

MIGRANT WOMEN AND THE LAW: BARRIERS TO ACCESS AND EQUITY

Bronwyn Scheelbeek
Assistant Secretary
Law, Policy & Conciliation
Human Rights and Equal Opportunity
Commission
Sydney

THE HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION ADMINISTERS several pieces of federal anti-discrimination legislation, including the *Racial Discrimination Act 1975* and the *Sex Discrimination Act 1984*, which together provide important rights to migrant women, particularly in the areas of racial discrimination, sexual discrimination, and harassment.

A brief overview of some of the barriers to access and equity for migrant women, particularly those in the workforce, the difficulties that can arise in deciding if legal rights have been infringed, and difficulties experienced by migrant women in gaining access to legal protection and redress is presented below.

The Human Rights and Equal Opportunity Commission has been involved in consultations with the Australian Law Reform Commission on possible reforms to family, contract and criminal law. Some of the provisional proposals made by the Law Reform Commission which are of importance to migrant women will also be discussed.

Human Rights Framework

In addressing the general issue of migrant women and the law, it is relevant to consider what the international community has adopted as fundamental rights regarding access to and participation in the legal system. These rights and standards are set out in international covenants and declarations negotiated through and adopted by the United Nations.

The International Covenant on Civil and Political Rights (ICCPR), for example, provides that:

All persons are equal before the law and are entitled without discrimination to the equal protection of the law (Article 26).

Other stipulations under the Covenant include the rights:

- to equality before the courts and tribunals, and to a fair hearing in any criminal case or law suit; and in determination of any criminal charge to guarantees including the right of every person;
- to be informed promptly, in detail and in a language the person understands of the nature and cause of the charge;
- to be tried without undue delay;
- to be tried in his or her presence, and defend him or herself in person or through counsel of his or her choosing;
- to have legal assistance assigned where required by the interests of justice, free of charge where the person has insufficient means to pay;
- to examine witnesses;
- to have the free assistance of an interpreter if he or she cannot speak the language in court (Article 14).

The International Convention On The Elimination Of All Forms Of Racial Discrimination (CERD) similarly provides the right of everyone to equality before the law, regardless of race, colour, or national or ethnic origin, including the right to equal treatment before tribunals and other organisations administering justice; and the right to security of person and protection by the State against violence or bodily harm (Article 5).

The Convention On The Elimination Of All Forms Of Discrimination Against Women (CEDAW) provides that women have the right to equality with men before the law (Article 15), and that existing laws, regulations, customs and practices which discriminate against women should be modified or abolished (Article 2).

The general principle emerging from these international conventions is that the law should apply uniform standards, without discrimination on the basis of sex, race, colour, descent or national or ethnic origin. Australia is a signatory to these and other conventions and has sought to implement some of these rights in federal and state anti-discrimination and equal opportunity legislation, although not all rights can be effectively addressed in legislation alone.

Principles of these conventions have also been embraced in Access and Equity and Equal Opportunity policies and programs, and in the Federal Government's policy on Multiculturalism (National Agenda for A Multicultural Australia).

Philosophy not Implemented in Practice

While these standards set in place a strong philosophical basis for fundamental changes in the administration of our social and legal systems to accommodate the interests of immigrants, in practice changes have not been as effective as hoped. Translating access and equity into practice is still often based on a lack of understanding of the needs of people of non-English speaking background which can lead to stereotyping, labelling and marginalisation.

The process of dealing with these people's needs too often results in special, segregated programs subject to the vagaries of budgetary generosity or constraint, and to implementation by people lacking cross-cultural skills. In the end, the process of accommodating the needs of immigrants is one of making the people fit the system, rather than making the system fit the people.

Barriers to access and equity

The Human Rights and Equal Opportunity Commission's principal statutory obligation is to accept, investigate and seek to resolve complaints of discrimination and violations of human rights. In handling complaints valuable information about the difficulties people encounter is acquired. Barriers to access and equity identified by migrant women in their complaints and in discussions with the Commission include:

- discrimination in employment, in promotion and in 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;
- difficulties in access to legal protection and redress.

