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Committee on the Elimination of Racial Discrimination
Sixty-sixth session

Summary record of the 1686th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 2 March 2005, at 10 a.m.

Chairperson: Mr. Yutzis

Contents

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the covenant (agenda item 4) (*continued*)

Thirteenth and fourteenth periodic reports of Australia (CERD/C/428/Add.2) (*continued*)

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

2. **Mr. Vaughan** (Australia) said that in its Mabo judgement, delivered in 1992, the High Court had decided that native title was recognized by Australian common law and continued to exist as long as the aborigines had maintained links with their lands during colonization and their rights had not been legally extinguished by the Crown. Consequently, the indigenous people could claim title over unoccupied lands which the Crown had not assigned to third parties, the equivalent of over 25 per cent of Australian territory. In 1993, to prevent the Government from continuing to grant land to third parties and thereby extinguish native titles, Parliament had adopted the Native Title Act, which had established a system for the protection and recognition of those rights. Three years later, in December 1996, the Australian High Court had decided, in the context of the *Wik* case, that the granting of pastoral leases did not confer exclusive possession on the lessees nor did it extinguish the title of the Wiks to those lands; this had resulted in the coexistence of native title and other interests. Since then, 80 per cent of the Australian continent had been subject to possible indigenous land claims. Following the Wik decision, measures adopted since the entry into force of the 1993 Act granting pastoral leases could be retrospectively invalidated. In order to reconcile the concurrent interests of the lessees and the natives, the Act had had to be amended, which had led Parliament to adopt the *Native Title Amendment Act 1998*.

3. The changes made to the 1993 Act had been deemed to discriminate against indigenous people because they had had the effect of going back on the existing provisions of the 1993 legislation. It was clear that if those who drafted the 1993 Act could have foreseen the decision by which the High Court, when it ruled in the *Wik* case in 1996, had automatically but involuntarily extended native title over private leasehold land, and in particular pastoral leaseholds, they would have drafted it differently. In 1999 and 2000, the Committee had considered that the amendments made to the Act in 1998 constituted a violation of article 5 (c) of the Convention and had requested the Australian Government to submit the matter to the Parliamentary Joint Committee, which had been done on 9 December 1999. A majority of the Parliamentary Committee had concluded that the Act was consistent with Australia's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. Before coming to a decision, the Parliamentary Joint Committee had had to rule on three points. The first was whether, between 1993 and 1996, the Government had reasonably been able to consider that the aborigines could only lay claim to title over lands that the Crown had not assigned to third parties and that therefore leasehold land was not covered by the Native Title Act. On that point, the Parliamentary Joint Committee had judged that the Government had had every reason to believe this to be the case and had thus granted those interests to third parties entirely in good faith. The second was whether the Native Title Act as a whole could be regarded as a "special measure" within the meaning of the Convention or whether each of the 1998 amendments, taken separately, should constitute a special measure. On that point, a majority of the Parliamentary Committee had taken the view that because of the advantages that the Native Title Act conferred on the aborigines, the entire Act could be regarded as a special measure. Finally, the third point concerned the possibility of inviting the members of the Parliamentary Committee to reflect on the need for Parliament to obtain the informed consent of the populations concerned to legislate on the question of native

title. On that point the Parliamentary Committee had considered that there was no provision of international law that obliged a competent legislative body to obtain the informed consent of a duly informed sub-group of the population before exercising its authority. In addition, since the 1998 amendments, beneficial measures had been taken to offset the possible effects of the new provisions on native title, including financial compensation.

4. Instead of questioning the validity of the 1998 amendments it might be more advisable to focus on their practical effects on native title. Here, the statistics spoke for themselves: since 1998, out of 51 decisions, 37 had established the existence of native title, as against only 5 between 1993 and 1998. Today, 20 per cent Australian territory was held or managed by indigenous people and 144 indigenous land use agreements had been registered since 1998. That type of agreement might be concluded, for example, between a mining company and indigenous people with a claim to title over the site on which the company intended to carry out activities and allow those activities to commence even before title had been established, thus enabling the indigenous people concerned to receive interest in payment for access or land use rights, for example. An indigenous land use agreement had also been concluded between the Federal Government and indigenous people who met the requirements for obtaining title with a view to developing a training ground for the Australian armed forces in the Northern Territory.

