Action Plan for Girls in Education for 1988-90*. A revised plan for the years 1991-93 has nine action goals within the four objectives of the **National Policy for the Education of Girls in Australian Schools**. They are:

- . increased understanding of the issues involved in gender disadvantage;
- . increased awareness of the differential participation of girls and boys in school life and its negative impact on girls' learning and their future options;
- . administration and organisation of schools to ensure that girls have access to and participate in, all aspects of school life;
- . development of gender inclusive curriculum materials;

- . development of equitable classroom dynamics and inclusive teaching methods in all schools;
- . a whole school environment free of gender based harassment;
- . adequate provision and policy for the needs of girls relating to privacy, hygiene and clothing;
- . equitable use of resources, including yard space, sports equipment, computers, science equipment, integration services and participation in school camps; and
- . budget planning processes which take account of the needs of girls and provide resources to redress past discriminatory practices.

Progress on the plan will be monitored and reviewed with contributions from individual schools, regions and central divisions.

10. Western Australia's Ministry of Education uses the same set of action goals and has produced *Policy and Guidelines on Gender Equity* as part of its Social Justice in Education Strategy. Further, the Ministry of Education has focused on encouraging girls into non-traditional jobs.

11. The Girls' Education Strategy in New South Wales features programs to help early leavers continue their education. South Australia also has a program for such women, with pregnant teenagers specifically targeted. The Queensland Department of Education has a gender equity unit which in 1991 published *A Fair Deal: Equity Guidelines for Developing and Renewing Educational Resources*.

12. One goal of South Australia's Social Justice Action Plan is to retain all girls for a full twelve years of schooling. The plan focuses on disadvantaged groups, but more generally the Department of Education aims to create supportive learning environments for all girls, and to eliminate sexual harassment in schools.

13. In 1992 the Department of Education and Training in the Australian Capital Territory introduced a new **Sexual Harassment Policy**, relating to students with set procedures for dealing with complaints of sexual harassment, and a program of measures to redress disadvantage, including girls-only classes in some

subjects. It has begun a study of the use of playground equipment with the objective of giving girls fair access. In Tasmania, the Department of Education and the Arts has developed a revised policy statement on gender equity, and a parent statement on gender equity. Draft guidelines for sex based harassment have been developed for schools/colleges and other workplaces. Increasing the understanding of the issues involved in gender disadvantage is a major part of professional development activities. Curriculum staff are encouraged to develop gender inclusive materials and raise gender issues within their subject field. Any State action plan will highlight areas of priority during the next five years.

14. The Northern Territory Government plans to create the Employment and Training Needs Planning Advisory Council, which will focus especially on groups under-represented in employment.

15. Despite the increased retention of girls in schools, in 1988 girls constituted approximately 35% of those students participating in mathematics at the most difficult level, 28% of those students participating in physics, and 41% of chemistry students. On the other hand, they made up 65% of biology students. In an attempt to increase the numbers of girls participating in advanced levels of mathematics in schools, the Federal Government released the *National Statement on Girls and Mathematics* in July 1990 and reiterated its principles in the 1991 *National Statement on Mathematics for Australian Schools*. It is too early to assess whether these Statements will have any effect on the numbers of female students taking mathematics and science subjects.

16. A number of the State and Territory governments have also introduced strategies to encourage girls to study mathematics and science. For example, the Australian Capital Territory has introduced 'girls only' mathematics, science, computing and physical education classes. Some assessment of the effects of single sex education has been made in New South Wales in its 1988 *Review of Single Sex Classes in Co-Educational Schools*. This review indicated that there are not many single sex classes operating as a deliberate strategy for alternative action in the education of girls, but where they have been established they provide girls with better access to equipment (including computers) and result in increased diligence

and/or achievement, with accompanying potential to broaden choices and improve confidence levels.

## The Status of Women Teachers

17. In 1988, 69% of all full-time teaching staff in Australian government primary schools were women. Most of these were, however, located at the lower end of the career structure as, nationally, only 19% of government primary school principals and 38% of deputy principals were women. This pattern is also to be seen in secondary education, where 1988 figures reveal that 45% of teaching staff in Australian government secondary schools were women. Only 9% of government secondary school principals, 25% of deputy principals and 28% of departmental heads were women.

18. Nationally, the percentage of women occupying executive positions in education departments was 17% in 1988. There were, however, variations across the States and Territories. In the Australian Capital Territory, women held none of the seven executive positions in 1987 and only one in 1988. In Tasmania, 31% of the 36 senior administrative positions are held by women, whilst South Australia had the largest female representation at this level: 30% in 1987 and 32% in 1988.

## TECHNICAL AND FURTHER EDUCATION

19. Systems of technical and further education are administered by the States. In general, they present three groups of courses: entry level training courses, including full-time certificate and diploma courses and work-study combinations such as apprenticeships; bridging and inservice courses, including the **New Opportunities for Women** program for women returning to the paid workforce; and general educational and recreational courses. In some States there are separate Adult Education structures to present courses in the last category.

20. There is a climate of change in vocational education. The Federal Government has recently published several reports: *Training Costs of Award Restructuring* (the Deveson Report); *Young People's Participation in Post-Compulsory Education and Training* (the Finn Report); and *The Australian Vocational Certificate System* (the Carmichael Report). It appears that the combined

effect of the new policy directions will be to raise the status of vocational education, and to increase the amount of time which young people spend in formal schooling, and to blur the distinction between general (school and higher) education and technical education by orienting schools more to the world of work and placing more stress on basic skills and knowledge in vocational courses. In the process, the purposes of entry level training are being redefined, work is being done on a unified system of assessment and certification of competency, there are moves to improve the articulation of courses in the three sectors of education, the content of curricula is being scrutinised, and funding arrangements between the Federal and State Governments are being reviewed. Certain elements of the proposed changes, such as better recognition of women's skills, recognition of prior learning, and competency based training and assessment may be of great benefit to women.

21. At present, the Federal Government provides some funding for entry level training, including traineeships and apprenticeships; grants for specific purposes including child care and English language courses for migrants; and more general grants which are subject to resource agreements negotiated between the Federal Government and the States and Territories which reflect Australia's social and economic priorities. In total this represents about a sixth of Technical and Further Education (TAFE) funding.

## **Women's Participation and Retention Rates**

22. As Table 10.1 shows, prior to 1988, the total numbers of women enrolled in TAFE vocational courses was increasing. Since then there appears to have been a decline in numbers, and a less significant decline in the share of enrolments, but the statistics must be treated with caution as there have been changes in definitions of vocational courses.

23. The numbers of women enrolled in the traditional male fields of study are increasing, but women remain under-represented in many fields. Table 10.2 shows that in 1990 women accounted for only about 6% of total enrolments in the fields of engineering and surveying and architecture and building in TAFE.

## **Entry Level Training**

24. Entry level training refers to the training which equips people for their first job. Until recently, the most important structured entry level training available to young people outside the general education system was apprenticeship, which leads to qualifications in skilled trades in a narrow range of occupations and industries. At present, women are under-represented in the apprenticeship system: in 1991, just over 12% of apprentices were women, with over 60% of them in the traditionally female trade of hairdressing. Apprenticeships are supported by the Federal Government through the **Commonwealth Rebate for Apprenticeship Full-Time Training (CRAFT)** Scheme, which offers wage subsidies to employers to encourage apprenticeships. Currently 35 904 apprentices, of whom only 4535 or 12.8% are women, are assisted under the Scheme.

25. The **Australian Traineeship Scheme**, introduced in 1985, applies to occupational areas where apprenticeships are traditionally not available, recognising that there is a need for other opportunities for structured work-based training. Of over 54 000 trainees who have been trained under the scheme, 69% are women. But they are concentrated in the occupations traditionally dominated by low paid women - the clerical, sales and hospitality areas.

## **Government Strategies to Increase the Participation of Women**

26. The Federal, State and Territory Governments participated in the development of a **National Plan of Action for Women in TAFE** which was launched in 1991, with the Federal Government providing \$A300 000 in 1992 to support its implementation through the development of national projects. The National Plan aims to improve education, training and skill formation opportunities and outcomes for women, recognising that systematic affirmative action is needed for women to have equal access to TAFE. The Plan provides a long term, comprehensive and nationally co-ordinated approach to improving women's participation in TAFE, reinforcing the goals of the **Australian Women's Employment Strategy** to reduce gender segregation and to encourage women to enrol in

**Table 10.1**  
**Students Enrolled in TAFE Vocational Courses**

Year	Females	%	Males	%	Total
1983	340 744	43.3	445 478	56.7	786 222
1984	376 990	45.9	445 115	54.1	822 105
1985	397 644	46.3	461 550	53.7	859 194
1986	415 560	46.9	471 119	53.1	886 679
1987	441 716	47.1	495 459	52.9	937 175
1988	448 049	47.1	503 549	52.9	951 598
1989	439 588	47.1	492 743	52.9	932 331
1990	429 832	44.7	530 851	55.3	960 683

Source: Selected TAFE Statistics, 1990

**Table 10.2**  
**Students in TAFE by sex and field of study, 1990**

Field	Females	%	Males	%	Total
Land and Marine, Animal Husbandry	12 816	29.8	30 256	70.2	43 072
Architecture, Building	4 864	6.4	70 574	93.6	75 438
Arts, Humanities and Social Sciences	53 915	72.2	20 751	27.8	74 666
Business Administration, Economics	148 594	62.2	90 424	37.8	239 018
Education	6 576	72.5	2 493	27.5	9 069
Engineering, Surveying	10 343	5.7	170 652	94.3	180 995
Health, Community Services	24 459	73.7	8 734	26.3	33 193
Law, Legal Studies	1 441	41.2	2 057	58.8	3 498
Science	25 228	47.7	27 638	52.3	52 866
Veterinary Science, Animal Care	1 108	84.7	200	15.3	1 308
Services, Hospitality, Transportation	65 497	64.6	35 837	35.4	101 334
TAFE Multi-Field Education	100 903	51.9	93 688	48.1	194 591
<b>Total</b>	<b>429 832</b>	<b>44.5</b>	<b>530 851</b>	<b>54.9</b>	<b>966 846</b>

Source: Selected TAFE Statistics, 1990

Note: Discrepancies in totals arise from students having multiple enrolments, and incomplete information on gender of students.

non-traditional areas of study. National objectives and targets have been set over a three year period. Each State and Territory is responsible for implementing the **National Plan** and for achieving its objectives. The objectives of the **National Plan** are also included in performance agreements between State and Territory TAFE systems and individual colleges.

27. Strategies in the **National Plan** to encourage women's successful participation in vocational education include improving entry paths for women in accredited TAFE courses, increasing the participation of women in TAFE decision-making, providing improved support services for women, improving the physical and learning environment for women, and ensuring

that women benefit equally from training for industry and award restructuring. Under the **National Plan of Action for Women in TAFE**, funds will be provided for projects which include the National Project for Aboriginal Women in TAFE, the National Project for non-English speaking women in TAFE, and Women with Disabilities in TAFE.

28. Women have also suffered disadvantage in education and training because of the traditional pattern of long term, long cycle courses. Accordingly, the Federal Government has stressed the development of short term training modules, wherein each module would represent a recognisable and marketable qualification leading to access to further training and more highly skilled jobs.

29. The **Industry Training Support Program** established by the Federal Government aims to stimulate higher levels of industry commitment to training. Assistance is available to industry, under 'Innovative Training Projects', for a range of approaches to training, which underpins the award restructuring process, together with the development of career paths, particularly in those industry sectors where women have been traditionally over-represented and where they lack career paths. Recent emphasis has been on initiatives to develop competency based training for those workers in lower categories who have, until now, received little structured training or skills recognition. Innovative training projects allow many skilled women who have been out of the workforce to refresh their skills to ease re-entry into the labour force.

30. Currently, Federal funding under the **TAFE Infrastructure and Recurrent Program**, is targeting the expansion of child care facilities. Some \$A6 million was provided for 1989-91 and \$A3 million per annum will be provided for the following three years. The States and Territories were also asked to consider child care needs as part of the 1991 TAFE resource agreements between the Federal Government, States and Territories, and to provide extra child care facilities with priority of access to disadvantaged parents and welfare beneficiaries, many of whom are women. The South Australian Department of Employment and Technical and Further Education has developed management plans for child care and for student services.

31. Under the **Special Entry Level Training or SELT Scheme**, the Federal Government aims to develop and introduce new approaches to traditional apprentice training. Under the Program, there is provision for special preparatory courses for women, and for projects within **Tradeswomen on the Move**, which is a joint Federal and State/Territory Strategy designed to encourage the greater participation of young women in non-traditional trades. Joint government funding policy requires that priority is given to the employment of female apprentices and specific strategies are developed to assist under-represented groups, particularly women. In 1990, the Federal Government provided funds to State and Territory governments for 500 preparatory course places at TAFE to encourage women to enter apprenticeship occupations. The Australian Capital Territory Government employs a full-time co-ordinator to assist with the implementation of this project. Although it is primarily aimed at young women, the Australian Capital

Territory will also provide funding for apprenticeships for mature aged women in a pilot project to cover the additional costs to employers of employing mature age women for the first two years of their apprenticeships.

32. Various strategies have been introduced at State and Territory level to encourage women to enter non-traditional trades areas. Many States maintain registers of women who are prepared to talk to schoolgirls about their experience in traditionally male jobs. This provides role models and a focus of support for girls wishing to enter such occupations. Several States have special bridging courses and South Australia has link courses, for women returning to the workforce after raising children. In the Northern Territory, the present focus is on girls and tradeswomen in remote areas. The Victorian Government operates a series of preparatory courses for women under the **Affirmative Action in Training Program**. As part of this, the Office of the State Training Board and the Federal Department of Employment, Education and Training jointly fund fourteen preparatory trade and technical courses for women. The **Negotiated Target Strategy** has also been developed, under which TAFE colleges are required to target places in accredited mainstream programs for women and other designated groups as part of their annual Performance Agreements.

33. In Victoria, a Women's Officer position in the Building Workers' Industrial Union was established by the State's Women's Employment Branch in 1988, to promote opportunities in the building industry, while a Women's Officer is also employed at the Victorian Trades Hall to ensure that affiliates are provided with practical support and assistance in addressing issues of relevance to women workers. The functions of this office include coordination of the implementation of the *Trades Hall Action Plan for Women Workers*, providing consultancy on equal opportunity issues, increasing the participation of women at all levels of the trade union movement, promoting the expansion of child care facilities and distributing material on sexual harassment, maternity leave, child care and affirmative action.

34. In New South Wales, TAFE has developed initiatives under the **Women's Education and Training Strategy**, which aims to promote equal opportunity in education and employment and improve the range and quality of women's participation in TAFE.

35. Following a special meeting of the Federal, State and Territory Ministers responsible for employment, education and training, the Vocational Education Employment and Training Advisory Committee (VEETAC) was formed in 1991. In April 1991 VEETAC established a Women's Standing Committee, whose role is to advise and assist VEETAC in the enhancement of women's access to and participation in vocational education, employment and training, so that equitable outcomes are achieved for women, and the skill level of the Australian workforce is improved overall.

36. In July 1989, a computerised system of national apprenticeship and Federal trade training programs statistics was implemented. It will provide comprehensive information on women's participation.

## Status of Women Teachers

37. There is little information on the status of women teachers in TAFE, but it appears that the pattern of their involvement as teachers reflects that of their enrolments: very few are in the trades courses outside hairdressing, and there are a larger number of part-time women teachers than men. About 20% of TAFE management positions are held by women.

## HIGHER EDUCATION

38. Higher education in Australia is primarily funded by the Federal Government, although as part of the major reforms announced in the Federal 1988 *White Paper on Higher Education*, higher education institutions have been encouraged to broaden their funding base. Since 1989, students have been liable to contribute about 20% of the costs of their studies through the *Higher Education Contribution Scheme* (HECS). In 1991, the HECS contribution for a standard full-time course was \$A1993. No payment is required until after a student's income reaches a threshold level, which is roughly equivalent to average weekly earnings.

39. Monitoring of the impact of HECS has been undertaken by the Government through the Higher Education Council of the National Board of Employment Education and Training which is obliged, by statute, to report annually to Parliament. A number of specific studies on HECS have been commissioned. They appear to indicate that HECS has not had a great effect on participation in higher education, except for

part-time study. This appears to be true for the participation of women: before the introduction of HECS, in 1988, women comprised 51% of the higher education population. In 1989 and 1990 they comprised 52% and almost 53% respectively.

40. Since 1988, Australian public higher education institutions have been able to offer specialised postgraduate award courses to Australian students on a fee paying basis. These courses are designed to upgrade the vocational skills and income of people already in employment and, thus, courses which lead to a basic professional qualification cannot be offered on a fee paying basis. Postgraduate fee paying courses are available to people who are currently employed and for whom the courses provide upgrading or extension opportunities. They are unavailable to students proceeding directly from undergraduate studies, who must enrol in post graduate courses administered under the Higher Education Contribution Scheme. Postgraduate fee paying courses represent only a small proportion of total higher education provision. In 1990, for example, students in fee paying courses comprised only 13% of the total postgraduate population. Of these, 34% were women.

## Women's Participation and Retention Rates

41. The number of women in higher education has been growing steadily (See Table 10.3). Between 1983 and 1990, female enrolments grew by 59% compared with 22% for males, and since 1987 more women than men have enrolled in higher education courses. In 1990, 53% of those enrolled were women. One factor in this growth has been the transfer of basic nurse education from hospitals to higher education which has been occurring since 1984 and will be completed by 1994. But even if enrolments in nursing courses are excluded, women represent more than 50% of total enrolments.

42. Table 10.4 shows female enrolments as a proportion of total enrolments in selected disciplines. They have shown the following increases by discipline from 1983 to 1990 in round numbers: architecture 21% to 33%; agriculture 28% to 33%; business 30% to 41%; engineering 5% to 10%; science 36% to 39%. Arts and education accounted for 50% of female enrolments in 1990, but this represented a significant change from the early 1980s when these two fields accounted for over 70% of female enrolments. Since that time, women

**Table 10.3**  
**Higher Education Students by Sex 1983-1990**

Year	Females	%	Males	%	Total
1983	161 260	46.3	187 317	53.7	348 577
1984	166 483	46.6	190 890	53.4	357 373
1985	175 926	47.5	194 054	52.4	370 016
1986	190 120	48.8	199 848	51.2	389 986
1987	197 350	50.1	196 384	49.9	393 734
1988	215 076	51.1	205 774	48.9	420 850
1989	229 791	52.1	211 285	47.9	441 076
1990	255 655	52.7	229 420	47.3	485 075

Source: Department of Employment, Education and Training. Selected Higher Education Statistics (Annual).

**Table 10.4**  
**Female shares of higher degree, other postgraduate and undergraduate enrolments in each broad field of study, 1990**

Field	Undergraduate %	Other Postgraduate %	Higher Degree %	TOTAL %
Agriculture	33.8	28.3	27.5	33.0
Architecture	34.9	22.9	23.5	33.4
Arts	69.0	68.1	55.4	68.0
Business	42.0	36.6	27.7	40.7
Education	75.0	69.8	56.6	72.4
Engineering	10.2	11.6	8.6	10.1
Health	73.6	74.8	51.3	72.2
Law	46.3	46.7	33.2	45.2
Science	40.2	31.5	30.8	38.8
Vet Science	55.8	50.0	34.8	52.5
<b>Total Female</b>	<b>53.6</b>	<b>55.3</b>	<b>39.5</b>	<b>52.7</b>

Source: Department of Employment, Education and Training. Selected High Education Statistics (Annual)

Note: 'other postgraduate' refers to diploma and associate diploma levels of study; 'higher degree' refers to masters and doctoral studies.

have moved into a wider range of fields, most notably business, science and health. A number of strategies have been adopted to encourage women to enter fields such as science and engineering where they have been traditionally under-represented, including visits by senior women scientists and technicians to schools.

43. The most recent figures available (1988) indicate that the participation of females in higher education exceeds that of males in all broad regional categories: urban, rural and remote. In urban areas, the ratio of participants

was 21 women to 20 men; in rural areas, it was 29 to 24; and in remote areas 25 to nineteen.

44. Women are still under-represented at the postgraduate level, but the gap is closing. In 1990, women represented 40% of higher degree students (an increase from 28% in 1980 and 31% in 1983) and 55% of other postgraduate students, an increase from 46% in 1980 and 49% in 1983. Women now account for 48% of all postgraduate students, but they are still over-represented in lower awards, such as diploma and associate diploma courses.

45. Students undertaking masters or doctoral degrees by research are able to compete for Australian Postgraduate Research awards. In 1990, female students held 46% of these awards. Awards are now also available for part-time research, which should assist women. Industry supports a small number of awards for full-time study for a masters or doctorate research degree. In 1990, female students accounted for 10% of the holders of these awards.

46. Australian Postgraduate Course Awards are competitive awards for study in an approved course leading to a master's degree by course work. These awards are particularly useful for women seeking to re-enter the workforce. In 1990, 63% of the holders of these awards were women. One percent of award holders are part-time.

## Government Strategies to Increase Participation of Women

47. Higher education is currently being expanded. Between 1988 and 1993 the funding provided to institutions by the Federal Government, including student contributions, will increase by 26%, allowing for the provision of more than 70 000 extra places for students, so that the total number of Federally funded places in 1993 will be over 370 000. One of the goals of the expansion is to promote greater equity of access to higher education for identified disadvantaged groups, which include women.

48. A discussion paper entitled *A Fair Chance for All: Higher Education That's Within Everyone's Reach*, establishing a plan for higher education to reflect the composition of Australian society more accurately, was published by the Federal Government in 1990. Central to the plan was the requirement that institutions develop equity plans as part of the educational profile on which planning and funding agreements between the Federal Government and the institutions are based. In future, the allocation of Federal funding will be linked to the achievement of equity targets. In the 1991-93 triennium, about two-thirds of higher education institutions have set quantitative targets to increase the numbers of women in non-traditional and higher degree courses.

49. Annual funding for the **Higher Education Equity Program** has been increased and the scope of the Program expanded to include grants for equity initiatives and child care assistance for needy students.

## Status of Women Teachers

50. Men occupy the majority of academic positions in higher education, but the proportion of women rose from 27% in 1988 to 30% in 1990. Of these, few occupied senior academic positions: 7% of professors and 52% of tutors were women.

## FINANCIAL SUPPORT FOR EDUCATION

51. Educational income support, designed to promote equality of educational opportunity and to improve educational outcomes through the provision of financial assistance to students who are financially disadvantaged, of Aboriginal or Torres Strait Islander origin, geographically isolated or disabled, is provided through **Austudy**, **Abstudy** and the **Assistance for the Isolated Children** Schemes. There is also a small scheme of living allowances for migrants in advanced English language courses in TAFE colleges.

52. **Austudy** provides assistance, on a non-competitive basis, subject to tests of income and assets, to students of sixteen years and over who are undertaking approved full-time secondary and tertiary studies. Out of a total 351 000 recipients of **Austudy** in 1990-91, 186 000 or 53% were women.

53. From January 1992, a dependent child deduction of \$A1200 for the first child and \$A2500 for the second and each subsequent child will apply to the spouse income test, thus making it easier for married students with dependants to receive **Austudy**. Currently, a review of **Austudy**, which addresses the objectives of **Austudy**, eligibility for student allowances and the nature of these allowances, is in progress. Recommendations from the review will be considered in 1992-93.

54. **Abstudy** provides financial assistance, in the form of living allowances, subject to an income test, to all eligible Aboriginal and Torres



Strait Islander students undertaking an approved full-time course of study. During 1990-91, 23 400 school level students received **Austudy**, of whom 11 800 (just over half) were women, while 11 100 tertiary level students received **Abstudy**, of whom 6900 or 62.4% were women.

55. The **Assistance for Isolated Children Scheme** is designed to assist students who do not have reasonable daily access to an appropriate government school because their homes are geographically isolated. In certain cases, assistance may also be given for students who suffer from a disability which prevents them from living at home and attending school daily, who have to live away from home to undertake a remedial or other special type of course or who are from itinerant families.

56. During 1991, the *Sex Discrimination Act 1984* was amended to exempt temporarily student assistance schemes from having to comply with the Act. During the period of exemption, which is limited to three years, a committee of Federal Government departments will consider whether removal of provisions in the schemes which discriminate on the basis of marital status, thereby resulting in more favourable treatment for married couples, as opposed to *de facto* couples, should be removed.

## **PARTICIPATION OF WOMEN WITH SPECIAL NEEDS**

### **Participation of Aboriginal Women in Education**

57. In comparison with non-Aboriginals, Aboriginal participation in education is low. Some 10 to 15% of Aboriginal children of compulsory school age are not participating in schooling, while Aboriginal participation rates in non-compulsory schooling and tertiary education are only around one third of those of the general community.

58. The number of Aboriginal and Torres Strait Islander people participating in higher education has increased from 850 in 1982 to 3609 in 1990. Of those enrolled in 1990, 63% were women. This compares with 52% of women in the general student higher education population. Aboriginal female participation in TAFE and higher education is higher than that of Aboriginal males.

59. In July 1988, the Federal Government published *Higher Education - A Policy Statement* which set an agenda for the reform of the higher education system, the objective of which was to improve access to and success in higher education by all Australians. This objective was to be achieved partly through the provision of considerable growth in the system and partly through Federally funded targeted programs aimed at increasing participation in higher education of disadvantaged groups. Particularly, the Statement indicated that a proportion of growth funds would continue to be earmarked to support increased Aboriginal and Torres Strait Islander participation in higher education. Accordingly, between 1988 and 1990, places reserved for Aboriginal and Torres Strait Islander people increased by over 1000, compared with a total enrolment of 3609 Aboriginal people in higher education in 1990.

60. In order to improve the participation rate of Aboriginal and Torres Strait Islander people in higher education, institutions have adopted new guidelines. Equity plans developed following the discussion paper *A Fair Chance for All: Higher Education That's Within Everyone's Reach* are to include Aboriginal and Torres Strait Islander education strategies in the educational profiles of institutions.

61. Institutions are also required to establish effective and continuing consultative mechanisms to enable the Aboriginal and Torres Strait Islander community to participate fully in institutional planning and decision making relating to Aboriginal and Torres Strait Islander education.

62. Over the 1990-92 triennium, nearly \$A240 million for Aboriginal and Torres Strait Islander education will be provided to education systems under the joint Federal and State/Territory **National Aboriginal and Torres Strait Islander Education Policy**. These funds will be used to improve school facilities and access for Aboriginal and Torres Strait Islander people, boost TAFE and higher education participation and completion rates and develop long-term policies to achieve greater employment and training for Aboriginal and Torres Strait Islander people in education. Under the Policy, each State and Territory has developed a specific set of strategies, which include initiatives to increase Aboriginal involvement in decisions about pre-school education, schooling and tertiary education at the local level, delivery of TAFE education to rural and remote areas, improved bridging course

linkages to TAFE and equitable employment of Aboriginal and Torres Strait Islander people in Australia's education system.

63. As part of a more comprehensive national policy, on 1 January 1990, the Federal Government introduced the **Aboriginal Education Strategic Initiatives Program**, which aims to achieve equity between Aboriginal and Torres Strait Islander people and other Australians in access to, and participation in education. This Program and the **National Aboriginal and Torres Strait Islander Education Program** are expected to have a major impact on educational opportunities for Aboriginal and Torres Strait Islander girls and women.

### Participation of Rural and Isolated Women in Education

64. Learning opportunities for women in rural and isolated areas have been enhanced by the establishment of eight Distance Education Centres within higher education institutions and the establishment of the National Distance Education Conference. The Federal Government has also initiated a pilot open learning project aimed at extending access to higher education through the use of television and independent learning materials. In 1992 a small range of first degree units in fields such as Australian studies, business and psychology, will be available.

### Participation of Women of Non-English Speaking Background in Education

65. Aggregate statistics suggest that about 11% of students in higher education were of non-English speaking background, compared with 16% of the total population. In the relevant population cohort, 45% of Australian born and 28% of those from non-English speaking countries participated in higher education. Of the students of non-English speaking background, 47% were women. Thus participation rates for women of non-English speaking background were lower than for women in the population as a whole.

66. The aggregates, however, mask considerable variations. For example, whilst the participation of Vietnamese born students in higher education is higher than for the Australian born students, only 37% of the Vietnamese students

are women; whereas the participation of Yugoslav born students is far lower than their representation in the population, although just over half of the Yugoslav students are women.

67. Statistics for women of non-English speaking background's participation in TAFE are not readily available, but it is generally accepted that they, like other disadvantaged groups, have low levels of participation. Collection of data on this topic has been identified as a priority under the **National Plan of Action for Women in TAFE**.

### Women with Disabilities

68. The Federal Government administers a number of equity programs for people with disabilities for all aspects of education.

69. At the school level, the **Special Education Program** provides funding for a number of forms of assistance to schools for students with disabilities. This assistance includes:

- educational services which improve the educational results for children and students with disabilities;
- therapeutic and other essential services which improve the participation of children and students with disabilities in education;
- capital equipment which is essential to the provision of the above services.

70. Government and non-government schools are assisted under this Program, and funding can be given to schools which support students with disabilities in mainstream classes and to schools which provide special educational settings for students with disabilities.

71. Under its **Higher Education Equity Program** the Federal Government requires universities to develop equity plans as part of their profile documentation. People with disabilities are one of the six groups identified as being under-represented in the higher education system.

72. The National TAFE Staff Development Committee has also provided funding for a TAFE Disabilities Advisers Group which ultimately aims to equip teachers in TAFE colleges with the skills to integrate students with disabilities into mainstream TAFE courses.

73. Women with disabilities are not a separately identified target group in any of these programs.

## **CHILD CARE**

74. As in other areas where women have suffered disadvantage, lack of affordable child care in a society which perceives the prime responsibility for children as being the mother's, has formed a significant barrier to equal participation in education. Government strategies concerning child care in the context of employment and training are described under Article 11. The Federal Government has also initiated the **Child Care Assistance (CCA) Program**, which aims to improve the employment prospects of sole parents, who are predominantly women, by facilitating their entry to training and education through assistance with child care. Sole parents are assisted in gaining access to permanent places funded under the **Services for Families with Children Program (SFCP)**. Where this is not possible, temporary places can be provided under the CCA Program in SFCP facilities for the duration of training or education, plus a short job search period. Again, under the **Commonwealth Skillshare Program**, which is a community based program to assist long term unemployed and other disadvantaged people to obtain employment, education or training, child care assistance is provided to sole parent participants. Further, as described above, the Federal Government has provided \$A6 million over the three year period 1989-91 to assist with the refurbishment and construction of child care centres to improve access to TAFE for low income students, particularly those who are sole parents.

## **LANGUAGE AND LITERACY**

75. The Federal Government provides funds to support programs concerning language and literacy for people from both English and non-English speaking backgrounds. Thus, funding is available to State and Territory Governments to support TAFE institutions providing literacy training and to assist non-government adult education providers who offer literacy and numeracy instruction.

76. Whilst most of the activities in this context have been gender neutral, some do have particular relevance for women. The Federal Government, for example, has been concerned to link child and parent literacy and has, accordingly, made funding available not only for projects

which concern women in the workforce, but also for those which target women at home with young children. Funding has also been granted to render the language of science and mathematics curricula more accessible and easier to understand, an initiative which it is believed will benefit female students particularly.

77. A survey undertaken of the levels of literacy among Australian adults in 1989, indicated that there was no measurable difference between the level of literacy of English speaking background men and women. Insofar as non-English speaking background people are concerned, the 1989 census revealed that female and male wage and salary earners had comparable levels of English proficiency. However, non-English speaking background women are less likely to be in the labour force than non-English speaking background men, a fact which may explain why non-English speaking background women are more likely to participate in adult English As a Second Language classes than non-English speaking background men. Further, the earnings of a non-English speaking background woman is significantly lower than a non-English speaking background man with comparable facility in English.

78. In June 1991, the Federal Government announced a **Language and Literacy Policy**, which will involve the allocation of funds to address critical shortfalls in the competence of the Australian people in English and other languages. Measures to be implemented under the Policy include improved and expanded provision, research, curriculum and assessment in adult and children's literacy, adult and children's English as a Second Language and languages other than English, the literacy and English as a Second Language needs of Aboriginal people and support for the maintenance and development of Aboriginal languages.

79. Although girls and women are not specially targeted for programs within the Policy, they are expected to be significant beneficiaries. For example, women jobseekers from non-English speaking background who have been in Australia for more than five years will now have access to the **Adult Migrant English Program**, thereby assisting women from non-English speaking background who are seeking to enter the workforce after raising young children.

## **THE EFFECT OF PARTICIPATION IN EDUCATION ON EMPLOYMENT**

80. In 1990, the median starting salary for graduate males was \$A25 700 per annum, compared to \$A24 000 per annum for females. Simply stated, the median starting salary for a female graduate is 93.4% of that of a male graduate. This differential occurs, in the main, because of the different enrolment profiles of male and female tertiary students, with male graduates tending to come from disciplines that are highly paid. Only 9.8% of females graduate with a degree in a high paying discipline, while 23.9% graduate in low paying fields. Conversely, 35.2% of males graduate with a degree from a high paying discipline and only 12.9% are qualified in low paying disciplines.

81. Although the salary differential between graduate females and males is largely explained by the subject choice of tertiary students, which may in turn be dictated by gender considerations, including perceived sex roles and career decisions based on sex stereotypes, there remain gaps between the starting salaries of graduate females and males in many disciplines. In 1990, graduate females and males earned roughly equivalent amounts in the fields of accounting, physical sciences, optometry, psychology, economics and computer science. Disparity, however, existed in dentistry where the median male salary was \$A37 000 compared to \$A29 000 for females. There are also discrepancies between male and female salaries, for example, in architecture, in design and in the social sciences.

## **ARTICLE 11**

### **ELIMINATION OF DISCRIMINATION IN EMPLOYMENT**

#### **Article 11**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities;
- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

# ARTICLE 11

## ELIMINATION OF DISCRIMINATION IN EMPLOYMENT

### ARTICLE 11.1 WOMEN'S EMPLOYMENT

1. During the economic downturn of 1990-92, the female workforce participation has remained high, while female unemployment has been marginally lower than male. Despite this, there appears to have been very little backlash against women's presence in the workforce, of the kind that there was in previous downturns as recently as 1986. While the growth in participation rates appears slow, it is partly obscured by cohort effects: 44% of mothers of children under four years are now in the paid workforce, compared with 36% in 1982. This reflects a deepseated social change.

