

Chapter Twelve

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Ensuring Community Security and Access to Justice

A rigorous, consistent and fair system of law and justice is foundational to a democratic society and a secure, well-functioning economy. Where a national approach offers significantly better outcomes, Labor will work alongside State and Territory governments to establish model or uniform legislation. Labor will also work to improve access to justice, strengthen the institutions of the justice system, and take action to give greater protection to the victims of fraud, crime and violence.

Principles

1. Labor believes that a fundamental objective of government is to work with the community to provide greater security for all Australians and their families. To achieve this, the objectives of the criminal law should be to:
 - prevent crime;
 - protect the personal safety and property of all Australians;
 - support, counsel and compensate the victims of crime, their families and dependents; and
 - rehabilitate offenders.
2. Labor believes that the well-being and safety of the community is a fundamental responsibility of government.
3. An integral element of community safety is criminal justice. Labor is dedicated to providing the community with an effective criminal justice system, at all levels of government. Labor will ensure that the Commonwealth's investigation, prosecution, defence and judicial processes are separate, independent, adequately resourced and appropriately accountable.
4. Labor will also pursue cooperation between the Commonwealth, States and Territories in developing uniform and coordinated approaches to criminal justice and community safety.
5. Labor will provide adequate resources to law enforcement and prosecuting agencies to enable them to investigate and prosecute Commonwealth offences, in particular corporate crime and fraud against the Commonwealth.
6. Labor's response to the tragedy of drug abuse and related crime will be comprehensive. Labor is committed to a strategy for dealing with illicit drugs that aims to improve safety in the community by reducing the level of drug-related crime; to reduce the spread of illness; to keep people alive; and to find new ways to reduce the use of illicit drugs in our community.
7. Labor realises that an effective illicit drug strategy must address all areas of drug use and have prevention, early intervention and harm minimisation as its underpinning philosophy. Labor's illicit drugs strategy will support and promote:
 - harm reduction through programs designed to tackle the health and social problems caused by drug use;

- national coordination and cooperation between governments;
 - state government initiatives, such as supervised injecting places, aimed at reducing the costs to the community of illicit drug use and which will provide access to counselling and rehabilitation and facilitate scientific and medical research;
 - the development of programs and strategies based on expert advice, the adoption of performance objectives and a coordinated approach to research;
 - purposeful law enforcement strategies, including the development of specialist drug courts and diversionary programs, designed to get drug users out of the traditional criminal justice system and into a comprehensive range of treatment, rehabilitation and support programs;
 - adequate funding of law enforcement agencies such as the Australian Federal Police, which aim to break drug smuggling and other crime organisations;
 - effective criminal and civil law reform aimed at deterring and punishing the professional criminal elements in the illicit drug trade;
 - reduction directed at reducing the number of people taking up illicit drug use through targeted education programs for young people and users, and a strengthening of community and family involvement in programs across Australia;
 - tackling the social dimension with programs to give young Australians hope and opportunity through employment, education and training and real life options and encouraging greater support among family, friends and community networks; and
 - improving law enforcement at our borders and on the streets, increasing liaison and coordination with overseas law enforcement agencies and reducing the profitability of the drug trade.
- 8.** For these strategies to work, all need to be effectively funded and supported by government. They must also be properly evaluated and researched.
- 9.** Labor will continue to value the Australian Federal Police as the foremost Commonwealth law enforcement agency. Labor will support initiatives and strategies which ensure that the crime fighting and investigation practices of the Australian Federal Police are modern, strategic and effective in combating criminal threats in the twenty-first century, including high technology crime, identity fraud and money laundering.
- 10.** Labor acknowledges that Federal law enforcement agencies and the Commonwealth Director of Public Prosecutions must be effectively resourced in order to carry out the range of responsibilities required of Commonwealth law enforcement agencies.
- 11.** Labor supports measures that remove the profit which organised crime can make from illegal activities. Labor believes that where the appropriate authority can demonstrate, on the balance of probabilities, that assets are the result of criminal activity the onus should be on the owner of the assets to prove, on the balance of probabilities, that the assets were lawfully obtained.
- 12.** Labor supports law reform aimed at giving Commonwealth law enforcement agencies greater ability to investigate and apprehend people involved in terrorism, drug trafficking, gun running and organised crime. Labor will maintain the Australian Crime Commission Act 2002 under review and amend it as necessary so as to further this aim. Labor will protect the human rights of those so accused, in accordance with our international obligations.
- 13.** Labor will ensure that the Australian Crime Commission, the Australian Federal Police and Customs have appropriate independent complaints handling procedures. As Australia is in an

environment where there is a need for tough anti-terrorism laws, Labor will ensure there are strong safeguards against their abuse or misuse.