5. The native title legislation was evolving in the light of court decisions which extended or restricted those rights, as the case might be. It was a fundamental assumption underlying the Native Title Act that the common law would develop over time, with further consideration by the courts of the principles enunciated in the Mabo judgement, the first recognition of native title in Australia. It had only been in October 2001, in the Croker decision, that the High Court had found that native title could exist offshore. Moreover, the High Court had reserved judgement in cases concerning the nature of native title rights and the extinguishment of those rights and the nature of the connection that had to be demonstrated to warrant recognition for native title and interests under the Native Title Act (the *Yorta Yorta* case). Finally, in 1995, the Indigenous Land Fund had been created to purchase land for indigenous Australians unable to benefit from recognition of native title. To that end, the Indigenous Land Corporation received an annual allocation of over $50 million from the Indigenous Land Fund.

6. He was aware that the native title issue was a particularly complex one. However, he hoped that the additional information he had provided concerning the positive tangible effects of the 1998 Act amending the Native Title Act of 1993 would encourage the Committee to review its position on the question.

7. **Mr. Minogue** (Australia) said that Australia had a federal constitutional system in which the legislative, executive and judicial powers were shared or divided between the Federal Government and the Governments of the six States and two internal autonomous Territories, which also meant that those different levels of the State also shared responsibility for implementing Australia's international obligations under the treaties to which it was party, in particular those relating to human rights. However, Australia had no intention of hiding behind that argument to escape its international obligations. Its federal system meant that the different levels of the State had to work together within the framework of a coordinated approach. A committee responsible for the question of treaties at Federal, State and Territory levels, composed of representatives of those different levels, had been established for the purpose of implementing international treaties and regularly received information from the Department of Foreign Affairs.

8. Guaranteeing respect for human rights was largely a matter for States and local government. In that connection, the Government of Southern Australia was currently drafting a law on racial discrimination which it would be submitting to the Equal Opportunity Commission for consideration. That State already had legislation providing for

criminal and civil sanctions in cases of racial vilification and was planning to adopt legislation guaranteeing that victims of racial discrimination would be able to refer their complaints to the Equal Opportunity Commission.

9. Where the training of law enforcement officers was concerned, cultural and religious diversity awareness workshops had been organized both at recruitment and at several points during service. In the field of human rights, as in other areas, training was mainly a State responsibility. Thus, Tasmania had adopted a strategic plan to improve relations between the police and the indigenous peoples, which appeared to have already borne fruit judging by the reduction in the number of complaints lodged by indigenous people. Western Australia had appointed a multicultural affairs officer responsible for organizing regular meetings between the police and the indigenous peoples to enable them to talk about their grievances and problems.

10. Australia did not, in fact, have a Bill of Rights enshrined in the Constitution, but the latter did recognize all the main principles and all the fundamental freedoms of a democratic State. In particular, it proclaimed the right of any citizen to obtain compensation for the violation of his or her rights and to challenge the decisions taken by Commonwealth courts. Australia was not opposed to the idea of incorporating a declaration of human rights in its Constitution, but for that it would have to amend the Constitution, which meant a long process involving the organization of referendums in every State.

11. The Human Rights and Equal Opportunity Commission was the principal agency responsible for monitoring the implementation of the Convention in Australia and for investigating and conciliating complaints, including complaints of alleged human rights violations committed by or on behalf of the Federal Government. The reform of the Commission, begun in 1999, had followed a decision of the High Court of Australia in *Brandy* v. *Human Rights and Equal Opportunity Commission*. The Court had found that the Commission, which was not a court of law, was not permitted by the Constitution to make binding and enforceable determinations that a person had engaged in unlawful discrimination. It gave the Commission a power to conciliate, rather than to determine, complaints of unlawful discrimination. Under the system in force, the President of the Commission, who had been granted a very high level of independence in the performance of his duties, had to inquire into the complaint and attempt to conciliate it. Australia had chosen to give the conciliation of complaints precedence over court proceedings since it was often difficult to pursue a complaint of racial discrimination in the absence of satisfactory evidence. The Attorney General had to approve the Commission's interventions, 60 per cent of which concerned the Commonwealth. Although the Commission's budget had decreased in recent years, that was just a reflection of the fact that it no longer performed any judicial functions. The reform had led to the Commission being assigned a new priority task, namely, to educate the community, government and business about their responsibilities to respect other people's human rights. In 2004, the Government had adopted a national action plan which emphasized awareness of human rights as an effective means of reducing the risk of discrimination and promoting tolerance.

12. Australia unreservedly supported the World Programme for Human Rights Education, adopted in 2004 by the General Assembly in its Resolution 59/113. In 2004, a programme entitled "Good practice, Good business" had been implemented to combat discrimination in the workplace and to raise awareness of human rights issues within the business community. In all areas of education, close cooperation had been established between the Office of the Attorney General, the Human Rights and Equal Opportunity Commission and the non-governmental organizations.