#### Labour Force Participation

2. In August 1991, there were over 3.2 million women in paid employment compared with almost 4.5 million men. Since 1983, women have strengthened their labour market position, particularly in terms of employment and participation. Since August 1983, female employment has increased by 37.5% compared with 13.0% for males. This reflects both increased participation by women and general growth in the labour force over this period, strong growth in the service sector and growing part-time and casual employment. The increase in participation is also attributed to social changes and to supportive legislation such as the *Sex Discrimination Act 1984* and the *Affirmative Action Act 1986*.

3. Women's participation during the year 1990-91 has fluctuated around the 52% level. It has shown a general increase over the last eight years, the overall increase from August 1983 to August 1991 being almost 8 percentage points. Australia's participation rate for women is about average for developed countries.

4. Differential labour force participation rates are to be found according to particular groups of women. For example, while the rate for married women with dependent children under fourteen years is 60%, the rate for female sole parents with dependent children under fourteen years is 49%. The rates are lower again for Aboriginal

and Torres Strait Islander women. For all women, however, workforce participation is related to the age of the youngest child; and for all groups except those over 55 years, it has been increasing.

5. The Federal Government's **Jobs, Education and Training Program (JET)**, which was phased in from March 1989 and fully implemented by April 1991, aims to improve the financial circumstances of sole parent pensioners by facilitating their entry into employment, through advice and counselling, access to child care, and opportunities for education, training and employment. Entry into the Program is voluntary and open to all sole parent pensioners. The Program targets three groups: teenage sole parents, whose youngest child is at least 12 months old; those who have been receiving the pension for at least 12 months and whose children are aged 6 years or more; and those whose qualifying child is over fourteen years.

6. An interim evaluation of the program in 1990 highlighted specific financial barriers faced by sole parent pensioners in their attempts to study, train or work. The Federal Government has since provided financial assistance to these clients to overcome these barriers. Since 95% of sole parent pensioners are women, the program has the potential to make a significant impact on women's socio-economic status.

7. An evaluation of JET in 1991 showed that representation of the target groups amongst JET clients was about proportional to their representation amongst the sole parent pensioner population. In 1991, 57 000 or about 20% of sole parent pensioners were involved in JET. A large proportion was directed into education or training. The labour force participation rate of all sole parents rose from 48% in June 1988 to 55% in June 1991, while the proportion of sole parent pensioners with income from earnings rose from 17% to 21%. After participation in the JET Program, 25% had earnings, which is a promising result as most JET clients start from situations of particular disadvantage.

8. The cost of the Program was \$A36 million in 1990-91, and savings in pension outlays were estimated at \$A9.8 million. The savings were lower than expected because the proportion of

clients requiring training was higher than expected. Savings are expected to increase over time.

## **Part-time Employment**

9. Women have traditionally been the majority of those in part-time employment. In June 1991, 76% of those employed part-time were women. Part-time employment continues to provide significant new employment opportunities for women and accounted for over 50% of the growth in female employment since April 1983.

10. Although 80% of women employed part-time state that they would not prefer to work longer hours, in many cases part-time work is the only option available for them.

11. There are various reasons why women enter part-time work, but the majority choose it because they continue to take full responsibility for home and family. A recent survey of time use in families discussed later in this Article shows that women who work part-time maintain the hours of unpaid work at home they did when they were not in the paid workforce. There is also a tendency for many families to regard a woman's income as 'additional', even when it is a full-time wage.

12. A number of issues arise out of the over-representation of women in part-time employment. The most important is that most part-time workers in Australia are classified as casual, and are denied the benefits of training and career paths which are associated with permanent work. The main exception to this is permanent part-time work in the public sector, but this example has not been taken up widely by private enterprise. There is also a question of whether such employment amounts to under employment for at least some of these women.

## **Unemployment**

13. In August 1991, the female unemployment rate was 9.1%, which was higher than for August 1989 (6.7%) and August 1990 (7.7%), but lower than August 1983 (10.6%). As the female participation rate has climbed 7.7% since 1983, these figures indicate that in 1991 women were holding on to their employment with greater tenacity than in 1983. In comparison, the male unemployment rate in August 1991 was 10.3%, which is a reversal of the historical trend whereby

women's unemployment rate has been higher than that of men. Unemployment was high amongst young women, with rates of up to 30%, but it is hard to interpret this figure. Unemployment is measured as the proportion of those in the workforce who do not have jobs. The most able members of this age group are the most employable but also the most likely to stay at school. Young women's participation in post-compulsory education has increased very significantly. High educational participation rates may to some extent reflect a lack of job opportunities and disguise unemployment; on the other hand, it may mean that only a highly selected group of less able young women are in the labour market.

14. A substantial pool of 'hidden unemployed' can be discerned by analysis of those marginally attached to the labour force, that is, those who are willing to work but are either not actively seeking work, or not available to start work within the reference week. Various factors, including ill health, family responsibilities or discouragement, may account for the fact that the individual is not actively looking for work. Seventy-three per cent of those who are marginally attached are female. In September 1991, there were 598 000 marginally attached women compared with 220 500 men. Some 41% of the women said family reasons were preventing them from actively seeking work. The family reason cited by most (77%) of these women was child care.

15. Of the marginally attached women, seventeen per cent or 103 700 were discouraged job seekers, of whom 11 600 said the main reason that they could not secure work was a lack of educational experience, training and skills. About two-thirds (69 500) indicated that there were no jobs in the locality, line of work, or work generally.

## **Strategies to Improve Women's Position in the Labour Market**

16. The **Australian Women's Employment Strategy** adopted by Federal, State and Territory Governments in 1988 established a set of national goals to improve women's employment and requires the Federal Government and all States and Territories to report on progress in meeting them. The goals include:

- improving women's access to and participation in employment and training;
- improving working conditions and arrangements for workers with family responsibilities;
- improving employment and training opportunities for women as part of industry planning and restructuring;
- reducing gender segregation in TAFE and higher education, occupations and industries;
- improving women's access to and participation in consultative and decision making forums in employment, education and training;
- improving women's occupational health and safety;
- promoting pay equity; and
- developing appropriate awards and conditions for especially disadvantaged women.

17. Progress on meeting the goals of the Strategy is monitored by the Departments of Labour Advisory Committee's Working Party on Women and the Labour force, and an annual report is published by the Department of Industrial Relations in conjunction with the Department of Employment, Education and Training.

## **Occupational Segregation**

18. One goal of the **Australian Women's Employment Strategy** is the reduction of gender segregation in occupations and industries. The labour force in Australia is highly segregated, most industries and occupations employing a disproportionate number of either male or female workers. In August 1991, 55% of women were employed as either clerks, salespersons or personal service workers. In any career area, women tend to be over-represented at the lower levels of pay and authority. Industrial areas in which women predominate, such as retail trade, textiles, clothing and footwear, and finance and business services, have the lowest average weekly earnings; and women earn less than men in every industry.

19. Women are more highly concentrated in industry groups than men. In August 1991 the top four employing industries for women accounted for 76% of female employment: com-

munity services 30%, wholesale and retail trade 22%, finance, property and business services 13%, and recreation, personal and other services 11%. The top four employing industries for males of wholesale and retail trade, manufacturing, community services and finance property and business accounted for only 60% of male employment.

20. A number of Government policies attempt to address occupational segregation. Most of them are aimed at young women who are still in education, encouraging them into non-traditional occupations (as discussed under Article 10). Women have improved their representation in 'education based' occupations, particularly the professions, but not in the skilled trades for which apprenticeships are the main form of entry level training. Award restructuring, which is discussed below, and the operation of the Affirmative Action Act should also help to break down segregation. Employment in the public sector in the Commonwealth and in all States is very largely governed by equal opportunity regulations.

21. In Victoria, equal opportunity programs operate in local government unions, and the Government funds a women's officer at the Victorian Trades Hall Council to produce affirmative action training materials; encourage women workers from non-English speaking backgrounds to participate in union activities; produce and distribute a number of multilingual brochures on maternity leave, child care and sexual harassment; and engage an **Equal Employment Opportunity Program** consultant.

22. On the other hand, the very rapid growth of the industries which are big employers of women, particularly hospitality and community services, and tourism, have tended to increase measured segregation.

## **Earnings**

23. Equal pay for work of equal value has been an established principle of wage fixation in Australia since 1972. Wage fixation is relatively centralised, with rates and conditions governed by a system of awards covering 80% of the workforce and having the force of law.

24. By February 1992 the ratio of adult female to adult male average weekly (full-time) ordinary time earnings was 84%, which is high by international standards. It had risen from 83% in



1988, a ratio which had been relatively stable for ten years. Average weekly total earnings of women were 67% of those of men. The discrepancy is largely a reflection of the high incidence of part-time work for women, but is due in part also to higher overtime payments to men: overtime is paid at a higher rate than ordinary time. Women also are much less likely to receive over award payments, bonuses and fringe benefits. These figures do not take into account self-employed workers (a category which may include outworkers and family day care workers) many of whom are low paid and the inclusion of whom would depress the ratios.

25. These pay differentials are often attributed to women's primary responsibility for child care and domestic duties which constrains their access to full-time employment, breaks their workforce participation, restricts their access to higher levels within the employment hierarchy and affects their ability to do shift work and overtime. More recently it has been argued that workplaces, if they are to have efficient recruitment and promotion practices, should create working conditions which take account of family responsibilities; and that in individual cases the differential performance of women has been assumed rather than demonstrated. A significant factor in pay differentials is in the gender segregation of occupations, which has led to the undervaluing of certain traditionally female work.

26. Federal, State and Territory anti-discrimination legislation prohibits both direct and indirect discrimination in employment, and thus, to a certain extent, provides for pay equity between women and men. However, the Federal Sex Discrimination Act in sec. 40 exempts industrial awards and agreements from the legislation. Accordingly, discriminatory conduct or outcomes which are in direct compliance with an industrial award are immune from the provisions of the Act. This exemption is presently being reviewed by the Human Rights and Equal Opportunity Commission (HREOC).

27. The Industrial Relations Commission is, however, required to have regard for the provisions of the Sex Discrimination Act when making awards. One element of the award restructuring process has been the removal of discriminatory provisions from awards. Indirect discrimination, especially as it affects training and career paths for part-time and casual workers, is a matter of considerable concern, and was raised by the Federal Government in its submis-

sion to the Australian Industrial Relations Commission (AIRC) in the December 1990 National Wage Case.

28. The HREOC is also conducting an inquiry into sex discrimination in over award payments. Its research indicates that for all groups, except clerks, women's average over award payments are much less than those of men, the ratio of women's to men's over award payments by occupation ranging from 30% to 60%. Salespersons and personal service workers, two-thirds of whom are women, receive less than a third of the over award payments of men in the same occupations. In general, women receive only 53% of the over awards of men in comparable occupations.

29. The Inquiry, initiated in March 1991 and guided by an advisory Committee consisting of the Federal Department of Industrial Relations, the Australian Council of Trade Unions, the Confederation of Australian Industry and independent experts, has received submissions from unions, non-government women's organisations and major private sector companies.

30. One of the Federal Government's strategies to achieve equal pay in Australia has been the establishment of the Equal Pay Unit within the Department of Industrial Relations. This Unit, which provides authoritative advice on wages issues for low paid workers and emphasises the appropriate valuation of women's skills in the wage fixing system, has been in operation since March 1991. To date, the Unit's work has included the commissioning of studies examining pay equity barriers for women workers on an industry by industry basis and the preparation of a policy statement on equal pay which was released by the Federal Government in March 1992.

31. The Equal Pay Policy Statement commits the Government to a system of workplace bargaining which is built on existing award frameworks with classifications established on a comparative work value basis, which will ensure that meaningful rates of pay are maintained. In addition, bargains struck at the workplace must not involve a departure from established AIRC standards of hours of work, paid annual leave and long service leave. This will protect employees in weaker bargaining positions, many of whom are women.

32. Workplace agreements are to be negotiated through a single bargaining unit in an enterprise or a discreet section of an enterprise. This should help ensure that the participation of all workers to productivity improvement in the workplace is recognised. The Government is also committed to monitoring workplace agreements as they affect women.

33. The Equal Pay Policy Statement confirmed the Government's support for the award restructuring process, which is removing discriminatory provisions from awards and creating career paths based on skill. The Government also committed itself to support for the Minimum Rates Adjustment process as an important aspect of the Government's pay equity strategy.

34. The Government's equal pay commitments also cover such matters as:

- the extension of award coverage to non-award employees, especially in the service sector;
- the coordination of Federal/State approaches to equity in the application of wage-fixing principles;
- the promotion of job evaluation and performance appraisal schemes which are free from gender bias; and
- support before industrial tribunals for measures to assist workers with family responsibilities.

## Award Restructuring

35. In recent years the industrial environment has been dominated by award restructuring along lines established by the Structural Efficiency Principle of the AIRC. Each industrial award is being overhauled to provide for multiskilling, broadbanding of tasks, appropriate classifications with minimum rates set according to the value of the work, skills related career paths, and removal of discriminatory provisions. The purposes are to provide incentive and scope within the wage fixing system for developing a more highly skilled and flexible labour force to assist in structural adjustment and to provide workers, at all levels and backgrounds, with access to more varied, fulfilling and better paid jobs. Reviews of awards should also embrace a range of other issues, including work organisation and working patterns, working time arrangements, such as more flexible hours to suit child care needs, and payment systems.

36. Labour market reform and award restructuring are seen as important opportunities for improving the position of women in the workforce. They should open up new employment opportunities and new areas of training for working women. The creation of skill-related career paths in industries that have not previously had them presents new opportunities for unskilled workers, particularly women. Historically, women have had less opportunity for formal education, little participation in apprenticeships apart from hairdressing, and less opportunity for on-the-job training than men. Women should benefit from a re-evaluation of skills, expanded opportunities for training, greater access to careers and better work and job design.

37. A wide ranging review of twenty-two Federal nursing awards by the Australian Industrial Relations Commission took over two years and built on a landmark work value decision to bring about the establishment of the nursing industry on a newly defined basis. Entry level training is now available through either a recognised degree or in-house training; and there is a clearly defined career path leading to senior administrative positions in hospitals.

38. Several activities were undertaken in order to ensure that women were in a position to take advantage of the opportunities offered by award restructuring. The South Australian Department of Labour Women's Adviser's Unit published a Discussion Paper entitled *Award Restructuring & Women Workers* in May 1989. The Federal Office of the Status of Women conducted a workshop **Realising the Potential: Women and Award Restructuring**, in July 1989, and workshop papers and a discussion paper were subsequently published.

39. The National Board of Employment, Education and Training and the Women's Employment, Education and Training Advisory Group (WEETAG) are jointly funding a research project to examine the progress of restructuring in selected awards of particular significance for women and to assess the effects of award restructuring on women. WEETAG also commissioned a report *Skill Counts: How to Conduct Gender Bias Free Skills Audits* which was published with a set of leaflets in English and in ten community languages. The Women's Policy Unit of the Office of the Cabinet in Queensland sponsored a conference on **Women, Efficiency and Award Restructuring**, and published the results under the title *Balancing the Gains*.

40. The Structural Efficiency Principle established two measures which were aimed at creating stable and consistent relationships within and between awards. These were the creation of appropriate relativities between categories of workers within the award and at the enterprise level; and the inclusion of properly fixed rates for classifications in awards, related appropriately to one another, with any amounts in excess of these properly fixed minimum rates being expressed as supplementary payments. Women stand to gain from these processes, as much of their work has been under-valued. The 1989 National Wage Case decision introduced an orderly procedure for developing appropriate relativities between classifications throughout awards. This procedure, termed the Minimum Rates Adjustment (MRA), establishes a minimum classification and supplementary payment rate for a metal tradesperson, a building tradesperson and six other key classifications in the metal, stores and transport industries. It allowed for minimum classification rates and supplementary payments for other classifications throughout awards to be set in individual cases in relation to the tradesperson and key classification rates on the basis of relative skill, responsibility and the conditions under which the work is normally performed.

41. The Minimum Rates Adjustment process has the dual function of ensuring the stability of the awards system and its relevance to industry and providing a framework to remove inequities in the wage fixation system, including the traditional undervaluation of work. This has the potential to be of great benefit to women. At January 1992, first instalments of the Minimum Rates Adjustment process had been awarded in approximately 103 federal decisions. The process was complete in 29 awards, and has benefited many low paid workers, including those in the textile, clothing, footwear and child care industries. For example, the Full Bench of the Australian Industrial Relations Commission concluded that a child care worker, with one year's experience, was equivalent to a metal or building tradesperson on the basis of the level of competence and training required. Between January 1990, when wage increases from MRAs began to be awarded, and November 1991, women's award rates of pay increased by 7.6%, whereas men's award rates increased by 6.9%. In March 1992, the Equal Pay Unit published *A Guide to the Minimum Rates Adjustment Process*, intended to assist those industry parties who had not yet commenced the MRA process.

42. To facilitate the recognition of the skill levels in jobs in which women are over-represented, the Federal Government has funded research projects to examine gender bias in the use of skills analyses and audits. Two examples of this research are **Skill Counts**, which provides practical examples of how skills analyses and audits can indirectly discriminate against women and how this discrimination can be avoided; and **From Umm.....to Aha!**, which examines recognition of skills acquired in unpaid home and community work.

43. In October 1991, the Industrial Relations Commission introduced the Enterprise Bargaining Principle, which will encourage the making of industrial agreements at the level of the workplace. Such agreements will be scrutinised by the Commission, which has listed basic conditions which cannot be bargained away. In addition, the Government has introduced legislation which prohibits agreements which disadvantage workers. Even so, many women's organisations have expressed misgivings about the move away from centralised wage fixing, which has served women fairly well. They fear that women, as the lowest ranked, least credentialled and least assertive workers in any enterprise, may see their interests neglected.

## **The Commonwealth Employment Service**

44. The Commonwealth Employment Service (CES) in the Federal Department of Employment, Education and Training exists to place jobseekers in employment and to provide advice and job preparation for disadvantaged job seekers; and to assist industries to fill vacancies and encourage industry to invest in training.

45. The CES has recently established targets for the placement of disadvantaged groups, including sole parents, in work. Women's participation in labour market programs is also being monitored by the CES.

46. The **Action for Women Strategy** is the broad strategy used by the CES to address the special needs of women in the labour market. The Strategy was introduced in 1989 and the effectiveness of the CES in meeting women's employment needs was evaluated during 1991.

47. The network of CES Offices has undergone major restructuring during 1990-91 and now

provides an improved service to its clients. The network consists of Special Service Centres, Job Placement Centres, Youth Access Centres and Industry Service Centres.

48. The Special Service Centres have been established to provide particular assistance to the more disadvantaged clients, including women returning to the workforce. The Centres can offer referral to vocational training and training in job search skills. Women's Contact Officers, located in most Special Service Centres, are actively involved in promoting the interests of female job seekers, both within their own CES Office and with local employers.

49. Women's approvals in the Federal Government's labour market programs has decreased recently from 52% to 42%. This reflects the increased attention which has been directed to the long-term unemployed. Women are a smaller proportion of the long-term unemployed than of the other unemployed. However, it should be noted that women have a higher proportion of successful outcomes from the Government's labour market programs than men. For example, in the 12 months to March 1992, 32% of women who participated in all labour market programs moved to unsubsidised employment, compared to 27% of men.

## **Aboriginals and Torres Strait Islanders**

50. The most reliable and detailed statistics on labour force experience are derived from sample surveys. Since Aboriginal and Torres Strait Islander people are a small proportion of the population, it is difficult to make reliable judgements on the basis of the statistics. The other major source of data is the Census, but the available data relate to 1986.

51. Nonetheless, the available statistics indicate that Aboriginal and Torres Strait Islander people have less recognised employment related skills, have higher rates of unemployment and are concentrated at the lower levels of occupations.

52. According to the 1986 census, 38% of Aboriginal and Torres Strait Islander women were in the paid workforce, compared with 56% for the whole population. For those in the paid workforce, the unemployment rate was 13%, compared with 5.4% for the whole. Labour force

participation was particularly low in the Northern Territory and Western Australia (34% and 33% respectively) and highest in the Australian Capital Territory, Tasmania and Victoria (55%, 48% and 47% respectively). Aboriginal women's participation did not appear to reflect the same life cycle factors as for the total female population; it did not dip during the childbearing years, and it did not decline as dramatically amongst those over 45 years.

53. An important issue for Aboriginal women is the relationship between social security benefits and work. Because Aboriginal men's labour force attachment is lower and unemployment is greater, and because Aboriginal women tend to earn less, workforce disincentives could be even more problematic than for other women.

## **Women of Non-English Speaking Background**

54. Labour force data from the 1980s show that women from non-English speaking backgrounds continue to be concentrated in a narrow range of occupations and industries, in jobs that are, in general, of lower status, lower paid and less pleasant than those of women of English speaking background. For example, only 9.5% of women of non-English background women were working as professionals, compared to 12.4% of Australian-born women. On the other hand, 21.9% of non-English background worked as labourers and in similar occupations, compared to only 11.6% of Australian-born women. A 1987 Labour Market Survey showed that 23.4% of women of non-English background were working in manufacturing industry, as opposed to 8.9% amongst Australian-born females.

55. In broad occupational terms, the employment of women from non-English speaking backgrounds is more like that of men from non-English speaking backgrounds than English speaking background women. Large numbers are employed in manufacturing, particularly in textiles clothing and footwear, and as plant and machine operators and labourers, and they share with English speaking background women a concentration in clerical and sales work. Moreover, non-English speaking background women, particularly those who have recently arrived in Australia, experience comparatively high rates of unemployment. Their workforce participation rates are also lower, and fell by 2% between May 1989 and August 1991.

## Women with Disabilities

56. The 1988 Australian Bureau of Statistics **Disabled and Aged Survey** showed that, in general, the unemployment rate of women with disabilities was higher than men with disabilities, and also that the labour force participation rate of women with disabilities was lower than men with disabilities.

57. The participation of women with disabilities in the Federal Government's labour market programs has decreased, probably because of the concentration on the long term unemployed discussed in para. 49 above.

58. Women with disabilities also have a higher proportion of positive outcomes than men with disabilities (although their outcomes are not as good as women or men without disabilities), which also parallels the experience of women in general.

## ARTICLES 11.2 and 11.3 DISCRIMINATION IN EMPLOYMENT RELATED TO MARRIAGE OR MATERNITY

### Loss of Employment or Benefits due to Maternity

59. Australia continues to maintain its reservation with respect to Convention Article 11(2)(b) on paid maternity leave. Australia has also not ratified *International Labour Organisation (ILO) Convention No 103 on Maternity Protection (Revised) 1952*, which calls for paid maternity leave of at least twelve weeks. ILO Convention No 103 was reviewed by a Federal interdepartmental taskforce in 1992, which recommended that Ministers include the Convention on the list of targets unsuitable for ratification. This was because of a substantial measure of non-compliance in all jurisdictions and potential cost implications. In addition, the Convention assumes a European style social insurance system which is different from the Australian system.

60. ILO Convention No 156, which binds States Parties to promote equal employment opportunity for women, to promote the workforce attachment of workers with family responsibilities

and to introduce measures to minimise the conflicts between family and work responsibilities, took effect on 31 March 1991 (see discussion later in this Article).

61. There has been little change with respect to maternity leave coverage, which is regulated by legislation and industrial awards, since Australia last reported. The current situation is set out below. Entitlements vary greatly, with some women enjoying job security, leave and full income support, while some still do not have access to any benefits. In some areas of the public sector, a period of maternity leave is paid, while leave in the private sector is generally unpaid. Women employed as temporaries, casuals or in some forms of contracting out are generally not eligible for maternity leave.

62. Social security benefits subject to income tests are available to women who are sole parents. Other means tested family support is also available.

## Federal Government

63. Under the *Maternity Leave (Commonwealth Employees) Act 1973* as amended, employees of the Federal Government, apart from members of the Defence Force, are entitled to unpaid maternity leave of up to 52 weeks. This entitlement extends to permanent and temporary employees, and to part-time staff who work at least 24 hours per week on four or more days per week. Women with twelve months' continuous service prior to beginning maternity leave are entitled to twelve weeks maternity leave at full pay.

64. An employee is required to commence leave six weeks before the expected date of confinement and continue on leave for six weeks thereafter, but this can be varied with a medical certificate. Recreation and long service leave credits can be used to cover part of the unpaid leave period. The first twelve weeks of maternity leave count as service for all purposes, as do any further periods of paid leave. Unpaid leave is also available to adoptive parents.

65. Upon return to duty, the employee is entitled to resume her previous position or to be appointed to another as near as possible in status and salary.

## **State/Territory and Local Government**

66. Provisions in State/Territory public sectors vary, but 52 weeks of unpaid leave, without a qualifying period of service, is the usual provision. Fully paid leave of twelve weeks is available in the Victorian, Australian Capital Territory and Northern Territory public services, and nine weeks is available in the New South Wales public service, subject to qualifying periods of twelve months or 40 weeks respectively of continuous employment. The previous requirement within the New South Wales public service to return to work for 62 days has been removed. Maternity leave in State public services in Queensland, Western Australia, South Australia and Tasmania is unpaid.

67. Paid leave also applies in some state teachers' and university awards, and some other state or local government instrumentalities. In general, accrued recreation and long service leave can be used to extend the paid leave period, and in some States and Territories sick leave can also be used.

## **Private Sector**

68. Private sector maternity provision is governed by the Australian Conciliation and Arbitration Commission decision of March 1979, which grants unpaid maternity leave of up to 52 weeks for women with one year of continuous full or part-time service. This provision has now been inserted into all major Federal awards, and a majority of State awards.

69. The leave must include a period of six weeks compulsory leave following the confinement and the employee may be required to take leave from six weeks prior to the expected date of the birth. Both full-time and part-time employees are entitled to maternity leave, but casual and seasonal workers are not.

70. The employee is entitled to return to the position held before the leave or to a position comparable in status and salary, and may not be dismissed because of pregnancy or absence on maternity leave. Written notices of commencement of leave and of intention to return to work are required. A further qualifying period is not required if the employee falls pregnant a second time. Accrued annual or long service

leave may be taken during the maternity leave period provided the total does not exceed 52 weeks.

71. No provisions for antenatal or postnatal care or for nursing breaks were granted in the Commission decision, but an employee can be transferred to safer work, at the rates and conditions of the current job, if this is (a) medically advisable; and (b) deemed by the employer to be practicable. Further test cases have since been won providing for leave in cases of adoption.

72. Following a State test case in 1979, the New South Wales Government legislated to introduce unpaid maternity leave for all working women not covered by Federal awards, subject to the same continuous service requirement of twelve months. Casual workers are not covered by the Act.

73. In the private sector, paid maternity leave is only available to journalists and a small number of organisations with historical links to the public sector. The journalists' awards provide for six weeks paid and up to twelve months unpaid leave, after four years' service, and subject to an undertaking to return to work after the leave for a further twelve months.

74. There has not been any widespread increase in the availability of paid maternity leave in the private sector since Australia last reported. However, there have been some attempts to remove the entitlement, most frequently when a government agency is being corporatised or privatised.

75. In 1989, the Australian Defence Industries (ADI) attempted to abolish paid maternity leave as the organisation was being privatised. Following union and community concern, the Federal Government reaffirmed its commitment to paid maternity leave for all government employees, including new and existing employees of Government Business Enterprises. The Government's stated position is that the process of corporatisation should not lead to a reduction in maternity leave entitlements unless the parties involved agree otherwise.

76. The New South Wales State-owned Government Insurance Office (GIO) abolished paid maternity leave in 1990 for all new employees as part of its corporate plan to compete on equal terms with insurance companies in the private sector.

## **Superannuation and Maternity Leave**

77. The effect of maternity leave on superannuation entitlements varies according to employment. Some employers require women to continue their usual regular payments, others to make their own arrangements for superannuation contribution, others to pay their usual contribution and the employer's contribution, others to suspend superannuation payments and others to postpone superannuation payments for the duration of the maternity leave period. Further, even though maternity leave is not generally regarded as a break in continuous service, it is usually not counted as service for the purpose of seniority for the accrual of sick leave, annual leave, long service leave or other paid leave.

## **Experience of Maternity Leave in Australia**

78. A recent Australian Bureau of Statistics survey found that 66% of women who took their most recent break from employment for the birth of a child resigned from their jobs, and only 25.9% took maternity leave.

79. The most recent detailed information on the experience of maternity leave in Australia is based on a survey, conducted by the Australian Institute of Family Studies in May 1984 and published in 1988, of 2,012 women. While maternity leave is common in the public sector, it is used by a minority in the private sector, where there is a lack of knowledge among private sector employees about maternity leave entitlements. The survey found that in the public sector, 76% of eligible women took maternity leave, compared to only 21% in the private sector.

80. The survey found that 46% of women were in paid employment during their pregnancy. Of these, 44% took maternity leave, 32% were eligible for maternity leave but did not take it, and the remaining 24% employed during pregnancy were ineligible for maternity leave. In the private sector, where a third of the women employed were ineligible for maternity leave, almost half of the eligible employees did not take it. Of these, half had no information about maternity leave, whilst the other half wanted to give up work permanently.

81. Seven factors, in order of importance, determined whether women took maternity leave:

- being employed in the public sector;
- having information about maternity leave;
- staying in the workforce until just before the expected due date of confinement, thus demonstrating attachment to the workforce;
- having work-family values which see work and childrearing as complementary;
- being a member of a trade union;
- having a high level of education; and
- being employed in a large establishment.

82. Many of the characteristics which predispose women to take maternity leave are common in public employment. By contrast, there are proportionally fewer employees with those characteristics in occupations in the private sector.

83. The survey also examined the attitudes of private and public sector employers to maternity leave. For many employers, maternity leave was not seen as a problem, but as a useful means of attracting women workers and retaining skilled workers in a workforce where there is increasing participation of married women and declining numbers of young workers.

84. Others saw it as useful, but only to the worker herself, the main disadvantages identified being uncertainty as to whether or not an employee will return from maternity leave and the need to locate and train a replacement for an uncertain period. These issues were of particular concern to small establishments with highly skilled or technical workers.

85. Lack of adequate maternity leave in Australia continues to leave women vulnerable and to encourage employers to prefer temporary, casual or contract workers who are not provided with such benefits.

86. Currently, a study is being undertaken by the Office of the Status of Women, in consultation with the Australian Council of Trade Unions, on the feasibility of introducing some form of paid maternity leave in Australia. The New South Wales Anti Discrimination Board is currently undertaking an Inquiry into Pregnancy Discrimination. The Board has noted a disturbing increase in complaints from women alleging that they have been discriminated against at work for becoming pregnant.

## Parental Leave

87. Since Australia last reported, a major test case on parental leave has been won. The Australian Council of Trade Unions (ACTU) the organisation which represents the majority of Australian trade unions, embarked on a parental leave claim before the Australian Industrial Relations Commission in July 1989. The presentation of the case was supported by the Human Rights and Equal Opportunity Commission and representatives from each State and Territory Government, and the Federal Government intervened in the claim.

88. The decision, handed down on 26 July 1990, which will eventually replace many of the existing award clauses regarding maternity leave and adoption leave, provides that after twelve months' continuous service, a period of up to 52 weeks unpaid leave will be available to male employees in order to become the primary care giver of the new born child. This leave ceases on the child's first birthday. The total amount of combined maternity and paternity leave available to a family is 52 weeks, paternity leave being reduced by any period of maternity leave taken by the employee's spouse and, except for the week at the time of the birth, shall not be taken concurrently with maternity leave.

89. The total period of leave available to adopting parents is 52 weeks, such leave being available to either parent or both in order to be the primary care giver of the child. This leave may not be taken by both concurrently, except for three weeks which may be taken at the time of placement of a child.

90. The decision also includes provisions for parents to work part-time at the time of the birth or adoption of their child, during pregnancy, and up to the child's second birthday, if the employer agrees. Part-time employment in this context operates independently of any award provisions restricting its performance and may be worked either in conjunction with or independently from maternity, paternity or adoption leave. Employees who have provided twelve months' continuous service prior to commencing such part-time work have the right to return to their former positions.

91. The ACTU has issued a booklet which contains the order (standard award clause) and information for flow on of the decision into other awards and, in cooperation with Department of

Industrial Relations, has prepared a leaflet on parental leave suitable for mass distribution to unions and employees.

92. Although the decision by the Commission in the Federal parental test case was handed down in July 1990, the orders were not finalised until February 1991. At that time, the orders affected only two Federal awards: the Retail and Wholesale Shop Employees Award and the Tanning Industry Award. The provisions have to be incorporated into other awards before they become effective. To date, parental leave provisions have flowed into at least 120 Federal awards.

93. The degree of flow on to State awards varies between States:

- the Victorian and Queensland tribunals have handed down decisions on parental leave following State test cases which are expected to flow into relevant State awards. At the time of writing, a decision was pending from the Tasmanian tribunal;
- In New South Wales, the *Industrial Relations Act 1991* contains provisions broadly based on orders in the decision in the Parental Leave Test Case. However, this legislation will not establish father's rights to unpaid parental leave. Leave for fathers depends upon the employer's consent;
- test cases have not yet proceeded in South Australia and Western Australia.

94. The South Australian United Trades and Labour Council has commissioned a report examining how the Federal parental leave test case can be extended to South Australian awards. In the Northern Territory, the Public Service Commissioner's Office is reviewing its maternity leave provisions for public servants, to include parental leave in line with the Industrial Relations Commission's decision to grant twelve months' parental leave to either parent in parts of the private sector. In Western Australia, the Department of Productivity and Labour is participating in discussions with the Trades and Labour Council on the formulation of a test case in support of parental leave. In Victoria, new discretionary powers which allow the granting of leave for a variety of purposes, including family responsibilities is considered to provide paternity leave for the Victorian Public Service. This will be offered as the standard in other public sector agencies, who will not be com-



pelled to adopt the measures in total, but must, at least, include minimum unpaid paternity leave provisions.

## Superannuation

95. Prior to the mid 1980s, comparatively few women had occupational superannuation. Government policy on retirement incomes since 1989 has emphasised private provision of retirement incomes, partly because of the need to lift the national saving rate and partly because of concerns about the costs of providing improvements in living standards for the large aged population of the future, if these were to be financed solely through public provision. Since 1986, employer superannuation contributions of 3% of wages have been included in an increasing number of industrial awards. There has been, however, significant concern about non-compliance by employers with award superannuation, particularly in female-dominated industries where workers have traditionally lacked industrial power.

96. The superannuation entitlement of women in Australia is significantly affected by life cycle factors. They are less likely than men to be in the paid work force; if employed, are more likely to be in part-time or casual work; and move in and out of the workforce, retire earlier and earn less. Nonetheless, the proportion of full-time female employees with superannuation as an employment benefit has grown from approximately 26% in 1987 to 78.5% in July 1991. (About 85% of male full-time employees have superannuation.)