- 14.** Labor supports the creation of national uniform criminal laws. These should include:
- a criminal code;
 - a code of custody, sentencing and parole, with a specific section on juveniles;
 - evidence laws;
 - laws controlling the power of arrest and bail, in particular to strictly define the power to arrest without warrant and simplify the laws governing bail;
 - laws providing strict controls on the use of firearms and offensive weapons;
 - drug laws;
 - national standards for dealing with spent convictions;
 - national standards for dealing with victims of crime; and
 - national standards for Indigenous prisoners which respect, as far as possible, customary law.
- 15.** Labor will maintain and develop mechanisms designed to coordinate and enhance the efforts of federal, State and Territory authorities engaged in the fight against crime. To this end, Labor will establish a joint parliamentary committee for the oversight of all national law enforcement agencies.
- 16.** Labor, while maintaining the principle of merit selection, will encourage the Australian Federal Police to recruit from a broad cross section of the Australian community, particularly Aboriginal and Torres Strait Islander people, women and people from non-English speaking backgrounds, as a means of achieving non-discriminatory and more effective policing practices.
- 17.** Labor will ensure that the training of members of the investigative, prosecution and judicial authorities, and those involved in the administration of the law, encourages the development of non-discriminatory and non-violent attitudes. Labor supports the establishment of consultative mechanisms between investigating authorities and groups suffering from discrimination.
- 18.** Recognising that crimes such as drug importation, corporate crime, cybercrime, identity fraud and money laundering are increasingly interwoven with globalised commerce and terrorism, Labor will support enhanced mechanisms for international cooperation including mutual assistance with overseas agencies and regulators.
- 19.** Labor recognises the contract security industry as an integral part of ensuring Australians have confidence in the safety of the community. Labor recognises that the regulation of this sector is controlled through various Acts at the State and Territory level. Labor supports common minimum standards of regulation of the industry and will encourage State and Territory governments to establish a working group to facilitate those standards.
- 20.** Labor is committed to reducing the over-representation of Indigenous Australians in the criminal justice system. A national whole-of-government social justice approach, in cooperation with State and Territory governments, is required to tackle the complex underlying causes of such over-representation. These causes include poverty, lack of education and employment opportunities, homelessness, substance abuse and family violence.

Victims of Crime

- 21.** Labor will develop national model legislation and program delivery standards for victims of crime, including:
- a charter of rights for the victims of crime which builds upon the United Nations Charter of Victims Rights (Basic Principles of Justice for Victims of Crime and Abuse of Power 1985);
 - laws governing the compensation of victims of crime;
 - coordination across States and Territories of research and evaluation programs, the collection of data on victimisation rates, demographics, and victim needs and the dissemination of information;
 - standards for the provision of support, counselling and rehabilitation services for the victims of crime;
 - laws providing for victim impact statements, the provision of witness support and information and standards for the treatment of victims by the criminal justice system;
 - initiatives for reducing repeated victimisation including video conferencing;
 - particular emphasis on the needs of children and victims of sexual assault; and
 - promotion of alternative dispute resolution and restorative justice processes aimed at improving outcomes for both victims and offenders and reducing prospects of recidivism.
- 22.** Labor will aim to minimise the trauma of crime for victims, in particular the victims of sexual or family violence and abuse, during both the investigation of the crime and its prosecution. Labor will support programs and initiatives that are directed towards people from non-English speaking backgrounds, children, Aboriginal and Torres Strait Islander people, women and the disadvantaged.

Rights of the Accused

- 23.** As part of its commitment to the development of national uniform laws, Labor will work with the States and Territories to ensure that Australia is a civil and just society so that:
- people accused of a criminal offence are not compelled to incriminate themselves;
 - people charged are given a fair and speedy trial;
 - people charged with serious criminal offences are provided with legal representation if they are unable to afford legal representation of their own;
 - people charged have a right to legal representation during questioning by investigating authorities and that such questioning is video taped; and
 - evidence obtained illegally, by torture, coercive techniques or by improper investigative practice is inadmissible.