These barriers are sometimes the result of racism and discrimination. At other times, they can arise out of misunderstanding or ignorance. Misunderstandings between workers and employers that arise from cultural differences can create major obstacles to equal participation for migrant women workers. Many employers do not appreciate or are simply unaware of the difficulties faced by people from non-English speaking backgrounds and tend to treat difficulties in the workplace as personal rather than institutional or systemic problems.

Conversely, many migrant women lack an understanding of industrial relations practices and of laws that offer protection for their rights. They are unable to negotiate the system to obtain redress. The Commission has found that many situations which begin as cultural or industrial misunderstanding or communication breakdown between a worker and management, escalate into major conflicts. These are not necessarily cases of racial discrimination. Nevertheless, they impede the migrant worker's ability to actively participate in the workforce and create unnecessary barriers to industrial democracy.

Whether caused by racism and discrimination or by misunderstanding or ignorance, the barriers that confront migrant women workers must be tackled. There

are already avenues for legal protection and redress but often migrant women workers face obstacles in obtaining access to these.

Access to Legal Protection and Redress

The Human Rights and Equal Opportunity Commission was established by the Federal Parliament under the Human Rights and Equal Opportunity Commission Act 1986.

The Commission 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 handling. The Commission is a permanent independent statutory body and is responsible for the administration of four Commonwealth Acts: the *Racial Discrimination Act 1975*; the *Human Rights and Equal Opportunity Commission Act 1986*; the *Sex Discrimination Act 1984*; and the *Privacy Act 1988*¹.

The two pieces of legislation administered by the Commission which are most relevant for migrant women are the *Racial Discrimination Act 1975* and the *Sex Discrimination Act 1984*.

The Racial Discrimination Act 1975

This 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. It is unlawful for an employer or a person acting or purporting to act on behalf of an employer: to refuse or fail to offer work which is available and for which a person is qualified; to refuse or fail to offer a person the same terms of employment, conditions of work and opportunities for training and promotion that are available for other people with the same qualifications; or to dismiss a person because of that person's race, colour, descent or national or ethnic origin.

Employers and principals can also be held responsible for the discriminatory acts of their employees and agents, unless they can show that they took all reasonable steps to prevent discriminatory acts occurring.

Until recently, complaints lodged under the *Racial Discrimination Act 1975* required 'race, colour, descent or national or ethnic origin' to be the dominant reason for an act of discrimination in order for a complaint to be established under the Act. This requirement, that race be the dominant reason, has been removed and it is now sufficient for the racial basis of the act to be one factor in the decision.

In addition, complaints under the Racial Discrimination Act can now be made on the basis of indirect discrimination. Indirect discrimination can be explained as treatment which on the face of things seems 'neutral' or 'fair' or to be common practice but which in fact operates unfairly on a particular person or group because of their racial or ethnic origin. For instance, prescribing a certain level of literacy for a job vacancy, where advanced language skills are not an essential prerequisite for the job, may have the effect of disadvantaging applicants from non-English speaking backgrounds.

¹ As at February 1993, the Commission also has the responsibility for the administration of the *Disability Discrimination Act 1992*.

The Sex Discrimination Act 1984

The Sex Discrimination Act makes it unlawful to discriminate on the basis of sex, marital status or pregnancy in the areas of employment, education, the provision of goods, services and facilities, accommodation, disposal of land, club membership and the administration of Commonwealth laws and programs.

It is also unlawful for trade unions or employment agencies to discriminate against a person on the ground of a person's sex, marital status or pregnancy.

The Act contains specific provisions in relation to sexual harassment in employment and education. As with the Racial Discrimination Act, the Sex Discrimination Act provides for indirect discrimination and vicarious liability on the part of employers.

Both the Racial Discrimination Act and the Sex Discrimination Act provide an effective structural mechanism for migrant women workers who have been discriminated against on the basis of their ethnicity or their gender. However, the Human Rights and Equal Opportunity Commission has found that few migrant women use the legislation to combat the discrimination they suffer.