97. The fact that this rise in coverage is recent and that for many women the total superannuation payment is currently only 3% of wages means that even those women who are now covered will not have a big enough superannuation investment to generate sufficient income for their retirement. They are likely to still be dependent on the age pension for the main part of their income.

98. The factors which have led to fewer women having superannuation will be addressed to a certain extent with the introduction of the Superannuation Guarantee Charge (SGC) which was announced in the 1991 Budget and is intended to apply from 1 July 1992. The Charge will prescribe a level of employer superannuation support for all employees, except those attracting payments of less than \$A450 in a

month. The prescribed level will increase gradually to 12% of wages by the year 2002, comprising 9% employer contributions and 3% employee contributions. There has been opposition to the SGC arrangements. Some women's groups, too, have been sceptical, recognising that women could continue to accumulate only very modest superannuation entitlements because of their labour market disadvantages. The Government has looked to accommodate women's needs in developing the policy: threshold levels have been set low enough to include many part-time workers, and Government funds have been set aside for community education, which will be directed especially to those who change jobs frequently. Nonetheless, it remains true that many women will be dependent on the age pension.

99. The Federal *Sex Discrimination Act 1984* originally exempted superannuation schemes from coverage by the legislation and thus permitted discrimination in superannuation. This was amended by the *Sex Discrimination Act Amendment Act 1991* which replaced the blanket exemption for superannuation with more limited exemptions which will commence on 25 June 1993. The different conditions which remain are for:

- different conditions which are reasonably based on reliable actuarial data;
- indirect discrimination in vesting, preservation and portability of superannuation benefits;
- fund provisions which provide benefits in respect of spouses and children of fund members; and
- more generous benefits available to members of discriminatory schemes which were operating before these amendments.

100. In effect, superannuation funds which do not come within the new exemptions will not be permitted to discriminate on the grounds of sex or marital status. However, those funds which discriminated prior to the amendments, but which offered members the option to pay into a non-discriminatory fund, and which will not discriminate against new members, are permitted to continue.

101. The Amendment Act also amends section 14 of the Act, which concerns discrimination against applicants for employment and em-

employees in relation to the terms and conditions of employment. The amending sections provide that where a person exercises a discretion in relation to the payment of a superannuation benefit it is unlawful to discriminate against the member or another person on the ground of the sex or marital status of the member or of that other person. These provisions also take effect from June 1993 and will cover persons who are no longer contributing to a superannuation fund, but who are receiving or are entitled to receive benefits under the terms and conditions of the fund. They do not apply to funds that will give current members the option to obtain non-discriminatory benefits prior to the date the new legislation comes into force.

102. The Human Rights and Equal Opportunity Commission is preparing guidelines for the implementation of the superannuation provisions, to assist the superannuation industry to comply with the amendments. These guidelines will also seek to encourage women to pursue superannuation coverage.

103. At the time of the passage of the *Sex Discrimination Act Amendment Act 1991*, the Federal Government announced that it would consider amending Federal statutory superannuation schemes before the new provisions of the Act come into effect. The primary change will be to introduce a non-discriminatory definition of spouse for the purpose of reversionary benefits. The proposed amendments are expected to be submitted to the Government for consideration in 1992.

104. The Federal Government has recently introduced a new Public Sector Superannuation Scheme (PSS) which reduces indirect discrimination against women which existed in the previous scheme. The previous scheme was designed for employees with a long and unbroken service history; the new scheme allows tailoring to different work circumstances, the principal improvements being:

- improved vesting of employer contributions and more flexible resignation arrangements, enabling persons with an immediate need for cash on resignation to receive a lump sum of their own contributions and interest while still preserving the employer benefit until retirement from the workforce or age 55, whichever is the later;
- voluntary membership for casual and part-time temporary employees, which was

unavailable under the old scheme and which should particularly benefit women, who constitute the majority of employees in these categories;

- flexible contribution rates, ranging from as low as 2% of gross salary to 10%, with additional employer support available above 5% contributions after ten years' service; and
- flexible retirement benefit: lump sum or pension or a mix of the two.

105. As these improvements have removed significant areas of indirect discrimination that existed under the previous superannuation scheme, the employer contribution in respect of women and men is now comparable. Employer cost for men is now only 0.7% higher than for women (15.7% as opposed to 15.0%), while the previous differential was 4.4% (24.4% as opposed to 20.4%). This remaining differential is due solely to the higher average death rate for men.

106. As the PSS is a new scheme, there are no reliable figures available to indicate transfer rates. Those that do exist, based on 65% of elections, suggest that 50% of women members of the 'old' scheme have elected to transfer to the new scheme as opposed to 30% of men. This trend is more marked in younger women, with approximately 70% of women under 30 years transferring, again with a 20% differential over men of the same age. No data is yet available on the take up rate of the PSS by casual or temporary employees.

107. The treatment of superannuation in Family Law is the subject of current discussion, in particular in a discussion paper issued by the Attorney-General's Department for comment by 30 June 1992. This issue is discussed under Article 16.

## Insurance

108. Allied to the question of discrimination in superannuation and pensions is the issue of discrimination in the context of insurance, which is, at present, exempt from the operation of the Federal Sex Discrimination Act.

109. The Human Rights and Equal Opportunity Commission tabled its report, *Insurance and the Sex Discrimination Act 1984*, in Parliament on 20 September 1990. The Report makes the following recommendations:

- that the exemption given to insurance in the Act be retained but changed so as to provide for greater accountability on the part of life insurance companies;
- that insurers no longer be able to take into account other unspecified factors in setting differential conditions, so that insurance companies will be required to supply actuarial statistics to support the premiums that they are quoting, consequently giving the Commission a new power to grant exemptions and partial exemptions;
- that the lead regulator role of the Insurance and Superannuation Commission be used so that when negotiations for the purchase of insurance by an individual are commenced and the rates or benefits vary by sex in a way that is not unlawful, the person should be notified that this is the case and that a provision be inserted in the Act to give the person a right to access to the actuarial and statistical basis which justifies the difference. This recommendation aims to place greater onus on the insurer to justify sex differentiated insurance rates;
- that the complaints review procedures developed by the Life Insurance Federation of Australia, in conjunction with the Insurance and Superannuation Commissioner be available to people who question the data supplied to them, so that premiums can be reviewed and evaluated;
- that a mechanism be put in place to ensure that the Institute of Actuaries provide information to the Complaints Review Committee, when requested, regarding the relevance and validity of mortality and morbidity data differentiated by gender; and
- that a mechanism be put in place to ensure that the Life Insurance Federation of Australia, on advice from the Institute of Actuaries of Australia, address communication problems between insurers and the public in cases where statistics are found to be reasonable and valid and to encourage insurers to promote such communication themselves.

110. The Government will be amending the Sex Discrimination Act pursuant to these recommendations to provide for a right of access by insurance clients to actuarial and statistical data used to support differential premiums and

to prevent insurers taking into account any other specified factors in setting such premiums.

## **Protective Legislation**

111. Historically, Australian State and Territory legislation and Federal and State awards restricted for safety reasons the nature of work that women and young people were permitted to perform. However, most of these protective restrictions have now been removed. Traditional prescriptive safety regulations have been replaced by State or Territory Occupational Health and Safety legislation facilitating employers and employees to accept responsibility for workplace occupational health and safety.

112. The National Occupational Health and Safety Commission endorsed a non-discriminatory **National Code of Practice on Manual Handling** in December 1989. Rather than specify maximum weight limits, a principal feature of the Code is the provision for a method of risk assessment to be applied to manual handling tasks.

113. Women are currently prevented from working in the lead industry in all States except Western Australia and Victoria. The National Occupational Health and Safety Commission has developed a draft **National Standard and Code of Practice for the Safe Use and Control of Lead**. A key consideration has been the attempt to reconcile the objectives of occupational health and safety and equal employment opportunity in a way that is both economically and socially viable. However, the draft standard will not be finalised immediately, as it is now the subject of litigation (see discussion under Article 4.2).

114. In 1990, the National Commission released a National Approach to Occupational Health and Safety for Women Workers. The National Approach includes both a method of targeting industries for attention and a number of demonstration projects to illustrate the mechanisms for intervention and targeting areas in which women are over-represented in the workplace or injury statistics. Demonstration projects are: Manual handling in the Retail industry, Textile, Clothing and Footwear Industry project, Farm Safety for Women on Farms, and development of an Australian Anthropometric Data Set.

115. The Victorian Occupational Health and Safety Commission is advised by a Women's Health Advisory Committee, whose role is to

ensure that the needs of women workers are considered during the standards development process and that standards are not discriminatory.

116. A number of State and Territory Occupational Health and Safety Commissions have published information targeted at women. For example, in 1988, the Victorian Commission published an information guide on workplace hazards for women in a number of community languages.

117. Australia denounced *ILO Convention 45 (Employment of Women in Underground Mines of All Kinds)* on 20 May 1988. Accordingly, there is no remaining legislation prohibiting women working in underground mines.

## The Armed Services

118. Australia continues to maintain its reservation contained in its instrument of ratification of the Convention which advises that the Federal Government does not accept the application of the Convention in so far as it would require alteration of Defence Force policy which excludes women from combat and combat-related duties or the employment of women in combat and combat-related duties. The Australian Defence Force (ADF) is a major employer.

119. An inter-departmental committee representing the Departments of Defence, Prime Minister and Cabinet and Attorney-General's, reported to Government in August 1986 on progress made in implementing new employment policies for the ADF. This followed the passage through Federal Parliament of the Sex Discrimination Act in 1984. As this committee was meeting, a major review of all ADF positions was conducted by the three Services in late 1986. The review raised the number of positions open to women on the basis of merit by some 35% of total strength.

120. Section 43 of the Sex Discrimination Act provides that it is not unlawful for a person to discriminate against a woman on the grounds of her sex in connection with employment, engagement in or appointment to the Defence Force in a position involving the performance of combat or combat-related duties, or in prescribed circumstances in relation to those duties. Section 43 also provides that combat and combat-related duties are such as are declared by Regulations made under the Act.

121. The Regulations prescribe the following definitions of combat-related duties as:

- ... duties requiring a person to commit, or to participate directly in the commission of, an act of violence against an adversary in time of war; or
- ... duties (other than combat duties) requiring a person to work in support of, and in close proximity to, a person performing combat duties, being work performed in circumstances in which the person performing the work may be killed or injured by an act of violence committed by an adversary.

122. Under these Regulations, 'time of war' has the same meaning as in the *Defence Act (1903)*, namely 'any time during which a state of war actually exists, and includes the time between the issue of a proclamation of the existence of war or of danger thereof and the issue of a proclamation declaring that the war or danger thereof, declared in the prior proclamation, no longer exists'. However, as it is possible that service personnel could be involved in combat in the absence of a declared state of war, such as during foreign peacekeeping activities, the demarcation of such duties should not be strictly limited to 'time of war'.

123. In 1989, the Chiefs of Staff Committee (COSC) initiated a study into the implications of not applying the combat-related exemption to the employment of women in the ADF. As a result of that review, and on COSC recommendation, the Minister for Defence Science and Personnel announced, on 30 May 1990, that ADF women would serve in combat-related positions. Conditions of the new policy are:

- women entering combat-related positions and employment must meet the professional and physical requirements of those positions;
- should a conflict develop, women will not be withdrawn from these positions before their units are committed to operations but will continue to perform the duties for which they have been trained.

124. The COSC further determined that the new arrangements should be implemented progressively and in an orderly fashion, that progress in implementing the new arrangements be reviewed

in June of 1991 and 1992, and in light of the progress achieved, the viability of the policy itself be reviewed in June 1993.

125. The new policy reflected the continuing effort of COSC over a number of years to provide ADF women with quality career opportunities in a much broadened employment environment. Other general factors that had been taken into consideration during the policy review included community expectations in relation to equal employment opportunities, the need to attract talented women to a long-term career in the ADF and the views of servicewomen on their career prospects and employment preferences.

126. The first progress report was considered by the COSC on 26 June 1991 where it was agreed that the implementation of the policy was progressing well and no major impediments to further progress had been identified. The Services reported as follows:

- the Chief of Naval Staff said that the integration of women into naval combat-related positions was progressing well, but noted that Navy might fall short of its target of employing 500 women at sea by 1996, as a result of the impact of the **Force Structure Review**, including the consequential reduction in recruiting. Navy was happy with the performance of women in combat-related positions, and particularly with the performance of the seven women who had serviced on HMAS WESTRALIA while it had been on station in the Persian Gulf. The concept of mixed gender awareness training being developed by Army would be applied in relevant Navy courses;
  - the Deputy Chief of the General Staff was pleased with the progress being made by Army, but noted that many women were reluctant to volunteer for combat-related employment. An Army survey attributed this hesitation to women's perception that they were not trained/qualified for these positions. Army was mindful of the need to give servicewomen pre-employment training to enable their achievement of a level of competence at least equal to that of their male colleagues. Other initiatives, such as mixed gender awareness training, were being developed. As a result of a review of medical standards, the physical strength requirements for certain positions would be further defined to establish whether they were appropriate or necessary;
  - the Acting Chief of Air Staff said that Air Force had previously opened most positions to women, and the decision to open combat-related positions had not therefore required appreciably more change. There had been no applications for the mustering of Flight Engineer and Loadmaster, as a result of the recent policy change. Air Force would consult with Army regarding mixed gender awareness training.
127. The effect of the new policy on the number of positions open to women in the three Services is as follows:
- in Navy, women will now be able to serve in all ships except submarines, thus opening 14 900 out of 15 800 positions, or 94% of the Service. Subject to available resources for modification of ships' accommodation during refits, Navy plans to have 500 women at sea by 1996;
  - while Army anticipates women will become eligible for 61% of all positions, their Combat-Related Employment of Women Evaluation Team (CREWET) is currently examining every position in the Army to determine which can be opened to women. They anticipate this task may take until 1993 to finalise;
  - in Air Force, all positions except those involving combat aircraft with offensive capabilities (F/A-18, F-111 and P-3C) and the airfield defence guard category/mustering, are open to women who can now compete for 20 737 out of 22 162 positions, or 94% of the Service.
128. On 4 June 1992, the Minister for Defence Science and Personnel directed the Chief of the Defence Force (CDF) to commence immediately a review of the ADF policy on the employment of women in combat and combat-related duties. Consequently, the planned progress review of women in combat-related positions due for COSC consideration in June 1992 was cancelled.
129. The Assistant Chief of Defence Force (Personnel) will coordinate the review and submit a report to CDF by 31 October 1992. This change to the policy review program was prompted, in part, by the report of the inquiry into the equal opportunity and equal status for women in Australia by the House of Representatives Standing Committee on Legal and Constitutional Affairs. The report, entitled *Half Way to Equal*, recommended that:

Section 43 (of the *Sex Discrimination Act (1984)*) be amended to include a specific time period not exceeding two years to allow the removal of prohibitive and discriminatory provisions from Defence Force legislative requirements and administrative procedures. (Recommendation 71 & para. 102, pp. LI-LII.)

130. The current review includes an identification of all combat and combat-related positions by category and mustering, and an indication of whether a need exists for the combat and combat-related exemptions granted under the Sex Discrimination Act to be retained by each Service. The new policy may have a bearing on the continuation of Australia's reservation under the Convention.

## Workers with Family Responsibilities

131. The Federal Government is considering a wide range of measures to assist workers with family responsibilities. An important step in developing such measures is the assessment of the distribution of unpaid work within families. In 1987 the Australian Bureau of Statistics conducted a *Pilot Survey of Time Use*, sampling 1 000 Sydney households, which provided detailed information on the activities that occupy people outside the paid workforce. The results of this survey were analysed in the report, *Juggling Time: How Australian Families Use Time* which was published by the Federal Office of the Status of Women in 1991. The report indicated that women do 70% of all unpaid work, with improved technology making little difference to the time they spend on housework. Since 1974 women, on average, have lost one hour of their leisure time per week. Compared with a woman living alone, a married woman has increased her unpaid work by almost 60% and has doubled the time spent on food preparation and cleaning up, while her husband has reduced his time on these activities by 25%. The survey showed that no matter how many hours of paid work a wife does, her husband's contribution remains relatively constant; husbands do around eighteen and a half hour's work, regardless of whether their wives are in paid employment or not. A further survey on time use will be undertaken by the Australian Bureau of Statistics in 1992.

132. Allied with this work has been research into measuring the value of unpaid household work. In 1990, the Australian Bureau of Statis-

tics released an information paper, *Measuring Unpaid Household Work: issues and experimental estimates*. The paper contains four main sets of estimates of the value of unpaid household work and volunteer work, each based on different assumptions concerning the wage rates that should be used to value the work, with male and female contributions shown separately. It discusses the issue of including unpaid work in the National Accounts and supports, in line with the United Nations review of the System of National Accounts, the development of specialised satellite accounts. (These are accounting statements separate from, but consistent with, the domestic production account and other existing accounts, which provide supplementary information to be used in conjunction with the existing accounts). This publication has been an important stimulus for informed discussion about household work.

133. In March 1990, the Federal Government announced that it would ratify on 31 March 1991 International Labour Organisation Convention No 156 (ILO 156), the object of which is to enable workers with family responsibilities to be employed, or those who wish to be employed to do so, without discrimination, and as far as possible, without conflict between their employment and family responsibilities. This announcement coincided with a one day conference, conducted by the National Women's Consultative Council, to promote public awareness of the Convention. Response to the conference encouraged the Council to prepare a handbook on the Convention and its relevance for women workers, *International Labour Organisation Convention 156 Workers with Family Responsibilities*, for the use of women in the community.

134. Early steps to implement the Convention involved the establishment of a community education program within the Federal Office of the Status of Women, and a Work and Family Unit in the Department of Industrial Relations which is the coordinating point within Government and also liaises directly with employers and unions. In March 1991, the Federal Government agreed that the Department of Industrial Relations would be responsible for the development and coordination of a national strategy for the implementation of the Convention across Federal policies and programs. It is expected that the Minister for Industrial Relations will publicly announce the strategy later in 1992.

135. In addition to its primary responsibility for the development of an implementation strategy, the Work and Family Unit has specific responsibilities for the provision of policy advice on and identifying and promoting the interests of workers with family responsibilities in industrial relations programs and policies and through them, to the broader community.

136. The Unit also conducts and sponsors research into a range of flexible working arrangements, such as permanent part-time work, flexible working hours, home-based work and job sharing. The outcomes of this research will be published in discussion and information papers and as practical guides which will assist employers and others to implement family friendly work practices in the work place. A *Guide to Work and Family* providing a general reference text on the issue in Australia is also being prepared.

137. The Unit has also devoted its time to encouraging media attention to promote work and family issues including the provision of background information and interviews with the press. The Department, through the Work and Family Unit, is the co-sponsor of the 1992 AFR Work and Family Awards with the Australian Financial Review (AFR) and the Business Council of Australia. The Awards aim to give public recognition to significant achievement by business in the development and implementation of work and family policies and practices.

138. Funds have also been approved by the Minister for grants to be made to business for the implementation of specific work and family projects. These will be announced in the next financial year.

139. The Unit is responsible for consulting with State and Territory governments on matters affecting workers with family responsibilities through its representation on established bodies. It also participates in initiatives being conducted at the Federal level, for example, the National Reference Group which oversees the operations of Work and Child Care Advisory Services established by the Department of Health, Housing and Community Services, and the Interdepartmental Committee on the International Year of the Family.

140. The community education program, developed by the Office of the Status of Women, seeks to raise community awareness and stimulate discussion of the issues associated with

combining paid work and family responsibilities, and to achieve, in the longer term, a reduction of women's inequitable share (double load) of paid and unpaid work. Women are having to juggle household and family demands with involvement in paid work structures designed to fit male employment patterns, and the role of men in the family has not kept pace with the change in the role of women.

141. The two main elements of the Program, called **Working Families**, are the development and distribution of core resources addressing work and family issues which may be used in a variety of contexts and the enlisting of advocates for the Program. These advocates are people with an interest in or working in the field who can take up such issues in the course of their work and stimulate discussion and awareness throughout the community.

142. The initial work of the **Working Families Program** was the preparation of three publications to focus attention on work and family issues. *Juggling Time: How Australian Families Use Time* and *Selected Findings from Juggling Time*, published in May 1991, present the results of a secondary analysis of the 1987 Australian Bureau of Statistics Time Use Survey. *Sharing the Load*, the proceedings of the conference held by the National Women's Consultative Council in 1990, contains papers which examine the problems faced by workers with family responsibilities from various perspectives, from unions, employers and researchers.

143. In April 1992, the **Working Families Program** was officially launched with the release of the central Issues Kit, a core educational resource for those working with families. It sets out the case for change for workers with family responsibilities in a booklet using the latest research findings, statistics and graphic material. The Kit also contains speakers' notes, media briefing material and a poster frieze.

144. Launched at the same time was the Program's catalyst video *Another Tuesday Night*, produced by Film Australia. The video is about one family learning to resolve conflict around the issue of sharing the load. It is distributed with a booklet containing background information, discussion starters and activities for use by group facilitators.

145. Still in progress is the development of a Family Information Project, which will consist of curriculum materials addressing work and family



issues for use by parent educators in a variety of contexts, including antenatal education classes. A take-home resource for families is also being produced to raise awareness of the issues within the home setting.

146. The **Working Families Program** materials have attracted wide community interest across Australia from industry, government, educational institutions, health workers, family therapists, the media and individuals. The Program has also generated interest and media coverage internationally because of its focus on addressing the inequitable double load of women.

147. The Program has also been endorsed to carry the logo of the 1994 International Year of the Family.

148. The HREOC has been approached on a number of occasions by women complaining of discrimination in employment on the grounds of family responsibilities. This is frequently an issue for women with young children, where they are refused employment, promotion or training opportunities because their employer or potential employer is of the view that they will be unable to undertake the work because of their parental responsibilities. The Federal Sex Discrimination Act does not specifically mention parental responsibilities as a ground of unlawful discrimination. The National Strategy being developed for the implementation of the Convention is likely to recommend legislative reform in this area. As discussed under Articles 1-3, some of the States have included parenthood in the definition of discrimination.

## Child Care

149. Workforce participation of women with children under the age of four has increased dramatically from 25% in 1972, when the Federal Government first provided some child care, to 45% in 1991. Maternal workforce participation rates increase as children get older, so that for women with children 5-12 years, workforce participation was as high as 61% in 1991.

150. Provision of child care makes a significant contribution to equity in the labour market, supporting workers with family responsibilities, assisting sole parents making the transition from social security benefits to the workforce and assisting job entry and re-entry by second parents in low and middle income families.

151. Federal Government child care policies aim to improve the supply of child care services and to ensure that child care is affordable for low and middle income families. In 1990-91 it was estimated that 0.30% of GDP and 0.37% of the Federal budget was spent on children's services. The number of community sponsored child care places has increased from 46 000 in 1983 to 134 000 in December 1991.

152. In 1987 there were currently some 1.3 million children below school age and 1.9 million school age children in Australia. Of these, approximately 32% of all children below school age were in formal care and 30% were in informal care (*ABS Child Care Arrangements Survey 1987*).

153. As at December 1991, community and commercial long day care centres accounted for around 146 200 children, with some 67 400 attending community centres and 78 800 attending commercial centres and employer provided day care centres (this figure includes TAFEs, universities and hospitals). A further 65 200 children used **Family Day Care Schemes**. An estimated 19 800 children attended Federal funded occasional care centres and some 205 000 children attended preschool sessions or State Government funded occasional care. A further 50 300 children attended **Outside School Hours Care** programs.

154. The extent of State Government provision of pre-school sessions is variable. In some States pre-schools are a part of the wider educational system and children are guaranteed access to a set number of sessions in the year before school. In other States community-based and often parent-run centres are funded by the State to provide pre-school sessions. Here access is not guaranteed in the year before school as demand exceeds supply.

155. The Federal Government's **Children's Services Program** makes provision for children from 0-12 with special needs, including those of non-English speaking background, Aboriginal and Torres Strait Islander children and children with disabilities. The aim is to ensure that these groups have access to children's services that are developmentally and culturally appropriate and are flexible in meeting the communities they serve. Types of services provided include toy libraries, playgroups, Outside School Hours Care, Vacation Care, Children's Services Workers and resource and advisory services. Further, Supplementary Services Grants are available to



assist children's services to provide care for children with special needs. These grants are aimed specifically at improving the access and integration of children in these groups to community, commercial and employer sponsored mainstream services. The grants can be for salaries and associated costs of a worker, training for staff, equipment and minor capital improvements.

156. There is some provision for outside school hours care for 5-12 year olds, and older children are catered for by the **Youth Activities Services (YAS) Program**, which provides supervised activities after school and during vacation for young people between the age of 11 and 16, usually on a no fee basis. The YAS Program which is usually run by local community groups, sporting bodies and youth clubs, receives funding from the Federal Government and is located in both urban and rural socio-economically disadvantaged areas. The Program is available to all youth, including those from different cultural and ethnic backgrounds and those with disabilities. Homeless young people are not excluded.

157. The Federal Government's strong preference is to provide direct assistance to low and middle income families with children which targets those most in need, rather than through tax deductions or rebates for child care. Tax deductions or rebates are inequitable as they provide greatest benefits to families on high incomes and do not benefit primary carers not in the paid workforce who may need occasional care. Further, these would not directly increase the number of affordable child care places.

158. Fee relief provides assistance to low and middle income families depending on the gross family income and number of dependent children. Income related fee relief rates vary across service types.

159. In long day care and Family Day Care, the amount of fee relief payable by the Government is reduced according to a sliding scale for every \$A1 that the assessed weekly family income is over \$A429. These taper rates as of 1 April 1992 are:

- 1 child in care                      \$A0.129
- 2 children in care                  \$A0.211

160. All families eligible for fee relief are required to pay a minimum weekly fee of 15.05% of the fee for one child in care, and 8.5% of the fee for two children in care. A ceiling of \$A2.06 per hour or

\$A103 per week for 50 hours of care has been set as the fee against which fee relief will be paid. Parents with gross annual incomes below \$A23 868 receive the maximum benefit. Fee relief eligibility cuts out when the family's gross annual income is \$A59 124 for one child in care, and \$A71 864 for two children in care.

161. In Family Day Care, a loading is payable for extended hours, weekend and part-time care.

162. Fee relief in occasional care is available to families in receipt of Family Allowance Supplement (FAS), and those who hold concession cards such as Pensioner Health Benefit Card, Social Security Pensioner/Beneficiary Card, Health Benefit Card, or Health Card.

163. Eligibility for FAS is the basis for families to receive fee relief in outside school hours care. Full fee relief (\$A0.66 cents per hour per child) is available for families in receipt of maximum FAS, or a Department of Social Security (DSS) benefit/pension which, when combined with any other income, is equal to the maximum FAS gross income levels.

164. Partial fee relief (\$A0.34 per hour per child) is available for families in receipt of partial FAS or DSS pension which, when combined with any other income, equates to the same partial FAS gross income levels.

165. The Federal Government also pays operational subsidies to community based long day care centres, family day care schemes, outside school hours care and occasional care services. When introduced in 1972, it was paid as a salary subsidy to non-profit centres to enable the employment of qualified staff to ensure affordable quality care. It was converted to a per place subsidy in 1986 to improve targeting of assistance. Operational subsidies are not available to private centres. Operational subsidies are also paid to **Family Day Care Schemes** to ensure good quality care is provided. They are paid directly to each scheme's central co-ordinating unit which has responsibility for recruiting carers, providing carers with information, placing children according to family need, monitoring the care provided, providing equipment and for general administration.

166. The rates of Operational Subsidies (as of January 1992) are as follows:

## Community Based Long Day Care Centres

- children under three years of age  
\$A21.00 per week
- children three years of age and over  
\$A14.10 per week

167. These rates apply for centres open to up to ten hours per day. Additional subsidies are paid on a pro rata basis for centres open between ten and twelve hours per day. For centres which operate for more than twelve hours a day, a 100% loading is payable for each place utilised.

## Family Day Care Schemes

- Equivalent Full-Time (EFT) Subsidy
- \$A16.15 per week  
(based on 35 hour of care per week)
- Part-Time allowance
- \$A4.60 per week

168. The loading is paid for part-time children in recognition of the additional costs involved in finding care for this group and providing supervision of their care.

## Outside School Hours Care

- 53 cents per hour for each approved place up to 30 places; and
- 46 cents per hour for each approved place in excess of 30 places.

## Occasional Care

- \$A19.60 per approved place per week. (This figure also applies to Multifunctional Centres and Multifunctional Aboriginal Children's Services.)

169. Government support for child care is aimed primarily to assist families with dependent children to participate in the workforce. In long day care, 79% of usage in centres and 92% in family day care is for work related purposes. In outside school hours care, 93% of usage is for work related care. It is estimated that for those parents seeking formal work related care, existing places are sufficient to meet 60% of formal care for below school age children, and 44% of formal care for school age children. It is estimated further, taking into account projected labour force trends, based on the average increase over the last five years and a constant level of satisfaction with informal care arrange-

ments, that by 1996, 66% of demand for formal long day care and 62% of demand for outside school hours care will be met.

170. Priority of access to child care services is granted to all parents who are in the workforce, seeking employment or studying/training for future employment. Further, within these categories, sole parents are considered a priority within the first priority. The 1991 Census of Child Care Services reported that 23% of all children in the census were from sole parent families.

171. Sole parents who are participating in the **Jobs, Employment and Training Program**, described earlier, are assisted with child care. If a JET client is unable to locate a permanent child care place, a temporary place, extending for the length of the client's course, a four week job search period and the first sixteen weeks of employment is arranged.

172. The needs of Aboriginal and Torres Strait Islander communities for child care are met by culturally appropriate services provided by the **Multifunctional Aboriginal Children's Services (MACS)**. The Federal Government has established twenty-nine MACS. These services offer care for both pre-schools and school aged children providing centre-based day care, play-groups and enrichment programs, outside school hours care and vacation care programs.

173. The **Adult Migrant English Program (AMEP)**, provides a range of English language services to migrants. In 1990 the proportion of women participating in the program was approximately 55%. A comprehensive review of child care for participants in the AMEP is examining ways of increasing the availability, flexibility and diversity of child care arrangements. This should further facilitate the participation of parents, particularly women, in the program.

174. As the goal for the **Children's Services Program** is to assist families with dependent children to participate in the workforce and the general community, the continued supply of places is critical. In particular, the demand for places for children under two far outstrips the supply. The following strategies have been adopted for 1991-92 to increase supply:

- implementing the Government's commitment to increase the number of community based child care places through the 1988

**National Child Care Strategy and the 1990 expansion of the Strategy;**

- implementing the three year program to extend outside school hours care to 11-16 year olds living in disadvantaged areas; and
- encouraging and supporting employer participation in the provision of child care by establishing Work and Child Care Units in three States to provide direct support to employers to develop work and child care policies and establish child care services for employees.

175. The Federal Government will encourage the provision of quality outcomes for children including those with special needs, by the adoption of the following strategies:

- a new industry based Interim National Accreditation Council which has been established to develop and administer an accreditation system;
- in cooperation with the States and Territories, developing nationally consistent standards for licensing child care throughout Australia; and
- extending Supplementary Services grants to children with special needs using approved commercial services.

176. Further, in order to better coordinate the full range of services available for families with children, Family Resource Centres are being established in disadvantaged locations in a number of States.

177. An increasing number of Federal Government departments have adopted child care policies to assist their employees with their work and family commitments. For example, the Department of Defence allocated \$A1 million in 1991-92 for child care facilities and provided funding for the initial operational costs of these centres. Upgrading, renovation and construction of facilities will provide 300 work related child care places throughout Australia. Other public sector employers who provide a child care program for their employees include the Overseas Telecommunication Commission, the Commonwealth Scientific and Industrial Research Organisation, the Australian Taxation Office and the Australian Broadcasting Commission.

178. Child care is available in the private sector and there are indications that this may increase as industry begins to make the connection between increased productivity, workplace reform and family needs. In August 1989, the Prime Minister launched *Child Care in the Workplace*, a study by the Office of the Status of Women drawing on the advice of the Business Council of Australia, the Confederation of Australian Industry, the Australian Council of Trade Unions and Government departments. A revised and updated version of this document is expected to be available in mid 1992.

179. A 1991 Australia wide survey of firms with more than 200 employees, entitled *Corporate Child Care: Management's View*, indicated that 45% of firms supported the concept of work based child care, although only 1% had child care schemes. The report did reveal that many companies did offer flexible work practices which took into account child care needs. These included permanent part-time or casual work options, rostered days off, flexible working hours, job share or job split, working at home and financial assistance for child care.

180. As corporate interest in child care has grown a variety of initiatives have been developed to address employees' child care needs. These include company operated centres, child care advisory and referral services, vacation care programs and the reservation of places in community-based and commercial centres.

181. To encourage employers to provide child care services, the Federal Government has provided a number of tax concessions. These concessions enable employers to claim most operating costs as deductions against assessable income, and to depreciate some capital items incurred in providing child care. Fringe Benefits Tax (FBT) exemptions are available to employers for the provision of child care to children of employees in a child care facility located on the employer's business premises (as defined in the *Fringe Benefits Tax Assessment Act 1986*). These FBT exemptions are also available to employers securing Priority of Access to child care places in an eligible child care centre provided all conditions of the Employer Contribution Guidelines are satisfied.

182. The Federal Department of Health, Housing and Community Services has produced a range of information material on employer provided child care. This includes a video on employer sponsored child care, *On To a Winner*; an

information kit *Child Care for the 1990's: Meeting the Need Together*; and in conjunction with the Australian Taxation Office, a booklet *Tax Concessions for Employer Sponsored Child Care*. The Department has also produced a booklet to illustrate the range of employer sponsored child care services currently offered by Australian employers (*Kids and Corporations: National Case Studies of Employer Sponsored Child Care*); and a booklet outlining the options available in employer sponsored child care services and the factors which determine the service that best meets the need of both employer and employee (*Employer Sponsored Child Care: Making the Best Choice*).

183. Another major issue for parents in the workforce is the care of children who are sick. A study undertaken by the Australian Institute of Family Studies of 591 mothers who had been in the paid workforce at some time between the birth of a child and when that child started school indicated that in the event of the child falling sick, 57% of mothers took time off to care for their child, while in only 7% of cases was the father the carer. Relatives, mostly grandmothers, usually cared for sick children in 17% of cases, while 15% of children, mostly in informal care, remained in their normal child care arrangements.

184. The Federal Department of Industrial Relations has commissioned a study to evaluate patterns of and requirements for leave to care for sick family members and to obtain information on what workplace measures operate to assist workers meet these responsibilities. A final report is expected from this study in August 1992.