Custody and Sentencing

- 24.** Labor supports the development of a national uniform code of custody, sentencing and parole to optimise the rehabilitation of offenders and to ensure the just treatment of all prisoners in public and private prisons. The code will:
- ensure consistent, just and humane treatment of offenders and accused and support the appropriate use of non-custodial sentencing options;
 - prohibit the imposition of the death penalty;
 - conform with Australia's international human rights obligations;

- prohibit mandatory detention regimes for juveniles and the adults who commit minor offences without limiting the capacity of courts to direct offenders to appropriate noncustodial programs;
 - adopt special measures to protect young people held in custody;
 - adopt special measures to prevent deaths in custody, particularly among Aboriginal and Torres Strait Islander people;
 - ensure training of police and prison officers in understanding Indigenous culture and the Indigenous social context;
 - provide innovative and stronger sentencing options to penalise corporate offenders with penalties designed to redress the harm caused to individuals and the community as a result of offences and to deter future offences;
 - remove imprisonment for the non-payment of fines except in cases of wilful default;
 - adopt international treaties allowing the repatriation of Australians in overseas prisons; and
 - develop consistency in sentences so that the judiciary retains a sufficient degree of appropriate discretion so as to enable sentences to be tailored to the circumstances of each individual case.
- 25.** Labor supports the introduction of sentencing regimes that are purposeful and aim to divert juveniles away from the criminal justice system in the future.
- 26.** Labor will continue to oppose mandatory detention when applied to juvenile offenders and to adults who commit minor offences, as it is discriminatory in practice and ineffective in reducing crime or criminality.

The Causes of Crime and Crime Prevention

- 27.** Restorative justice seeks to build a sense of community spirit and responsibility in the offender and aims to restore the victim and the community to their pre-offence state of security. Labor will promote the principles of restorative justice as a just and effective way to be tough on crime. Labor will support the introduction of programs that are consistent with victims' rights, based upon restorative justice.
- 28.** Labor will support ongoing research into, and consult with the Australian community in relation to, the causes of crime, the most effective ways of preventing crime, and methods of rehabilitating criminals and reducing recidivism.
- 29.** Labor will inform Australians about the level and effect of crime so that Australians can acquire a better understanding of the causes of crime, its impact and the measures needed to address it and to reduce fears that Australians hold about crime in our society.

Access to Justice

- 30.** Access to justice requires reducing the cost of legal services and the removal of artificial barriers to justice. Labor will also seek to provide all Australians suffering from disadvantage, disability or discrimination with reasonable assistance and specialist services to enable them to have access to justice.
- 31.** Labor will explore alternative and innovative models of justice administration and delivery to improve access for regional, rural and remote Australians. As the costs of legal services increase, Labor will explore alternative models to ensure urban Australians also have access to justice.

- 32.** Labor will reassume a national leadership role with regard to legal aid in order to recreate an independent, adequately resourced national uniform system of legal aid, which makes no distinction between Commonwealth and non-Commonwealth matters.
- 33.** Labor will continue to support general and specialist community-based legal services, recognise their advocacy role and will further develop collaborative clinical legal education schemes with universities to the mutual advantage of both students and the community.
- 34.** Labor acknowledges the many social and cultural dimensions of the Australian community, and the impact this has upon the understanding of and access to justice. Labor will ensure that Australians from all cultural and ethnic backgrounds are given access to information about their rights and responsibilities under the law, including court interpreter services, and the ways in which these rights and responsibilities can be fulfilled.
- 35.** Labor will ensure the effective and efficient operation of the courts and tribunals by:
- requiring mediation to be undertaken in federal matters unless that mediation would be traumatic or impractical as a result of issues of abuse or power imbalance;
 - providing adequate resources to the courts to allow the efficient, effective and timely resolution of disputes;
 - supporting the removal of unnecessary procedural impediments to prompt dispute resolution and to minimise litigation costs;
 - working with the States and Territories to overcome jurisdictional barriers to the delivery of effective and efficient justice;
 - ensuring access to small claims tribunals and courts for the resolution of appropriate disputes;
 - strengthening funding to Aboriginal Legal Aid Agencies;
 - maintaining and enhancing the right to bring representative and group proceedings in federal courts and tribunals;
 - rejecting the application of the user pays principle to court fees;
 - reviewing and monitoring court fees with a view to imposing court fees that do not act as a barrier to justice; and
 - ensuring provision of interpreter services.
- 36.** In order to enhance the accessibility of justice, Labor will, without reducing the quality of access to the justice system:
- encourage the continued development of other affordable and simple primary dispute resolution mechanisms;
 - encourage the development of a community approach to dispute resolution;
 - encourage parties to conciliate or arbitrate disputes, where that is appropriate;
 - encourage the continued development of other cheap and simple primary dispute resolution mechanisms;
 - provide just and equitable taxation treatment of legal expenses;
 - promote the use of appropriate and transparent contingency fee arrangements; and
 - promote access to legal expense insurance schemes.
- 37.** Recognising the importance of public duties owed by government to all Australians, Labor will provide relevant public interest advocacy groups with increased standing to enforce public duties.