Barriers to the Lodgement of Complaints

Although federal and state legislation now provide effective means for redress of many of the barriers to access and equity, it appears that few migrant women are aware of their rights, how they can assert them, or of the authorities (like the Human Rights and Equal Opportunity Commission) responsible for protecting them.

In a report commissioned by the Office of Multicultural Affairs lack of information was identified as one of the most fundamental barriers to access and equity for migrant women (Alcorso 1989). Very few of the women surveyed knew about the existence of anti-discrimination legislation or how to use it. Few women took action over cases of race and sex discrimination in the workplace. It would also appear that those women who do have some knowledge of the action they can take are generally reluctant to do so. Intrinsic barriers such as cultural factors often affect the willingness of women to lodge complaints. Many of the women surveyed did not report sexual harassment in the workplace because they were ashamed and felt it reflected badly on them. They also felt unable to complain against bosses and supervisors, because they were fearful of losing their jobs.

Another recent study for the Bureau of Immigration Research gives further insights into the particular difficulties faced by refugee and immigrant women, and the factors which impede their settlement in Australia (Pittaway 1991). According to this study, men from newly arrived migrant families are usually the first to seek work. If they are successful, this gives them the opportunity to learn a functional level of English and to adjust more rapidly to Australian culture. Children pick up English quickly at school and 'adapt easily to a new and often more liberal lifestyle'. Women devote their energies to establishing a new home, and must often seek employment if the husband is unsuccessful or to supplement the household income. However, they generally have to accept any work available, which is often 'lowly paid, dirty, boring and monotonous work'. Once back at home, they still take primary responsibility for housework and child raising, with the men relatively free to socialise or take courses to further improve their English skills.

The end result of this process is that the migrant or refugee women often fail to learn English, or to attend job-training courses due to lack of child care and exhaustion. Thus women experience major inequalities even in the process of settlement, particularly in regard to the gaining of English language skills. For newly arrived immigrant women, the barriers to learning about their rights often appear to be insurmountable.

The issue confronting the Commission, other anti-discrimination bodies and indeed, all other government bodies administering laws and services, is how to provide migrant women with the information and skills they need to make proper use of the mechanisms available.

The Human Rights and Equal Opportunity Commission has adopted a range of access and equity strategies for migrant women and people from non-English speaking backgrounds generally. For example, in 1988 the Commission undertook a pilot project to address the specific difficulties faced by immigrant women of non-English speaking background in becoming aware of the provisions of anti-discrimination law. Following consultations with relevant community groups, announcements were broadcast on ethnic radio stations in Turkish, Spanish and Khmer. These provided dramatised presentations of employment related situations such as sexual harassment and 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. A similar project was also undertaken in Melbourne in 1989, targeting speakers of the same three languages.

The pilot project provided valuable feedback to the Commission from migrant women about what they perceived as the most important barriers to achieving access. It is worth briefly repeating some of these because they reinforce the findings of Alcorso's (1989) study of migrant women workers. They included: distrust of bureaucracy; an incomplete grasp of the mechanisms that would be set in train when laying a complaint; fear of reprisals or lack of witnesses; and lack of confidence in written and/or spoken English. As a result, most of the women preferred to approach a trusted bilingual community worker or friend in the first instance, before venturing into any government agencies.

Since the pilot study the Commission has attempted to redress some of the problems. For example, it will accept written complaints in any language, and makes no charge for the provision of interpreting and translation services. There have been more enquiries about the legislation, and a group complaint was recently lodged by a union on behalf of a group of women who have allegedly been discriminated against in employment. This integrated approach, involving organisations such as unions or community welfare groups which can advocate on behalf of women who need assistance in laying complaints, may be the most effective way to break down the barriers to access².

² As at February 1993, the Commission has initiated a number of projects seeking to improve migrant women's access to anti-discrimination mechanisms and bodies. For example, a series of six radio announcements about different aspects of discrimination dealt with by the Commission were broadcast for the Arabic-speaking communities through the Australia wide network of community radio stations broadcasting in languages other than English.

