



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

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## Committee on the Elimination of Discrimination against Women Forty-sixth session

### Summary record of the 936th meeting

Held at Headquarters, New York, on Tuesday, 20 July 2010, at 3 p.m.

*Chairperson:* Ms. Gabr

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Convention (*continued*)

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 18 of the Convention (continued)**

*Combined sixth and seventh periodic reports of Australia (CEDAW/C/AUL/7, CEDAW/C/AUL/Q.7 and Add.1) (continued)*

1. *At the invitation of the Chairperson, the members of the delegation of Australia took places at the Committee table.*

*Articles 7-9 (continued)*

2. **Ms. Farrant** (Australia) said that cases involving mention of the Convention had been considered at all levels in Australia's court and tribunal system. One example was a case before the highest court of Australia, *Re McBain; Ex parte Australian Catholic Bishops Conference (2002)* (HCA 16) which raised issues of interpreting the scope and operation of the Sex Discrimination Act in the light of the Convention's provisions.

3. **Ms. Moyle** (Australia) said that Australia's gender equality architecture included the Australian Agency for International Development (AusAID). The Organization for Economic Cooperation and Development (OECD) had commended AusAID for its acceleration of aid spending, and had suggested that its level of integration of gender equality was a good example for other countries to follow. AusAID had plans to integrate gender equality indicators throughout its programme.

4. Her Government was committed to the implementation of Security Council resolution 1325 (2000), and was looking into introducing a national action plan on the participation of women in peace processes and related decision-making and to ensure the protection of women's rights in conflict situations. However, the focus of the incoming Government in that respect was uncertain.

5. Each Australian state and territory had its own department for women's affairs and conducted its own programmes and policies for the advancement of women. Those efforts were coordinated by a ministerial council for women comprising ministers from all states and territories plus New Zealand and the federal Government, which met annually to discuss such priority issues as reducing violence against

women and improving women's economic security and their social inclusion.

6. Regarding special measures for political parties, parties were funded by political campaigns with no conditions attached, and set out their own priorities and policies on gender equality and the representation of women. An example was Emily's List, an organization established by Australia's labour party to accelerate the placement of women in representative positions.

7. On accommodation for persons who had been trafficked into Australia, the Australian Red Cross currently helped victims or possible victims of trafficking by trying to place them in suitable accommodation, including through the private rental market. Persons might initially be placed in hotels, but only for a short period of time until a more adequate solution could be found; in the longer term, clients were often able to work or access social security benefits and procure their own accommodation.

8. **Ms. Hall** (Australia), with regard to women's participation in Australia's foreign service, said that women now accounted for 45 per cent of the overseas diplomatic service staff and 28 per cent of senior executive staff. She did not have specific data on the participation of indigenous women, but the Department had an indigenous cadetship programme, which provided financial support to indigenous women undergraduates during their studies and practical work experience and helped them develop their careers. Women accounted for 30 per cent of the Australian federal police, and senior women had held a number of important international posts, including as United Nations police adviser. Moreover, 30 per cent of Australian federal police staff working in the Sudan, and 6 per cent in East Timor, were women. She did not have data on the number of women casualties or the public reaction to women in peacekeeping operations. More than 10,000 women were enlisted in the Australian defence force on a full- or part-time basis.

9. Gender equality had not yet been achieved in the judiciary, but the Government had been working to improve the appointment process in that respect; currently, three out of seven judges in the high courts and 14 out of 37 family court judges were women. There were six indigenous women in senior positions, including ministers, in the Northern Territory and New South Wales. Australia did not have quotas in that regard, but it funded indigenous leadership

programmes, and there were other development opportunities, such as through an Oxfam summit which enabled Aboriginal and Torres Strait Islander women to meet with parliamentarians and raise issues of concern. Nor had quotas been established for women with disabilities or migrant women, but the Government had helped fund a network of immigrant and refugee women and an advocacy group for women with disabilities. Women accounted for 30 per cent of elected members in Australian local governments, and a number of women held leadership positions: New South Wales had a female premiere, the Australian Capital Territory and Tasmania both had female deputy leaders, and the Northern Territory had its first female deputy chief minister.