13. The anti-terrorism legislation adopted since 11 September 2001 was intended to protect all members of society, whatever their religion or nationality, and made it possible to monitor the activities of certain organizations. In fact, it enabled the authorities to draw

up a list of the organizations that posed the greatest threat to State security, subject to very strict safeguards.

14. **Mr. Vaughan** (Australia), while acknowledging that the approach to indigenous issues taken by Australia in the last 30 years had not produced the expected results, offered the members of the Committee various items of statistical evidence which showed that progress had nevertheless been made in improving the situation of aboriginal groups. Thus, in the field of education, 39 per cent of aboriginal pupils had completed their secondary studies in 2003, as compared with 29 per cent in 1996. Where illiteracy was concerned, the gaps between aboriginal and other groups had narrowed considerably, and the number of aboriginal pupils in vocational training had doubled. The aboriginal unemployment rate had fallen from 23 per cent in 1996 to 20 per cent in 2001and in the private sector their activity rate had increased by 27 per cent. With regard to health, much still remained to be done; nevertheless, the infant mortality rate had fallen by 25 per cent in the last 10 years and deaths among the indigenous population due to respiratory diseases were four times fewer than before. In the housing sector, the proportion of aboriginal owners had increased from 28 per cent to 32 per cent during the last decade. Despite those encouraging results, Australia was aware that it needed to redouble its efforts to continue improving the living conditions of the indigenous peoples.

15. He also acknowledged that the indigenous peoples were over-represented in the Australian criminal justice system. Since the 1990s, the Government had put in place innovative "dejudicialization" strategies within the context of the National Crime Prevention Programme. That programme, which had benefited from $21 million of public funding, had made it possible to finance a number of initiatives for solving the problems of the indigenous population and preventing delinquency.

16. In the provinces and territories in which sentences were based on customary law, it was not uncommon for judges to deduct from the usual sentence that already imposed by the indigenous community. A system of *family conferencing* had also been put in place, which allowed the judge to call in members of the offender's family to discuss the causes of the problem and find ways of preventing reoffending. Among the tribes, it was often the elders who met the judges to agree upon the most suitable punishment. That policy had begun to bear fruit since the indigenous incarceration rate had fallen to the level of that for the non-indigenous population, while the incarceration rate for indigenous minors had decreased over the last 10 years.

17. Where mandatory sentencing was concerned, the States and Territories had a difficult job in dealing with the impact of crime and the problem of repeat offenders and the Government had recognized that in some circumstances they might consider it appropriate to introduce mandatory detention laws for some offences. The States and Territories were, in fact, best placed to address the problems associated with repeat offending and detention. Admittedly, Australia's Criminal Code provided for mandatory sentencing, but that was a sentencing rather than a racial issue, as the law applied to all people in Western Australia without discrimination on the basis of race.

18. Replying to the experts' questions concerning the precise nature of the Australian reconciliation process, he explained that the Government had accepted a leading role in reconciliation by maintaining its commitment to the implementation of practical and symbolic measures with a positive effect on the everyday lives of indigenous Australians. In 1991, the Australian Parliament had unanimously supported the establishment of the Council for Aboriginal Reconciliation to progress a formal process of reconciliation between indigenous and non-indigenous Australians. From 1990 to 2000, the Council had worked energetically towards its objectives and played an important role in bringing about a change in community attitudes on reconciliation.

19. The Australian Government had contributed $5.6 million to Reconciliation Australia, a non-profit body responsible for providing a continuing national focus for reconciliation, a sum which had been raised to $15 million during the last parliamentary session. The objectives of the action taken in that field were greater economic and social equality, increased public support for reconciliation, resolution of the problems of the young and elimination of the inequalities suffered by the indigenous peoples.

20. In 1999, the Australian Parliament had endorsed an historic "Motion of Reconciliation" in which it had expressed its deep and sincere regret that indigenous Australians suffered injustices under the practices of past generations and reaffirmed its whole-hearted commitment to the cause of reconciliation between indigenous and non-indigenous Australians.

21. Where the political representation of the indigenous peoples was concerned, there was no legal provision allocating seats in the Federal Parliament to members of minorities, the authorities considering that setting quotas would only marginalize the indigenous community. The only indigenous member of the Federal Parliament had lost his seat in the 2004 elections but there was a substantial number of representatives of the indigenous population with seats in the State and Territory Parliaments.