Through the Community Relations Strategy, launched under the National Agenda for a Multicultural Australia, the Commission has developed an information resource package called 'Unlocking the System'. This is aimed at community workers to help them to empower their clients

Employment Related Projects

Just as it is important to inform migrant women of their rights under our legislation, it is equally important to ensure that others observe those rights.

In the area of employment, the Commission's experience is that many employers are unable and/or unwilling to identify discriminatory acts, practices and policies in the workplace. This behaviour, whether it is deliberate or unconscious, may amount to unlawful discrimination. The Commission has been working with employers and trade unions to develop a more positive and structured approach to equality of opportunity in the workplace which satisfies their obligations under the legislation.

Two pilot projects have been undertaken in private sector companies, with the cooperation of management and on-site union representatives. In each case, while little evidence was found of serious discrimination or poor race relations, participants agreed that there was scope for improvement in such processes as recruitment, job evaluation and promotion through the establishment of a more equitable working environment with greater job satisfaction, improved efficiency and productivity. As a result of these pilot projects, the Commission has developed a training package to improve race relations in the workplace³.

The Race Relations in the Workplace package will be run in fifteen workplaces throughout Australia to demonstrate how employers can improve their ability to effectively manage culturally diverse workplaces for the benefit of industrial relations and productivity.

Another project with particular relevance for migrant women workers is the Inquiry being held by the Sex Discrimination Commissioner into Sex Discrimination in Over-Award Payments. The Inquiry will be of particular significance to the majority of women in the paid labour force who work under minimum rates awards. The main areas involved are the retail and manufacturing sectors, industries where migrant women form a significant part of the labour force. However, our research associated with the Inquiry has also indicated that many migrant women work from home and are not represented by unions, and therefore do not have access to union organisations for advice and assistance in improving their wages and conditions.

It is well established that Australia's labour force is one of the most highly sex segregated labour forces within the OECD group of countries, with 'women's occupations' and industries attracting lower rates of remuneration than 'men's occupations.' Women continue to earn significantly less than men in all categories of earnings, all components of earnings, all major occupational groupings and nearly all categories of benefits and allowances. Research has shown that within this already sex segregated workforce migrant women tend to occupy the bottom of the occupational hierarchy in these 'women's industries.'

Submissions to the Review of Permanent Exemptions Under the Sex Discrimination Act have raised concerns about the lack of tax deductibility for child care expenses, and the consequent impact upon women's participation in the

of non-English speaking background to solve their own problems and protect their rights through information and strategies to access the system. The package covers strategies in relation to problems with immigration, social security, education, employment, consumer affairs, neighbourhood issues, tenancy, police and domestic violence.

³ A video, *Managing Cultural Diversity*, has also recently been produced and was screened on SBS TV in March 1992.

workforce and on their income. As indicated earlier, lack of access to adequate child care facilities was identified as a significant issue for migrant women.

It is relevant to note here that another international human rights instrument, Convention No. 156 of the International Labour Organisation concerning Workers with Family Responsibilities, which was ratified by the Australian Government in March 1990, has enshrined the principle that men and women workers with responsibilities for dependent children or other family members in need of their care or support should not be prevented by those obligations from either preparing for, entering in, or advancing in economic activity (Article 1). In this context, access to child care can be a critical factor.

By way of implementing this Convention into domestic legislation, the *Sex Discrimination Act 1984* has been amended to include family responsibility as a ground of unlawful discrimination in certain areas. It is now unlawful to dismiss a person from employment on the ground of their family responsibilities. At present the Federal Government is conducting community consultations and assessing whether these amendments should be extended to include other areas covered in the Act.

National Inquiry into Racist Violence

The Human Rights and Equal Opportunity Commission is also vested with important powers to investigate more wide-ranging and systemic forms of human rights violations, through a public inquiry process. For example in 1989, the Human Rights and Equal Opportunity Commission commenced a National Inquiry Into Racist Violence in response to concerns in the community that racist violence was increasing. The report of the Inquiry was released in April 1991.