185. School holidays also present difficulties for working parents. In Australia, school holidays extend over twelve weeks, while annual leave usually amounts to four weeks only. This can be managed in various ways: one parent working full-time; both parents using their acquired recreation leave; using holiday programs where available; turning to family or friends or leaving children to their own devices. Some women opt out of permanent employment into the casual labour market so that they can care for their children outside of regular school hours and during school holidays.

## Sexual Harassment

186. Sexual harassment is a serious and widespread problem affecting many women in the Australian workplace.

187. No occupational areas or levels appear to be immune from sexual harassment, although the distribution of complaints differs significantly from other types of sex discrimination, with a significantly high proportion from the entertainment, food and beverage and retail industries. The Human Rights and Equal Opportunity Commission (HREOC) has found that women subject to sexual harassment are most often in the following categories:

- school leavers in unregulated employment areas, particularly small retail shops;
- women in roles where their sexual attractiveness has been a factor in their selection, for example, secretaries, receptionists, waitresses, bar attendants;
- migrant women in blue collar areas, for example, cleaning and food processing, which are typically areas where jobs are hard to get and the employee cannot afford to lose work;
- women without a male 'protector' - separated, divorced or single;
- women whose cultural background makes them particularly vulnerable to sexual intimidation and threats of disclosure to their husbands;
- women employed in small businesses; and
- women working in male dominated work areas.

188. All anti-discrimination statutes in Australia, either directly or in effect, outlaw sexual harassment. The legislation also provides for vicarious liability. Thus, an employer is liable for an unlawful act of sexual harassment by an employee or agent, unless the employer took all reasonable steps to prevent the unlawful act.

189. The Australian Council of Trade Unions (ACTU) and some individual unions have formulated policies to deal with sexual harassment. For example, the Federated Clerk's Union launched a campaign, **Sexual Harassment - Men's Business** in September 1991, to encourage men to stop other men sexually harassing women at work. The ACTU has also developed policies on preventing sexual harassment for its affiliates. In 1989, the ACTU issued a model clause on sexual harassment which can be included in award provisions or associated agreements.

190. Various Australian bureaucracies, including local government, have taken active steps to prevent sexual harassment and to provide remedies for victims. Further, many individual corporations and tertiary institutions have set up their own procedures and sponsored training programs for staff who have to deal with complaints. Some affirmative action programs have also included skills development for female employees in how to counter unwanted sexual behaviour.

191. Research conducted in 1989-90 revealed that young women are particularly vulnerable to sexual harassment in the workplace because of their age, inexperience and limited knowledge of their rights and remedies.

192. In order to raise public awareness of sexual harassment where such women are concerned, HREOC conducted a major campaign in 1990, entitled **SHOUT (Sexual Harassment is Out)**. The campaign, consisted of advertising by way of posters, magazines and radio, and included a toll free telephone line for women who wished to obtain or provide information about harassment. **SHOUT** was aimed at younger women in vulnerable occupations, such as catering and the office sector. During its design and delivery, young Aboriginal and non-English speaking background women were consulted to ensure that their views were incorporated into the campaign.

193. Eight hundred and fifty-four calls were answered during the campaign, with an almost equal number from individuals and organisations. Of the individual callers, 35% said they had experienced some form of sexual harassment, most often in the workplace. Seventeen per cent of all callers were advised to lodge a complaint with the Commission.

194. The market research which was conducted before and after the campaign highlighted its success in raising young women's awareness of the issue. Significantly, the research indicated that the campaign encouraged women to report sexual harassment rather than tolerate it, while the campaign slogan was one of the most frequently recalled messages from the campaign.

195. The success of the campaign is indicated by the fact that the number of complaints in 1990-91 concerning sexual harassment in employment increased by 109% over the previous year, and represented the largest proportion of complaints which were lodged under the Federal *Sex Discrimination Act 1984* for the period concerned.

196. Materials produced for the campaign have been in constant demand. For example, 270 000 copies of the **SHOUT Kit**, an eight page booklet directed at young women, which describes sexual harassment, ways of dealing with it and where to go for help, were produced for the campaign and demand has meant that a further 60 000 kits have been reprinted. Although for young women, the kit has proved versatile in meeting the needs of women of all ages. Further, large organisations have requested bulk orders of the kit for distribution amongst their employees.

197. Currently, with the support of key industry and union bodies, the Commission is developing a training package for managers about sexual harassment. Emphasis will be placed on developing strategies which will assist managers in dealing with sexual harassment in the workplace. Other training resources include a New South Wales Program, entitled **Surviving Sex Based Harassment - A Mutual Group Help Manual for Working Women**. This Program aims to assist women who are at risk of, or who have experienced, sexual harassment. A training program for sexual harassment grievance officers, which presents participants with information on legal issues, and trains officers in a range of grievance handling skills is in use in Western Australia. A resource booklet for employers and management on sexual harassment, which aims to assist employers in large, private sector enterprises to comply with their responsibilities under State and Federal legislation, has been produced in South Australia; and a manual on sexual harassment prevention, addressing the responsibility of management and strategies to prevent sexual harassment has been developed in Victoria.

198. HREOC has also prepared sexual harassment training resources, including a video developed jointly with SBS Television. The video will be used in a training package currently being developed by HREOC for use with private sector managers.

199. HREOC has also been conducting extensive workshops and lectures about how to deal with sexual harassment, and the development of sexual harassment policies for employers groups, schools and unions. A two day training program for rural women in Queensland has been conducted in three major rural centres by the Commission, Trades and Labour Council and the Women's Policy Unit in Queensland.

200. The vicarious liability provisions of the anti discrimination legislation have been a major incentive for employers to develop mechanisms which are effective in preventing sexual harassment and to establish in-house complaint procedures to resolve complaints. Government, employer and union organisations have developed policies and guidelines to encourage compliance with the sexual harassment provisions of the legislation, and some employer organisations assist members by providing advice and training programs on sexual harassment complaint and prevention mechanisms.

201. The Federal Public Service Commission has issued a policy statement and guidelines on the prevention of sexual harassment, which apply to all Federal Public Service departments and authorities which are covered by the equal employment provisions of the *Public Service Act 1922*. These affect approximately 166 000 employees. Guidelines recommend the employment of sexual harassment contact officers to support complainants and inform them of formal and informal avenues of complaint resolution. State and Territory Public Service Commissions have similarly adopted policies and guidelines on the prevention of sexual harassment. Larger private sector companies have also developed policies and guidelines to confront sexual harassment.

## **ARTICLE 12**

### **HEALTH CARE**

#### **Article 12**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

## ARTICLE 12

### HEALTH CARE

1. Under Australia's Federal system of government, responsibility for health is split over three levels of government: Federal, State and Local. The Federal Government plays the prime role in health care financing. Revenue for health care is raised through general taxation and an income related health insurance levy. A range of programs are used by the Federal Government to channel financial assistance to enable Australians to access health services. Through its Medicare policy, the Federal Government reimburses medical services provided out-of-hospital by medical practitioners on a fee-for-service basis and indirectly funds hospital and other services through grants to the State and Territories. Pharmaceutical benefits for approved drugs are payable under the Pharmaceutical Benefits Scheme.

2. State and Territory governments are responsible for the planning, provision and administration of public hospital and community health services. The majority of acute care beds are in the public hospital system. Private hospitals are owned by both not-for-profit and for-profit organisations.

3. Local government plays a role in providing immunisation, community based services for people with disabilities and a variety of environmental services which contribute to good health.

### NATIONAL WOMEN'S HEALTH POLICY

4. The first CEDAW Report noted that a national women's health policy was to be developed. Since that time the report *National Women's Health Policy: Advancing Women's Health in Australia* has been produced after wide ranging consultations with over one million women throughout Australia. The Policy was endorsed in principle by all Health Ministers in March 1989 and launched by Australia's Prime Minister in April 1989.

5. The Policy, which is based on an understanding of health within a social context as emphasised by the World Health Organisation, identified seven priority health issues for women: reproductive health and sexuality; the health of ageing women; women's emotional and mental

health; violence against women; occupational health and safety; the health needs of women as carers; and the health effects of sex role stereotyping. The Policy identified five areas within the health system in which action is required to improve women's health. They were: improvements in health services for women; the provision of health information and education for women; training and education for effective health care; women's participation in health decision making; and research and data collection on women's health. The Policy also made 64 recommendations, the most important of which was the establishment of the **National Women's Health Program**, a four-year Program, cost shared between the States, Territories and the Federal Government, to provide funding for the promotion of primary health care for women, focussing on the seven priority health issues and the five key action areas identified in the Policy.

6. The Federal Government announced in August 1989 funding for the four-year program of some \$A17 million to be matched on a dollar for dollar basis by States and Territories. In addition, the Federal Government has provided \$A6.4 million for a four-year program to assist State and Territory Governments to establish alternative birthing services.

7. Since its establishment the **National Women's Health Program** has provided funding for: improved health services for women, particularly those who suffer inequality of access to health services due to economic disadvantage, cultural inappropriateness or geographic or linguistic disadvantage; information and education to inform women on health issues; and training and education on women's health issues for health care professionals. Funded services and projects have included family planning, ante and post natal care and obstetric services, breast and cervical cancer screening services, services for ageing women such as menopause, continence management and osteoporosis management, well women clinics, sexual assault services, women's health nurse practitioner services, health promotion, education and counselling. One training and education project for health care professionals is funded each year. In 1990-91 the project funded was the translation of fact sheets into ten community



languages as part of an education kit on menopause, for the use of general practitioners and other health workers. Apart from this project, during 1990-91, eighty-three projects were funded under the Program, seventy-one for the provision of health services and twelve for information and education.

8. The impact of the Policy and the Program on the community will be the subject of an evaluation in 1992-93. This review will assess the effectiveness, efficiency and appropriateness of the Program and will determine policy objectives and strategies for the future.

9. **The National Women's Health Program** targets all Australian women, but pays particular attention to those who suffer inequality of access to health services due to economic disadvantage, cultural inappropriateness or geographic or linguistic isolation. Accordingly, special projects have been established for these women within the Program and in some cases other strategies have been deemed necessary to supplement these.

10. As referred to in Article 4.1, there was a recent unsuccessful challenge to the **National Women's Health Program** based on an allegation that it discriminated against men.

## **ABORIGINAL AND TORRES STRAIT ISLANDER WOMEN**

11. Aboriginal and Torres Strait Islander women continue to share the unsatisfactory health status of Aboriginals and Torres Strait Islanders generally. Analysis of available mortality data from small area studies by the Australian Institute of Health (AIH) have estimated that the expectation of life at birth for Aboriginal people to be up to 19 years less for men and up to 14 years less for women than the Australian population. The Standardised Mortality Ratios which make adjustment for differences in age structures of Aboriginal and total Australian populations indicate that the death rate for Aboriginal people is between 2.5 and four times that of the total Australian population, depending upon the State/Territory of residence.

12. The health of Aboriginal and Torres Strait Islander women during pregnancy and of Aboriginal children remains worse than their non-Aboriginal counterparts. Aboriginal and Torres Strait Islander women are more likely to have

high risk pregnancies and lower birth weight babies, and infant morbidity and mortality remains much higher than that of the rest of the Australian population.

13. Particular health problems of Aboriginal and Torres Strait Islander women include infertility, often as a result of tubal scarring due to pelvic inflammatory disease, and cervical and breast cancer. Surveys suggest that the incidence of abnormal cervical smears amongst Aboriginal and Torres Strait Islander women is some four times greater than that found in non-Aboriginal women.

14. Health problems amongst Aboriginal and Torres Strait Islander women have complex causes. Implicated are maternal youth, high parity, close birth spacing, poor nutrition, lack of access to or inappropriate family planning services and lack of awareness of or resistance to mainstream health services.

15. Successive Federal Governments have recognised the need to improve the environmental conditions affecting Aboriginal health. In 1990-91, expenditure for the ongoing operation of seventy Aboriginal and Torres Strait Islander health services was \$A28.6 million, with an additional \$A6.5 million being provided under the **National Aboriginal Health Strategy** to upgrade and establish new Aboriginal health services. A further \$A6.5 million was allocated to State and Territory Governments to provide health services for Aboriginal and Torres Strait Islander people, and an amount of \$A232 million provided over five years for the implementation of the **National Aboriginal Health Strategy**.

16. The **National Aboriginal Health Strategy** introduced in 1991, is the result of an agreement between the Federal, State and Territory Governments, and the Aboriginal and Torres Strait Islander community. The Strategy aims to achieve equity in access to health services and facilities for Aboriginal and Torres Strait Islander people by the year 2001. Although not gender specific, the Strategy has funded a number of women's projects. These have included appropriate birthing centres, nutrition programs for mothers, policy development work on family violence and the establishment of nine new Aboriginal Health Services.

17. The Aboriginal and Torres Strait Islander Commission (ATSIC), described in Part 1 incor-

porates a health program, which aims to promote the improvement of the health and social well being of all Aboriginal and Torres Strait Islander people, to a level commensurate with that of the general Australian community. Like the **National Aboriginal Health Strategy**, this health program is aimed at Aboriginal and Torres Strait Islander people generally, with delivery of the program being through Aboriginal community controlled health services, and State and Territory Governments who are supported by ATSIC regional offices. During 1990-91, 170 projects were funded, 62 comprising Aboriginal and Torres Strait Islander community controlled Aboriginal Health Services. Although exact data on the delivery of women's services by these Health Services is unavailable, because ATSIC does not require such monitoring, most provide ante and post natal programs, family planning, contraception and sexually transmitted disease clinics and general gynaecological programs for Aboriginal women. Aboriginal and Torres Strait Islander women play a key role in the management of the Health Services and comprise a large proportion of their workforce.

18. The **National Women's Health Program** includes Aboriginal and Torres Strait Islander women among its target groups and has introduced a number of projects specifically for them. These have included antenatal and sexual assault services. The Federal Department of Health, Housing and Community Services has also initiated the **Alternative Birthing Services Program** which seeks to provide culturally appropriate birthing services, while strategies are currently being developed as a result of the *Cervical Cancer Screening Evaluation Report* to encourage Aboriginal and Torres Strait Islander women to take advantage of cancer screening.

## NON-ENGLISH SPEAKING BACKGROUND (NESB) WOMEN

19. Seventeen specific projects were funded under the **National Women's Health Program** in 1990-91 to assist in meeting the needs of women from non-English speaking background Women: They included maternity services, information projects and interpreter services. The **Alternative Birthing Services Program** also seeks to initiate more culturally appropriate birthing services for women from non-English speaking backgrounds, while strategies are being introduced to encourage such women to take advantage of cervical cancer screening.

20. Women of non-English speaking background generally live longer and experience no higher overall morbidity and disability than most Australian-born and women of English speaking background. However, certain non-English speaking background women suffer higher rates of various types of morbidity and disability. Poor mental and emotional health conditions, together with employment-related injuries and 'diseases' are generally more widespread among non-English speaking background women, and certain groups also suffer higher rates of some forms of reproductive morbidity.

21. In recognition of the particular needs of women of non-English speaking background, the Federal Minister Assisting the Prime Minister for the Status of Women launched the **National Non-English Speaking Background Women's Health Strategy** in September 1991. The Strategy emphasises the importance of promoting increased knowledge, awareness and understanding of the links between non-English speaking background women's lives and health outcomes. Strategies to prevent occupational injuries and illness and to improve non-English speaking background women's poor mental and emotional health and certain reproductive health outcomes are identified as priorities. Among other things, these address some of the main difficulties that non-English speaking background women in Australia experience when they seek health care. These are primarily problems of access to health services and the problems of the appropriateness of such services to the needs of non-English speaking background women. Accordingly, the strategies aim to reform the provider-consumer relationship.

22. The **National NESB Women's Health Strategy** identifies three priority areas for the period 1992-93. These are: Occupational Health and Safety, and Rehabilitation Services; Language Services; and Health Services - specifically Women as Carers, Emotional and Mental Health, Sexuality and Reproductive Services, and services for older migrant women. A Priority Action Plan has been developed.

23. Machinery has been established to develop an implementation plan for the Strategy, and it is anticipated that monitoring and review will be incorporated into the proposed review of the **National Women's Health Policy** and the **National Better Health Program**.

24. The States and Territories have also adopted strategies to meet the needs of non-English speaking background women. In Western Australia, for example, the Multicultural Women's Health Centre provides multilingual female doctors and interpreters in the metropolitan area. In South Australia, the South Australian Health Commission funds several projects under the Migrant Health Unit, for example, a nursing service for Vietnamese women's health, the provision of bilingual aides for Child and Family Health Services, a project to promote nursing careers to Italian and Vietnamese speaking people and the identification of bilingual physiotherapists.

25. Australia has recently identified the need for services for women who have been the victims of trauma and torture. The Federal Government is providing \$A240 000 nationally to various trauma services. Several State and Territory Governments are also contributing to the establishment and development of community-based services providing rehabilitation services for immigrants and refugees.

## **WOMEN WITH DISABILITIES**

26. Women with disabilities are included among the target groups of the **National Women's Health Program**. Projects to provide services for women with disabilities which have been funded under the Program include women's health centres and specialist sexual assault programs. During 1990-91 the **Disability Services Program** of the Federal Department of Health Housing and Community Services introduced a special initiative to provide an additional 2000 respite care places over four years to assist carers of people with disabilities, the majority of whom are women; an additional 300 accommodation support places over three years, of which it is estimated half will be used by women with disabilities; and an additional 200 places under the **Attendant Care Scheme**, which will enable people with severe physical disabilities to leave nursing homes and live in the community through the provision of personal care support. These places are available to both women and men and the Scheme has already assisted 134 women with severe physical disabilities to live within the community.

## **WOMEN AS CARERS**

27. From surveys conducted in Australia, it is estimated that approximately one in 40 adult Australians is a carer, and approximately 64% of these carers are women. On average women carers assist with a much wider range of tasks than male carers. Carers tend to have lower than average incomes and are much more likely than other adults to derive their incomes from pensions or benefits. Male carers are much more likely to participate in the labour force than female carers.

28. The move away from institutionalisation and the development of community based services for the frail aged and disabled, have reduced options for alternative total care provision and presuppose the continued availability and input of carers. In Australia, the Government has recognised the important role of carers and in 1985 accorded them the status of clients in their own right in the Home and Community Care (HACC) legislation.

29. Government support for carers is estimated at some \$A350 million per annum in direct financial assistance, and some \$A100 million in support services.

30. Carers may derive income support through a number of income and assets tested social security and veterans affairs provisions. These are:

- age pension
- wife pension
- carer pension
- special benefit.

In addition there are two income test free and untaxed provisions:

- the Domiciliary Nursing Care Benefit (DNCB) which is paid to carers of people aged over 16 years who are assessed as eligible for nursing home admission;
- the Child Disability Allowance (CDA) which is paid to parents or guardians caring at home for children with disabilities.

31. The Federal Government also makes available an invalid relative tax rebate to taxpayers with a dependent invalid child, or sibling aged

16 or over who is in receipt of a disability support pension or rehabilitation allowance or is certified as permanently incapacitated.

32. Service assistance to carers include those direct services and benefits such as respite care, counselling and support groups; and services provided directly to people with disabilities and the frail aged, such as home help, nursing, personal care, transport, food services, day care, employment support, and accommodation, which also indirectly support and assist carers.

33. In addition, nursing home respite and leave beds are also available, albeit in small numbers, and State public hospitals make available some beds for respite purposes.

34. Carers of veterans may also benefit from professional nursing care in the home, new respite care arrangements, emergency short-term home relief, day care and new carer support arrangements.

35. The issue of women as carers was addressed recently both in Western Australia and Tasmania.

36. In May 1992 the Western Australian Government released *Sharing the Caring: Rethinking Current Policies*, a discussion paper commissioned from the Australian Institute of Family Studies to analyse the current situation of Carers and lay a foundation for future policy development. Under the new **Social Advantage Strategy**, the Western Australian Government will provide \$250 000 for a grants scheme to assist carers of people with disabilities to pay for support services such as home help and respite care.

37. In Tasmania, the Tasmanian Women's Consultative Council (TWCC) held consultations to identify the impact of the caring role on women's quality of life, their access to paid employment, and to consider models and mechanisms to support and give recognition to the caring role. The Report was launched by the Minister Assisting the Tasmanian Premier on the Status of Women, on 2 June 1992 and the recommendations are supported in principle by all women members of the Tasmanian Parliament.

38. Evolving issues for women in Australia undertaking caring responsibilities include the provision of more flexible and appropriate respite services, maintenance of employment and income security whilst combining caring re-

sponsibilities, and the concerns of some 25 000 aged parents who have cared for their now adult offspring at home. These parents now face the problem of future care arrangements for their adult children as they, the parents, become increasingly frail.

39. Finding appropriate and acceptable responses to the special requirements of an ageing population will be a major challenge to government in the next decade.

## REPRODUCTIVE HEALTH

### Contraceptives and Family Planning

40. As stated in Australia's First Report, the Federal Government's policy is to promote family planning to enable people to make rational and informed decisions regarding their own fertility. Family planning and effective use of contraceptive methods, is considered to be one of the major positive and cost effective influences on the health of women and children and on improvement of the expectation of life at birth.

41. The Federal Government provides assistance to two national family planning organisations, to the Family Planning Associations in the States and Territories, and to Women in Industry and Community Health Victoria (WICH). The State and Territory Governments have funded the Family Planning Associations and other organisations to provide family planning programs in schools and to train teachers, health professionals and other groups in the delivery of services, both clinical and educational, in family planning and the broader field of sexuality.

42. National statistics gathered by the State Family Planning Associations and compiled by the Family Planning Federation of Australia show that oral contraceptives are by far the most frequently used contraceptive method by clients of Family Planning services. Small studies support this conclusion for Australia as a whole. The **National Health Survey**, which was undertaken in 1989-90, identified that of the approximately 5.1 million women in the 18-64 year age group, or 22.2%, used oral contraceptives, compared with 58.2% not using this method and 19.6% not stated. The **National Heart Foundation's Risk Factor Prevalence Study** in 1989, which covered all capital cities

and people in the 20-69 year age group, revealed that 86% of women between 25-39 had taken oral contraceptives at some time and 56% of women between 20 and 24 were current users at the time of the study. This proportion decreased with age, so that of those between 60-64, 33% had taken oral contraceptives.

43. Whilst existing data do not quantify the level of unmet need for family planning advice or contraceptives, there is still a lack of access to family planning and the range of contraception for some Australians, particularly those in isolated areas of Australia. Aboriginal and Torres Strait Islander women and non-English speaking background women face cultural and language difficulties, as well as isolation and marginalisation. In Victoria, WICH campaigns on issues affecting the health and well-being of migrant women and advocates for more accessible health services that will recognise the health needs of particular ethnic groups. WICH also conducts a broad range of activities covering sexual and reproductive health, such as information provision, community education workshops, and factory visits where information sessions are conducted in appropriate languages.

44. Currently, there are three categories of contraceptive available in Australia: oral contraceptives, available only on a doctor's prescription; condoms and diaphragms, which may be purchased without restriction; and intra-uterine devices (IUDs), only one of which is available in Australia, following the application of the manufacturer, who provided information on quality, safety and efficacy. Technically, IUDs are not required to be obtained on a doctor's prescription, but in practice, they are issued only on the written order of a medical practitioner. The Pharmaceutical Society of Australia has agreed in principle that supply of IUDs be restricted to the written order of a medical practitioner, and it is the intention of the Federal Therapeutic Goods Administration that this agreement be formalised by making it a condition of marketing approval for IUDs.

45. Condoms and diaphragms may be advertised to the public, such advertising being regulated by the Regulations to the *Therapeutic Goods Act 1989* which permit claims in relation to 'reduction in the possibility of conception' and 'reduction of the risk of transmission of sexually transmissible disease by the use of condoms' and 'reduction of risk of the transmission of genital herpes by the use of condoms'. As IUDs

are not included in the *Standard for the Uniform Scheduling of Drugs and Poisons*, technically they can be advertised to the public. However, they have been advertised to the medical profession only, such advertising being based on, and consistent with, 'approved product information'. Public advertising of prescription only products, and thus oral contraceptives, is prohibited by law.

46. The contraceptive 'Depo Provera' is registered for use in Australia for the treatment of endometriosis and various cancers. It is not approved for use as a contraceptive in Australia, nor is its sponsor company seeking to have it approved for such use. The Federal Government does not, however, have any power to prevent the product being used for other than its approved registered use. Thus, a survey of contraceptive choices made in the Family Planning Clinics of the Northern Territory, Queensland and South Australia for the year 1990-91 indicates that 7%, 1.3% and 4.5% of clients respectively were choosing Depo Provera as their contraceptive method.

47. The sponsors of the abortion drug RU486, commercially known as 'Mifegyne', have not applied to market their product in Australia and in the absence of such application there is no power to approve the product, nor to require the company to market it. The drug has been used in one trial in Australia to aid in the expulsion of a dead foetus in later pregnancy. A further trial, for earlier pregnancy, was approved, but did not commence.

## **Infertility and Artificial Means of Reproduction**

48. Services for the infertile have concentrated on a medicalised response to the issue, with support groups and associations for the infertile attracting very little funding and often being affiliated with reproductive medical units. This may not always be the most appropriate setting for such groups. Therefore, the availability of experienced and effective counselling for infertile people outside medical settings is limited.

49. The regulation of assisted means of reproduction rest with States, although the March 1991 joint meeting of Federal, State and Territory Health and Welfare Ministers agreed on a national approach to surrogacy.

50. In 1984, Victoria introduced the world's first legislation, the *Medical Procedures (Infertility) Act 1984*, to regulate donor insemination. The Act established a Standing Review and Advisory Committee with wide regulatory powers. South Australia and Western Australia have also established advisory committees. Queensland and Tasmania held substantial inquiries of their own, and the Family Law Council, the Federal Parliament and various law reform commissions have examined these matters. Legislation in the States and Territories now ranges from strict legislative prescription (Victoria and Western Australia), to legislation accommodating elements of self regulation by the medical sector (South Australia), to a laissez faire approach (New South Wales). Some States, such as Tasmania and Queensland, have chosen not to legislate, but follow strict guidelines.

51. Levels of support for in-vitro fertilisation (IVF) varies between States and Territories, mirroring the policy positions of State and Territory Governments. Access to treatment is restricted by legislation and by the practices of various reproductive medicine units throughout Australia. In general, such treatment is available to married couples or to people who are living in stable domestic arrangements. Many of the procedures involved in IVF were incorporated in the **Medical Benefits Scheme** schedule in November 1990, making treatment, the cost of which was borne privately, more accessible. In the Northern Territory, where facilities are not available, couples requiring infertility treatment are assisted with limited travel and accommodation to interstate facilities.

52. In March 1991, Health and Welfare Ministers agreed on a national approach to surrogacy. Accordingly, a working group has been established to draft national legislation which will impose a national ban on commercial surrogacy, and on the advertising of surrogacy as a form of family formation, and will also impose disciplinary action by relevant professional boards or tribunals on any third parties seeking to bring commissioning parents and birth mothers together in surrogacy agreements. No sanctions will apply to commissioning parents or birth mothers. This proposed legislation will replace the disparate legal frameworks which already exist in the States to regulate reproductive technology. In most cases, the proposed legislation will be consistent with existing legislation, but will be more moderate than the Queensland legislation where a commissioning

mother and birth mother were recently prosecuted under the current legislation. Here the prison terms and fines available under the relevant legislation were not imposed by the presiding judicial officer.

53. In general terms, discussion of the issues which emerge in the context of techniques of assisted reproduction has been a scientific one, and the views of women have not been sought actively. However various conferences and seminars have been held on the subject, and consultations were undertaken in the various States and Territories which have introduced regulatory legislation during its preparation. There has, however, been no consultation with women as a specific group concerned with the impact of reproductive technology.

## Abortion

54. Abortion continues to be included on the list of scheduled medical services eligible for medical benefits. There is still a responsibility on doctors performing abortions to fulfil the legal requirements of the States and Territories as laws relating to abortion fall within the various jurisdictions. These laws continue to vary. There have been no major changes in the laws relating to abortion in any State or Territory since 1988. This means that women resident in jurisdictions with more restrictive laws would need to seek legal abortions in more liberal jurisdictions; and this legal variation can have significant impact on poorer women. A woman seeking a legal abortion within her resident jurisdiction, has her financial disadvantage minimised by the Medicare rebate for abortion, which is paid from Federal funds and is available to all Australian women in all jurisdictions for all lawful abortions. The option of seeking a legal abortion in a woman's non-resident jurisdiction is, however, only open to those women who can afford the time and financial costs of interstate travel. Women living in rural and remote areas of Australia, because of isolation and restricted access to health services, obviously have greater difficulties.

55. The First Report identified that four States, New South Wales, Victoria, Queensland and Western Australia, had free standing abortion clinics. South Australia has now established its first free standing abortion clinic. A private abortion clinic was established in Tasmania in 1991.

56. No major political party in Australia has a national policy on abortion law reform. Individual parliamentarians are free to take a 'conscience vote' on abortion issues, and proposals for legislative reform are usually presented as Private Members' Bills. Legislative change occurs rarely. There have been attempts made at both the Federal and State/Territory level to restrict access through Private Members' Bills. In November 1989, the Abortion Funding Abolition Bill 1989, which sought to allow Medicare funding only for abortions performed to avert the death of the pregnant woman, or in cases where the procedure was for a different purpose and the doctor was unaware an abortion would occur, received its second reading in the Federal House of Representatives. The Bill lapsed after the calling of the last Federal election. In NSW in 1988, 1989 and 1991, bills have been introduced which, if enacted, would restrict abortion.

57. In the case of *F v F* in 1989, the Family Court of Australia refused to grant an injunction to a husband who wished to compel his wife to continue her pregnancy. The Court was of the view that it did have jurisdiction to grant such an injunction, but, in the circumstances, such a remedy was inappropriate.

## Maternal Mortality

58. The maternal mortality rate in Australia continues to decline. The latest available figures, those for the triennium 1985-87, give the lowest overall rate on record of 11.8 per 100 000 confinements. This compares with 13.16 in the previous triennium. The improvement was achieved mainly by a reduction in the number of direct deaths.

59. In absolute numbers there were 86 maternal deaths between 1985-87, of which 32 were directly attributable to and 54 were associated with pregnancy and childbirth. Aborigines accounted for 13 of the 86 deaths, or 15.1% of all maternal deaths. Four of these deaths were judged to be direct.

60. The reporting of race was much improved in the 1985-87 triennium, with race recorded in 86% of all cases compared with the previous triennium, where it was recorded in only 51% of cases.

61. Aboriginal and Torres Strait Islander women are clearly at greater risk of maternal death than non-Aboriginal women, however, it is hazardous to express this in terms of a ratio of 100 000

confinements as numbers are extremely small and subject therefore to massive error.

62. Strategies to decrease maternal mortality amongst Aboriginal and Torres Strait Islander women have been identified in the **National Aboriginal Health Strategy**, the **National Women's Health Program**, and the **Alternative Birthing Services Program**.

## Breastfeeding

63. Breastfeeding is practised by the majority of Australian women. The **National Health Survey** indicated that of the approximately one million women in Australia aged between eighteen and fifty years with a child or children under the age of six years, 77% were either currently breastfeeding, or had breastfed one or more of those children for some period of time.

64. The Federal Government actively promotes breastfeeding through a number of strategies including wide distribution of a range of publications/booklets for mothers and professionals on the importance of breastfeeding, and strategies to implement the World Health Organisation's *International Code of Marketing of Breast Milk Substitutes*. This has included the negotiation of codes of practice and self-regulation of the marketing of products covered by the WHO code. In November 1991, the Federal Government convened a forum of representatives from consumer organisations, relevant industry groups and government, where the development of additional codes for Australia was discussed, and a new agreement for manufacturers and importers in Australia was drafted. A draft of the Agreement has been open to public comment.

65. States and Territories, through their obstetric and infant and child health services have a range of strategies to promote and encourage breastfeeding as the preferred form of infant feeding.

66. The National Nursing Mothers Association, a non-profit charitable organisation which has a network of local groups throughout Australia, provides programs and information to encourage and support new mothers to breastfeed their infants, and community education to both parents and health workers.

67. The Federal Government has given financial support to this organisation for a number of years. More specifically, in 1991-92, the Federal

Government funded the organisation to continue the operation of its Lactation Resource Centre. This Centre provides information and other teaching materials including computer literature searches. The Centre has also received funding from the Victorian Health Promotion Foundation for research activities.

68. A national research project has been established to investigate barriers to breastfeeding. This project should provide further data on the incidence and duration of breastfeeding, and contribute to the development of appropriate intervention and education strategies to protect and promote breastfeeding.

69. No State or Territory provides for breastfeeding breaks at work in legislation and none are awarded in practice. It is to be noted, however, that Queensland's new anti discrimination legislation prohibits discrimination against nursing mothers in the provision of goods and services, thus precluding discrimination by, for example, restaurants.

## Breast and Cervical Cancer Screening

70. In Australia, breast cancer causes over 2200 deaths each year and cervical cancer causes about 350 deaths.

71. In 1990-91, there were eleven screening mammography centres in five of the eight states and territories which were estimated as screening 8-15% of women between the ages of 40 and 79 years.

72. In March 1990, the Federal Government announced a commitment of \$A64 million for the first three years of a **National Program for the Early Detection of Breast Cancer**, which will be implemented over a five year period from the time that the particular State or Territory agrees to participate. To date, the ACT and all States, except Tasmania, have signed participation agreements, and the Northern Territory has announced that it will participate in the Program. The National Program is organised into Screening and Assessment Services which consist of an assessment centre/services and its affiliated screening units. The Program aims to reduce significantly morbidity and mortality attributable to breast cancer by maximising early detection of breast cancer in the population, to ensure that screening for breast cancer

in Australia is provided in dedicated/accredited centres and services, that women have equitable access to the Program and that the services are acceptable and appropriate to them and to ensure the implementation of high standards of program management, service delivery, monitoring, evaluation and accountability. It is expected that by the end of this period, 70% of all women in the target group, 50 to 69 years, will be participating in the Program and access to it will be available to women aged between 40 to 49 and 70 to 79. National Accreditation Guidelines were approved in November 1991, and all services will be required to apply for accreditation by the end of August 1992.

73. In Queensland, a **Breast Cancer Screening Program** has been implemented to provide high quality breast screening and assessment services throughout the State as determined by the geographical distribution of eligible women after giving due consideration to the special needs of women in less densely populated rural/remote areas. The Program is centrally coordinated by the **Women's Cancer Prevention Program** within the Women's Health Policy Unit, Queensland Department of Health.

74. Because of a concern in the community as to the efficacy of cervical cancer screening in preventing the optimum number of potentially preventable cancers, a **National Cervical Cancer Screening Evaluation** was established in November 1987 to examine the state of cervical cancer screening in Australia and to report on options for improvement.