- 38.** It is important to consider independent advice on access to justice issues. Labor will consider establishing an independent body to advise government on access to justice issues. The body will include representatives from the legal profession, the judiciary, other legal and related service providers, State and Territory governments and consumers.

Children and the Law

- 39.** Labor supports the protection of the rights of children at the same time respecting the proper role of parents and other people responsible for their welfare. Labor supports the use of programs to help Australians to become better parents and to enhance life opportunities for their children. Where appropriate, Labor will ensure that children have adequate and independent separate representation before the courts.
- 40.** Labor supports the development of a national approach to children and the law, which will include:
- recognising the best interests of the child as a primary consideration;
 - a sentencing regime based primarily upon the principles of restorative justice;
 - standards for court procedures where children are involved as witnesses, victims or offenders;
 - standards for support, counselling and rehabilitation services for child victims and offenders within the criminal justice system; and
 - support for research into causes of juvenile crime.
- 41.** Labor will work with foreign governments, international agencies, the States and Territories, and relevant community groups, to establish and maintain an integrated and effective response to paedophilia, child abuse and family violence.
- 42.** Labor recognises that the way in which the criminal justice system treats juvenile offenders greatly influences whether they will re-offend. The incarceration of juveniles should be a last resort, and all efforts should be made to divert children from long-term involvement in the criminal justice system. To this end, Labor supports a review of the current Commonwealth, State and Territory sentencing practices, with respect to juveniles.
- 43.** Labor will work with the States and Territories to develop a uniform national system for adoption.

The Government and Legislation

- 44.** Government must play an active role in increasing awareness of, simplifying, and reducing the cost of compliance with the law. Labor will take appropriate steps to ensure that legislation and legislative instruments are accessible to all Australians. In particular, Labor will ensure that all legislation and legislative instruments are:
- drafted in clear, simple and non-discriminatory language;
 - readily available to the public at the time of proclamation, including in printed form and via the internet;
 - consolidated in a form which is accessible to both the profession and the public at a reasonable price and in an appropriate format; and
 - regularly reviewed, simplified and if necessary, repealed.
- 45.** Labor believes that substantive rights should be enshrined in legislation. Delegated legislation and other legislative instruments will be confined exclusively to administrative matters and should not be used to limit an individual's rights to access the courts. All legislative

instruments should be subject to parliamentary scrutiny to check for consistency with Australia's human rights obligations.

- 46.** Labor will establish a mechanism for the development of uniform national laws in the Attorney-General's and Justice portfolios. Labor will further work with the States and Territories on a long-term solution to ensure that the Commonwealth and State governments can put in place joint legislation to address issues of national importance for which neither government has complete responsibility.
- 47.** Labor will work to ensure that Australia's security organisations are properly equipped and resourced to protect Australians from the threat of terrorist activities, and that the law strikes an appropriate balance between the protection of Australians and the democratic freedoms and values that are part of the Australian way of life. The activities of all security organisations should be subject to an appropriate complaints mechanism and independent external review.

The Courts and the Judiciary

- 48.** Labor believes in the maximum possible uniformity in the structure and operation of the courts system throughout Australia. Labor will work to ensure adequate court services around the nation, including rural, regional and remote Australia. With a growing federal judiciary, Labor will review the interaction between the federal courts to ensure proper resource distribution and their effective operation,
- 49.** The independence of the judiciary is fundamental to the maintenance of both the rule of law and our democratic society. Labor will:
 - consult widely in appointing judicial or quasi-judicial office holders on the basis of merit, from among those with the highest personal and professional qualities. Labor's appointment process will be transparent and, as far as practicable, will seek to reflect the diversity of Australian society by including meritorious appointments from traditionally under-represented groups such as women, people from non-English speaking backgrounds and Aboriginal and Torres Strait Islander people;
 - encourage the judiciary to participate in appropriate professional development programs including programs on gender, race and other relevant issues; and
 - support the dismissal of judges only for proven misconduct or incapacity, by developing a protocol for dealing with serious complaints of misconduct or incapacity against federal judicial officers.
- 50.** Labor believes that the courts should be accountable and managed efficiently and will work with the judiciary to ensure that the judicial system is efficient, accessible and accountable, including the use of benchmarking to evaluate and improve the delivery of services by courts to the public.
- 51.** Labor will resume the traditional responsibility of Attorneys-General of defending the courts from inappropriate attacks and threats to their independence.