The Inquiry found that there have been serious incidents of violence, harassment and intimidation against people of non-English speaking background, their property and their places of worship. Whilst the Inquiry found that racist violence is nowhere near the level it is in many other countries, racial harassment and intimidation are common experiences for migrants, and these result in a threatening environment.

Several factors can influence the extent of racist violence against particular ethnic groups. Being visibly different, either in physical appearance (for example, being Asian) or dress (for example, wearing the hijab or Muslim women's headscarf) is often enough to provoke racist harassment, intimidation and, at times, violence. Some ethnic groups, such as Asians and Jews, have faced greater hostility than others, whilst hostility towards people of Arabic descent increased during the Gulf Crisis. Factors such as changes in patterns of immigration, levels of unemployment, crime reports, international conflicts and public statements by prominent Australians may trigger and inflame racist actions.

Australian Law Reform Commission³⁴ Multicultural Reference

The Australian Law Reform Commission has also recently reviewed certain laws having regard to the multicultural nature of the Australian community. Specifically, the Federal Attorney-General asked the Law Reform Commission to consider whether Australian family law, contract law and criminal law are appropriate to a society made up of people from different cultural backgrounds and ethnically diverse communities. In particular, the Commission considered whether the principles underlying the relevant law, and the mechanisms available for resolving disputes arising under or concerning the law, take adequate account of the cultural diversity of Australian society. The Human Rights and Equal Opportunity Commission was involved in consultations with the Law Reform Commission regarding this review. Some of the relevant findings and recommendations of this Reference are discussed briefly below.

Contract law and the criminal trial

In our society, agreements to lend money are not only bound up by written contracts with numerous terms and conditions, but are also governed by various pieces of legislation such as the Trade Practices Act. Even average Anglo-Saxon Australians can have difficulties in comprehending their basic rights and obligations under credit agreements.

For some ethnic groups, the concept of 'consumerism' may be quite foreign, having lived in a place or kin relationship which accorded less significance to material needs, in a culture not characterised by possessive individualism and/or where goods were obtained by exchange or customary giving and receiving.

The Law Reform Commission's consultations suggest that many people, especially recently arrived migrants, have little understanding of how banks, building societies and credit providers operate. For many, the family is the main source of economic support. Some migrants may have come from countries where kin relationships play a key role in their economic survival. They may expect the same flexibility in loan repayments as would be allowed by their kin. The Commission also found that there is a widespread lack of understanding of the role of a guarantor under a credit agreement.

In some ethnic communities, more reliance may be placed on oral communications, and the parties may regard these communications as governing their rights and obligations, rather than a written agreement.

The Australian Law Reform Commission suggested that people from non-English backgrounds are particularly vulnerable to practices such as overselling of credit leading to over-commitment, faulty information about terms and conditions, and inappropriate reliance on guarantors (1991).

There is also a lack of knowledge about and understanding of consumer protection laws and dispute resolution mechanisms which, according to the Commission, is a significant reason why immigrants and people of non-English speaking background have not exercised their rights when a dispute occurs.

Consistent with our findings regarding migrant women's distrust of bureaucracies, the Law Reform Commission found that many migrant people have a fear of dealing with public institutions such as courts and consumer affairs departments, particularly where they have come from a country ruled by a repressive regime, and consequently have a fear and distrust of authority.

According to evidence given by the National Inquiry into Racist Violence, such a fear may also emerge as a barrier to reporting incidents of racist violence to police. Immigrants that had experienced violence and trauma at refugee camps, civil wars and at the hands of special police or the military were nervous about bringing themselves to the attention of any authorities. This fear, along with reluctance to disclose personal financial details, may also impede applications for legal aid by migrant people.

In making a range of proposals for reform in this area of consumer law, credit and insurance, the Law Reform Commission identified two underlying principles, which could be adapted to other areas of law:

Information People who make legally enforceable agreements should have as much information as possible about the nature of obligations they have assumed and the consequences of failing to comply with them so that, as far as possible, disputes will be avoided.