75. A number of recommendations for change were suggested which have resulted in the following initiatives:

- In March 1991, agreement by all Health ministers to cooperate in the development of an 'organised approach' to cervical cancer screening in Australia;
- the development of an agreed national screening policy based on a screening interval of two years for asymptomatic women and an age range of 18-70 years;
- the appointment of a Federal spokesperson on cervical cancer screening;
- the appointment of an expert steering group to review and develop improved quality assurance measures for cervical cytology;



- the establishment of cervical cytology registries to provide reminder and recall services for women, keep records of smear results and aid in data collection generally;
  - the development of guidelines by the National Health and Medical Research Council of the treatment of screen detected cervical abnormalities; and
  - the provision by the Federal Government of \$A22.4 million over four years from 1991-92 for the development and implementation of the organised approach to cervical cancer screening. The funds will be used to inform service providers and women about the new policy, to improve the reliability of pap smears and develop guidelines for the management of abnormalities, to develop strategies to encourage women to participate in screening at the recommended interval, to develop supplementary screening services appropriate to the needs of special groups and to train, monitor and evaluate.
- in the Australian Capital Territory, the information and education strategy for 1989-90 targeted older women and dealt specifically with menopause and related issues such as osteoporosis;
  - in Victoria, a number of Women's Health Services provide support for women experiencing menopause, by utilising a non-medical approach;
  - in Tasmania, two multi-disciplinary services dealing with women's health in the middle years will be established during 1992-93;
  - in Queensland, Women's Health Services provide support for women experiencing menopause, with the main concentration being on discussion groups where women share experiences, which include medical and non-medical approaches;
  - in Western Australia, the Menopause and Mid-Life Support Group operates from the Women's Hospital and provides community seminars, meeting groups and information pamphlets on relevant issues for women. The State Health Department publishes pamphlets on menopause, associated issues and osteoporosis, while the Health Promotion Foundation funds local government and community health information seminars for women dealing with mid-life issues including menopause, mammography, hysterectomy, sexuality, incontinence, lifestyle and empowerment.

76. In Western Australia the Women's Cancer Prevention Unit plans statewide availability of free screening mammograms for women aged 45-69 years by 1995/6. To date there are three mobile mammography units serving eligible women in rural regions and a fixed unit in the metropolitan area.

## Menopause

77. Under the **National Women's Health Policy**, health of ageing women and reproductive health and sexuality are identified as two of the seven priority health issues for women. Of specific interest under these issues are menopause and menopause related disease such as osteoporosis.

78. The **National Women's Health Program**, which addresses the priority health issues identified in the Policy has funded a number of projects in the States and Territories directed at menopause.

For example:

- in New South Wales, a **Healthy Women Service** has been established to provide specialist services including osteoporosis screening and management promotion activities;

79. Another initiative funded under the **National Women's Health Program** has been the translation of an education kit developed for General Practitioners (GPs), *Women's Health: the Middle Years*, into ten community languages. The kit contains fact sheets on the menopause, osteoporosis, hormone replacement therapy, breast self-examination, eating well, staying well and stress. The purpose of the project is to allow GPs and other health care providers across Australia to more effectively meet the needs of non-English speaking patients.

80. Further, the Federal Government approved the use of skin patch menopausal treatment in October 1991.

## AIDS

81. The **National HIV/AIDS Strategy**, endorsed by Federal and State Governments in 1989, has as its goals the elimination of the transmission of HIV and minimising the personal and social impact of HIV infection. The Strategy identifies women as a specific target group within the **Education Program** and states that women may be at risk of infection as a consequence of low rates of condom use and perceptions of women themselves as being at low risk. It notes that women may be disadvantaged in their ability to negotiate safer sex or safe drug taking because of social stereotyping and a perceived imbalance of power in relationships.

82. The spread of AIDS in Australia conforms with the WHO classification of a pattern one country, that is, the spread was initially rapid amongst homosexual men. Australia responded rapidly to the epidemic. The success of the response is shown in the significant slowing of new infection rates amongst homosexual men and the fact that, unlike most other pattern one countries, there has been very little spread of HIV amongst injecting drug users and heterosexuals in Australia. Table 12.1 below indicates these.

83. The Federal Government, through its **National AIDS Education Program**, has adopted three main approaches to education:

**Table 12.1**  
Adult AIDS cases by sex and exposure category to 31 March 1992

Exposure Category	Male	Female	Total	%
Male homosexual/bisexual contact	2779	-	2779	85.8
Male homosexual/bisexual contact and ID use	85	-	85	2.6
ID use (female and heterosexual contact:	36	25	61	1.9
Heterosexual contact:	53	24	77	2.4
Sex with ID user	0	1	1	-
Sex with bisexual male	-	7	7	-
from Pattern-II country	6	5	11	-
Sex with person from Pattern-II country	7	3	10	-
Sex with transfusion recipient	0	2	2	-
Sex with HIV-infected person, exposure not specified	11	3	14	-
Not further specified	29	3	32	-
Haemophilia/coagulation disorder	41	0	41	1.3
Receipt of blood transfusion, blood components, or tissue	51	38	89	2.7
Other/undetermined	72	8	83	2.6
<b>TOTAL</b>	<b>3117</b>	<b>95</b>	<b>3215</b>	

Note that three people whose sex was reported as transsexual, are included in the total.  
Source: Australian HIV Surveillance Report, April 1992

- the **National Media Program**, which targets the general community and at-risk behaviour, in order to raise awareness and to provide information on HIV/AIDS;
  - community and workforce education grants - the **Commonwealth AIDS Prevention and Education (CAPE) Program** and the **Commonwealth AIDS Workforce Information, Standards and Exchange (CAWISE) Program** - which provide funds to community based and workplace related organisations for nationally significant or one-off demonstration projects;
  - provision of funds to State/Territory Governments under the matched funding program for State/Territory initiatives and ongoing education programs.
84. Sixty per cent of all Federal funds to date have been directed at preventing high risk practices in groups such as homosexual and bisexual men, intravenous drug users and workers in the sex industry, primarily through community development projects.
85. While the grants to community groups and work-based organisations, such as employer groups and trade unions, do not have the high profile of national media campaigns, they make a very important contribution to effecting behaviour change. The grants programs is considered an integral aspect of any such media strategy.
86. The States and Territories have implemented a range of HIV/AIDS strategies including comprehensive education packages for schools. Examples include:
- in Queensland, a comprehensive program of HIV/AIDS prevention and care, involving promotion of sexual health services, safe needle usage for intravenous drug users and workplace and community education, has been in progress since 1984;
  - in the Northern Territory there are three Territory wide **AIDS/STD Education Programs** - the Urban, Aboriginal (Urban and Rural) and Occupational Risk Professionals;
  - the South Australian Health Commission has funded a number of programs since 1988, which have included HIV screening, diagnosis, treatment, counselling, referral, AIDS/HIV education and prevention and special programs targeted at special needs groups;
- Tasmania has been working to the National HIV/AIDS Strategy since 1989 and has finalised its own strategy, involving treatment and care, education and prevention for those with HIV, those involved in risk activities, health care workers and the general community;
- in Western Australia, the Western Australian Department of Health established an AIDS Bureau in May 1989, which has developed programs for injecting drug users, a chlamydia campaign, education programs aimed at professionals and Aboriginal education, and undertakes research and evaluation. During 1990-91, the Bureau's priority target groups have been the young, heterosexual population, health care workers, Aboriginals, pharmacists and injecting drug users. Education at a lower level of activity has also been directed at tertiary students, women, police officers and prisoners. The Western Australian Bureau has a policy of not specifically targeting women, because it believes that such non-targeting promotes shared responsibility among couples.
87. While the cases of women who are HIV positive (648 to 31 March 1992) and who have AIDS are still proportionately low, the number of known female HIV cases has been steadily increasing in Australia over the last five years. In Australia women represent 4% of people with HIV.
88. There are conditions specific to women which may impact upon their ability to practice long-term protective behaviour. These can include the inability of some women to assert their rights within a heterosexual relationship (e.g., violent partner, cultural inapplicability, inference of infidelity if safer sex is requested, sex workers where the clients' preference may prevail, etc) and a biological necessity of engaging in 'unsafe' sex in order to become pregnant.
89. Various programs have been initiated to tackle the issue of women and AIDS at both the Federal and State/Territory level.

90. During 1990-91, seven grants under the **Federal AIDS Prevention and Education Program, AIDS Workforce Information, Standards and Exchange Program, and AIDS Research Program**, targeted women. This involved expenditure of approximately \$A693 000. As part of this allocation, a \$A250 000 grant was made to the Family Planning Federation of Australia to develop national pilot HIV/ AIDS education programs for women. This project aims to raise HIV/AIDS awareness among sexually active women in the context of broader sexual health and family planning issues. A range of other projects targeted at women have been funded by the Federal Government including:

- programs to teach women negotiation of safe sex includes a grant of \$124 000 to the Social Biology Resource Centre in Victoria to produce two videos and associated training manuals for use in assertiveness training of sexually active young and adult women;
- booklets designed to provide women with information about HIV/AIDS, testing, safe sex alternatives, etc;
- an HIV and rape conference;
- HIV education for workers in women's services which included a very successful magazine in a popular women's magazine format. The intention of using this format is to encourage women to pick it up in a spare moment and browse;
- projects especially targeting sex workers and parlour owners, including projects for non-English speaking sex workers and transsexual and lesbian sex workers;
- projects examining IV drug use and safe injecting procedures;
- projects specifically targeting Migrant or non-English speaking women. For example, a booklet in Arabic entitled *Women Talking About AIDS* has been produced for use within Arabic and Islamic communities;
- a project targeted at the female partners of bisexual men which has been run through the community based AIDS Councils in South Australia and Queensland. Using information collected from this project, a

training program on the issue will be conducted around Australia for people working in women's services; and

- various research projects specific to HIV/ AIDS and women including a project examining which individual strategies are most effective in encouraging the practice of safe sex.

91. While State and Territory activities have tended to target generally, there have been a number of recent initiatives which specifically impact on women:

- in New South Wales, the AIDS Council of NSW has a women's worker in its **HIV Support Project**, to support women infected with HIV, and their Women's Project has the task of educating women at high risk. The Family Planning Association of NSW has established a **Women's Project** which provides ongoing training on HIV and AIDS for women services workers. Two other HIV and AID Projects primarily target women. These are the **Sex Workers Outreach Project**, which provides HIV education and support for prostitutes, and the **Transfusion Related AIDS Project**, which provides counselling and support for those people who are infected through blood transfusions;
- the Victorian Health Department's AIDS/ STD Unit funds community organisations that focus on the needs of women infected with AIDS and women care givers. Funding was provided to World AIDS Day 1990, which focused on women, to the Prostitutes Collective, the Family Planning Association of Victoria, and to a support group for AIDS infected women. An HIV/AIDS **Peer Education Pilot Program** was also run at Winlaton Young Women's Training Centre in 1989-90, which has provided a successful model for the further development of peer education strategies;
- in Queensland, the promotion of sexual health services are used as a mechanism to provide information on prevention issues, and a **Play it Safe Program** promotes safe sex practices. Further, there is an education program for Women as Carers and Women as Health Care Workers, as well as workplace health and safety information.

- In South Australia there are a number of women specific programs, including the **Women Prisoners and Partners of Prisoners AIDS Prevention Program**, the **World AIDS Day Project**, (aimed at the co-ordination of women's community based groups to focus on women and AIDS) and the **Women and AIDS Working Party**, (which operates under the auspices of the AIDS Council of South Australia and designs and conducts educational programs for women);
- the Tasmanian AIDS Council conducted an **AIDS Awareness Program for Women Campaign**, involving the provision of information through a pre-recorded message consisting of a dialogue between two women, and referral to trained female counsellors in October/November 1989. The Program attracted 3036 calls - 884 in the south and 2152 in the north. In Tasmania, the theme for World Aids Day in 1991 was Women and AIDS, activities taking place including a breakfast, displays in large shopping centres and a women's concert;
- in Western Australia, the theme for World AIDS Day 1990 was 'AIDS is Women's Business' and included a seminar, covering issues such as AIDS and prostitution, AIDS and pregnancy, AIDS and breastfeeding jointly sponsored by the AIDS Bureau, AIDS Council and the Women's Advisory Council.

The Western Australian Women AIDS Council, jointly funded by the State and Federal Governments, although predominantly targeting men and injecting drug users, has completed or has in progress a number of programs aimed at women, particularly those who work in the sex industry. These include a Women and AIDS project group, face to face education with groups of women, a pamphlet entitled *Fatal Attraction* aimed at young women, and a selfhelp and resource group called 'Positive Women' for HIV infected women. In 1989 the Council was commissioned to prepare a report for the Federal Government on Women and AIDS, and an *HIV Women's Health Directory* of services for women in every State in Australia;

- in the Australian Capital Territory, the AIDS Action Council, which provides a

broad range of services, including information, education, referral, support and counselling to people at risk of or infected with AIDS, includes women in its four main target groups and employs a women's officer. In addition, a Women and AIDS forum was established in 1989, there has been an education program for Child Care students at the TAFE, a workshop on HIV/AIDS and sexual assault, and a pamphlet *Pregnancy and AIDS* and a poster on women and AIDS have been produced.

92. The Legal Working Party of the Inter-governmental Committee on AIDS, which is made up of representatives from Federal, State and Territory Attorneys' General and Health Departments, has produced a series of nine discussion papers. These papers propose law reform on a wide range of issues relevant to HIV/AIDS and women, such as discrimination, public health, sex workers and employment.

## ALCOHOL AND OTHER DRUGS

93. As noted in Australia's first Report, the Federal Government and all State and Territory Governments established the National Drug Education Program and the **National Campaign Against Drug Abuse** (NCADA) in 1985 in order to minimise the harm to the community of use of alcohol and other drugs. Although NCADA was not aimed specifically at women, projects of particular relevance to them have been funded under the Program and women are a key target group for the Campaign. Since 1988, these projects have included the provision of female medical officers and counselling and referral, information and education services for Aboriginal women, services for rehabilitation of detoxified alcohol and drug dependent women, substance abuse programs for women, help for pregnant women with drug problems and shelters for drug affected women.

94. Tranquilliser use by women has been addressed as an issue in most States, including recently in Western Australia where the **Women and Tranquillisers Program** was run in October 1990 and March 1991.

95. Smoking rates amongst males and females have been declining over the past 15 years, but the rate of decline has been considerably greater amongst males than females, leading to a convergence of smoking levels. In 1989, 30% of adult males and 27% of adult females were

smokers. Amongst teenagers, however, the level of smoking amongst females exceeds that of males.

96. Action to address the prevalence of smoking has occurred at all levels of government. In 1989 the Australian Government passed legislation to ban tobacco advertising in the print media. The Government was responding particularly to a concern with smoking by young women. In 1988, of the \$A10.7 million spent on tobacco advertising in magazines, \$A6 million was spent in women's magazines.

97. Other Federal Government activity included a major **Drug Offensive Campaign** under NCADA. It was launched in January 1990, and focused on cigarette smoking by young women between the ages of 12-15 (the time of greatest experimentation and uptake of smoking by women) and 20-24 (41% of whom smoke as opposed to 27% amongst all women).

98. The Campaign, which used the theme 'Smoking. Who Needs It?' was evaluated in January, April and August 1990. These evaluations revealed that the Campaign was popular with its target audience and had fostered a negative perception of smoking amongst young women. Smoking prevalence data collected from six months prior to the Campaign (July 1989) and three months after the Campaign (July 1991) indicated there had been a 1.7% decrease in smoking of those between fourteen and fifteen and a 1.3% decrease in smoking of those between 20 and 24.

99. State campaigns to reduce smoking in young women have also been undertaken. For example, the New South Wales Government funded a dramatic campaign encouraging young women not to get 'hooked' on smoking, and the Western Australian Government has run 'Smoking and Young Women', an advertising campaign incorporating pamphlets, posters and television advertisements.

100. At a national level in alcohol programs, the National Food Authority has been asked to develop a system of labelling for alcohol beverage containers. This will assist women to accurately measure their alcohol intake. This action is being complemented by advertising campaigns on appropriate drinking levels for road safety and for general health.

101. A **National Alcohol Campaign**, targeting adolescent drinkers, adult drinkers and the

general community, and using television and print advertising, has been in operation since 1988. The most recent phase of the Campaign, 'How will you feel tomorrow', focuses on young people aged 15 to 17. The objective of the Campaign is to reduce the incidence of binge drinking amongst young women and men by increasing awareness of the negative health and social consequences of excessive alcohol use. Initial research indicates a strong acceptance of the Campaign message by its target audience.

102. Other States have conducted complimentary mass media campaigns. Western Australia targeted young women in its **Respect Yourself** alcohol campaign and produced a Women's Manual as part of a general **Drinksafe** Campaign. Further, the Western Australian government has allocated \$500 000 over 1992-95 to fund a community-based program of local strategies to tackle alcohol abuse by young people, including young women.

## VIOLENCE AGAINST WOMEN

103. Violence against women is prioritised as a health issue by the **National Women's Health Policy** and considered by all States and Territories to have serious implications for women's health. Measures which have been initiated to confront such violence are discussed under Article 5(a).

## THE HEALTH WORKFORCE

104. The health industry employs more than half a million people, or 7% of the total Australian labour force.

105. Between 1978 and 1988, the health labour force grew steadily, both absolutely and as a proportion of the civilian labour force. The public sector employs 56% of health industry wage and salary earners, with the remaining 44% employed by the private sector.

106. Between 1984 and 1989 the numbers of wage and salary earners in the private sector of the health industry increased faster than in the public sector.

107. Women account for about 75% of the health labour force, a proportion that has remained constant for the past decade. However, the distribution of women across occupations varies; they tend to be in the minority in high

status occupations such as medicine and dentistry, but in the majority in other health fields. The paid health labourforce is supplemented by voluntary workers and family carers. Actual numbers are not known but their contribution is significant. These are predominantly women. Table 12.2 below sets out the total numbers and percentages of males and females employed in the major health occupation categories at the 1986 Census.

## Nurse Education

108. Australia has made a major decision to transfer the basic education of nurses from hospitals to tertiary institutions in order to produce a more appropriately educated, flexible and career focused workforce to meet current and future nursing needs in the Australian Community.

109. Through the **Nurse Education Transfer Program**, the Federal Government provides assistance to States and Territories for the transfer of nurse education from hospitals to tertiary education institutions. Under the Program, which began in 1984, a subsidy is provided for each student. It is planned that the transfer will be completed by 1993 when support will be provided for 18 000 nursing places in tertiary education institutions.

110. The transfer is proceeding well and the take-up of students places is within national projections.

## RESEARCH

111. The major source of funding for basic medical research is the National Health and Medical Research Council (NH&MRC) in the Federal Department of Health, Housing and Community Services. The major source of funding for non-biomedical research in health and community services is the **National Research and Development Grants Program**, also in the Department of Health, Housing and Community Services. Both fund projects on the grounds of excellence, judged by peer review and both also stimulate research in certain directions through workshop discussion.

112. The NH&MRC has a 30 member Council of whom fifteen are women. The **National Research and Development Grants Program** has an eight member Advisory Committee (RADGAC) of whom three are women.

113. Between 1988-91, the National Health and Medical Research Council funded over 90 research projects in the discipline of 'Women's Health'.

**Table 12.2**  
**Persons employed in selected health occupations (a), by sex at 30 June 1986**

Occupation	All persons (Number)	Male (%)	Female (%)
Dental nurses	8 800	1	99
Speech pathologists	1 320	4	96
Enrolled nurses	35 220	6	94
Occupational therapists	2 770	7	93
Registered nurses	138 220	8	92
Physiotherapists	5 930	16	84
Radiographers	4 270	37	63
Pharmacists	10 640	61	39
General medical practitioners	23 790	75	25
Specialist medical practitioners	9 000	84	16
Dentists	6 310	86	14

(a) Ranked in order of female percentage.  
Source: Australian Bureau of Statistics cat. 4346.0

114. In November 1989, RADGAC funded a research workshop on women's health. The workshop identified five research priorities which particularly impacted on women and health. They were:

- (i) the adequacy and appropriateness of services to middle aged and older women;
- (ii) the impact of women's unpaid and volunteer caring work on the health of the carer;
- (iii) effective means of communicating women's health needs to health service providers before and during their professional careers;
- (iv) the development of appropriate indicators of women's health and well being; and
- (v) devising models of service provision in the area of women and health.

115. As a direct result of this workshop thirteen projects have been funded by RADGAC. They include the effectiveness of an education program to promote breast feeding among immigrant Vietnamese women, the effectiveness of support systems for paid and unpaid carers of the terminally ill and the costs of osteoporosis prevention. The Committee has also funded three other projects: ethnic women caregivers, women's attitudes towards screening for cervical cancer and birthing choices in far North Queensland.

116. In 1991, as a contribution to **Medical Research Week**, the theme of which was Women's Health Research, the **National Women's Health Program** funded the preparation of a paper, *Researching Women's Health: An Issues Paper*, which reviews current research funding and identifies priorities for research. The paper is being circulated to major government and non-government funding bodies.

117. Further, in 1991 the NH & MRC Working Party Into Menopausal Health funded four projects in this area.



## **ARTICLE 13**

### **WOMEN IN ECONOMIC CULTURAL AND SOCIAL LIFE**

#### **Article 13**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

## ARTICLE 13

### WOMEN IN ECONOMIC, SOCIAL AND CULTURAL LIFE

#### ARTICLE 13a

#### THE RIGHT TO FAMILY BENEFITS

1. The Federal Government provides a range of assistance for families to ensure adequate levels of income for families with children, including sole parent families, and fair levels of assistance towards the costs of these children; to alleviate poverty by achieving benchmark rates and maintaining these through indexation; and to provide opportunities and incentives for self-help and reduced dependence on social security payments, including increased assistance from non-custodial parents.

2. Women make up the vast majority of recipients of family support payments. Directing assistance to the primary care giver was a major recommendation of the *Social Security Review*, conducted between 1986 and 1989, and also accords with the *National Agenda for Women* objective of directing family assistance to mothers.

3. The main components of the Government's assistance to families are the Family Allowance, paid to low to middle income families, and the Family Allowance Supplement or Additional Pension or Benefit (AP/B) an additional payment provided to low-income families with dependent children where at least one parent is in the workforce or both parents are receiving income support (AP/B).

4. Family Allowance is currently available to parents of children aged under 16 and certain dependent student children aged 16 to either 18 years or the end of Year 12, whichever is earlier, subject to a test on the family's income and on family assets. At June 1991, 1.91 million families received Family Allowance. Some 98% of payments were made to women.

5. Until 1975, assistance for dependent children was provided through the taxation system in the form of concessional deductions. Assistance was also provided through the social security system in the form of a cash payment, child

endowment, to mothers. The current Family Allowance system was introduced in 1976, amalgamating the old system of tax rebates with child endowment. These changes meant that Family Allowance provided, through social security payments, the equivalent of tax relief. Direct cash assistance from the Government ensured that low income families were able to benefit to the same degree as other families who had previously been able to take greater advantage of tax concessions. It also provided higher rates of payment to larger families.

6. Family Allowance was originally designed as a universal payment to address the relative differences between families with and without children. Family Allowance payments to families with children developed as an adjunct to wages policy, recognising that wages do not take account of family responsibilities. Since its introduction, Family Allowance has been progressively targeted. The Government introduced a general income test on Family Allowance in 1987 in order to focus family assistance more tightly on those in need. From January 1992 an assets test (excluding the family home) has also applied to Family Allowance, with special hardship provisions for those who fail the assets test but have very low incomes and limited available funds. The hardship provisions, which will end in December 1993, were designed in large part to respond to the difficulties being experienced in the rural sector by farm families with substantial assets generating little income.

7. As well as the system of Family Allowances, additional income tested payments for pensioners and beneficiaries with children have been provided since the 1940s. Assistance for families was extended in 1983 by the introduction of family income supplement (FIS) for low income families not in receipt of pension or benefit. This measure ensured that low income working families were no worse off than families on unemployment benefit.

8. The level of assistance provided through FIS to low income families was substantially increased through its replacement by the Family Allowance Supplement in December 1987. It is intended to assist with the costs of children and to maintain workforce incentives for these fami-

lies. Family Allowance Supplement is also assets tested. Benchmarks of adequacy were established which saw the basic payment lifted to 15% of the married rate of pension and the rate for children aged 13 to 15 lifted to 20% of that rate, once family allowance for the first child was included. These benchmarks have been maintained through indexation. At June 1991, 187 800 families received Family Allowance Supplement or AP/B in respect of 454 700 children. From April 1992 the FAS or AP/B parental income test threshold has increased from \$A18 000 to \$A20 700.

9. The 1991-92 Budget included significant reform to family payments to take effect from January 1993. The changes affect the way Family Allowance and Family Allowance Supplement are paid, resulting in better direction of these payments to the primary care giver and better financial security for children in low income families. The changes involved, *inter alia*, integration of a range of payments for children into separate families assistance system, a combination of a Family Allowance Supplement and Additional Pension/Benefit into a single payment. This will ensure that the primary care giver in families - usually the mother - receives all child payments. From 1 January 1992, claims for Family Allowance and Family Allowance Supplement or AP/B will also be back paid to the child's date of birth if the claim is lodged within three months (13 weeks) of the date of birth. Previously, back-payment could only be made within a four week lodgement period. The change will benefit women not in a position to claim promptly, particularly Aboriginal and other women living in remote areas, and where claims are delayed because a new-born child or the mother is ill.

10. As in the case of tax concessions for children, assistance for taxpayers with a dependent spouse was provided in the form of a concessional tax deduction until 1975, when it was replaced by the Dependent Spouse Rebate (DSR). A higher level of rebate for a taxpayer with a dependent spouse and dependent children was introduced in the 1982-83 budget.

11. The DSR has been the subject of some discussion in recent years. Some have expressed the view that the notion of adult dependency which underlies family rebates in the tax system may no longer reflect the prevailing characteristics of Australian families. There has been some suggestion that while the DSR is an appropriate measure for older women who have

had little or no workforce participation, its continued availability for younger women without children is increasingly difficult to justify, given the dramatic increase in female workforce participation in recent years and increased opportunities for economic independence. Some groups have also argued that the DSR can serve as a workforce disincentive. However, other groups in the community have opposed the withdrawal of the DSR, arguing that it is the only provision in the current tax system that equalises the tax burdens of one and two income families.

## Assistance to Sole Parents

12. There are three main elements to the approach adopted by the Federal Government in relation to sole parents. The first is to provide sole parents - 95% of whom are women - who are in need, with a basic level of income security through the sole parents pension. The second is to ensure that, where possible, non-custodial parents contribute to the support of their children in accordance with their capacity to pay, via the **Child Support Scheme** (discussed in detail under Article 16). The third aspect is to maximise the choice of sole parent pensioners in respect of education and employment opportunities through various schemes, the most significant of which is the **Jobs, Education and Training (JET) Program**.

13. The sole parents pension aims to provide a basic income security for sole parents, while maintaining incentives for self help and financial independence. It is paid to sole parents with at least one dependent child under sixteen years on an income and assets tested basis. The payment is comprised of: a basic rate of pension, guardian allowance, additional age-related payments for each child, rent assistance for those in private rental housing and remote area allowance. The number of women in receipt of this benefit stood at 252 100 in June 1991. Guardian allowance is payable to all pensioners, allowees and beneficiaries who are sole parents to offset the additional costs of sole parenthood. At May/June 1991, there were 279 300 pensioners, 5500 allowees and 2300 beneficiaries receiving guardian allowance, some 94% of whom were women. Changes introduced to the provision of family assistance in the 1991-92 Budget meant that all sole parents in receipt of Family Allowance Supplement would be paid guardian allowance. As noted earlier, the payment structure will also change from January 1993, when

child payments, rent assistance and guardian allowance will be paid together in the family payment system, separate from the sole parent pension.

14. The social security and taxation systems encourage sole parents to participate in the labour force through the provision of an income test free area of income, the sole parent tax rebate, an employment entry payment to assist with the up front costs of employment, and continued entitlement to health care cards for six months after starting work. Nonetheless, workforce participation amongst lone mothers has been lower in Australia than in some comparable OECD countries. This situation has been improving in recent years with a greater focus on addressing the difficulties some sole parents face in re-entering the workforce.

15. Assistance with workforce participation is provided through the **Jobs, Education and Training (JET) Program**. JET is a voluntary program, recognising that the individual circumstances of many sole parent families may preclude the possibility of study, training or paid work. For those who are able to participate, the program takes an integrated approach, linking services and programs across several Government departments to provide a range of assistance to sole parent pensioners who face special barriers in attempting to enter or re-enter the workforce. The emphasis is on active economic independence. Additional labour market places, financial support under **AUSTUDY** and child care places are provided for JET participants. From January 1992, an education entry payment of \$A200 will be available to help sole parent pensioners with the up front costs of education. Of those JET sole parent pensioners registered with the Commonwealth Employment Service from March 1989 to end April 1991, 16% had been placed in employment, 72% had received formal training or other labour market assistance, and 4% had undertaken full-time study. In addition, some 9% found employment on their own initiative. As at April 1992, some 84 000 people had participated in the JET Program.

## Assistance for Unemployed Families

16. Much of the philosophy underpinning past income support and labour market assistance policies of Federal governments has evolved from the expectation that women are essentially transitory members of the work force. In the

case of income support for the unemployed as it applied for married couples, the underlying assumption was of a male breadwinner with a dependent spouse. As noted earlier, the concept of spousal dependency is not supported by current workforce participation statistics. Labour force participation is now the norm for women in Australia, other than women in older age groups. While there have been some important initiatives in recent years, the structure of unemployment payments is yet to fully reflect these broader societal changes.

17. Since July 1991, income support for the unemployed during the first twelve months of unemployment and for all unemployed under 18 years has been provided via a Job Search Allowance (JSA), and Newstart Allowance (NSA) for those aged eighteen or older and unemployed for more than twelve months. A married unemployed person aged 21 or more with a dependent spouse may be paid an additional allowance in respect of the spouse. Only the primary recipient is required to register with the Commonwealth Employment Service (CES) and be subject to work and activity tests for continued eligibility. Such income recipients are provided with a range of CES services designed to increase their chances of employment and broaden the range of employment options. Most unemployed married women do not receive JSA/NSA in their own right. Either their husband's earnings disqualify them or they receive income support indirectly as dependants of their husbands. For JSA/NSA dependent spouses, most of whom are women, there is little incentive to register with the CES. Their income is not dependent on their registration with the CES which is often viewed as a young people's service and a service to the unemployed seeking full-time work. However, married women make up a disproportionate percentage of 'disadvantaged workers', many having been out of the labour force for considerable periods. Without active encouragement, the majority of these women are unlikely to use CES services.

18. While those wishing to enter or re-enter the workforce who are not spouses of JSA/NSA recipients may still register with the CES and become eligible for labour market program benefits on the same basis as other unemployed people, in practice they do not. Many assume that eligibility is linked to receipt of either JSA or NSA.

19. Although wives of JSA/NSA recipients may claim allowance in their own right, there is no direct financial advantage in doing so since each

spouse would have entitlement to half the combined married rate. The Government has partially addressed these issues through introducing individual requirements and responsibilities for married women on the basis of age. Since 1990, married women without dependents under 21 years of age have been required to qualify for JSA/NSA in their own right. Other initiatives to encourage labour force participation among the spouses of unemployed include providing an additional free area for earned income of \$A30 per fortnight from September 1990, and provision of additional labour market training program places to assist spouses of social security recipients enter or re-enter the workforce. The Government is continuing to examine ways of increasing the opportunities for married unemployed women to improve their net income position through paid work, consistent with the initiative introduced in 1990 for married women under 21 years without dependents. .

## ARTICLE 13b

### WOMEN AND CREDIT

20. Discrimination in the provision of goods and services (which includes the provision of credit) is prohibited by the Commonwealth Sex Discrimination Act and by all State and Territory anti discrimination legislation.

21. Banks have introduced an objective mechanism for determining the suitability for loans called the 'credit scoring' system, which consists of a list of 'neutral' questions to be asked of any applicant. These questions attract a specific score and if the applicant accumulates a certain number of points she or he will be granted a loan.

22. This apparently neutral policy does, however, have aspects of indirect discrimination as the paramount factor to be considered when determining loans is stability, which is usually measured by such indicators as length of time of employment, the nature of that employment (for example, permanent, casual, full-time, part-time), and length of time in accommodation, which makes women with broken work patterns or late entry into the work force due to family responsibilities vulnerable. Some lending institutions do not consider child maintenance payable to the custodial parent to be 'income' for the

purpose of assessing capacity to pay. Moreover, as women on the whole are less wealthy and earn less than men they are negatively affected in obtaining access to credit.

23. The New South Wales Anti Discrimination Board has released *Women and Credit: Sex Discrimination in Consumer Lending, A Report*, which indicates that despite the fact that legislation banning sex discrimination by lending institutions has been in operation since the late 1970s, there are still instances where credit is refused to women because of their sex or marital status, or granted on unfavourable terms because women are assumed not to be creditworthy on their own and to need the support of a husband's finances or that of another male guarantor. The Board evaluated the response of financial institutions to the Report, and developed guidelines for lenders as one part of its response. In parallel, the New South Wales Women's Advisory Committee released its guidelines for borrowers.

24. The guidelines for credit providers issued by the Board attempted to address the fact that although an individual complaints mechanism existed, this was not having sufficient effect on lenders, who needed to be made aware of the way in which assumptions and practices combined to discriminate against women.

25. Under the guidelines, financial institutions should review all their loan application forms to ensure that women are not discouraged from applying for credit. They should also:

- refrain from asking information about a woman's child bearing intentions or capability or her birth control practices;
- train employees about relevant anti discrimination laws;
- take into account earnings from part-time jobs when assessing credit applications; and
- offer credit facilities to both joint account holders, regardless of sex or marital status.

26. The New South Wales Anti Discrimination Board continues to provide information to borrowers and credit providers as part of its overall educative function.

27. In Victoria, the Victorian Women's Trust, established with an initial \$A1 million endowment from the State Government, has an annual grants program for projects by and for

women and a loan guarantee program to assist women set up small businesses. In 1988, the Victorian Government appointed a Women's Small Business Development Officer to assist with the operation of the Women's Trust guarantee program and to make other business services more accessible to women.