The Legal Profession

- 52.** The legal profession plays a fundamental role in the provision of access to justice. Labor supports the creation of a modern, efficient and accountable national legal services market. In particular, Labor will work with the legal profession, the judiciary and the States and Territories to:
 - create an independent, national, unified legal profession, regulated by an independent body so as to be fully accountable;

- abolish the distinction between barristers and solicitors;
 - develop and maintain independent complaint mechanisms through which the interests of consumers and the community are represented;
 - abolish any anti-competitive practices engaged in by the legal profession except where those practices are in the public interest;
 - remove restrictions which prevent legal practitioners from incorporating, providing complementary non-legal services and advertising their services, or non-legal corporate entities from offering legal resources by employing qualified practitioners subject to the protection of the interests of consumers and the community;
 - establish uniform and mutually recognisable qualifications for entry to the profession;
 - abolish the practice of some judges and members of the legal profession of wearing wig and gown; and
 - abolish the title of King's or Queen's Counsel.
- 53.** Labor will work with the legal profession to promote equality of opportunity and to seek to eliminate discrimination within the profession.
- 54.** Labor will work with the legal profession, the judiciary and the States and Territories to:
- review and simplify all fee scales to ensure that they reflect the true value of work performed by the legal profession;
 - establish fee scales as benchmarks above which lawyers may not charge without the express written agreement of their client;
 - actively promote options to keep legal costs affordable and accessible to ordinary Australians; and
 - gather and disseminate information to consumers about the reasonable cost of legal services.
- 55.** Labor will work with the judiciary and the legal profession to ensure that effective mechanisms are in place to minimise the level of abuse of the legal process.

Law Reform

- 56.** Law reform is essential to ensure that the law reflects the traditions, values and aspirations of all Australians. Law reform also ensures that our laws meet the needs of our modern democratic society.
- 57.** Labor will seek to engage as many Australians as possible in issues of law reform so that our laws and legal system reflect the traditions, values and aspirations of all Australians.
- 58.** Labor will provide adequate support and resources to law reform bodies, including the Australian Law Reform Commission, to enable them to provide independent and comprehensive advice on all aspects of law reform and to consult as widely as possible with the Australian people.

Privacy and Free Speech

- 59.** Labor believes in the protection of the individual's right to privacy. In particular, Labor will:
- legislate to extend the operation of privacy protection to cover both the public and private sectors in accordance with international privacy principles and the best international standards;
 - work with the States and Territories to develop appropriate frameworks for the protection of privacy in the workplace;

- maintain regulation of the use, collection and dissemination of information about individuals by private and public organisations;
 - prohibit the use of telecommunications interception and listening devices unless approved by judicial warrant or subject to appropriate administrative review;
 - provide that evidence obtained by illegal invasion of privacy is generally inadmissible; and
 - ensure privacy implications of emerging technologies are properly assessed and acted upon.
- 60.** Labor will ensure that all Australians have reasonable access to their personal records and the right to correct false or misleading information.
- 61.** All Australians enjoy the right to freedom of speech. However, this freedom must be exercised in a manner that respects the individual and collective rights enjoyed by other Australians and allows others to live free from violence, the fear of violence or the threat of violence. In particular, Labor will:
- legislate for proper freedom of information laws that enable Australians to access appropriate information about government activities;
 - move to implement the ALRC recommendations on sedition laws;
 - provide shield laws for protecting confidential sources and whistleblowers; and
 - review laws that criminalise reporting of matters of public interest.
- 62.** Labor believes it is appropriate to protect the reputation of others through uniform national defamation laws that ensure a proper balance between freedom of expression, public debate and the protection of the reputation of others.
- 63.** Labor believes that adults should be entitled to read, hear and see what they wish in private and in public, subject to adequate protection against persons being exposed to unsolicited material offensive to them and preventing conduct exploiting, or detrimental to the rights of others, particularly women and children.
- 64.** Labor is particularly concerned about the portrayal of violence on television and in films, videos, the internet and video games. Labor will ensure that appropriate controls are in place to protect all Australians and will conduct research into the impact of the portrayal of violence on our society.
- 65.** Labor is concerned about the sexualisation of children and adults in the media. Labor will support the conduct of research into these areas.