Dispute resolution Access to mechanisms by which people can exercise their legal rights if a dispute arises should be increased.

The Law Reform Commission also carried out extensive consultations in regard to migrant people's experience of our criminal justice system. In Australia, criminal trials are run on an adversary system, in which the prosecution and the defence prepare and present their cases before a neutral tribunal. As the Australian Law Reform Commission (1991) notes:

The main purpose of the system is not so much to find out the truth but to ensure that a person is convicted and sentenced only where it is possible to say without reasonable doubt that the defendant did what he or she has been charged with.

In contrast, many immigrants will be more familiar with a European inquisitorial system, involving a wide ranging judicial inquiry, and have substantial misunderstandings about the adversary system.

If the parties to proceedings do not have an equal opportunity to present and challenge evidence, the adversary system can tend to break down. Some particular problems identified by the Commission are that the evidence of non-English speaking witnesses or witnesses with poor English skills may be distorted by misunderstanding the questions, and there may not be a cultural or linguistic equivalent of the terms used. The demeanour of a witness can be an indicator of his or her honesty or reliability in our court system. However, as the Law Reform Commission notes, there can be cultural variations in body language. For example, avoiding eye contact can be a mark of respect for authority in some cultures, but could be misinterpreted in a criminal trial in Australia as inattention, evasiveness or even dishonesty.

In addition, interpreters are only available to assist a witness of non-English speaking background to give evidence. They are not generally available at other times of a trial to a non-English speaking defendant, thereby denying him or her the ability to hear, understand and assess other evidence, legal argument and summing up by judges.

Inaccurate responses to questions can arise from culturally different practices in answering questions. For example, a person may say 'yes' to a question, on the basis that that is what he or she thinks the questioner wants to hear, rather than addressing the question.

These are just some of the findings of the Law Reform Commission's work, which provides many other valuable insights into problems encountered by people of non-English speaking background in participating in our criminal justice system, as well as important recommendations for reform.

Law Reform

Turning to the issue of law reform as it relates to women of non-English speaking background, the most significant recommendations of the National Inquiry into Racist Violence involve a package of legislative reforms to create a range of new criminal offences and civil remedies. The Inquiry recommended that the Federal Crimes Act be amended to create a new criminal offence of racist violence and intimidation. In addition, there should also be a clearly identified offence of incitement to racist violence and racial hatred which is likely to lead to violence.

The Inquiry also recommended that new civil remedies be created to address less serious forms of intimidation and harassment, by amending the Racial Discrimination Act to prohibit racist harassment and outlaw incitement to racial hostility.

A more holistic approach

The reforms to contract, criminal and family law being developed by the Law Reform Commission, and the recommendations of the Human Rights and Equal Opportunity Commission regarding the creation of criminal offences and civil remedies to combat racist violence and racial harassment, are important advances in protecting the rights of migrant people.

Looking at a more holistic approach to law reform, the barriers in utilising our legal system faced by many immigrants, and indeed other people of low economic means, reflect more systemic problems associated with the fact that our legal system was principally developed by and for a propertied class and accommodates the assertion of rights based upon ownership of property. It developed in the context of a political economy predicated on the political theory of possessive individualism. (For a full articulation of this theory, *see*, for example, Hobbes, *Leviathon* (1988) and Locke (1964-65).)

As revealed in the Law Reform Commission's consultations, many migrant people come from societies where family and kin relationships form the foundations of society, and not ownership of property. Relationships between people in our own society have also become more complex, and the influence of Mill (*see*, for example, *On Liberty*) and Bentham (*see*, for example, *Constitutional Code* in *The Collected Works of J. Bentham*) has permeated political theory in Common Law countries so that a much wider, more pervasive set of rights is now acknowledged than those upon which our legal system was founded. Consequently, the occasions of conflict requiring resolution within the system have vastly proliferated. On the international scene, violations of rights associated with national conflicts during the Second World War have led to the development of international human rights instruments, such as the International Covenant on Civil and Political Rights.