28. In Victoria the cost of credit and the pitfalls of agreeing to act as guarantor are seen as significant issues. In late 1990, the Victorian Ministry of Consumer Affairs conducted a credit awareness campaign, **Credit Costs You - Think Twice or Pay the Price**, which targeted television advertisements to women aged 20-40, to raise awareness of the cost of credit. In recognition of the fact that women frequently experience difficulties as a consequence of becoming guarantors or co-borrowers for someone else's debt, the Ministry has undertaken educational initiatives to inform women, credit providers and the community generally about a woman's right to make an informed decision about accepting liability of someone else's debt. A pamphlet was produced in 1990 to warn women of the consequences of signing their partner's loan contract as either guarantor or co-borrower. This pamphlet and a poster complement an existing guide for workers assisting in these situations entitled *How to get out of Sexually Transmitted Debt* which was produced by the Women and Credit Task Group funded by the Ministry. In March 1991, as part of International Women's Day events, the Victorian Consumer Affairs Committee held a forum entitled 'Women and Credit: A Forum on Sexually Transmitted Debt' which aimed to provide opportunity for industry, consumer and legal sectors to discuss issues relating to women becoming tied to other people's debts. Recommendations arising from the forum are currently under consideration.

29. As referred to in Article 11 of this Report, the issue of discrimination in relation to the provision of insurance and superannuation has been considered by the Human Rights and Equal Opportunity Commission and the relevant provisions of the Sex Discrimination Act have been amended to provide for more limited exemptions.

## Women and Taxation

30. Between 1985-86 and 1989-90, the Australian Taxation Office undertook a comprehensive review of laws administered by the Commissioner of Taxation to identify those provisions discriminatory in terms of the *Sex Discrimina-*

*tion Act 1984*. The discriminatory features identified in this review were amended in the *Taxation Laws Amendment Act (No 5) 1990*.

31. Australia retains the individual as the base unit for taxation. The Federal Government in its White Paper, *Reform of the Australian Tax System*, released in September 1985, indicated that it was the view that this should continue for three reasons:

- in terms of equity, it can achieve fair treatment between individuals;
- it minimises distortion of the choice between paid employment and non-taxable activity, particularly for married women; and
- it is consistent with Government policy of promoting equal employment opportunity and of furthering the independence of women.

32. The current system does include the Dependent Spouse Rebate, which takes into account family circumstances in the calculation of tax liability. This Rebate was raised in April 1989 and provision was made for it to be increased annually in accordance with the Consumer Price Index. For the financial year 1991-92, the rebate is \$A1149 where there are no dependent children or students and \$A1379 where there are. The Dependent Spouse Rebate is income tested on the separate net income of the dependent spouse. The amount of the rebate is reduced by \$A1 for every \$A4 by which the dependent's separate net income exceeds \$A282 per annum. The rebate is also available to wives for dependent husbands.

33. The current taxation system also includes a Sole Parent Rebate which recognises the additional financial burden faced by sole parents. This rebate is available to persons with sole care of a dependent child or student regardless of the carer's sex. The main beneficiaries of this rebate are women. The Sole Parent Rebate is indexed annually in line with the CPI. Its value for 1991-92 is \$1080.

## Women and Housing

34. All tiers of Government in Australia are involved in housing. The Federal Government influences housing through a range of policy areas such as taxation, broad economic policies and its social justice strategy, as well as by

direct expenditure on housing assistance. State/Territory and Local governments have wide ranging involvement in housing through the design and delivery of housing services, infrastructure provision, planning, zoning and approval processes, land taxes and rating policies. These programs vary widely from State to State.

35. Most Australians house themselves through the operation of the housing market without government assistance. However, housing is an area in which Australian women continue to be significantly disadvantaged, women and women-headed households accounting for a disproportionate number of those without appropriate housing or experiencing poverty after paying for housing costs.

36. There are three main forms of housing tenure in Australia - home ownership/purchase, public housing rental and private rental. An average of 70% of households live in owner occupied dwellings, 6% are housed in public housing, 20% in private rental accommodation and 4% in other forms of housing or are homeless.

37. Most Australians live in single detached dwellings which comprise about 80% of all housing stock and are about 80% owner occupied.

38. The Australian housing system has so developed that home ownership offers the greatest benefits in terms of physical, emotional and economic security and is generally perceived to be the most desirable of all forms of housing. There is a long tradition of direct government support for home ownership in the form of interest rate subsidies, first home ownership schemes and government sponsored low start loan arrangements. Home ownership offers significant financial benefits from equity, tax free capital gains and imputed income flows.

39. Women headed, single income families have far lower rates of home ownership than married couples (with or without dependent children) or male single parents. Single women do, however, have a higher rate of home ownership than single men. This is largely because there are more older women than men and they are likely to have attained home ownership while married. This means that older women who are home owners have low housing costs; however, women who are asset-rich but income poor may experience great difficulties with home maintenance.

40. To some extent, low home ownership amongst women is caused by direct or indirect discrimination in the provision of home finance which continues to exist despite the existence of anti discrimination legislation.

41. In order to overcome such discrimination, the ACT Housing Trust and the ACT Women's Information and Referral Centre are publishing *The Women's Housing Handbook*. The Handbook canvasses such issues as public housing, emergency housing, tenants rights, bonds etc. Both these agencies are part of the ACT Government.

42. Public rental houses only some 6% of Australian households, but the size of this sector belies its significance for women. The majority of those accommodated in public housing or on public housing waiting lists are women: female headed households comprised 44% of all public renters in 1988, although they comprise only 22% of all families. Public rentals amount to no more than 25% of the tenants income, and rebates are available for those on low incomes unable to bear full cost. Demand for public housing outstrips supply and some criticism is made of the location and design of such housing.

43. Women are over-represented in privately rented accommodation, which offers the least long term advantage to low income consumers, providing no equity in the home, limited rights of occupancy and relatively high costs. Almost 30% of sole mothers in Australia are private renters. There is some evidence that women, especially those with small children, are discriminated against by private landlords, despite the protection provided by anti discrimination legislation. Evidence from Victoria suggests that women, although aware of their rights in this context and avenues for redress, do not act on these rights because of their immediate need for housing and the overwhelming nature of the system which requires making a complaint and following it through.

44. The Federal Government has substantially increased the level of rent assistance since 1983 to private tenants who are in receipt of government pensions, benefits and allowances and who pay rent or board and lodging above a specified threshold. In May/June 1991, 62% of those receiving rent assistance were women.

45. A number of government programs exist to facilitate women's access to affordable and ap-

appropriate housing. The **Commonwealth-State Housing Agreement** is a formal agreement between the Federal Government and each State/Territory which provides funds for public rental housing, home purchase assistance and specific purpose programs for pensioner rental housing, Aboriginal rental housing, mortgage and rent assistance, local government and community housing and crisis assistance. The current **Commonwealth-State Housing Agreement** was initiated in 1989, and applies until 1999. Most assistance available under the Agreement, which includes innovative loan schemes, does not apply specifically to women. However, a study undertaken in 1991 reveals that, in practice, women have an equal chance of obtaining assistance under the various programs established under the Agreement and in some cases women have greater access to such assistance.

46. Innovative approaches to the provision of private rental accommodation have also been developed by the Federal Government, which again apply to women and men equally. The particular housing needs of women are being addressed by the Women's Housing Issues Working Party, comprised of senior officers from Federal, State and Territory departments responsible for housing and the Federal Office of the Status of Women, which reports to State, Territory and Federal Housing Ministers; and the **National Housing Strategy**, which aims to develop a comprehensive program of housing policy reform to meet the needs of all Australians, particularly those on low to moderate incomes. The National Housing Strategy has prepared a study entitled *The Housing Needs of Women*, which has formed the basis of a national consultation with women's groups.

47. The joint **Commonwealth/State Supported Accommodation Assistance Program** (SAAP) provides funds for a range of supported accommodation and support services. Over 1500 SAAP services were funded in 1990-91. Of these, 374 services were for women, including 313 for women escaping domestic violence and 61 for homeless single women.

48. National data about the clients of SAAP services collected in a census conducted in May 1991 suggest that about 10 000 homeless persons are accommodated in SAAP services on any one night. Forty-one per cent of all SAAP clients were women. Of these, approximately one-third used women's refuges. About 80% of women escaping domestic violence were accompanied by children.

49. National data from the SAAP two weeks census 17-30 September 1990 revealed that each week approximately 1000 women and children were accommodated in women's refuges. According to data from the SAAP one-night census November 1990, about 18% of the women who use women's refuges and were escaping domestic violence were Aboriginal or Torres Strait Islanders and 13% were from non-English speaking backgrounds.

50. Over \$A50 million (joint Federal/State funding) is spent nationally each year to support women's refuges.

51. The **Emergency Relief Program** provides grants to community agencies for the provision of emergency relief assistance to people in financial crisis, many of whom are women. Some 1000 agencies receive funds under the Program. This network of community groups reaches disadvantaged sectors such as Aboriginal and Torres Strait Islander people and migrant groups. The 1991-92 budget for the Emergency Relief Program was \$A16 342 million. Women constitute around 55% of emergency relief recipients.

52. In Western Australia, the State's housing authority, Homeswest, has been asked to develop a plan for the services they provide to women. An Equity Policy Officer will be employed with responsibility for equity/access issues to ensure Homeswest policies and practices are suitable to its customer groups, particularly women.

## ARTICLE 13(c) PARTICIPATION IN RECREATION, SPORT AND CULTURAL LIFE

### Women and Sport

53. As Australia's First Report made clear, sport plays an important role in Australia's national life. Almost every Australian participates in some form of sporting activity at some stage of her or his life. Media coverage of sporting events attracts huge audiences, while achievement in sport, at all levels, attracts considerable prestige.

54. The previous report identified a number of specific areas of concern: the adequacy of media coverage of women's sport; options for increasing media interest in women's sporting activi-



ties; and problems met by women's sporting bodies in areas such as sponsorship, administration, promotion, funding and access to facilities. In addition, the needs of women with disabilities and women from non-English speaking backgrounds were identified as areas of special concern.

55. Sport remains an area where women continue to suffer discrimination in opportunity and status. Women and girls do not receive the same encouragement and opportunities to participate in sport as do men and boys. Sport is largely administered by men, and women's sport generally receives less funding and attracts less prize money and corporate sponsorship. In spite of continuing efforts inadequate and often trivial media coverage of female sport gives girls and young women few role models.

56. Fewer women are involved in regular physical activity and sport than men and amongst registered sports participants women are outnumbered by men by more than three to one. A higher proportion of girls drop out of sport than boys, so that the participation rate of young men in their twenties is nearly double that of young women of the same age. Sports media coverage continues to be dominated by men's sport. In 1988, only about 2.5% of total newspaper sports coverage was devoted to women's sport, a trend that has not changed significantly in eight years. (See Table 13.1 below.)

57. Television sports coverage has been even lower with women's sport occupying only 1.3% of total sports time, averaged across six major channels compared with 56.8% for men's sport and 39.8% shared sport. This was even less than the 2.1% allocated to animal sports. (*Drop-Out Phenomenon in Organised Sport Report*, Dr Sandy Gordon 1988). The number of women in coaching, administration and officiating positions also remains low. This imbalance increases in significance at the higher levels of decision making.

58. Further, there is considerable gender imbalance in sports journalism. A survey of media organisations indicated that there is no female sports editor on any of the 26 major metropolitan newspapers across Australia, nor any female Head of Sport in the 21 metropolitan television stations.

59. Apart from a general exemption allowing discrimination on the grounds of sex, to exclude one sex from participation in any competitive sporting activity in which the strength, stamina or physique of competitors is relevant, the Federal Sex Discrimination Act and State and Territory anti discrimination legislation outlaws discrimination on the basis of sex in a number of important areas which are relevant to sport. For example, were a school or local council to exclude a woman from participating in coaching, umpiring or refereeing, sports administration or any prescribed sporting activity because of her sex, a complaint could be lodged. It remains the case, however, that few women have lodged complaints related to sport under the various Acts. The Sex Discrimination Act and most State and Territory Acts exempt voluntary organisations, which are the majority of the delivery mechanisms of sporting opportunities, from the operation of the legislation. The Federal Sex Discrimination Commissioner is currently examining the exemption given to voluntary organisations and has also issued a set of Draft Guidelines on how to use the Sex Discrimination Act to tackle discrimination against women in sport.

60. The Sex Discrimination Act is complaint-based and does not, of itself, initiate structural change. Such change can only come about as the result of a systematic plan of action by governments as well as by sporting organisations.

61. As participation in sport has important consequences for fitness and self esteem, a number of government measures have been initiated to encourage the participation of women and girls.

**Table 13.1**  
Percentage of total newspaper sports coverage by sex

	1980	1984	1988
Men	96.2	95.9	95.8
Women	2.0	1.3	2.5
Shared	1.8	2.8	1.5

Source: Women and Sport Unit, *Fact Sheet 6*, Australian Sports Commission, 1990.

62. As a measure to advance women's sport, a Women's Sport Promotion Unit was established within the Australian Sports Commission in late 1987. The Unit, now entitled the **Women and Sport Unit**, has initiated a variety of special programs to increase opportunities for women and girls in all aspects of sport and has produced a variety of educational and promotional resources to raise public awareness. It produces the *Active* newsletter, which has a circulation of 25 000, has established, in cooperation with the States and the Australian Capital Territory, a *Register of Sportswomen*, to promote sports-women as role models for school and community groups and initiated a mass media campaign aimed at adolescent girls. The Unit has coordinated the development and production of a *National Women in Sport and Recreation Strategy*, in conjunction with the States and Territories. The Strategy identifies a number of national goals and outlines the steps being taken by the Federal, State and Territory Governments towards achieving those goals.

63. In 1988, The Australian Sports Commission initiated **Aussie Sport**, a program aimed at children in the 9-12 age group. **Aussie Sport** provides activities aimed at improving the quality of coaching and instruction in sport for children and promotes the concept of sport for all children within schools, with particular attention being paid to breaking down gender barriers in children's sport. The program was extended into the 13-18 age group in 1990.

64. In May 1991, the **Active Girls Campaign** was launched by the Women and Sport Unit. This will be a three-year media and educational campaign, aimed at encouraging girls and women to participate and enjoy sport and physical activity as well as educating and informing the community, including parents, teachers, coaches and sport providers about the benefits of sport for girls and women. A group of adolescent girls worked with the Commission in developing and designing information materials. These include an information brochure and list of resources; an issues and action strategy booklet for adults, teachers and sporting clubs, which provides suggestions on how to address these issues in a practical and innovative manner; and a girls magazine which firmly established physical activity within the adolescent lifestyle. The effectiveness of the program is being monitored.

65. In February 1991, the Australian Sports Commission's draft guidelines, *Toward Equity in Sport: A Practical Approach for Sporting Organisations*, were launched by the Minister for

Arts, Sport, the Environment and Territories at a conference held as part of the consultations for the House of Representatives Standing Committee on Legal and Constitutional Affairs Inquiry into Equal Opportunity and Equal Status for Australian Women.

66. The guidelines were published in final form in March 1992. The Commission is working closely with a number of selected national sporting organisations to develop and implement model strategies to improve access and equity for women and girls.

67. There have been a number of other initiatives introduced to address discrimination in sport. A program for women coaches has been introduced to remedy the gender imbalance amongst Australia's elite coaches. Figures collated by the Australian Institute of Sport show a dramatic increase in the number of women receiving coaching scholarships since the program was established in late 1990. In 1989, women received 27 out of the 229 scholarships awarded; in 1990, 54 out of a total of 227 and in 1991, six out of ten. Special full-time coaching scholarship positions at the Institute were provided to women.

68. A **Prime Ministerial Women and Sport Award Scheme** has been established to acknowledge exemplary practice and programs in categories such as media coverage, school programs and support for women with special needs, and a special project will be introduced to raise the profile of women's sports in the media. In addition, the Women and Sport Unit is commissioning research to update data on the media portrayal of women in sport.

69. The Australian Sports Commission has also initiated a process of developing television 'high-light packages' from selected women's events which have been provided free of charge to television stations for use in news and sports magazines shows.

70. In May 1992 the House of Representatives Standing Committee on Legal and Constitutional Affairs (Lavarch Committee) made a number of recommendations to improve the participation, representation and portrayal of women in sport.

71. Although energetic steps are being taken to dismantle discrimination that exists in sport, there are a number of areas that still require attention. Both Federal, State and Territory governments have policies which encourage women to take part in sporting and leisure

activities as a right and a need. The Federal Department of Sport has established the **National Physical Activity and Lifestyle Strategy** which defines the roles and responsibilities of Federal, State and Local Government, the fitness and healthy lifestyle industry and the education and training sector. The Strategy focuses on a number of areas and identifies women as one of the target groups for special attention in the development of policies and programs. Little has been done, however, in the establishment of child care provision for women who wish to take part in such activities. Certainly, the South Australian and Western Australian Departments of Sport have produced guidelines concerning child care and sport, which set out information on the legal issues to be addressed in establishing child care arrangements, and also provide some funding in this context. All child care services are able to offer non-work related or 'take a break' care, but much more remains to be done.

## **Women and Cultural Development**

72. The Federal Government strongly encourages initiatives which acknowledge the achievements of women in the past and which remove all obstacles that hinder women making their contribution to cultural affairs.

73. To ensure the increasingly equitable representation of women in cultural life, the Federal Government progressively monitors appointments to the many Boards and Councils of the agencies of the Federal arts portfolio.

74. During March and April 1990 the Australia Council reviewed the Affirmative Action Programs initiated by the Council in 1985 within major arts organisations in receipt of 'general grants'. The review focussed on progress made in increasing the involvement of women in the decision making structures of arts organisations and on the Council and its Boards and Committees.

75. The progress made in the receipt of applications for assistance from and the number and value of grants paid to female artists by the Council was also reviewed.

76. As a result of this review, the Australia Council will, during 1992, conduct research on areas of concern still arising in regard to women in the arts. The Council will survey in particular, a cross section of arts organisations on their

policies and practices in commissioning, performing, exhibiting and publishing work by female artists.

77. Insofar as the awarding of grants is concerned, gender balance is observed as far as possible by all the Council's Boards and Committees. Each Board and Committee addresses this in different ways. The Community Cultural Development Board, for example, uses National Agenda for Women Action Plans as a basis for allocating funds and has funded numerous community based arts projects for women. The Performing Arts Board addresses priorities laid down by both the Performing Arts Board and the Council, including various strategies designed to eliminate any existing discrimination against women in the arts. The Performing Arts Board has also developed strategies specific to affirmative action in music including the reservation of a composer fellowship and an Australian Broadcasting Corporation Fellowship for women. Further, the Board's Drama Committee recently determined that its professional development grants would be particularly targeted to women. The Visual Arts/Craft Board encourages equal representation of women in the projects, exhibitions and the programming of the organisations it supports.

78. In terms of the Council's funding of individual artists, applications from women as a percentage of the total number of applications received has increased and the gap between the average grant to individual male artists and that to individual female artists is closing.

## **Film and Television**

79. The **Women's Program** of the Australian Film Commission provides financial assistance for programs and activities designed to enhance the participation of women in the film, television and video industry. The focus is on women who are at mid-career level and the program supports initiatives addressing the under-representation of women in key creative roles and technical positions. During 1990-91, the Program focused on providing professional development support schemes to assist women screenwriters, directors and producers. The **Producers' Support Scheme** continued to assist women producers move from low budget productions to feature length or larger scale projects. The Scriptwriters' Workshop provided selected screenwriters with the opportunity to develop their work through workshop sessions with actors. In Melbourne, three directors participated

in a pilot program where each director was teamed with both actors and a professional theatre director to explore a range of performance processes including the director's approach to the text, rehearsal techniques, interactive scene work and actor communication. This was followed by a larger scale workshop for women in Sydney.

80. The Australian Film Television and Radio School's Industry Training Fund for Women (ITFW), provides training and career advice to women students and industry professionals, undertakes research and initiates training to upgrade the skills of professional women working in the film, television and video industries and supports women's organisations by running courses in association with them.

81. The Australian Film Television and Radio School has continued to assist the professional development of women in communication, arts and media through its ongoing full-time programs and those targeted specifically through the Industry Training Fund for Women. In the degree courses and extension programs, 44% of students are women and in Radio the percentage is 50%.

82. Training for women in most States was carried out through the Industry Training Fund for Women which initiated most of its courses through other women's organisations, primarily Women in Film and Television.

83. In South Australia, the final course in the women director series was run for ten women with projects in development to assist them to apply to funding authorities as director of their own projects. In NSW, the Fund contributed to the running of a 16 mm film production workshop and also trialled a music and sound design course for twenty-five women participants. In Victoria, a course was conducted in television production techniques for writers, while in Queensland a course on producer/writer relationships and negotiation skills took place.

84. The focus for the 1992-93 financial year will be technical training for women following on from the predominance of producing and directing courses in recent years, together with courses on negotiating skills and assertiveness training for women in all areas of the industry. The Fund, in association with the Media Resource Centre, South Australia is initiating a workshop for women from non-English speaking backgrounds for training in video production skills.

## **Museums, Galleries and Libraries**

85. Australia's museums and collecting organisations, such as the National Library of Australia, National Film and Sound Archive, Australian National Gallery, National Museum of Australia and the Australian National Maritime Museum continue to collect, document and exhibit the contribution of women to Australian society. The achievements of women writers and artists in particular have been recognised in the acquisition of personal papers by the National Library.

86. The National Museum of Australia, as part of its documentation of Australian social history, has embarked on a program to ensure the national historical collection adequately reflects the lives and work of women in Australia and specifically to document groups of women who have previously been neglected by historical researchers and who are currently under-represented in the Museum's collection. The Museum, in consultation with women and women's groups and Aboriginal and Torres Strait Islander women, is collecting relevant objects and identifying other sources of information such as photographs, diaries and letters. Although specific emphasis is being placed on women's work and women in public life, the project seeks to enhance the way that the diversity of women's experiences in Australia is recorded.

87. The National Film and Sound Archive acquires, preserves and presents moving image and recorded sound material depicting the experiences of Australian women, and supports this program as a significant collection priority. From its rich resource the Archive will continue to relate the activities of women through exhibitions, publications and public education programs, including specialist research on the role of a number of women prominent in the formative years of Australia's recorded film and sound history. It is expected that this work will lead to the publication of a number of manuscripts, while a public education kit on Women in Sport and Physical Activities in Australian Society 1896-1956 is also to be released.

88. The Australian National Maritime Museum has endeavoured to represent all Australians, regardless of gender, in the collecting and preserving of maritime heritage since its establishment in 1986, and opening in 1991. As a result, the Museum's exhibitions depict a fair range of women's activities and achievements in mari-

time history. The Leisure exhibition highlights women in speed, surf lifesaving movement and beach leisure wear. The Commerce exhibition looks at women in the fishing industry and the trade union movement. The Passengers exhibition explores the experience of women as passengers on board migrant ships and regular liners in the nineteenth and twentieth centuries. The Discovery exhibition pays tribute to Mrs Elizabeth Cook (wife of Captain Cook) and the contemporary work on the women canoe builders of the Yanyuwa community Borroloolua NT, and women Aboriginal artists. The USA-Australia Gallery makes particular mention of women surfing champions, women in the alliance between USA and Australia, and women in the history of whaling. For 1993, the museum has planned an exhibition entitled *Women Making Waves*, which will investigate the stories of some exceptional women under sail - from Mary Anne Parker (1790s) to Kay Cottee (1980s).

89. The Australian National Gallery is committed to ensuring that women have greater access to the National Collection through an extensive lending and publications program and through its exhibitions program. The Gallery continues to develop exhibitions based on women artists. An increasing number of exhibitions featuring women artists are travelling throughout Australia.

90. The Gallery's Public Programs include women lecturers and celebrity speakers. Volunteer guides, most of whom are women, frequently conduct tours featuring the works of women artists or women represented in art. The **Education Program** has included courses such as Professional Development for Teachers on using the Collection with students in gender equity programs in schools.

91. The Gallery annually observes International Women's Day with special public programs, promotional material and advertising. Women currently comprise 52% of staff, some in senior positions. There are five women members of the Australian National Gallery Council. Approximately 55% of all visitors to the Australian National Gallery are women.

92. The National Science and Technology Centre has undertaken a **Girls in Science and Technology Program** for thirty girls in the first two years of secondary education, aiming to create a positive attitude to science and technology as a career option. Further programs will be conducted subject to securing sponsorship funding.

93. A special series of display panels of 'Great Women Mathematicians' has been developed and is being displayed in the Centre's IBM Mathematics exhibition as it tours throughout Australia. Articles highlighting the contribution of women in science and technology are regularly included in the Centre's *Questacon Magazine*.

94. There have also been other displays and collections related to a range of specific areas of women's interests, for example, an exhibition of women in government in the Parliament of Australia and an exhibition of women in war-time in the Australian War Memorial. State and local governments have also mounted major exhibitions relating to various aspects of women's lives.

## Women and the Environment

95. In June 1990 the Australian Government set about the task of identifying comprehensively and systematically what Australians needed to do to ensure that the patterns of economic development were compatible with environmental and social sustainability over the long term, and to achieve ecologically sustainable development (ESD).

96. The Australian Government has identified four fundamental goals for ESD:

- to enhance individual and community wellbeing and welfare by following a path of economic development that safeguards the welfare of future generations;
- to provide for equity within and between generations (i.e. intra-generational and inter-generational equity);
- recognition of the global dimension; and
- to protect biological diversity and maintain ecological processes and systems.

97. To address the challenge of developing mechanisms for implementing these in Australia, the Federal Government established a process of detailed discussion involving all levels of government and the community. Nine Working Groups were set up to identify and provide advice on priority areas in those sectors of Australia's economy with significant interrelationships with the environment. The Working Groups released their final sectoral reports in December 1991, and in February 1992 further

reports on intersectoral issues, including gender issues were released. A Government response to the recommendations included in those reports is now being prepared.

98. The ESD process identified the need to enhance environmental statistics. The Australian Bureau of Statistics (ABS) is now preparing a substantial compendium on environmental issues and statistics, based on the United Nations Statistical Office framework. In addition, the ABS is undertaking work on conceptual issues underlying the long term development of satellite (or supplementary) environment accounts to the Australian National Accounts.

99. As part of the ESD process, the Federal Office of the Status of Women prepared a discussion paper *Engendering the Debate: Women and Ecologically Sustainable Development*, which was released in June 1991. The paper aimed to highlight the areas where women's activities, concerns, and unique roles and contributions, needed to be taken into account in the development of a national ESD strategy, and to stimulate public discussion on this issue. It was presented at a workshop on inter-sectoral issues and was also distributed at some of the public forums held around Australia to seek community feedback on the ESD process. The Federal Office of the Status of Women has continued to provide input as the ESD process evolves.

100. Australia was also actively involved in the development of policies and positions leading up to the United Nations Conference on Environment and Development (UNCED), held in Rio De Janeiro in June 1992. Australian women were also actively involved in this process, not only through their participation in the government decision-making process and as members of the Australian delegation to the UNCED preparatory meetings; but also through their activities as members of non-government organisations. The Office of the Status of Women provided extensive briefing on issues of concern to women to the Australian delegations attending the Preparatory Committee meetings. The Office also prepared *Women and the Environment Statement* for release at UNCED.

101. Australian women participated in a number of international meetings aimed at identifying women's particular concerns and views on the issues discussed in the UNCED process, and ensuring outcomes from UNCED which reflect the crucial role of women in relation to ecologically sustainable development. The Australian delegation to the 36th Session of the Commis-

sion on the Status of Women held in Vienna in March 1992 took an active role in discussions on the environment.

102. In 1991, the National Women's Consultative Council conducted a series of consultations with women around Australia to seek their views on the best means of involving women in achieving ecological sustainability. The majority of women in these consultations agreed that:

- women have particular expertise to offer environmental policy and decision-making, through their roles in the workforce, family and household;
- women are already making a substantial contribution in this area;
- women and their concerns are currently not adequately represented in environmental decision-making at all levels of government, while they continue to carry the major responsibility for day-to-day environmental decisions in the community and workplace;
- environmental policies and programs are at risk of exploiting women's capacities to contribute to ecological sustainability through endangering their already tightly balanced work schedules;
- women with disabilities, non-English speaking background women, and women in poverty, are doubly disadvantaged through lack of resources in their everyday life; and
- the rate of official response to environmental change lags behind the levels of response from individuals and communities.

103. In Australia, women are translating their concerns into action through their involvement in many community environment organisations. Women comprise approximately 70% of all workers in these organisations. However, women are not well represented in senior decision making positions in these organisations, although the Wilderness Society is headed by a woman. The President of the Environment Institute of Australia is also a woman. The Institute is a body of professionals and experts in the area, established to facilitate liaison and communication between environmental practitioners and to promote environmental knowledge and awareness and ethical environmental conduct and practice.

104. Australian women have been closely involved in a number of programs established as major cooperative efforts between all levels of government, industry, communities and individuals to develop programs and policies to achieve ESD. These include the **Landcare**, **Save the Bush** and **One Billion Trees** programs.

105. **Environmental Choice Australia**, is a voluntary program initiated by Victoria and now administered by the Federal Government which allows companies to seek verification of environmental claims about goods and services. The Program also provides environmental education and information and, in cooperation with the private sector, has begun to investigate the methodology for whole-life-cycle analysis of products.

106. **Environmental Choice Australia** is developing initiatives such as a *Shopper's Guide to Environmentally Preferred Products*, a quarterly consumer awareness bulletin which provides background information on consumer products and related environmental issues. Information on environmental protection will be produced in community languages such as the pamphlet providing *Explanations for Environmental Shopping Terms*.

## ARTICLE 14

### RURAL WOMEN

#### Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programs;
- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, *inter alia*, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.



## ARTICLE 14

### RURAL WOMEN

1. In general terms, the Federal, State and Territory Governments have not taken the contribution of rural women into account separately in economic and agricultural policies. Most such policies concerning the rural sector have been based on support for the family farm unit and the interests of both women and men are taken into account in this context. Relatively little statistically-based analysis has been done on the type of work that is generally done by rural women as opposed to men, the percentage of agricultural work in rural areas which is done by women and the percentage of agricultural credit and loans in rural areas that are actually given to women. In terms of social policy, women have been recognised as important clients of Government services. Programs specifically targeting women have been developed at both Federal and State levels in such areas as health services, farm safety, information services, post-secondary education services, employment services, violence and child care.

#### Rural Downturn and Income Assistance

2. Australia is currently moving out of a rural economic recession, caused by a combination of drought and low commodity prices. The rural crisis has served to raise awareness at Federal and State Government levels of the particular vulnerability of rural women. Rural women and men have suffered great stress in supporting family and farm and many have had to seek additional sources of income. Evidence does exist of women living several hundreds of kilometres from their families during the week to undertake paid employment. This places great stress on families, exacerbating the demand for child and respite care services in rural areas. The rural crisis, further, may serve to reduce the educational opportunities available to rural children, particularly girls, who are already less likely than students in urban areas to access post compulsory, higher education.

3. The Government has established the **Rural Adjustment Scheme** to support structural adjustment and to provide income assistance for farms in financial difficulty. While this program has not been specifically designed to assist women, the income support the Scheme provides benefits women and their families.

4. In response to the rural crisis, the Federal Government introduced changes so that farming families will no longer be required to put their farm up for sale in order to be considered for eligibility under the Job Search or Newstart Allowances (formerly known as Unemployment Benefit). These arrangements recognise the need for farmers to remain self-employed on the farm to maintain the viability of their asset, even though their current incomes are very low. Allowances for farm and other small business families on high assets, but low incomes, have also been made in some other important family income assistance and education assistance schemes. In the past, many farmers on low incomes had difficulty in obtaining benefits, because: they did not meet the availability for work criteria which required them to leave the farm to take up employment offered; were not considered to be unemployed; did not meet Social Security assets tests or had high assets levels.

#### Research and Surveys

6. In 1988, *Life has Never been Easy* was published, the report of the survey of women in rural Australia, carried out jointly by the Office of the Status of Women and the Country Women's Association of Australia (CWA).

7. Fourteen thousand women responded to the survey. Forty-six per cent indicated that they worked as a wage or salary earner, as a family business worker, on the family farm or property or in some combination of these. The remainder described their employment as 'home duties' only, but it was clear that the perception of what constitutes 'home duties' for such women is a wide one. Only 9.6% reported that they were currently looking for work, with another 4.8% indicating that they had tried, but found no employment opportunities were available.

8. Almost one-third of the respondents to the survey perceived the remoteness of rural living and the associated personal challenge as the biggest problems facing them. Lack of facilities of all types and of leisure and entertainment opportunities for women in more remote country areas were also mentioned. Others identified issues relating to the status of women: discrimination against women in the workplace and by men in general; attitudes and prejudices; inse-

curity in various forms and lack of financial independence. Other problems included the problems of being a single mother, stress, lack of control over children, fear of vandalism and violence against women.

9. Lack of essential services, including roads, railroads, air services and public utilities such as telephone, water, electricity and sewerage proved to be of major concern to 11.9% of the women surveyed. Lack of public transport was a particular issue affecting older women. When asked about personal priorities for government expenditure in their areas, 63.7% indicated health and medical services, 49.9% community welfare services, 38% child care services, while 37.7% of the respondents nominated water and 25.4% electricity.

10. Further concerns raised were limited education facilities in remote country areas, making it essential for families to send their children away to costly boarding schools; technological change in agricultural production, processing and manufacturing, coupled with a trend towards substitution of capital for labour on farms in search of improved agricultural efficiency, resulting in a contraction in the available level of employment on farms and the towns that service them.

11. This survey and the Prime Minister's *Rural and Regional Statement* of December 1989, the result of a major review by Federal Departments of the status of service delivery to rural and remote areas, led to the introduction of a number of programs to improve the lives of rural women.

12. The Australian Institute of Family Studies has extended its three year study into families, work and living standards which takes account of the interaction of factors such as housing, transport and work for families with children and the extent to which services provided by the government and the community affect the living standards of families, in metropolitan, rural and remote regions. This now includes additional rural/remote areas. The research will be used to inform Government policy for disadvantaged groups, including those locationally disadvantaged, in rural areas.

## Health

13. The Federal Government in 1989 established a three-year **Women's Health Services Rural Program** to assist women in remote areas

who were disadvantaged by lack of access to specialised health services. Under the Program funding has been provided for breast screening through mobile units and to the Royal Flying Doctor Service and the Family Planning Association for family planning services in remote areas. Further, grants were provided to Frontier Services who work in conjunction with the Royal Flying Doctor Service to improve the access by women in remote areas to health services. Women's health service officers were appointed in Port Hedland, Charleville and Broken Hill and a Rural and Remote Areas Unit has been established in Darwin. Multi purpose facilities in small rural communities, to provide hospital, residential age care, disability and community services have also been funded. These benefit rural women in need of care and provides carers with access to respite care.