10. **Ms. Morehead** (Australia) said that in 2008, 20 per cent of vice-chancellors — the highest position — at Australian universities were women; about 33 per cent of deputy vice-chancellors, and 40 per cent of all staff and within universities, were women. The Government encouraged all universities to improve the representation of women, particularly at senior levels. An action plan was needed to improve the situation with respect to women at the top professorial level.

*Articles 10-14 (continued)*

11. **Ms. Pimentel** asked whether the action to reform the teacher workforce, including through allocating the right teachers and school leaders to schools with high needs (report, para. 8.10) had achieved results. She would also welcome information on the impact of the State party's strategy for addressing education for disadvantaged groups (report, para. 8.33).

12. With regard to the 2008 study on gender disparities funded by the Australian Research Council (report, para 8.29), she would appreciate information on what strategies were being implemented to address the underrepresentation referred to and whether they had produced any positive results.

13. She was concerned that the efforts to close the educational gap between indigenous and non-indigenous students might cause the indigenous culture to disappear. She asked for more details about those initiatives and what measures the Government was adopting to ensure respect for and maintenance of indigenous culture.

14. **Ms. Bailey** noted that the report provided sex disaggregated data on school retention rates, but no such breakdown was given for students from low socio-economic backgrounds or indigenous students. She thus wished to see more detailed gender data. She would also welcome information on the results, disaggregated by student background characteristics, of the new national minimal standards (report, para 8.16), and indicators, both disaggregated by sex and also within sexes on the multiple forms of discrimination faced.

15. She wished to know what measures the Government was taking to address the lower proportion of females than males in postgraduate programmes than in undergraduate studies. Also, while the report noted that there were more Indigenous women than Indigenous men in higher education, providing the net enrolment rates for indigenous women and men by age cohort would give a clearer view of the gender equality situation.

16. It would be useful to know whether there was a coordinated federal plan to address segregation in vocational training for indigenous women. Australia's apprenticeships for women were usually for low-paying clerical, sales or service work or occupations, and she wondered how long those apprenticeships lasted, what the pay level was and whether they guaranteed subsequent permanent employment.

17. **Mr. Bruun** reminded the delegation that the State party's obligations under the Convention carried over from one Government to the next.

18. He asked how the new Fair Work Act of 2009 would address the persistent gender pay gap or whether further measures, such as pay equity strategies, might be needed, and what measures would be taken under the fair dismissal code for small businesses to prevent unfair dismissals on the grounds of pregnancy or marital status.

19. He urged the Government of Australia to withdraw its unfortunate reservation to article 11, paragraph 2 (b) as soon as possible.

20. As to the delegation's comment that more men were becoming their children's primary caretakers, he asked whether there were any legislative plans to make fathers take responsibility in that respect. He wondered whether the Government had set out any specific measures under the Sex Discrimination Act to address

sexual harassment, which remained a serious problem in workplaces in Australia, and whether it planned to address the fact that the Equal Opportunity for Women in the Workplace Agency had no mandate with respect to organizations with fewer than 100 employees, which was a high threshold.

21. **Ms. Murillo de la Vega**, noting that the Fair Work Act seemed to be an excellent means of correcting the excessive percentage of women working in the social and community services sector as compared with the primary labour market sector, which provided greater social protection, asked what budget was set aside for that Act and how much of it was funded by the State's general budget. She would also welcome information as to why the 260 childcare centres that the Government had committed to building had not yet been set up. She wondered whether there were specific plans to address the fact that many fewer women than men with disabilities received a disability pension, and whether judges, magistrates and labour rights experts received training to address the specific needs of women with disabilities. The reporting State should also explain why it did not define sexual harassment as a crime, and whether there were any special employment programmes to provide guidance to women from minority groups.

22. **Ms. Hayashi** reiterated the Committee's appeal for the Government of Australia to withdraw its reservation on article 11 of the Convention. She wished to know whether same-sex couples could apply for paid parental leave, and asked for clarification on the groups of women, such as high earners, who might be ineligible to receive such benefits. On the Fair Work Act, she wished to know what budget allocation could be reserved in the case where community workers lodged a complaint relating to pay equity.