Family Law

- 66.** Labor believes that the family is the fundamental unit of society. Labor will provide support to Australians to help them to have happy, secure and productive family lives.
- 67.** Labor believes that community-based services aimed at preventing marital and family breakdown, such as relationship education, family skills training, marriage preparation and marriage counselling and adolescent and family mediation should be a priority and readily available.
- 68.** Labor believes that the resolution of family disputes should focus on counselling and mediation with litigation as a last resort. The resolution of disputes should focus on keeping families together, where it is appropriate. Labor will ensure counselling and mediation services will be accessible and affordable.
- 69.** Labor will continue to develop and implement measures to ease the anxiety and stress of marital and family breakdown. In particular, Labor will ensure that:

- the rights of children are paramount, in particular their right to support from and contact with both parents and contact with members of their extended family;
 - there is a just and equitable division of matrimonial property;
 - appropriate protections are in place in cases of actual or apprehended family violence or abuse;
 - the particular needs, customs and practices of the diverse cultures which constitute Australian society are appropriately respected;
 - family law disputes are resolved in a timely, effective and affordable way; and
 - the Family Court and Federal Magistrates Service are accountable to the people who use them and are affected by them.
- 70.** Labor believes that family law should apply in a consistent and uniform way to de-facto relationships across Australia.
- 71.** Labor supports the continuation of independent sources of advice to, and research for, government on family matters.

Domestic and Family Violence and Abuse

- 72.** Labor recognises that family violence is the cause of numerous social ills including homelessness, suicide, homicide, drug misuse, mental illness and community dislocation. It causes often irreparable damage to its survivors, particularly children. Labor recognises the need to firstly acknowledge the incidence and prevalence of family violence in all sectors of the Australian community and to accurately name and define family violence in all aspects of Labor Party policy making.
- 73.** Labor recognises that there is a gross over representation of incidents of family violence and abuse in Indigenous communities which is crippling the development, leadership and capacity of communities to become sustainable. This intolerable situation must be addressed through a re-invigoration of a national partnership approach with Aboriginal and Torres Strait Islander communities and the three tiers of government.
- 74.** All Australians are entitled to live safe from family violence and physical and emotional abuse. Labor will:
- support measures to reduce violence in our community, including violence against women;
 - develop a National Strategy on Violence Against Women, which will take a coordinated evidence based approach to ending violence including sexual violence and domestic violence;
 - provide a uniform national mechanism to help protect Australians against family violence and abuse;
 - support the establishment of a national database to record and advise authorities of family violence and abuse orders;
 - ensure access to legal assistance and community services for people escaping family violence and abuse;
 - conduct research and education to counteract the effects of family violence and abuse;
 - ensure women and children are protected from family violence in the family home or through access to high-security refuges with skilled staff to support them;
 - support the establishment of specialised State domestic violence court services to ensure the speedy and appropriate handling of complaints; and

- offer continued support to successful programs already established to combat domestic and family violence, such as the National Domestic and Family Violence Clearinghouse and ensure that funding gives organisations some ability to plan long-term.

War Crimes

- 75.** Labor recalls the key role played by Ben Chifley's Government in developing the Geneva Convention on Genocide and reaffirms Labor's commitment to international treaties that aim to punish those who commit crimes against humanity, war crimes and other major human rights violations. There are major gaps in Australia's domestic laws that allow such accused criminals to enter and live here without fear of prosecution. Labor is committed to meeting Australia's international human rights obligations by closing these loopholes and Labor will review investigatory resources to ensure that any perpetrators found in Australia can be brought to justice.

Administrative Law

- 76.** Labor will ensure that government is accountable through appropriate freedom of information legislation and by providing mechanisms for all government decisions to be subject to independent administrative review or judicial challenge. Labor will ensure that the law of standing does not inhibit access to justice through effective and accessible administrative review.
- 77.** Labor will ensure that the provision of public services by the private sector does not diminish the rights of Australians to freedom of information and administrative review or judicial challenge.
- 78.** Labor will seek to establish a uniform national administrative law system that complies with the highest standards of accountability.
- 79.** Labor will continue to maintain an adequately resourced independent body to provide advice to government on the effectiveness of Australia's administrative law system.