14. A number of States have introduced strategies to ensure that rural women have access to health services. In March 1991, Queensland introduced the **Mobile Women's Health Program** which incorporates clinical services offered by Women's Health Nurses and health education programs for rural women and funded six women's health centres throughout the State. Further, the Brisbane Women's Health Centre has been granted funding to establish a toll free number to offer counselling and information to women in rural and remote Queensland. A Breast Cancer Screening Program has been established and a **Cervical Cancer Prevention Program** is planned. A **Workplace Health and Safety Initiative** specially targets rural women. In Central Australia, a rural women's health program commenced in 1988 which provides culturally appropriate women's health education, including family planning, sexually transmitted disease counselling and cervical cancer screening. Western Australia operates mobile mammography and immunisation programs and provides assistance for patients who need to travel for health care. New South Wales operates a **Women's Health Nurse Practitioner Program** to fill gaps identified in the provision of gynaecological health screening services to women, particularly those who are isolated or socially disadvantaged. The majority of these nurses are located in rural areas. As part of its **Women's Health Program**, New South Wales has established mobile antenatal outreach education and a mammography screening program in two rural areas. In Victoria, Women's Health Services currently exist in all but one of the eight regions of the State and one is planned for the remaining region. In the large rural regions, these centres do not provide primary health care but link women in their local area and ensure that services are available for rural women.

## Violence Against Women

15. Funding has been provided for material on violence against women for distribution to community groups and service providers. Further, under the **National Domestic Violence Education Program**, which ran for three years to June 1990, there was a **Rural and Isolated Domestic Violence Sub Program**. A Rural Kit was produced to address some of the difficulties identified during the program. The Kit, which was very popular, was distributed to rural organisations for use with rural communities. The National Committee on Violence Against Women has since updated the Kit. A radio kit was also produced and distributed throughout Australia via the ABC radio networks. The National Committee on Violence Against Women, which was established in 1990 for three years, has terms of reference which specifically include concerns about rural victims of violence.

16. Under the **Supported Accommodation Assistance Program**, a pilot service in rural and remote areas has been established in Western Australia which is used, in the main, by single mothers and women escaping violence. Four Aboriginal Women Safe Houses are opening in rural and remote communities in Western Australia in 1992. In Queensland a cross-program funding strategy has been developed to fund service responses in rural and remote communities. There are 22 refuges in regional and rural areas.

## Education and Training

17. In 1989 the Federal Government also announced its strategy for rural education and training entitled **A Fair Go**. Its objectives are to ensure that broad based education and training initiatives are effective in non-metropolitan areas and to take action to meet problems faced by rural communities, including rural women.

18. The Government has also funded the **Innovative Rural Education and Training Program**, which is designed to assist educational institutions, industry bodies and community groups to develop innovative methods for delivering relevant education and training projects for people in non-metropolitan areas. Under this Program, which was established for a three-year period, the last year of funding being 1990-91, innovative training projects developed for isolated women were a priority for funding. For example, the Capricornia Institute of Higher

Education has undertaken a project to broaden career options for rural women by the provision of alternative paths to higher education in science and engineering. Although this Program no longer exists, its aims and objectives will be continued through the **Rural Access Program**.

19. A number of special educational programs exist to meet the needs of rural people generally. Few of these are specifically targeted to rural women, but some are of special importance to them, such as the **Assistance for Isolated Children Scheme**, designed to assist primary and secondary students who do not have reasonable daily access to an appropriate government school because their homes are geographically isolated. Over 1990-92, the Federal Government is providing \$A6.8 million for hostel accommodation to enable disadvantaged students from remote areas to continue education.

20. Special education programs for rural women have been initiated by some States. These range from specific courses to one off special programs. Western Australia, for example, has initiated Women in Landcare courses which canvass conservation activities, while in 1988 South Australia introduced a Certificate in Rural Office Practice, targeting rural women and offering flexible training modes. By 1989 this course was offered at all TAFE Colleges in South Australia and was available to students in other states. The Women's Agricultural Bureau of South Australia has also offered special seminars, which have included Financial Planning Seminars for Rural Women (sixteen of which were held from November 1989 to May 1991), Computer Awareness Seminars for Rural Women and Health Awareness Seminars for Rural Women.

## Grants Programs

21. Since 1988, the Federal Department of Primary Industry and Energy has funded grants programs specifically targeting women. The first was the **Rural Women's Access Grants Program**, established to fund small scale, practical activities and research projects, which was a response to the recognition that rural women have limited access to services such as employment, education and family support.

22. Following a review in February 1991, the **Rural Women's Access Grants Program** was amalgamated with two existing Programs, the **Rural Education Access Program** and the **Innovative Rural Education Program** into the

second scheme, the **Rural Access Program**. This Program, which is part of the Federal Government's plan to help rural communities and groups affected by the current downturn in farm incomes, includes a special component, with increased funding, for women's projects. The program will provide small grants to non-profit groups in rural and remote areas, to assist them with activities like improving access to health and community services, education and training. The program has been allocated \$1.5 million per annum. At least \$A500 000 each year will be reserved for women's projects; \$A590 000 being allocated to women's projects for the financial year 1991-92. The increased money available to rural women under the new program will enable women's groups to provide immediate support as well as long term assistance to rural communities.

23. The new Program is advertised in the national regional and rural press and interviews on ABC regional radio are used to explain the **Rural Access Program** aims and guidelines. Toll free telephone access to the **Rural Access Program** is provided through the Countrylink Answer Line.

24. Successful grant applications by women to the **Rural Access Program** has included projects that supported health education for Aboriginal and non-Aboriginal women in rural South Australia; provided a range of education opportunities to isolated women in Western Australia and assisted women in a number of rural areas to conduct training courses.

## Rural Counselling

25. In recognition of the fact that rural communities are disadvantaged in terms of the services to which they have access, the Federal Government initiated the **Rural Counselling Program** in 1986. Under the Program, rural communities may receive a Federal grant of 50 per cent of the cost of employing a rural counsellor. The scheme is not specifically directed at women, but at farm businesses, although it is believed that women and men benefit equally from the program. In May 1992, there were 61 counsellors, 13 of whom were women. Under the **Home and Community Care Program**, a toll-free telephone counselling service is also available to isolated carers in urban and rural areas.

## Information Links and Consultation

26. The Federal Government **Countrylink Program** aims to improve rural people's access to information about Federal Government services and programs, through the provisions of publications, shopfront, travelling displays and the **Countrylink** toll free telephone line. During 1991-92, an average of 160 callers a day, half of whom were women, used the **Countrylink** Answer line, while information was provided face to face at approximately 60-70 shows and field days.

27. **Countrylink** publishes the *Rural Book*, a directory of Federal Government services and programs, oriented to rural people. Where particular provisions have been made for women in the administration of a program, this is detailed in the text and specifically identified in the index. The section in the *Rural Book* dedicated to women's issues contains information on a variety of topics, including encouraging greater participation, affirmative action for women, women's health, grants programs for women, income support for women and violence against women. The third edition of the *Rural Book* was published in March 1991 and repeated in early 1992 with updates.

28. State Governments have also been active in meeting the needs of rural women. In Western Australia the Rural Women's Task Force, comprising representatives from across the rural areas advises the Minister for Agriculture on rural issues that are of concern to women. In Victoria, the Government actively supports a Women's Rural Network newsletter. In Tasmania, the Office of the Status of Women established the Rural Women's Network in 1990 to facilitate communication between government and women living in rural and isolated communities. The Network has produced and launched the *Tasmanian Rural Women's Resource Manual*. In Queensland, the Women's Policy Unit has developed a **Rural and Regional Women's Strategy** to identify and address the social and economic needs of women living in the diverse regions of Queensland. In South Australia the Department of Agriculture has established a Women's Agricultural Bureau, a network with over 60 branches state wide for women interested in agricultural and rural issues to provide informal adult education and opportunities for self development and to allow

contribution to policy making at all levels of government. In New South Wales, the Department of Agriculture has established a Rural Women's Network to facilitate information exchange; New South Wales has also launched a program entitled **Farm Force** which has specific initiatives targeting women. In Victoria, the Office of Rural Affairs supports a Rural Women's Network which publishes a quarterly newsletter for rural women, advises on policy issues, nominates rural women's representatives for committees and provides consultative contacts government departments and women in the community. The Office of Rural Affairs also supports the Women in Agriculture project which advises and supports community based farm women's groups and works with the Department of Agriculture to encourage active consideration of women in its programs.

29. Some States operate information and referral services which specifically target rural women. For example, the South Australian Minister of Agriculture launched a **Rural Women's Information Service** in February 1988, establishing a toll free number staffed by women from officers of the Department of Agriculture from 9.30 am to 4.45 pm Mondays to Fridays. The South Australian Minister for Family and Community Services has established a financial counselling service aimed at countering domestic problems arising from the rural crisis: a toll free number is available to those outside the metropolitan area. Similarly, **Women's Infolink**, a shopfront information and referral service operating in Queensland, has recently installed a toll free number for the use of rural and regional women. In Western Australia, the Crisis Care Unit provides a twenty-four hour toll-free line for country callers and will pay for transport of women living in remote areas to refuges.

## Rural Safety

30. Australia's first national rural safety conference **Farmsafe 88** was held in July 1988. The conference, which involved almost 300 concerned parties, agreed to draw up a plan for a national strategy for the promotion of health and safety in agriculture. This strategy, outlined in the *Report of the Ministerial Advisory Group on Farm Safety* issued by the National Occupational Health and Safety Commission (Worksafe Australia) in May 1989, recommended a community based scheme to be operated by Farm Safety Action Groups. Since then, 22 such groups, the great majority led by women, have been established throughout rural Australia.

The groups, who are not specifically aimed at women, but at farm families, provide advice and support to local farmers to help them reduce the risk of injury and disease occurring on farms. The local groups are supported by State and Territory networks, while a National Farm Safety Secretariat co-ordinates the efforts of local Farm Safety Action Groups and assists with the establishment of Farm Safety Action Groups where they do not already exist.

31. In 1991, Worksafe Australia's Occupational Health and Safety grants supported two projects for women on farms. One project is the production of resource manuals for the dairying, cropping and pastoral sectors and the other project, Pesticides Information for Women on Farms, will result in a series of leaflets and posters with information on common pesticides used on farms and safety practices to reduce health risks. In 1990 the National Women's Consultative Council (NWCC) contributed to the development of recommendations by the Senate Select Committee on Agriculture and Veterinary Chemicals in Australia.

## Recreation and Sport

32. The Federal Government has produced *You Can Beat the Country Blues* to assist rural women overcome barriers which they face in participating in recreational and fitness activities. The booklet, which is in high demand, provides information on low cost recreation activities that may be pursued by women in rural areas, and covers particular subjects such as: home based recreation, seeking and sending out information; child care; transport; venues and funding for activities and projects.

33. Another resource produced for women in rural and isolated communities is *Doing It for Ourselves: A Rural Women's Guide to Fitness and Well Being* which covers a range of fitness and health issues. It was produced to assist group leaders to run fitness groups in local community settings. Included in the guide are case studies of successful programs, two posters that present a simple stretching and exercise program and an assessment of home exercise videos.

## Child Care

34. Rural women's access to child care has been limited. The Federal Department of Community Services and Health is running a pilot program

of thirteen multifunctional child care centres, including long day care, regular part time care, occasional care, outside school hours care and vacation care. These services, which include mobile services, are designed to provide the full range of child care services in communities too small to support separate services of each type. They are currently being evaluated. South Australia initiated a new program in 1989 to develop play centres in small rural communities, Outreach Family Day Care and occasional care. More detailed comment on child care is in Article 11.

## **ARTICLE 15**

### **EQUALITY BEFORE THE LAW**

#### **Article 15**

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

## ARTICLE 15

### EQUALITY BEFORE THE LAW

1. There is equality of recognition of persons before the law in all Australian jurisdictions and this recognition is afforded without discrimination on the basis of sex. There is, however, no Constitutional guarantee of gender equality although there have been proposals to this effect (see Part 1(a)).

2. As described in the First Report the Federal Government and a number of States and Territories have a general policy of drafting all forms of legislation in gender neutral language. The latest State to introduce this policy is Queensland.

3. The legal position in relation to prostitution is set out in the First Report and discussed under Article 6 of this Report. To the extent that the activities of prostitutes/sex workers, as opposed to their clients, are subject to criminal penalties, it could be said that these laws discriminate against women. In terms of equality before the law, a significant issue is the protection of prostitutes from violence and this is discussed under Article 5(a) in the context of a recent Victorian court case involving the sexual assault of a prostitute.

4. A wife's presumed authority to pledge her husband's credit exists in all parts of Australia, except South Australia and the Northern Territory, where this presumed authority has been abolished by statute. In the Australian Capital Territory, on the other hand, this authority has been extended by statute to enable a husband or *de facto* husband to pledge his wife or *de facto* wife's credit in similar circumstances. Similarly, a deserted wife's right to pledge her husband's credit for necessities during desertion still exists in most parts of Australia, except South Australia, the Northern Territory and the Australian Capital Territory.

5. The action for loss of consortium, which enables a husband to seek damages from anyone who injures his wife and thereby deprives him of her consortium, either wholly or in part, and either permanently or temporarily, is still available in Victoria and the Northern Territory. It has been abolished in the Australian Capital Territory, New South Wales, Tasmania and Western Australia, and extended to allow the wife to claim such loss in Queensland and South Australia. In the Northern Territory in the

case of fatal injury, both the wife and husband, whether *de jure* or *de facto*, may claim. In those jurisdictions where the action has been abolished, abolition of the action for loss of consortium has not been accompanied by clear specification of how loss of ability to work inside the home should be compensated. In the Australian Capital Territory, the *Law Reform (Miscellaneous Provisions) (Amendment) Act (No. 2) 1991* allows a person injured to be financially compensated for loss of capacity to do household tasks. The amount of compensation that may be awarded is in the discretion of the court and is subject to no ceiling.

6. Restrictions on recovery for gratuitous nursing and attendance services, and household or domestic services in civil claims for damages, can indirectly discriminate against women. In Tasmania, the *Common Law (Miscellaneous) Actions Act 1986* abolishes all damages for services of a domestic nature or services relating to nursing and attendance for which the plaintiff has not paid, or is not liable to pay, in all common law actions arising after 18 December 1986. Whilst this Act brings equality before the law, the outcome is deleterious to women as the cost of their caring for injured family members has been discounted. Victoria precludes the recovery of such damages in transport accident cases, and judicial decisions in a number of States and Territories have attempted to restrict the availability of such damages.

7. In a number of jurisdictions, a modified version of the common law rule requiring the evidence of complainants of sexual assault (who are predominantly women) to be corroborated still exists. The reason for the rule of practice requiring a warning to the effect that it was dangerous to convict on the uncorroborated evidence of the alleged victim of a sexual assault was stated by Salmon LJ in *R v Henry; R v Manning* (1968) 53 Cr App R 150 at page 153 where his lordship said that it was dangerous to convict on the evidence of a woman or girl alone 'because human experience has shown that in these Courts girls and women do sometimes tell an entirely false story which is very easy to fabricate, but extremely difficult to refute'. Legislation in, for example, Western Australia, New South Wales, Victoria and South Australia abolishes any requirement to give the warning.



However the legislation does not abrogate a Judge's duty to warn about other perceptible risks of miscarriage of justice nor prevent a Judge from exercising a discretion to comment on the circumstances of a case. Research indicates that in the majority of cases, judges do not give the warning.

8. In all other respects, Australian law provides, *de jure*, that men and women are equal before the law, have the same legal capacity, and the same opportunities to exercise that capacity. Unfortunately, it remains the case that formal legal equality does not necessarily ensure *de facto* legal equality. Women have fewer financial resources than men and are less able to take advantage of legal services. Accordingly, a legal aid program exists throughout Australia, which is intended to provide access to justice for those in the community who are most in need, by funding legal aid services through salaried and private solicitors and community legal centres. From June 1989 to June 1990, 53 per cent of all clients granted legal assistance by the Legal Aid Commissions in the States and Territories were women and children; while from June 1990 to June 1991, the figure was 44 per cent. A number of the community based legal aid services, which form part of the legal aid program, are specifically tailored to the needs of women in the community. Examples of these include the Women's Legal Resources Centres in New South Wales and Victoria and the Women's Legal Service in Queensland.

9. Women may have been disproportionately affected by restrictions on availability of legal aid in family court matters introduced by a number of States and Territories. For example, New South Wales restricts the availability of legal aid for court heard property disputes to cases of exceptional hardship in certain circumstances. Restrictions are applied to the granting of aid in Family Law matters, in all States and the Northern Territory, according to the type of matter, such as custody and access, maintenance or property settlement disputes, for which aid is sought. In the Australian Capital Territory guidelines are less specific regarding individual matters for which aid will not be granted. Statistical analysis of refusals of aid on an Australia wide basis for the period June 1991 to May 1992 indicates that the overall refusal rate in family law matters is 39.6% of applications. The refusal rate for females is 39.03% and males is 41.03%. Refusal rates in respect of custody and property

matters only for the same period are 43.6% overall with the refusal rate for females 63.2% and the refusal rate for males 23.8%

10. Funding has been specially provided by the Federal Government to enable legal aid to be provided to eligible custodial parents, most of whom are women, to assist them in obtaining child maintenance under Stage One and Stage Two of the **Child Support Scheme** which is described under Article 16.

11. There is a school of thought which holds that, although the law is apparently gender neutral, employing as it does notions of reasonableness and objectivity, that in reality within the legal system women are measured against rules and perspectives which reflect the perspectives and life experiences of men. Thus for example, the emphasis within the torts system of damages for loss of future earnings has a discriminatory effect on women given their different patterns of involvement in the workplace. As referred to in the First Report, there is a view that courts have failed to adequately acknowledge the value of non financial contributions by women to the property of parties to a marriage and have failed to accord proper weight to contributions to the welfare of the family when determining applications for property settlement upon the breakdown of marriages (see discussion under Article 16).

12. It is also claimed that laws relating to self defence and provocation in situations where women kill their partners after prolonged periods of abuse do not acknowledge the reality of these women's lives. Consequently, there have been calls to amend the relevant laws. A further response has been resort to the use of the 'battered woman syndrome' as a means of attempting to achieve justice for women in these situations. Basically, the term 'battered woman syndrome' refers both to a pattern of violence/cycle of violence and to the psychological effects on the victim. The syndrome is seen to be the culmination of three stages/cycles of violence - tension building, bashing, remorse. It is then argued that women exposed to the experience of ongoing and unpredictable violence lapse into a depressive and passive state labelled as 'learned helplessness'. They may also develop self-destructive coping mechanisms such as alcohol or drug abuse. In a recent South Australian case and for the first time in Australia, a woman was acquitted of the murder of her violent partner

after reliance upon this syndrome. Reaction to the use of the syndrome has been mixed; it has been criticised for a number of reasons. One such criticism is that the use of the syndrome involves a failure to perceive the defendant's behaviour as justifiable and reasonable, as opposed to excusable given the existence of 'learned helplessness'.

13. Australia's First Report referred to the then existing situation in which in some jurisdictions women did not have equal rights in regard to the administration of small estates and to the priority in which letters of administration are granted. In all jurisdictions, there is no longer discrimination in these respects.

## **ARTICLE 16**

### **MARRIAGE AND FAMILY RELATIONS**

#### **Article 16**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

## ARTICLE 16

# MARRIAGE AND FAMILY RELATIONS

### Legal Framework

1. As stated in Australia's First Report, there are two principal Acts covering marriage and the dissolution of marriage. The *Marriage Act 1961* sets out the legal requirements for a valid marriage, and the *Family Law Act 1975* (as amended) makes provision for matters pertaining to the breakdown of marriages. In addition, with the exception of Western Australia which has its own Family Court, legal proceedings concerning the guardianship, custody and access of all children, whether children of a marriage or of a *de facto* relationship, are matters now within the jurisdiction of the Federal Family Court. Maintenance of children is a matter for either the Family Court or the Federal Child Support Agency, depending on date of separation of the parents or date of birth of the children.

2. Legal proceedings concerning *de facto* relationships, with the exception of proceedings concerning children as referred to above, fall within the jurisdiction of State and Territory legislatures and Courts.

3. Australian family and marriage laws recognise husband and wife as autonomous and separate individuals. Rights and obligations arising out of marriage apply to both parties. Each of the parents of children (whether born to a married or *de facto* couple) is, by virtue of Section 63F of the Family Law Act, a guardian of the child and the parents have joint custody of the child unless an order to the contrary is made by the Family Court.

4. As Australia's First Report indicated, the *Family Law Act 1975* establishes *de jure* equality between men and women during marriage and at its dissolution. This legislation establishes equality with respect to maintenance, providing that each party to the marriage is liable to maintain the other party where the second party is unable to support herself or himself adequately. This liability continues when parties are separated or divorced. Australia's First Report refers to other matters such as the responsibility of parties to a marriage to maintain children of a relationship (now extended to parents of all children) and to the capacity of

either party to a marriage to sue the other in contract or in tort. Either party may institute proceedings for divorce, property settlement, spousal maintenance or proceedings in relation to children.

5. The Family Law Act extends to all parts of Australia other than the external Territories of Christmas Island and the Cocos (Keeling) Islands. The law governing these Territories is contained in the Christian Marriage Ordinance, the Civil Marriage Ordinance, the Divorce Ordinance, the Married Women and Children (Maintenance) Ordinance and the Muslims Ordinance of the Colony of Singapore which are continued in the application to those Territories.

6. In these external Territories, divorce for non-Muslims depends on a finding of fault (for a husband that his wife is guilty of adultery, desertion, cruelty, or is of unsound mind; for a wife, that her husband has changed his religion and taken another wife, or is guilty of adultery, sodomy, bestiality, desertion, cruelty, or is of unsound mind). Further, a husband petitioning for divorce is able to claim damages from his wife's adulterer, and a wife can be awarded alimony if she is the petitioner. Either party to a marriage may petition for restitution of conjugal rights. Muslims are entitled to marry polygamously, there is no minimum marriageable age, and divorce by 'taalik' and 'fassah' continues.

7. By 1 July 1992, the current family law regime in these Territories will be replaced by Australian family law, bringing the law of marriage and divorce for all residents of the Territories, including Muslims, into line with legislation applying on the Australian mainland. The removal of the singular family law regime in the Islands will take away the only area of legal pluralism which exists in Australia where family law is concerned.

8. In order that there should be a smooth transition from the current legal regime, information campaigns will be conducted so that the Islanders will be familiar with mainland family law by the time of its introduction. Research suggests that the changes in the law may have little practical effect, as in practice, minimum marriageable ages are observed, polygamy is

rare and divorce by *taalik* has, more or less, fallen into disuse.

## Aboriginal Community

9. Many members of the Aboriginal community continue to observe traditional marriage customs, practising arranged and polygamous marriages and encouraging the marriage of women by the time they reach puberty. In its 1986 *Report on the Recognition of Aboriginal Customary Laws*, discussed in Australia's First Report, the Australian Law Reform Commission recommended against recognising Aboriginal customary marriages simply as *de facto* relationships, on the ground that this would fail to acknowledge that Aboriginal customary marriages are distinctive, socially sanctioned arrangements which should be specially recognised. However, it recommended against the general recognition of Aboriginal customary marriages on the ground that this might involve consequences that would conflict with traditional Aboriginal customs. Instead, the Commission recommended that Aboriginal customary marriages should be recognised for specific purposes, such as social security law, and that children of such marriages be recognised as legitimate. The recommended approach follows the approach that has been adopted in Australia in the past.

## Cultural Diversity

10. Australia is a society made up of people from different cultural backgrounds and from ethnically diverse communities. Some of these communities have argued that the current family law regime fails to take account of or protect their cultural values, or indeed, has undermined those values. For example, members of the Australian Muslim community argue that marriage and divorce law fails to accord sufficient respect to Islamic marriage practices. Particular concern is expressed at the failure of Australian law to recognise and enforce dower (premarital contracts) and to recognise Muslim marriage ceremonies. The sole divorce ground established by the Family Law Act - irretrievable breakdown, evidenced by one year's separation - is alleged to conflict with the 'iddah' period, which postulates a three month waiting period between divorce and remarriage. The latter two issues, some Islamic groups argue, force Muslim couples into *de facto* relationships which they regard as degrading and against Muslim law.

11. As part of the *National Agenda for a Multicultural Australia*, the Australian Law Reform Commission (ALRC) was asked to consider whether Australian family law is appropriate to an Australia made up of people from different cultural and ethnic backgrounds. In May 1992, the ALRC released Report No. 57 entitled *Multiculturalism and the Law*, following release of a number of Discussion Papers for public comment.

12. The Discussion Paper entitled *Multiculturalism: Family Law*, released in January 1991, was premised on two principles. First, that in a multicultural society the law should not inhibit the formation of family relationships and should recognise as valid the relationships people choose for themselves, supporting and protecting them. Second, the law should restrict a person's choice to the extent that it is necessary to protect the fundamental rights and freedoms of others, refusing to support relationships in which the fundamental rights and freedoms of individuals are violated and, indeed, intervening to protect them.

13. The Commission recommends in Report No. 57 that polygamous marriages contracted in Australia should not be recognised as legal marriages, notwithstanding the fact that they may meet the requirements of the personal law of a particular ethnic or religious group as, according to the Commission, this would offend the principles of gender equity that underline Australian law. Although in its Discussion Paper the Commission proposed that customary marriages should be recognised for some purposes, in particular the distribution of property and spousal maintenance, the Commission did not finally recommend a change in the existing law, acknowledging that the difficulties sought to be overcome by the proposal related more to proof of marriage and not validity. Other recommendations included the enforceability of pre-marriage contracts governing the distribution of property in the event of dissolution of marriage, subject to a proviso that would empower the court to set aside the contract if it would cause substantial injustice. In some communities in Australia, a divorce under the Family Law Act is not recognized by the community. Further, a person may not be free to remarry within the particular community until a valid dissolution has been affected in accordance with the laws of that community. In some of these communities the granting of a divorce may be solely within the power of one of the parties; for example, under Jewish law, a divorce can only be accomplished

if the husband delivers, and the wife accepts, a Bill of Divorcement, or 'gett'. The Commission did not agree that religious or customary dissolution of marriage effected in Australia should be recognised for the purposes of the Family Law Act. Whilst acknowledging the difficulties involved, a majority of the Australian Law Reform Commission recommended that the Family Court should have the discretion to adjourn applications for divorce unless the applicant has done everything in his or her power to remove any religious barriers to the spouse's remarriage.

14. The Law Reform Commission's Report also addressed cultural issues associated with marriageable age which is discussed later in this Article.

15. Further review of the Australian Family Law system is being undertaken by a Federal Parliamentary Joint Select Committee (comprised of members of the Senate and the House of Representatives). Its enquiry into the operation of various aspects of the Family Law Act includes the role, funding, effectiveness and availability of the services of the Family Court Counselling Service and approved organisations providing marriage counselling and family mediation services; the resolution of custody, guardianship, welfare, access and property disputes, including the question of whether it is desirable that the legislation be extended to property disputes which arise out of *de facto* relationships; the effective enforcement of rights and duties under the Act; the exercise of discretion by the courts, including the issue of whether the exercise of the court's discretion as far as orders concerning children and property are concerned should be restructured; and the current adversarial nature of proceedings under the legislation and whether it is desirable to require greater use of arbitration, mediation or other forms of alternative dispute resolution. The Committee is due to report by August 1992.

## De Facto Relationships

16. A significant number of Australian couples choose not to marry, but rather cohabit in stable *de facto* unions. Because of the division of constitutional power in Australia, the effect of such a union is governed by State and Territory legislatures and courts (except in relation to children, as discussed in Para 1 of this Article).

17. New South Wales introduced legislation to regulate *de facto* relationships in 1984, while

the Northern Territory introduced such legislation in September 1991. Part IX of the Victorian *Property Law Act 1958* allows a court to reallocate real property between *de facto* partners on the break up of the relationship. The main issues that have emerged in the context of the New South Wales legislation (the *1984 De Facto Relationships Act*), have been whether, in a given set of facts, such a relationship exists and the manner in which property adjustment between the parties at the end of such a relationship is to be determined. Where the latter is concerned, the Act adopts a scheme almost equivalent to that which applies on the dissolution of marriage. Parties to the *de facto* relationship retain sole ownership of property acquired prior and during the course of the relationship, but at its end, a court may make an order adjusting the interests of the parties in the property of either of them, having regard to financial and non-financial contributions made directly or indirectly to the acquisition, conservation or improvement of any of the property of the partners or either of them. Here the central question has been how much financial value a court is willing to place on non-financial contributions, such as acting as a homemaker and parent, to a relationship, a question which is also central in the context of marital breakdown and which is discussed below in paras. 26-31.

18. It is likely that this question will emerge as central in the interpretation of the Northern Territory *De Facto Relationships Act 1991*. This Act provides for property adjustment between partners where the court considers this to be fair and equitable, having regard to the financial and non-financial contributions made directly or indirectly, by or on behalf of, the partners to the acquisition, conservation or improvement of any of the property or to the financial resources of the partners or either of them. It also covers the contributions, including any made in the capacity of homemaker or parent, made by either of the partners to the welfare of the other partner, or to the welfare of the family constituted by the partners and a child of the partners and/or a child or any other person accepted by the partners or either of them into the household.

19. In those States and Territories which do not have specific legislation for the distribution of property upon the breakdown of the relationship (or where the parties are not eligible under the specific scheme, because, for example, they have not cohabited for a prescribed period), the common law applies. A major problem with the common law is the failure to adequately ac-

knowledge non-financial contributions to the acquisition of assets or to the welfare of the family and, in any event, the law is complicated and redress may be obtained only by instituting expensive and complicated proceedings in the Courts. The question of extending the financial provision aspects of the Family Law Act to *de facto* relationships is a matter being considered by the Joint Select Committee into the Operation and Interpretation of the Family Law Act referred to in paragraph 15 above. The Queensland Law Reform Commission, in its current review of the law in relation to *de facto* relationships, is addressing these and other difficulties.

## Marriageable Age

20. Until 1 August 1991, the *Marriage Act 1961* provided that a male person was of marriageable age if he had reached 18 years, while a female was of marriageable age if she had attained the age of 16 years. Section 12 of the Act allowed a judge or magistrate to make an order authorising the marriage to a particular person of a male who had attained the age of 16 years or a female who had attained the age of 14 years. In 1990, 3075 women under the age of 18 married for the first time and six for the second time, while 436 men under the age of 18 married for the first time.

21. The Australian Law Reform Commission Discussion Paper *Multiculturalism and the Law* formed a provisional view that the marriage age should be 18 for both males and females. The ALRC in its Report *Multiculturalism and the Law* acknowledged that it is traditional in some communities for girls to marry before they are 18 but the Commission recommended that existing law, which gives a couple who wish to marry before one has turned 18 the opportunity to seek permission from a court, should not be extended or modified.

22. Following this paper, and despite arguments from some communities in Australia whose traditions prescribe young marriage for women, this discrimination in prescription of marriageable age was removed by the *Sex Discrimination Amendment Act 1991* which now provides a uniform marriageable age of 18 for both males and females. Men and women who have reached the age of 16 may apply for judicial authorisation to marry below 18, but this approval will be granted only in exceptional and unusual cases. Decisions under the previous legislation indicate that the 'exceptional and

unusual' circumstances must relate to the particular parties concerned and not merely to the class or kind of persons to which they belong. This would preclude, for example, a successful application based solely on the custom of the community to which the applicant belongs.

23. This age prescription applies to the marriage of all persons domiciled in Australia, wherever the marriage takes place. Further, if the parties to the marriage are domiciled outside Australia and marry overseas, Australia will not recognise the marriage as valid while either party is under the age of 16 years.

24. The marriageable age in the Territories of Christmas Island and the Cocos (Keeling) Islands is established by the Christian Marriage Ordinance and the Civil Marriage Ordinance of the Colony of Singapore in their application to those territories. Both Ordinances provide that the marriageable age is 16 years for both males and females who are married in accordance with the provisions of those Ordinances. No legal age is prescribed for Muslims whose marriages are registered under the Muslims Ordinance of the Colony of Singapore in its application to the two Territories. As indicated above, as from 1 July 1992, marriageable age in the Territories will be the same as on the mainland.

## Dissolution of Marriage

25. Either husband or wife may institute proceedings under the Family Law Act for dissolution of marriage, the sole ground being the irretrievable breakdown of the marriage as evidenced by one year's separation.

26. On the breakdown of marriage, any property owned by the spouses may be reallocated between them by the Family Court after application of either of the parties, irrespective of its legal ownership. The determination of this reallocation is at the discretion of the Court, but the legislation does direct it to take into account direct and indirect financial and non-financial contributions to the property. The Court is specifically directed to take into account contributions made in the capacity of homemaker or parent. In other words, the legislation subscribes economic value to domestic work, predicating that homemaking and parenting automatically entitles a spouse to a share or an enlarged share of property or income acquired during the marriage.

27. The issue of the relative weights of financial and non-financial contributions has proven to be controversial. Some researchers allege that women, who in Australia tend to take major responsibility for children and the home, find that these contributions receive inadequate economic recognition in reallocation of property on marital breakdown. At the same time, some men argue that allowing their wives to be entitled to assets acquired and businesses built up through what they regard as their own initiative, inadequately reflects their financial contribution.

28. Few divorcing or separating couples resort to the courts for the determination of questions concerning property, but judicial decisions provide the guidelines that couples and their lawyers draw on in reaching property settlements. Insofar as the economic value placed on contributions to marriage is concerned, the Australian High Court has determined that it is not to be presumed that the contribution by each spouse to the marriage is equal in economic value; instead such value must be established in each particular case.

29. In 1986, the Australian Institute of Family Studies (AIFS) published the results of a study which collected and analysed information on the financial position of 825 men and women who were divorced in the Melbourne Registry of the Family Court in 1981 and 1982. The study showed that the economic effects of the ending of a marriage partnership was much more severe for women and children than for men. On separation, husbands were as well off, or better off, financially than they were while the marriage lasted, while wives' living standards tended to fall on marriage breakdown, with even women from upper socio economic groups at risk of falling into poverty. Women who re-partnered (one-third of the sample), were able to expect the same average living standard as in their previous marriage. The study found that property division failed to show equal and adequate consideration of indirect contributions to the marriage economy by women.

30. Two factors account for the disproportionate effect of separation and divorce on a woman's economic situation. First, women are usually at a disadvantage, relative to their husbands, in income earning potential. Most married women's participation in the labour force is interrupted by bearing and rearing children and these interruptions not only reduce the amount of money actually earned by women, but affect their earning potential. A 1988 study by the

Centre for Economic Policy Research at the Australian National University, found that the major determinant of labour force participation is not experience, wages or education, but the fact of having a child. The presence of a child under five years old decreased the likelihood of working outside the home by 50% and a child between the ages of 5 and 15 by 25%.