23. **Ms. Arocha Domínguez**, referring to article 12 on health, said that it would be interesting to have information specifically relating to the Torres Strait Islander women, whose health standards were drastically lower, rather than simply to indigenous women in general, and to know whether any strategies for aboriginal and Torres Strait Islander women had emerged from the Aboriginal Women's Talking Circle established by the Women's Health Network.

24. In view of the Government's disappointing decision not to intervene in abortion legislation, which was the province of state and territory governments, a

broad national debate on abortion must be conducted in the country, given the large number of abortions, especially among poor, remote or indigenous women. It would be useful to have more information on sexually transmitted diseases, allocating more money would not solve the problem without appropriate sexual education programmes.

25. **Ms. Pimentel** asked what the impact had been of the criminalization of female genital mutilation and the educational campaigns against it; whether sexual and reproductive health education touched on the special risks for non-heterosexuals and dealt with same-sex issues so as to combat stereotyping; if the standard of health care had been raised also for migrant refugee women, including those in detention, and for older women and women with disabilities; how the Government intended to reduce the higher pregnancy and maternal death rates among aboriginal and Torres Strait Islander women; and if cancer screening was available also to minority, rural, indigenous and migrant women.

26. **Ms. Rasekh** asked how far the new national policy on women's health (report, para. 10.3) had progressed, whether women themselves and NGOs were involved in developing it, and what the target date was for meeting women's needs; whether there was any difference between the national policy and the policy being developed for aboriginal and Torres Strait Islander women as a result of the Talking Circle; if the Government had produced any disaggregated data for that category of women and if they currently had equal access to mental health services.

27. **Mr. Flinterman**, referring to article 13 on economic and social participation, an important right that underlay all the other economic and social rights, asked if there was any explanation for the fact that women had about half an hour less leisure time per day than men. Also, information provided by outside sources indicated that welfare benefits to vulnerable groups such as homeless or abused women came with compulsory income-management programmes: aside from being an exceptional invasion of privacy, that requirement might deter some women from applying for benefits, and he wondered if that had been found to be the case. He would like more information on the government housing programmes and policies: there were outside reports of shortages in rental or public housing for women, especially those with disabilities and aboriginal or Torres Strait Islander women.

28. **Ms. Patten** asked whether, in addition to its efforts to deal with homelessness and to provide more low-income and public housing for women, the Government was ensuring that all the research and monitoring it funded in the field of housing relied on data disaggregated. She would also like more information on any comprehensive national approach to violence against women, in terms of legal support and a government review of housing, tenancy and eviction laws.

29. **Ms. Ara Begum** asked whether the Age Pension for seniors (report, para. 11.13) and the Disability Support Pension (para. 11.18) covered non-contributing rural women.

30. Referring to article 14, she would like information on the results of the Government's review of its drought policy in the context of climate change (report, para. 12.4), which was to have been completed by July 2009; how the Government was ensuring that women in rural and remote areas were guaranteed economic, social and cultural rights such as the right to food, water, protection from climate change and the like, which affected them most; whether the ongoing findings of the independent Regional Women's Advisory Council (report, para. 12.10) and the recommendations of the 2008 National Rural Women's Summit (para. 12.8) had been translated into government policies or a national action plan and, if so, what the budgetary allocation was; and what steps the Government was taking to remedy the lower standard of education among indigenous women and women in remote areas.

31. **Ms. Zou Xiaoqiao**, referring to two programmes intended to assist rural and remote women (report, paras. 12.15 and 12.17), asked whether assistance had reached women in all the rural areas, what the targets and the results of the programmes had been, and what groups had benefited from them. She would in addition like information on how the federal and local governments were improving the serious shortage of medical care for women in rural and remote areas, by, for instance, allocating more funds or improving infrastructure. She also wondered if microcredit and other loans were available to women on an equal basis.

32. **Ms. Rasekh** said that she would like information about the status of women from Muslim countries under the 1975 Immigration Act, what was being done to prevent discrimination against them and prosecute

violators, and what impact of the National Action Plan to Build on Social Cohesion, Harmony and Security (report, para. 5.47) had had on alleviating discrimination and intolerance against immigrants, especially women and girls. It would be interesting to know if the mass media had done anything to change attitudes towards minorities, especially Muslims.