Business Law

- 80.** Labor supports the maintenance of national companies and securities legislation regulating companies, company takeovers, the futures industry and the securities industry to ensure a rational framework for business, its public accountability, the protection of consumers, workers, investors and shareholders and the prevention of anti-competitive practices.
- 81.** Labor will continue to simplify corporate laws in order to reduce unnecessary costs to business and the community while maintaining protection for consumers, workers, investors and shareholders.
- 82.** Labor will continue to review the Corporations Act 2001 and related legislation to ensure that companies follow good corporate governance practices that empower shareholders and hold company officers accountable.
- 83.** Labor will work with the States and Territories, the business community and consumer representatives to develop a national business and commercial law to underpin the development of our national economy and to increase the international competitiveness of Australian business. The national law will seek to establish uniform national laws for commercial transactions and the incorporation of non-corporate business structures, while ensuring international best practice, consumer protection laws and such other matters as are agreed. Consistent with Australia's close economic relationship with New Zealand, Labor will

work with that country if it wishes to participate in Australia's uniform national scheme. If necessary, Labor supports constitutional reform to bring about this objective.

- 84.** Labor will strengthen remedies and penalties to help prevent the practice of establishing phoenix companies to avoid the payment of debts to employees, trade creditors, and tax authorities.
- 85.** Labor believes that bankruptcy laws should provide an inexpensive and quick determination of the rights and obligations of bankrupts. Labor will ensure:
- maximum possible returns to creditors;
 - bankruptcy trustees can effectively recover property disposed of by bankrupts in an attempt to defeat creditors; and
 - small debtors have access to negotiated voluntary alternatives to bankruptcy.
- 86.** Labor will work with the States and Territories to maintain and improve Australia's national uniform Corporations Act 2001 on a secure long-term footing. This includes bringing all matters falling within the scope of the Commonwealth's constitutional power to legislate, in respect of corporations, within a federal government enactment and where appropriate securing a reference of State powers.
- 87.** Labor will explore appropriate constitutional reforms to facilitate federal and state cooperative schemes including the ability of officers of the Commonwealth to exercise powers conferred by State legislation, the ability of State officers to exercise powers bestowed by federal legislation and the ability of federal courts to adjudicate in respect to matters arising under cooperative schemes.

Fraud Control Policy

- 88.** Labor will be vigilant in efforts to eradicate fraud against the Commonwealth, particularly in light of the increased opportunities for fraudulent activity which have arisen from outsourcing and technological changes.
- 89.** Labor supports the development of a fraud control policy which:
- is applicable to modern public service conditions and technological changes;
 - has a comprehensive, all of government application;
 - focuses on developing public sector expertise in preventing and combating fraud;
 - involves the private sector; and
 - acknowledges the primary role of the Australian Federal Police in conducting fraud investigations.
- 90.** Labor supports a review of the criminal and civil laws relating to fraud, the range of civil penalties available and possible reforms to the complexity and length of the trial process.

Legal Services in the Global Market

- 91.** Labor will work with the States and Territories, the courts and the profession to export Australian legal services to the world. In particular Labor will, through multilateral and bilateral negotiations, seek to reduce and eliminate inappropriate trade barriers to the export of the legal services of Australian firms.
- 92.** Labor will work with our universities to promote Australia's high standards of legal education to overseas students.