31. There is a strongly held view that the second factor which leads to women's economic disadvantage on separation or marital breakdown is that, despite the fact that the legislation directs a court to place a financial value on unpaid labour in the home, courts have tended to take a narrow view of the legislative recognition of domestic labour in the distribution of marital property, and have chosen to regard financial contribution to the property of the parties to a marriage as intrinsically superior and more valuable than the unwaged contribution to the welfare of the family. For example, the development of a business is regarded as demanding skill and energy far beyond that involved in domestic work. There is therefore a perception that matters such as the economic loss for the women concerned of absence from the labour force, and the effect of interrupted work patterns on earning capacity, are largely ignored by the Court or are given unequal weight compared to the weight accorded to such things as the husband's involvement in a business.

32. One of the most difficult recurrent problems for women which arises in property proceedings on marital breakdown is the issue of superannuation entitlement. In most cases, where a wife has not worked outside the home during the marriage, or where she has had interrupted periods of paid employment because of childrearing and homemaking, the husband contributes to a superannuation scheme, it being the expectation of the parties that when the husband retires, both parties will be able to live on the superannuation payments, either as a pension, a lump sum which can be invested to return income, or both.

33. If the marriage breaks down and the parties divorce, the wife as a divorced spouse has, in most cases, no entitlement to benefit under the superannuation scheme. She is thus left, often with no current skills or ability to obtain waged employment, with no future security. Even if she does find paid employment, she is unlikely to be able to make the same arrangements for her future that she looked forward to prior to the marriage breaking down, when she was entitled to the benefits of the husband's scheme.



34. Research carried out by the Australian Institute of Family Studies indicates that despite the importance of superannuation, it was taken into account in property division in only 46% of cases, according to older men, and 39% according to older women. Among younger respondents the incidence was even less: younger men suggesting 30% of cases and younger women 20%. In those cases where superannuation had not been taken into account, three-quarters of the respondents stated that they had received no advice on its relevance. Accordingly, the AIFS concluded that prospective superannuation benefits are often ignored, even in cases where they are of significant value.

35. The Family Court of Australia has taken no consistent approach to the allocation of superannuation entitlements in the resolution of matrimonial property disputes. Because of its contingent nature, future entitlements to superannuation are not 'property' within the meaning of the Family Law Act and are thus unavailable for distribution on breakdown of the marriage. However, the Court does consider such entitlements to be a 'financial resource' to be taken into account in determining what order should be made in respect of any other property of the parties, and a factor which is relevant in terms of achieving a fair and equitable financial settlement between them.

36. The impact of entitlement to superannuation on matrimonial property disputes was considered by the Australian Law Reform Commission in *Matrimonial Property* (1987) and later by the *Social Security Review* (1988). Both considered that, given the significance of the asset and the fact that it is acquired by the joint efforts of marriage partners, even where only one party, usually the husband, is actually the nominal contributor and beneficiary, that legislation should prescribe a clear and consistent approach to its treatment. Both bodies proposed legislative schemes. More recently, the Australian Law Reform Commission has put forward proposals that go further than those made in its 1987 Report. These proposals, outlined in Report No. 59 *Collective Investments: Superannuation* released April 1992, would enable a court to make an order directly binding on the trustees of a superannuation fund. Under such an order, the interest of a spouse in a fund could be partitioned and a new account established for the former partner. The proportions of the division would reflect the length of the relationship in relation to the years of contribution. The partner would, in principle, be entitled to a fund equivalent to

half the value accumulated during the relationship with provision to be made for variation in limited circumstances. Similar proposals have been made by the Federal Attorney General's Department in its Discussion Paper *Treatment of Superannuation in Family Law*, released March 1992.

37. There is a view that some of the financial disadvantage experienced by women on marital breakdown would be met by the 1987 Australian Law Reform Commission recommendations for the division of property between spouses on breakdown of marriage. The central proposal in these recommendations is that the current legislation be amended to include a rule of equal sharing of the value of the property of the marriage, widely defined to include superannuation and other 'financial resources', which would be assessed by the court. This would remove the need to compare financial and non-financial contributions as is the case at present. From this starting point of equal division, the court would vary the shares available on breakdown, so as to achieve practical, rather than formal equality, taking account of a number of special circumstances. These are:

- the substantially greater contribution to the marriage by one party than by the other. Here a party would have to show that she or he had made a substantially greater contribution in relation to child care, household management and financial matters. No form of contribution to the child care, household, income or property responsibilities would be regarded as inherently superior or inferior to the other;
- actions of the parties in relation to property or child care after separation, which might include expenditure by one party to maintain property, wilful default in the maintenance of children and payment by one party of debts incurred by the other or by both;
- that one party has the benefit of financial resources built up during the marriage. In this context, if one party retains the benefit of financial resources accumulated during the marriage, the other party would receive a larger share of the property of the marriage; and
- that one party brought property into the marriage or acquired it by way of gift or inheritance or compensation or damages.

38. If, after taking these issues into consideration, a court was of the view that there was still a great disparity in the standards of living reasonably attainable by the parties, it would be empowered to further adjust the parties' shares in the value of the property. Such adjustment would be made only if the disparity was wholly or partly attributable to the disadvantaged party's responsibility for the future care of the children or to the fact that her or his earning capacity was affected by the marriage.

39. The Commission envisages that the proposal for equal sharing would apply to all property, including businesses and farms. It would be possible for a spouse to show that the efforts in building up a business, along with other forms of contribution to the marriage, were substantially greater than the contribution to the marriage of the other spouse and that the principle of equal sharing should not apply. Another ground for departing from the principle of equal sharing would be where a business or farm had been owned before the marriage or had been acquired by gift or inheritance. At this stage, the Federal Government has not made any decisions about implementation of the recommendations.

40. The Joint Parliamentary Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act is also considering the manner in which the Family Court determines disputes over financial matters. The National Committee on Violence Against Women (NCVAW) which was established in November 1990 by the Minister Assisting the Prime Minister for the Status of Women, recommended in its submission that there should be a starting point of equality, with a discretion available to the Court to adjust the shares by reference to disparities arising from the marriage. Specifically, this adjustment should be conceptualised by reference to a compensation notion which, while it looks to the past effect of the marriage, would also be forward looking in that it would be directed at assessing loss of future earning capacity by reference to impairment of that capacity by the marriage (for example, absence from the paid work force, child care, little or no superannuation).

41. Allied to the issue of reallocation of financial assets on marital breakdown is the question of the enforceability of pre-nuptial agreements. Presently, although they have become increasingly common among the wealthy, pre-nuptial agreements and property settlements are not

legally enforceable in Australia. It is likely, however, that this will change as the Law Council of Australia is recommending legislation providing that such agreements, which should be drawn up with each party receiving independent legal advice, should be legally enforceable. The Council recommends, further, that *de facto* relationships should be covered by such legislation, as presently state legislation provides that *de facto* relationship agreements can be made only in New South Wales and Victoria. The recommendations of the Council have been put to the Federal Parliamentary Joint Select Committee on Certain Aspects of the Operations and Interpretation of the Family Law Act. As referred to in Paragraph 13 of this Article, the Australian Law Commission considered this issue in its reference on *Multiculturalism and the Law*.

## Violence and the Family Law Act

42. As referred to previously, a Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act has been established (See para 15 above).

43. Although not a specific term of reference, the issue of the extent to which the Family Law Act and the Family Court take into account the needs of women who are or have been victims of violence has been addressed in a number of submissions. For example, the NCVAW and the National Women's Consultative Council (NWCC) submissions draw attention to the inappropriateness of any system which would require parties to attend mediation where domestic violence is an issue for determination or where there is or has been domestic violence. The NCVAW has prepared a detailed paper and Guidelines for use in those situations in which a woman may decide to attend mediation notwithstanding that the woman has been subjected to violence by her partner. Recent amendments to the Family Law Act, implementing a mediation scheme, address these concerns insofar as an approved mediator shall take into account the degree of equality (or otherwise) in bargaining power of the parties, when deciding whether a dispute is suitable for mediation. Both the NCVAW and NWCC submissions address the perception that the Family Court has not treated violence against women as a serious or relevant matter when determining disputes in relation to custody, access and financial matters.

## Child Support Scheme

44. In 1988 the Federal Government introduced the **Child Support Scheme (CSS)** to address problems, such as inadequate or non-existent child support payments, which had characterised the pre-existing system of child maintenance and had resulted in significant financial difficulties among sole parent families (mostly headed by women) and dependence by these families on government income support.

45. The CSS is designed to improve financial support for the children of separated parents by ensuring that non-custodial parents contribute to the support of their children in accordance with that parent's capacity to pay. The Scheme also aims to ensure that neither parent is discouraged from participation in the labour force. It is jointly administered by the Department of Social Security and the Child Support Agency, a part of the Australian Taxation Office. The two main elements of the Scheme are improved collection procedures and the introduction of administrative assessment of child support.

## Background to Scheme

46. The adequacy of child support had been an issue of increasing concern in the years prior to the introduction of the CSS. In introducing 'no fault' divorce in 1975, the Government also introduced the *Family Law Act 1975* which set as a priority the need for parents to maintain their children until they attained the age of 18 years. However, because of fragmentation of collection procedures in every State and the lack of effective enforcement mechanisms, regular maintenance payments tended to become a matter of choice. Prior to the introduction of the Scheme, statistics indicated that approximately 70% of persons with liabilities to pay child maintenance failed to pay, or, if they did make any payments, they were irregular.

47. Between 1973/4 and 1985/6, the number of sole parents rose from 9% of the population to 15% and, of those, the number reliant on social security entitlements increased from 65% to 85%. Social Security payments in the same period rose from \$A160 million to \$A1757 million and continued to rise to \$A2334 million in 1989/90. The Government believed that these statistics indicated the need for significant reforms, including a reassessment of public and private roles in providing support for single parent families, to ensure that non-custodians

would share in the cost of supporting their children and that Commonwealth expenditure would be limited to what was necessary to ensure that adequate support is available for all children of separated parents.

48. The Government's reforms hinge on two basic principles: firstly, that following separation, both parents continue to contribute to the ongoing financial support of their children according to their capacity to pay; and secondly, that children should continue to share in their parents' changed financial circumstances, just as they would have if the parents had continued to live together.

49. Both pieces of legislation governing the Child Support Scheme, the *Child Support (Registration and Collection) Act 1988* (Stage 1), and the *Child Support (Assessment) Act 1989* (Stage 2), received all party support in the Parliament and continue to attract widespread community acceptance.

## Operation of Scheme

50. The Scheme has been introduced in two stages. Stage 1, which commenced on 1 June 1988, enabled those with existing court orders or registered maintenance agreements, whether in receipt of Government income support or not, to register them with the newly established Child Support Agency for collection where the custodial parent (payee) so elects. In all cases where an order/agreement is made after the commencement of the Scheme, the custodial parent may elect to register the liability for collection by the Agency. This election is not available to those in receipt of a government sole parents pension. The Scheme makes provision for the automatic deduction of child maintenance payments from the liable parent's wages where appropriate. Where wages are not paid (for example, where the liable parent is self-employed) the payer must make arrangements to ensure the lodgement of regular payments. Once registered, a child support liability becomes a debt due to the Commonwealth and the Commonwealth, in turn, has an obligation to the payee to enforce the debt. Payments collected are then remitted to the Department of Social Security for distribution to custodial parents. In the case of parents in receipt of a pension, the Department adjusts the amount of pension it pays in order to take account of child support payment.

51. At the same time as Stage 1 was introduced, the Government foreshadowed the introduction of Stage 2 of the legislation in 1989, which would involve formula assessment of child maintenance payments when parents were unable to make their own financial arrangements.

52. Stage 2 of the Scheme was introduced on 1 October 1989, and followed the Government's acceptance of a report by an independent body, the Child Support Consultative Group, based on detailed consideration and examination of over 500 submissions. Stage 2 of the Scheme applies only to those who separate or give birth to a child on or after that date. There is no mechanism by which a person involved in Stage 1 of the Scheme may elect to be covered by Stage 2. It replaces the system of obtaining court orders for maintenance by an administrative formula for determining child support which, in general terms, provides that a liable parent is to pay 18% of his/her taxable income (subject to adjustment and exceptions specified in the legislation) for the first child. For subsequent children, the amounts are 27% for two children, 32% for three children, 34% for four children and 36% for five or more children. Provision is available for parents to reach a private agreement although in some circumstances, the terms of such agreements must be approved by the Family Court.

53. The introduction of an administrative formula to calculate a fair level of maintenance for children provides individuals with a means of accurately assessing their likely obligations following separation; provides a speedy resolution of child support matters; and reduces the role of the court which decides only complex or difficult cases, thus removing the pressure on parties to settle for inappropriate levels of support in order to avoid court proceedings or face to face meetings. The Scheme is designed to be fair and takes into account the incomes of both parents. The use of taxable incomes also allows annual updating to occur and readily reflects parents' changed financial circumstances. Provision has also been made for administrative review of disputed assessments.

54. The Scheme is administered by the Child Support Agency (which is responsible for the registration, assessment and collection of child support liabilities) and the Department of Social Security (which makes payments to the relevant custodial parents after making the necessary pension adjustments). Social Security legislation provides for pension reductions of \$A0.50

in the dollar for maintenance payments over a small threshold.

55. The Child Support Scheme has been effective in increasing the proportion of sole parent pensioners receiving child support from 26% (immediately prior to its introduction) to 39% by June 1991. In June 1989, 81 000 sole parent pensioners were receiving maintenance. One year later, this had increased to 90 300, and numbers continue to rise by about 1000 per month. The adequacy of child support payments has also improved since the Scheme's inception: average amounts of child support awarded by the courts have increased by 20-25% and those covered by Stage Two of the scheme are receiving slightly higher amounts. Prior to the Scheme's introduction, only 30% of non-custodial parents paid maintenance for their children. Around 71% of all liabilities registered with the CSA are now paid.

## **Payment and Collection**

56. The legislation envisages a calendar monthly collection and payment cycle. Payments arising in any month are due and payable by the 7th of the next month, with payments made to the custodian on the first Wednesday of the following month. The legislation makes provision for direct deduction of maintenance payments from the payer's salary. However, a payer can, for privacy reasons, apply to the court to be allowed to make child support payments direct to the Agency.

57. If parents make an agreement about the amount of child support, they can also agree to any method of payment. For example, payments can be made weekly, fortnightly or monthly direct to the custodial parent. People not in receipt of a pension and who have child support assessed under this scheme can also choose how the payments will be made.

## **Payment Follow-up**

58. Where a non-custodial parent continually fails to pay a registered maintenance liability, the Agency will take action to recover the debt. Such actions include the interception of payers' tax refunds, issuing of summonses etc., and in extreme cases, enforcement through the Family Court. Recent amendments to the legislation enable the Child Support Registrar to collect child support related debts from a third person

and collect from a person receiving or controlling money of a child support debtor who is not in Australia. The Child Support Registrar may also take action to seek a Court order to overcome the situation in which payers of an enforceable maintenance liability artificially contrive to minimise or eliminate their capacity to pay child support.

## Evaluation

59. A number of reports have been issued since the Scheme's inception. The **Child Support Scheme** has been evaluated by the Australian Institute for Family Studies which, in two monographs entitled *Who Pays for the Children: A First Look at the Operation of Australia's New Child Support Scheme* (1990) and *Paying for the Children* (1991), considers the operation of Stage 1 of the Scheme and the Child Support Evaluation Advisory Group (*The Fogarty Report*, 1990). The Child Support Evaluation Advisory Group was established by the Government simultaneously with the introduction of Stage 2 of the Scheme to monitor the impact of the reforms and to recommend any necessary changes.

60. The reports have been generally favourable in relation to the concept of the Scheme, but have criticised some features of the Scheme, including the operation of the agency itself. Criticisms have included the initial 8 week delay between registration and the receipt of the first payment, and the differentiation between Stage 1 and Stage 2 clients. Criticisms of the operation of the Child Support Scheme which have emerged from the evaluations and elsewhere are currently being addressed by the Departments responsible for the Scheme and the Agency.

## Custody, Guardianship and Access to Children

61. The *Family Law Act 1975* provides that each of the parents of a child is the guardian and has joint custody of the child subject to any order of the Courts. The Act applies whether or not the parents of the child are married to each other. On the breakdown of a marriage, if the parties are unable to agree, either party may apply to the courts to determine rights as to custody, guardianship and access. In determining matters relating to guardianship, access and custody, the Court must regard the welfare of the child as the paramount consideration. In a large majority of post separation arrangements,

women have the custody of the children with access rights to the father. In contested custody cases, the proportion of men who obtain custody is far higher than in cases of custody arrangements settled by agreement between the parties.

## Family Name

62. In Australia, the original surname of a person is taken to be that specified on her or his birth certificate. It is a name which has no legal significance and can be changed by reputation and usage. Hence, although it is common for women in Australia to adopt the name of their husband on marriage, there is no legal requirement to do so. It remains the usual custom for Australian families, whether established by marriage or *de facto*, to use the surname of the male partner as the family name.

63. To a certain extent, choice of a child's original surname depends upon whether she or he is born within wedlock. In the Northern Territory, a child born outside of wedlock must be given the mother's name. In Queensland and Tasmania, ex-nuptial children may not be registered in their father's surname unless he has consented and has completed a witnessed declaration as to paternity. Where there is such declaration the name of the father or mother may be registered. If there is no such declaration, the child must be registered in the mother's name, although she or he could be given the father's name informally. Similarly, in Western Australia and South Australia, where the father of an ex nuptial child acknowledges paternity, the child can bear his surname, the surname of the mother or a combination of both. If there is no such acknowledgment, the child's surname will be that of the mother. Where children born in wedlock are concerned, in Tasmania it is common practice, although not legally required, that children are registered in the name of the father. In Queensland, the Northern Territory, South Australia and Western Australia, the parents of the child are able to choose: the surname entered in the register may be that of the father, that of the mother, which in the case of married parents will usually be the same as that of the father, or a combination of both. In Victoria, children may be registered in the surname of either their mother or father whether they are born within or outside marriage. In the ACT, the parent registering the birth of an 'ex nuptial' child may choose the surname of either parent, or a surname other than those of the parents of the child (Registration of Births,

Deaths and Marriages Act). For a child born 'in wedlock', the surname may be that of either parent, or of either parent's family. Usually the permission of both parents is required, but a dispute may be determined by a magistrate, or where a parent cannot be contacted the Registrar may be satisfied that a particular name may be used. The welfare of the child is the most important consideration.

64. It is to be noted that a recent decision of the New South Wales Equal Opportunity Tribunal in *Ms. I. v Registrar of Births, Deaths and Marriages* has led to a review in that State of the administrative practice of registering children's names according to their father's name. In New South Wales, the practice existed of registering the surname of a child as that of the father in the case of parents married to each other with different surnames, on his request, in the absence of the request of the mother. If the mother alone attempted to register the child's name with her surname, the Registrar would not proceed with the registration and would substitute the father's application. The Tribunal found that this was a service to which the Anti Discrimination Act applied and that it discriminated against the mother on the grounds of sex and marital status. The Tribunal observed that registration of the child's name in the event of disagreement between the parents could be resolved by the registration of the application received first.

## **APPENDICES**

## APPENDIX 1

### Text of the Convention on the Elimination of All Forms of Discrimination Against Women

*The States Parties to the present Convention,*

*Noting* that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

*Noting* that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

*Noting* that the States Parties to the International Covenants on Human Rights have the obligations to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,

*Considering* the international conventions concluded under the auspices of the United Nations and the specialised agencies promoting equality of rights of men and women,

*Noting* also the resolutions, declarations and recommendations adopted by the United Nations and the specialised agencies promoting equality of rights of men and women,

*Concerned*, however, that despite these various instruments extensive discrimination against women continues to exist,

*Recalling* that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

*Concerned* that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

*Convinced* that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

*Emphasising* that the eradication of apartheid, of all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

*Affirming* that the strengthening of international peace and security, relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, and in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realisation of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

*Convinced* that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

*Bearing in mind* the great contribution of women to the welfare of the family and to the development of society, so far not fully recognised, the social significance of maternity and the role of both parents in the family and in the upbringing



of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

*Aware* that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

*Determined* to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

## **PART I**

### **Article 1**

For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

### **Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

### **Article 3**

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

### **Article 4**

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

## **Article 5**

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b). To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

## **Article 6**

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

## **PART II**

### **Article 7**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) To participate in non-governmental organisations and associations concerned with the public and political life of the country.

## **Article 8**

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.

## **Article 9**

1. States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

## **PART III**

### **Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and

school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely;

(g) The same opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

## **Article 11**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions

of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

## Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

## Article 13

1. States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

## Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, *inter alia*, the benefit of all community and extension services, in order to increase their technical proficiency;

(e) To organise self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

## PART IV

## Article 15

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

## **Article 16**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

## **Article 17**

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilisation as well as the principle legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority

of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

## **Article 18**

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(a) Within a year after the entry into force for the State concerned; and

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

## **Article 19**

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

## **Article 20**

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

## **Article 21**

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

## **Article 22**

The specialised agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope

of their activities. The Committee may invite the specialised agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

## **PART VI**

### **Article 23**

Nothing in this Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

### **Article 24**

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realisation of the rights recognised in the present Convention.

### **Article 25**

1. The present Convention shall be open for signature by all States.<sup>1</sup>
2. The Secretary-General of the United Nations is designated as the depository of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.<sup>2</sup>
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

### **Article 26**

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

### **Article 27**

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.<sup>3</sup>
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.<sup>4</sup>

### **Article 28**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

1. The Convention was signed for Australia on 17 June 1980.

2. Instrument of ratification deposited (with reservations and statement) by Australia on 28 July 1983.

3. The Convention entered into force on 3 September 1981.

4. The Convention entered into force for Australia on 27 August 1983.

## **Article 29**

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organisation of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

## **Article 30**

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.



## **APPENDIX 2**

## APPENDIX 2

### Laws Criminalising Prostitution Related Activities

State and Legislation	Living on Earnings	Brothel Keeping	Procuring	Permitting Premises to be used for Prostitution	Advertising	Other
<b>New South Wales</b>						
<i>Summary Offences Act 1988</i>	An offence; <i>Summary Offences Act 1988</i> , s.15.	Premises may be declared a 'disorderly house' where premises are, or may be again, habitually used, for the purposes of prostitution;	An offence; <i>Crimes Act 1900</i> , s.91A, 91B	Allowing premises held out as available for other purposes, to be used for prostitution; <i>Summary Offences Act</i> , s.17; and using such premises for the purposes of prostitution or soliciting; s.16.	Advertising premises that are used for prostitution; or that a person is available for prostitution; <i>Summary Offences Act 1988</i> , s.18; or advertising to employ a prostitute; s.18A.	Public acts of prostitution (client & sex worker); <i>Summary Offences Act</i> , s.20. Soliciting in or near a school, church, hospital, or public place or near a dwelling; <i>Summary Offences Act</i> , s.19
<i>Disorderly Houses Act 1943</i> .		<i>Disorderly Houses Act</i> , s.3; an offence to enter a disorderly house with no lawful purpose; s.7.				Child prostitution, <i>Crimes Act 1990</i> , ss.91D-F.
<b>Victoria</b>						
<i>Prostitution Regulation Act 1986</i>	An offence, except where premises have a town planning permit; <i>Vagrancy Act</i> , s.10	An offence, except when premises have a permit; <i>Vagrancy Act</i> , s.11	Only an offence where force or violence, or child; <i>Prostitution Regulation Act</i> , ss.10, 11.	An offence for owner, tenant, lessee or occupier who permits premises to be used for prostitution without town planning; <i>Vagrancy Act</i> , s.12	Advertising employment in a brothel; <i>Prostitution Regulation Act 1986</i> , s.14	Gutter-crawling in order to enlist the services of a prostitute; <i>Prostitution Regulation Act 1986</i> , s.5(2)

# Laws Criminalising Prostitution Related Activities (cont.)

State and Legislation	Living on Earnings	Brothel Keeping	Procuring	Permitting Premises to be used for Prostitution	Advertising	Other
<b>Queensland</b>						
<i>Vagrants, Gaming and Other Offences Act 1931</i> Criminal Code	An offence; Vagrant, Gaming and Other Offences Act, s.5(1)(c)	Keeping or managing a brothel; ss.8 & 8A Keeping a bawdy house; Criminal Code, S.231 and s.235	An offence; Criminal Code, s.217	Tenant, lessee or occupier who permits premises, and landlord who knows premises, to be used for prostitution; Vagrants, Gaming and Other Offences Act, s.8	An advertiser may be held as being a party to an offence of living on earnings of prostitution, or of keeping a brothel by knowingly assisting its operation	Keeper of a lodging house permitting it to be the resort or place of meeting of prostitutes; Vagrants, Gaming and Other Offences Act, s.8 Consorting; Vagrants, Gaming & Other Offences Act, s.5 (1)(d)
<b>South Australia</b>						
<i>Summary Offences Act 1953</i> Criminal Law Consolidation Act 1935	An offence; Summary Offences Act 1953, s.26	Keeping or managing a brothel; Summary Offences Act 1953, s.28(i)(a)	An offence; Criminal Law Consolidation Act, 1935, s.63	Lets or sublets premises knowing it is to be used as a brothel; Summary Offences Act, 1953, s.29	An offence; Summary Offences Act, s.13	Occupying same premises frequented by prostitutes; Summary Offences Act, s.21.

## Laws Criminalising Prostitution Related Activities (cont.)

State and Legislation	Living on Earnings	Brothel Keeping	Procuring	Permitting Premises to be used for Prostitution	Advertising	Other
<b>Western Australia</b>						
<i>Police Act 1892 Criminal Code 1913-1991.</i>	An offence: <i>Police Act 1892</i> , s.76G (1)(a) & (2).	Keeping or managing a brothel; <i>Police Act 1892</i> , s.76F. Keeping a place for prostitution; <i>Criminal Code</i> , ss.213 & 209.	An offence; <i>Criminal Code</i> , s.191.	Tenant, lessee or occupier who permits premises to be used for prostitution, landlord who knows premises used; <i>Police Act 1892</i> , s.76F.	An offence; <i>Police Act</i> , s.65(9).	Occupier of a house frequented by prostitutes; <i>Police Act 1892</i> , s.65(7) Soliciting; <i>Police Act</i> , ss.59, 65(8) & 76G(1)(b) Occupier/owner/manager of brothel knowingly allowing boy client under 18 years to commit carnal knowledge; <i>Police Act</i> , s.194.
<b>Tasmania</b>						
<i>Police Offences Act 1935 Criminal Code.</i>	An offence; <i>Police Offences Act 1935</i> , s.8.	Keeping a common bawdy house; <i>Criminal Code</i> , s.143.	An offence; <i>Criminal Code</i> , s.128.	Letting a house, knowing it is to be used as a brothel; <i>Police Offences Act 1935</i> , s.11.	An offence; <i>Police Offences Act</i> , s.8(2).	Occupying a house and harbouring prostitutes; <i>Police Offences Act 1935</i> , s.10(1)(b) Lodging or entertaining a prostitute to the annoyance of the inhabitants; <i>Police Offences Act 1935</i> , s.10(9)(d).

# Laws Criminalising Prostitution Related Activities (cont.)

State and Legislation	Living on Earnings	Brothel Keeping	Procuring	Permitting Premises to be used for Prostitution	Advertising	Other
<b>Northern Territory</b>						
<i>Summary Of fences Act (1987) Criminal Code Suppression of Brothels Act 1907.</i>	An offence; Summary Offences Act, s.57(1)(h).	An offence; <i>Suppression of Brothels Act 1907</i> , s.3.	An offence; Criminal Code, s.136.	As tenant, occupier or landlord; Suppression of Brothels Act 1907, s.3(b) & (c).	An offence; Summary Offences Act, ss.57(1)(h) and (3).	Person who keeps a house, shop, room, where refreshments sold and permits prostitutes to meet or remain there; Summary Offences Act, s.66 Prostitute who acts in a riotous or indecent manner in public places; Summary Offences Act, s.56(1)(h) Soliciting; Summary Offences Act s.53(1)(a)(ii) & s.57(1)(ha).

# Laws Criminalising Prostitution Related Activities (cont.)

State and Legislation	Living on Earnings	Brothel Keeping	Procuring	Permitting Premises to be used for Prostitution	Advertising	Other
Australian Capital Territory						
Police Offences Act 1930 Crimes Act 1900 (NSW).	An offence; <i>Police Offences Act 1930</i> , s.23(1)(j).	Manages or conducts a brothel or knowingly concerned in management; <i>Police Offences Act</i> , s.18.	Only an offence if child under 16; <i>Crimes Act 1900</i> (NSW), s.92N.	Leases, lets, sublets or knowingly permits; <i>Police Offences Act</i> , s.19.	An offence; <i>Police Offences Act</i> , s.22(f).	Person who keeps house, room, shop or place of public resort where liquor or refreshments sold/consumed to permit prostitutes to meet or remain there; <i>Police Offences Act</i> , s.34 Offence to persistently solicit or importune for immoral purposes in a public place; <i>Police Offences Act</i> , s.23(1)(ja).

## APPENDIX 3

### Glossary of Acronyms

AAA	Affirmative Action Agency	AO	Office of the Order of Australia
ABA	Australian Broadcasting Authority	AOTC	Australian and Overseas Telecommunication Corporation
ABC	Australian Broadcasting Corporation	AP/B	Additional Pension/Benefit
ABS	Australian Bureau of Statistics	APMC	Australian Police Ministers Council
ABSTUDY	Aboriginal Study Assistance Scheme	APS	Australian Public Service
ABT	Australian Broadcasting Tribunal	ATSIC	Aboriginal and Torres Strait Islander Commission
AC	Companion of the Order of Australia	AUSTEL	Australian Telecommunications Authority
ACT	Australian Capital Territory	AUSTUDY	Education Income Support
ACTU	Australian Council of Trade Unions	BHAS	Broken Hill Associated Smelters
ADF	Australian Defence Force	BWS	Battered women syndrome
ADI	Australian Defence Industries	CAPE	Commonwealth Aids Prevention and Education
AFR	Australian Financial Review	CAWISE	Commonwealth Aids Workforce Information Standards and Exchange
AGPS	Australian Government Publishing Service	CCA	Child Care Assistance
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies	CDA	Child Disability Allowance
AIDS	Acquired Immune Deficiency Syndrome	CDF	Chief Defence Force
AIFS	Australian Institute of Family Studies	CEDAW	Convention for the Elimination of Discrimination Against Women
AIH	Australian Institute of Health	CES	Commonwealth Employment Service
AIRC	Australian Industrial Relations Commission	CFO	Commission on Filipinos Overseas
AJA	Australian Journalists Association	CJC	Criminal Justice Commission
ALP	Australian Labour Party	COSC	Chiefs of Staff Committee
ALRC	Australian Law Reform Commission	CPI	Consumer Price Index
AM	Member of the Order	CRAFT	Commonwealth Rebate for Apprenticeship Full-time Training
AMEP	Adult Migrant English Program		

CREWET	Combat-Related Employment of Women Evaluation Team	IVF	In-vitro fertilisation
CSA	Child Support Agency	JET	Jobs Education and Training Program
CSS	Child Support Scheme	JSA	Job Search Allowance
CWA	Country Women's Association	MACS	Multifunctional Aboriginal Children's Services
DACA	Disability Advisory Council of Australia	MIM	Mount Isa Mines
DILGEA	Department of Immigration Local Government and Ethnic Affairs	MLA	Member Legislative Assembly
DNCB	Domiciliary Nursing Care Benefit	MOA	Municipal Officers Association
DPP	Director Public Prosecutions	MOVE	Men Overcoming Violent Emotions
DSR	Dependent Spouse Rebate	MRA	Minimum Rates Adjustment
DSS	Department of Social Security	NCADA	National Campaign Against Drug Abuse
EEO	Equal Employment Opportunity	NCV	National Committee on Violence
EFT	Equivalent Full-time	NCVAW	National Committee on Violence Against Women
ESD	Ecological Sustainable Development	NESB	Non-English Speaking Background
FAS	Family Allowance Supplement	NH & MRC	National Health and Medical Research Council
FBT	Fringe Benefit Tax	NISS	National Integrated Settlement Strategy
FIS	Family Income Supplement	NOOSR	National Office of Overseas Skills Recognition
GIO	Government Insurance Office	NSA	New Start Allowance
GP	General Practitioner	NSW	New South Wales
HACC	Home and Community Care	NT	Northern Territory
HECS	Higher Education Contribution Scheme	NWCC	National Women's Consultative Council
HIV	Human Immunodeficiency Virus	OAM	Medals of the Order
HREOC	Human Rights and Equal Opportunity Commission	OECD	Overseas and Economic Co-operation and Development
ICCPR	International Covenant on Civil and Political Rights	OFLC	Office of Film and Literature Classification
ILO	International Labour Organisation	OGIA	Office of Government Information and Advertising
IRC	Industrial Relations Commission		
ITFW	Industry Training Fund for Women		
IUD	Intra-uterine device		



OIW	Office Indigenous Women	VAEIS	Video and Audio Entertainment and Information Services
OSW	Office of the Status of Women	VDU	Visual Display Unit
PSC	Public Service Commission	VEETAC	Vocational Education Employment & Training Advisory Committee
PSS	Public Sector Superannuation	VIC	Victoria
QLD	Queensland	VTHC	Victorian Trades Hall Council
RADGAC	Research and Development Grants Advisory Committee	WA	Western Australia
RSI	Repetitive strain injury	WAC	Women's Advisory Council
SA	South Australia	WEETAG	Women's Employment Education & Training Advisory Group
SAAP	Supported Accommodation Assistance Program	WHO	World Health Organisation
SBS	Special Broadcasting Service	WICH	Women in Industry and Community Health
SDA	Sex Discrimination Act	WID	Women in Development
SES	Senior Executive Service	WORKSAFE	National Occupational Health and Safety Commission
SFCP	Service for Families with Children Program		
SGC	Superannuation Guarantee Charge		
SHOUT	Sexual Harassment is Out		
STD	Sexually Transmitted Diseases		
SES	Senior Executive Service		
SWIM	Senior Women in Management		
TAFE	Technical and Further Education		
TAS	Tasmania		
TDVAC	Tasmanian Domestic Violence Advisory Committee		
TPC	Trade Practices Commission		
TWCC	Tasmanian Women's Consultative Council		
UNCED	United Nations Conference on Environment and Development		
USO	Universal service obligation		
UTLC	United Trades and Labour Council		