In Australia, the trend has been to more specialised tribunals, Royal Commissions, Inquiries etc., to provide forums in which to identify underlying social issues and guide people and governments to solutions.

Moreover, multiculturalism in Australia has recognised a different set of imperatives than the current judicial system serves; imperatives which require a range of systems to accommodate the diverse range of needs of our community.

Against this background, it is surprising that the impetus for the current Senate Inquiry into the Cost of Justice has been so slow. It is also surprising that public statements concerning the Inquiry appear to proceed on the premise that the legal system, particularly the processes of litigation, no longer serves the general community. History clearly demonstrates that it never did, and the present problem is that it no longer serves even the group for which it was founded.

Reform must, of course include the prescription of some conduct and the proscription of remedies. While behaviour may reflect attitudes, it is possible to alter behavioural patterns to eliminate particular forms of conduct. Usually, attitude change will follow. However, specific educational programs are also essential both to identify problems and to develop strategies for structural change in attitudes.

As part of the Community Relations Strategy referred to earlier, the HREOC has initiated several projects which seek to affect both behavioural and attitudinal change. These include the community information resource package for people of non-English speaking background described above, as well as a similar package for Aboriginal and Torres Strait Islander peoples. These packages have been developed in consultation with people from these communities with a problem solving-centred approach. The objective is to enable community workers to give advice on strategies for resolving human rights problems at a local level.

Also through the Community Relations Strategy Unit a training package was designed for people who work with victims of racist violence. The package is aimed at those likely to be the first contact point for such victims, like community workers, hospital staff, teachers and police, as well as for professional counsellors.

Reform must also address process issues. The conciliation process used by the Human Rights and Equal Opportunity Commission, falling mid-way between an adversarial and inquisitorial system, has repeatedly led to the resolution of formerly intractable problems. The Commission's approach to identifying problems and strategies under our other functions has been coloured by our experience in conciliation.

It is essential that reform reflects what people actually do: HREOC's and other research indicate that people seek first to resolve their problems at a community level. The HREOC projects mentioned have the advantage of allowing development of solutions to a wide range of recurrent social and legal problems at the community level. This strategy is preferable to one whereby the individual conflicts must be funnelled up to a more centralised and monolithic curial system where opportunities for equal participation and confronting the underlying causes are so often lost. Consequently, it is vital that administrative tribunals and solutions be retained.

Conclusion

Government agencies responsible for administering our laws must be pro-active in ensuring that all people, including people from non-English speaking backgrounds, are adequately informed of their legal rights, and the mechanisms for enforcing those rights.

The Human Rights and Equal Opportunity Commission has found that it is crucial to adopt a range of strategies to ensure that anti-discrimination policies provide practical outcomes for those groups they are designed to assist.

All people must have equitable access to our country's justice system, not just those who can pay. In addition to cultural and linguistic differences, many migrant women face similar problems to the poor and uneducated in our society who, because of these factors (poverty and limited formal education), are directly and indirectly disadvantaged in accessing and participating in our legal system. Social justice initiatives that address these problems of poverty and lack of education will also benefit many migrant women. A more holistic approach to law reform is also required to redress these current inequalities.

Migrant women are entitled to the full protection of law and to be treated fairly, equally, and without discrimination. All organisations, public and private, have an obligation to identify and address the obstacles to access and equal participation that confront them.

Services that are provided to ensure access and equity for migrant people, such as interpreters, translation and other advocacy services, must be fully integrated into our justice and administrative systems, and not remain as 'add-ons' and thereby the first to be cut in times of economic recession.

Australia has committed itself in international forums to the recognition, protection and fostering of certain rights. A rights based approach carries two necessary concomitants. These are firstly, a right exists independently of and must prevail over the dictates of economic rationalism; and secondly, a right which cannot be enforced is no right at all.

In its work in implementing these internationally recognised rights, the Human Rights and Equal Opportunity Commission is committed to these principles.

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