33. **Ms. Moyle** (Australia) said, in answer to Mr. Bruun's comment, that of course her Government considered itself bound by the Convention, but it also had to work within its federal system. Regarding the persistent pay gap in Australia, the Government expected that the Fair Work Act 2009 would go a long way towards protecting women against pay discrimination. Recent research showed that the simple fact of being a woman was the main cause of the pay gap, followed by the amount of time that women spent in caregiving. The Government was closely watching the outcome of the Australian Services Union case, which was testing the provisions of the new law. There were a number of protections against unfair dismissal on the grounds of pregnancy, in small businesses especially, in the Fair Work Act and, in all businesses, in the Sex Discrimination Act; many complaints had been brought under the Sex Discrimination Act, and the Fair Work Ombudsmen set up under the new law could engage with small businesses to ensure that they complied with their obligations regarding pay equity and could take systemic action.

34. The Government was studying the issue of paid parental leave in relation to its reservation to article 11. The number of women in the labour market earning over \$A 150,000 a year represented only 1 per cent of the workforce, so that the means-test exclusion affected perhaps only 400 women per year who, however, normally had access to full-income replacement from their employers for an average paid parental leave of 10.2 weeks. Same-sex couples were eligible for paid parental leave. Also, women or men who did not meet the eligibility criterion of workforce participation received the alternative baby bonus.

35. The Government was investigating what triggered the participation of men as unpaid caregivers and the effect upon children in families where men and women shared the care burden equally, and was exploring in focus groups what needed to be done to ensure that childcare was seen as a common responsibility. The Ministry for the Status of Women, in its review of the Equal Opportunity for Women in the Workplace Act,

had stressed the need for flexible work practices, and the Fair Work Act required employers to grant reasonable requests for flexible work hours by both men and women.

36. The Government was working to further improve its collection and reporting of data disaggregated according to a number of categories, and her own Office for Women was working, across the Government, to encourage departments to develop, collect and report sex disaggregated data. Together with the Ministerial Council on the Status of Women, it was devising a way for the Australian Bureau of Statistics to collect and publish sex-disaggregated and gender-sensitive statistics that would immediately identify indicators for inequality.

37. The Government did not earmark a specific level of funding to promote gender equality: rather, its aim was to ensure that all government expenditure was gender-sensitive and promoted equality; and each year the Government summarized the budgetary effect on gender programmes. In addition, \$A 27 million were allocated each year to operate the Office for Women and its programmes.

38. Within the whole complex of the unpaid work done by women, which needed more study, women did indeed have less leisure time than men and less of it in separate blocks. Well-regarded time use surveys had shown that men were slowly spending more time in childcare duties.

39. Some aspects of sexual harassment were a crime under the Sex Discrimination Act, which provided civil remedies for them that had a lower burden of proof than in criminal cases.

40. Female genital mutilation was a crime at the federal, state and territory level, and the Government was conducting a community education programme through the national health-care agreements with the states.

41. The Women's Health Strategy, a government strategy, was not the same as the Aboriginal Women's Health Strategy, which had been produced with government funding by an NGO, the Australian's Women's Health Network, as an outcome of its Talking Circle discussions.

42. With regard to private housing, the Sex Discrimination Act made any gender discrimination in rentals unlawful.

43. The Office for Women had a small budget for research on gender issues, which it tried to use in a catalytic way to foster gender equality; it also engaged in discussion with researchers across the Government to ensure that their work was gender-sensitive.

44. The Government's retirement system had three pillars: the compulsory superannuation guarantee, which would soon be raised from 9 per cent to 12 per cent; private savings, and access to the universal age pension. All who reached pensionable age were entitled to a pension. Women, with their lower retirement incomes, as a rule represented the bulk of those receiving single age pensions. In 2009, the Government had raised the budget for the pension system as a whole.

45. It was important to take a gender perspective when seeking to mitigate the effects of climate change, and one way to ensure that had been to see that women were well represented in rural development advisory bodies, of which they now comprised about 40 per cent.