Empowering Consumers

- 93.** Labor is committed to empowering consumers. Consumer sovereignty is enhanced by competitive and fully informed markets, balanced by effective regulation to protect consumers from unsound or unsafe goods, services or practices. Labor believes that the interests of consumers must take a central role in the policy making of the government.
- 94.** Labor will work with States and Territories to develop uniform personal property security laws and a national register of personal property securities, to reduce the cost and uncertainty of transactions for consumers and small businesses.
- 95.** Labor is committed to effective lifetime consumer education starting at school. It is through education that all Australians can be empowered as consumers.
- 96.** Labor will require the ACCC to publish international price comparisons.
- 97.** Labor is committed to effective consumer protection measures at the national and international level. Labor supports unified, consistent, simplified consumer laws and redress mechanisms throughout Australia.
- 98.** Labor is committed to making the nation's consumer protection agencies more accountable through transparency and reporting.
- 99.** Labor is committed to effective product labelling to ensure consumers can make informed choices. Food should be labelled to ensure consumers know both the ingredients and processes used. Labor will maintain food standards that guarantee minimum compositional requirements for popular foodstuffs such as ice cream and meat pies. Labor also supports the comprehensive labelling of genetically modified food.
- 100.** Labor will strengthen country of origin labelling laws to ensure that products labelled 'Made in Australia' are predominantly manufactured in Australia, and that the 'Product of Australia' label is only used on products which are wholly made in Australia.
- 101.** Financial markets offer many new opportunities for consumers but are also becoming increasingly complex. So that consumers can make informed financial decisions Labor supports:
- the full and transparent disclosure of all fees, charges, interest rates, risks and returns;
 - the extension of the Corporations Act 2001 to credit products such as Low Doc and Reverse Mortgage loans.
 - an end to unconscionable fees and charges; and
 - up front display of transaction fees at ATM's.
- 102.** Labor supports a 'one stop shop' for dispute resolution in financial services and will work to join together the various agencies providing alternative dispute resolution.
- 103.** Labor will work with State and Territory governments to ensure that financial literacy is a prominent part of the education curriculum.
- 104.** Labor will work with State and Territory governments to ensure comprehensive regulation by ASIC of mortgage brokers and property investment schemes.
- 105.** Consumers are entering a new economic era where goods and services are increasingly available in highly deregulated and complex markets. Labor will conduct an urgent audit of our existing regulatory structures to ensure that consumers are adequately protected in this new environment. The audit will include consultation and input from relevant industry and community and consumer organisations on whether:

- the existing regulatory structures need to be redesigned to better protect consumers in the new economy;
 - voluntary industry codes of conduct offer adequate protection to consumer interests in the new economy; and
 - the Trade Practices Act 1975 needs further amendment to outlaw unfair consumer contracts.
- 106.** Labor will ensure that the ACCC is adequately resourced to protect the interests of consumers, in areas such as price exploitation, price monitoring, industry codes and pursuit of legal action against organisations in breach of consumer legislation.
- 107.** Labor supports a strong consumer voice in government and will ensure that consumers are properly represented in policy processes and that all consumer advocates on government bodies are genuine representatives of Australian consumers.
- 108.** Services such as mobile phones and the internet are increasingly essential to full participation in the economy. To protect consumers in these new growth areas, Labor supports the implementation of:
- cooling off periods in consumer internet and mobile phone contracts;
 - an end to unconscionable fees and charges in consumer internet and mobile phone contracts; and
 - strict standards to protect consumers engaging in electronic commerce consistent with international best practice standards.
- 109.** Labor will implement the recommendations of the Productivity Commission and introduce uniform product safety laws and a Product Safety Regulator.

Resolutions

Empowering Consumers

That further to the "Empowering Consumers" provisions of Chapter 12, Conference expresses its concern at the need to protect consumers' rights in the global economy.

To this end Conference declares that Labor in government should:

1. Enact laws that will provide that before consumers' personal or financial information can be sent off-shore they must give their informed consent, and
2. Require that all corporations operating in Australia that operate or engage the services of off-shore contact centres for either inbound or outbound calls shall disclose the physical location of the contact centre involved.

Sedition and Treason

Labor is opposed to the new sedition laws introduced by the Howard Government in the Anti-Terrorism Act (No. 2) 2005. Under these laws a person can be convicted of sedition merely by expressing a strong dissenting opinion. Labor believes that sedition should be confined to circumstances where a person urges force or violence and intends that force or violence to occur. Labor in government will implement the recommendations of the Australian Law Reform Commission to that effect in its report entitled *Fighting Words: A Review of Sedition Laws in Australia*.

In 2002, the Howard Government introduced new treason offences, two of which prohibit "conduct that assists by any means whatever" an enemy at war with Australia or a country/organisation fighting the Australian Defence Force.

Labor is concerned that these offences may be committed by a person giving minor assistance, perhaps just by expressing a strong dissenting opinion, despite treason being the most serious crime known to our law and having a maximum penalty of life imprisonment. Accordingly, Labor in government will implement the recommendations of the Australian Law Reform Commission in its *Fighting Words* report to the effect that treason should be confined to "conduct directly and materially assisting actual military activities, by the provision of funds, troops, arms or strategic advice or information".