22. Referring to the subject of aboriginal children separated from their family, he recalled that, up until 1960, many aboriginal children had been removed from their family and placed with non-indigenous foster families, sometimes with the consent of their parents but often against their will. At the time, it had been thought that that was in the child's best interests and it had only been years later that people had begun to appreciate the extent of the trauma caused by the practice in question. Ten per cent of aboriginal children had been removed from their family environment in that way. A national network of organizations had been created and that had made it possible to reunite more than 1,000 individuals with their families. One hundred and seventy million dollars had been allocated to that initiative.

23. Australia was the only country in the world with a statutory body for the defence and protection of indigenous rights, namely, the Aboriginal and Torres Strait Islander Commission, which was responsible for ensuring that indigenous Australians could exercise their fundamental rights and benefit from social justice. The Commission also dealt with the problems faced by indigenous children and adolescents and with native title.

24. Referring to the racist incidents that had occurred at football grounds in 1995, he explained that, as a consequence of those events, the National Football League had decided to equip itself with a code of practice to be followed in the event of religious or racist insults being hurled during matches. A tribunal set up by the League would examine complaints if the conciliation procedure failed. The penalties were a fine of $20,000 for a first offence, $30,000 for a repeat offence, and $50,000 for the club concerned.

25. Moreover, the Australian Government was paying great attention to the very serious problem of family violence in indigenous communities and seeking lasting, coordinated and practical solutions by cooperating closely with the States, the Territories and the Aboriginal and Torres Strait Islander Commission. A national strategy on indigenous family violence had been developed by the Australian Government and approved by the States and Territories. The Australian Government had also allocated approximately $10 million for indigenous anti-violence projects, a substantial proportion of which had been dedicated to indigenous community organizations for innovative local solutions to that problem. The Aboriginal and Torres Strait Islander Commission was also making a financial contribution to assist victims of violence and provide preventative community education. In addition, the Prime Minister had recently convened a round table of indigenous women to canvass suggestions on how to deal with the problem.

26. **Ms. Nguyen-Hoan** (Australia) said that Australia's multicultural policy was articulated in the New Agenda for *Multicultural Australia* of 1999, which had a strong focus on harmony, inclusiveness and the benefits of diversity, and that the Council for Multicultural Australia had been established to help the Government to implement the Agenda. Important measures had been taken since 1996 to promote cultural and linguistic harmony among the different communities that lived in the country. Regular reports were being produced and strategy papers on fostering inter-group harmony prepared. A community-based education programme called *Living in Harmony* had also been adopted by the Government to provide funding for projects that promoted community harmony and reduced racism and bigotry.

27. The Charter of Public Service in a Culturally Diverse Society had been adopted as a nationally consistent approach to ensuring that government services were delivered in a way that was sensitive to the language and cultural needs of all Australians. In 1999, the Australian Government had updated its multicultural policy, which was based on seven core principles aimed at integrating the management of cultural diversity into the strategic planning, budget and reporting processes of government services. Those principles were access, equity, communication, responsiveness, effectiveness, efficiency and accountability.

28. Concerning the progress made with the implementation of the Charter of Public Service in a Culturally Diverse Society, in particular in the area of employment, she said that when adopted in 1985 that instrument, which was aimed at changing the culture of the Australian public service, provided for the appointment of liaison officers for ethnic matters at the different levels of government. At the federal level, those liaison officers reported to the Department of Immigration and Multicultural and Indigenous Affairs, which coordinated the preparation of a report on progress with the implementation of the Charter for submission to Parliament. Between 1996 and 1998, the Charter had been updated to apply to the three levels of the State – the Federal State, the States and Territories, and local government – so that all State employees were required to abide by the principles of the Charter and its performance indicators.

29. With regard to employment, the available data indicated that the number of people with a non-English-speaking background employed in the public service had fallen from 4.2 per cent in 1994 to 3.3 per cent in 2004. The submission of data on diversity in the public service was not mandatory and those figures did not necessarily reflect the reality, as several factors might come into play, in particular the reluctance of individuals to identify themselves. The Australian authorities endeavoured to ensure that the data were reliable and comparable from year to year.

30. Where the private sector was concerned, the data on the Australian working population showed that 25 per cent of active Australians had been born abroad, with 15 per cent having come from non-English-speaking countries, that 29 per cent of small businesses belonged to persons born abroad or were managed by such persons, and that 70 per cent of the active population were employed by small and medium-sized enterprises, the fastest-growing sector in terms of employment, exports and innovation.