46. The annual National Aboriginal and Torres Strait Islander Women's Gathering made recommendations which were circulated to all federal, state and territory ministers for the status of women and to other relevant ministers, who then reported back to the Gathering after studying them. Although the Government funded the Gathering, there was no direct funding for any projects that the Women's Council of Ministers might decide to implement as a result of the recommendations — a recent example being a project to develop rural women's entrepreneurship.

47. The Government's response, after consultation with various ministries, to the recommendations made in 13 priority areas by the National Rural Women's Summit in 2008 could be found on the Government's website. She was unaware of microcredit available specifically for rural women, but commercial banks often made small loans and, in general, access to credit was non-discriminatory.

48. **Ms. Morehead** (Australia) said that the Government was investing approximately \$A 2.5 billion over seven years through the Smarter Schools national partnerships to improve educational outcomes for students. Of that total, \$A 1.5 billion would be spent on 1,700 schools with low scores on the Student Competencies Scale (SCS), in order to attract high-performing principals and teachers and facilitate the

adoption of improved performance management and staffing arrangements.

49. A further \$A 550 million would be spent on improving teacher quality, using a life-cycle approach to attract and train the best teachers, and \$A 577 million would be devoted to increasing levels of literacy and numeracy. In addition, \$A 126 million would be spent on training and retaining a high-quality early childhood education workforce, through initiatives such as reducing the educational debt of teachers who elected to work in indigenous communities.

50. She agreed that strategies needed to be put in place to ensure that more women pursued postgraduate studies. An initial step would be simply to get more women into universities; consequently, \$A 433 million would be provided to higher education institutions over four years to help them attract more students from schools with low SCS scores. The target was that by the year 2020, 20 per cent of all undergraduates should come from schools with low SCS scores.

51. With regard to addressing the educational disadvantages of indigenous people, she explained that the Government had confirmed its commitment to keeping indigenous languages alive and helping indigenous Australians connect with their language and culture in government schools. Also, the Government had provided \$A 56.4 million over four years to support the teaching of languages, including Australian indigenous languages, in non-government schools.

52. Of people who were unemployed before undertaking a vocational education and training course, 46.7 per cent of women subsequently found a job, compared to 49.7 per cent of men. The number of women pursuing apprenticeships and traineeships had risen by 5.8 per cent, whereas the rise for men had been 7.9 per cent. After their apprenticeship or traineeship, 90.5 per cent of women found a job as compared with 93 per cent of men.

53. The Fair Work Act of 2009 would address the gender pay gap and would provide a fairer safety-net and facilitate bargaining in low-pay industries. As to where the funding would come from if the test case brought by the Australian Services Union were to be successful and 200,000 workers in the social community and disability services sector were to obtain a pay increase, the Government was reserving its position for now, but had committed to consulting with the states and territories on that issue.

54. The Government would be investing \$A 17 billion on early childhood education and childcare over the coming four years, including \$A 14.4 billion to assist 800,000 families to afford quality childcare.

55. With regard to programmes for women with disabilities, the Government was carrying out a significant review of how disability employment services were provided. It had removed all caps on services, so that there were no longer any waiting lists, and was demanding of disability service providers that they work more closely with employers. Other initiatives provided wage subsidies to employers engaging people with disabilities.

56. A number of programmes specifically focused on migrant women, including language, literacy and numeracy programmes, as well as job capacity assessments. The Government had adopted a number of new initiatives having to do with Australia's indigenous population. Some were focused on retaining more indigenous students in school for the full number of years, others on reducing the gaps in literacy and numeracy between indigenous and non-indigenous students. The Government also had a number of projects seeking to encourage employers to take on more indigenous people, which entailed not only ensuring that they had the skills required but also changing employer attitudes towards employing them.

57. **Ms. Halbert** (Australia) said that the challenges facing primary health care in Australia included an ageing and growing population, rising rates of chronic disease, workforce shortages and the health needs of remote and indigenous communities. In response, earlier in 2010 the Government had launched the draft of Australia's first ever national primary health-care strategy, intended to improve access to primary health-care services and reduce inequalities.

58. Australia was also addressing the higher fertility rate of indigenous teenage women through a national partnership, funded at \$A 107 million over a five-year period, that sought to achieve sustained improvements in pregnancy outcomes for indigenous women through the delivery of integrated health and early childhood education services.

59. With regard to health screening for indigenous women, the consultations leading to the development of the national women's health policy had highlighted that diversity among women should be taken into account in preventive health programmes and

strategies. The Government was working in partnership with states and territories to test an alternative pathway for the national bowel cancer screening programme that was specific to the needs of aboriginal and Torres Strait Islander people. With regard to the questions about abortion, the Australian Government was committed to providing access to a broad range of sexual and reproductive health options to meet the needs of people in different circumstances, but at the same time recognized the rights of the states and territories to pass legislation in their jurisdictions, and had not announced any plans to intervene in abortion legislation.

#### *Articles 15 and 16*

60. **Ms. Patten** said she understood that two government inquiries on access to justice, one in 2004 and one in 2009, had both recommended increased funding to meet the needs of women who were disadvantaged in their access to justice. She wished to know how the Government had responded to those recommendations. Both reports had also highlighted a need for greater access to legal assistance services in aboriginal and Torres Strait Islander communities, particularly in remote and rural areas, and she asked what steps had been taken to address that unmet need. A further concern outlined in the inquiries was the lack of translating and interpreting services for aboriginal and Torres Strait Islander women: how had the Government addressed that issue?

61. She noted with interest that the Government had provided over \$A 150 million in funding to aboriginal and Torres Strait Islander legal services, but she nevertheless understood from the NGO report that aboriginal women still experienced difficulties in gaining representation from those services. She asked what proportion of that sum had been spent on legal expenses specifically for women.

62. Turning to family relationships, she understood that there had been three government reports on the operation of the family protection system, and asked what steps the Government was taking to implement their recommendations. In particular, she wondered about the Government's reaction to the finding that aboriginal and Torres Strait Islander children were apparently nine times more likely to be removed from their families than non-indigenous children.

63. **Ms. Awori** also expressed concern about the operation of the family protection services, and asked if their funding had been significantly increased, as had been recommended by all of the studies already referred to. She also requested information regarding the rights of parents with disabilities.

64. She understood that the false allegation provision in the Family Law Act had the effect of preventing women from reporting family violence, information about that clause, and the prospects of reforming it, would be appreciated.

65. **Ms. Farrant** (Australia) said that the Government had responded in 2006 to the access to justice report of 2004, agreeing to implement various of its recommendations. In 2009, the Attorney-General had established a task force to undertake a comprehensive examination of the federal civil justice system, and following the release of the task force's report in September 2009, a framework had been set up to guide justice reforms and ensure that the justice system was equitable and accessible. In May 2010 the Australian Government had announced a range of measures that were consistent with the framework, including the \$A 150 million already alluded to.

66. In 2009-2010 the Australian Government had provided funding of \$A 2.3 million and the Northern Territory Government \$A 3 million for interpreting services, enabling legal aid providers, family violence prevention units and community legal centres to provide interpreters for indigenous Australians free of charge. She had no information on the division of the \$A 150 million between men and women.

67. **Ms. Moyle** (Australia) said that the overrepresentation of indigenous children in the child protection system was of great concern to the Australian Government, which over the past two years had done a great deal of work to prepare a national framework for protecting children, developed in close consultation with NGOs. That framework had been published, and most of the state and territory governments were reviewing and reforming their own child protection frameworks in response.

68. The Government was looking into ways to support people with disabilities in their role as parents. There were also a number of programmes funded by state and territory governments. Australia's ratification of the Convention on the Rights of Persons with Disabilities had been a very important catalyst for the



country's work on disability issues, and a national disability strategy was currently under development, which would seek to incorporate the principles underpinning the Convention into government policies and practices.

69. **Ms. Farrant** (Australia) added that initiatives relating to the family law system included a family dispute resolution mechanism, development of minimum assessment and screening guidelines, and improved information-sharing to better protect families in the system. She would provide information later on the false allegation provision in the Family Law Act.

70. **The Chairperson** said she was confident that Australia would soon be eliminating its reservation to article 11, paragraph 2 (b), of the Convention because it served no purpose and that, in view of Australia's clear concern for human rights and women's rights, the new Administration would give careful consideration to the Committee's recommendations.

*The meeting rose at 5.20 p.m.*