31. Regarding the question of mounting anti-Muslim feeling in Australia, she noted that, in March 2003, the Human Rights and Equal Opportunity Commission had initiated a study to determine whether Australians had sensed an increase in discrimination and vilification. According to the report produced, there had been an increase in discrimination and acts of vilification directed against Australians of Arab and Muslim origin, many incidents had not been reported, women and young people being particularly vulnerable, and discrimination was also present in some public services, in particular the police.

32. The report proposed emergency measures to put an end to acts of discrimination and vilification affecting Arab and Muslim Australians, as well as long-term strategies to

combat prejudice. It also recommended improving legal protection, promoting positive public awareness through education, correcting disinformation in public debate, ensuring the safety of communities through recourse to the police, making communities more autonomous and encouraging mutual assistance and public solidarity with Arab and Muslim Australians.

33. The Government's response to the recommendations made in the report had included a number of measures taken within the context of its anti-racism campaign known as the Living in Harmony initiative. In education, it had funded more than 200 projects concerned, in particular, with the situation of Australian Arabs and Muslims, local affairs and inter-faith dialogue. To combat disinformation in public debate, the Australian Broadcasting Corporation had taken steps to ensure that professionals were better informed about complaints and followed them up with the ethnic communities. To make communities more autonomous, the Living in Harmony initiative had, for example, provided the Australian Federation of Islamic Councils with funds, in particular for teaching religious leaders how to manage the media and producing a booklet entitled "*Appreciating Islam*".

34. In order to encourage public solidarity with Australian Arabs and Muslims, Australian officials had devoted a great deal of time to consulting communities in order to learn about and respond to their concerns. In June 2004, the Government had also organized a national women's forum in which many Muslim women from all over the country had taken part. It had also encouraged inter-faith dialogue. An Australian partnership of ethnic group and religious organizations had recently been established to promote inter-community harmony and dialogue.

35. Finally, a report on religious diversity and inter-faith dialogue in Australia, requested by the Australian Government, had, for the first time, made it possible to get a clear idea of religious diversity in the country and of the difficulties experienced by emerging communities in adapting in areas in which the dominant religion was different from their own, and to plan for Government action in that field.

36. **Mr. Fleming** (Australia) then replied to questions asked by the Committee's experts at the previous meeting concerning detention for infringements of the immigration legislation and the existence of discrimination in the way in which Australia decided who could emigrate to Australia.

37. The Australian delegation welcomed the opportunity to explain the situation with regard to detention for infringement of the immigration legislation, which was subject to disinformation and had given rise to much misunderstanding. In particular, it was wrong to link that detention regime solely with asylum-seekers as that had led many people to conclude that some groups were unduly affected. In reality, detention for infringement of the immigration legislation was aimed not at asylum-seekers but at foreigners who were in breach of the law because they had arrived illegally in Australia, had stayed on in Australia after their visa had expired or had had their visa cancelled for having worked there or for having engaged in an unlawful activity.

38. This detention regime was applied mandatorily to all categories of foreigners to enable a check to be kept on those who had lodged an appeal to stay in Australia or had been targeted by an expulsion order. Admittedly, there were asylum-seekers among those people, but the great majority of asylum-seekers arrived in Australia lawfully and lived normally while waiting for their application to be processed. Those detained for infringement of the immigration legislation represented more than a hundred nationalities and did not come mainly from a limited number of countries in the Middle East and the Indian subcontinent, as had been stated. The number detained for three years was less than 20 per cent of the figure cited.

39. With regard to the detention centres, special arrangements had in fact been made for women, children and persons with special needs, but the great majority of adult men, out of the thousand people in detention, were being held in five centres located in Sydney, Melbourne, Perth and Port Augusta and on Christmas Island. Those centres were not managed as prisons. In fact, since it was a question of administrative detention, the detention conditions were governed by a set of detailed rules drawn up in consultation with the Human Rights and Equal Opportunity Commission to ensure their conformity with Australia's human rights treaty obligations. The centres were very closely supervised by means of parliamentary hearings, as well as by the Commonwealth Ombudsman or representatives of the Commission. The Ombudsman and the Commission frequently investigated complaints made by detainees or by persons visiting them.

40. Moreover, persons detained for infringing the immigration legislation had full access to the Australian judicial system to challenge the legality of their detention. The High Court of Australia had recently confirmed the validity of that mandatory detention regime, noting that the term of detention for infringement of the immigration legislation was not indeterminate: the person concerned must leave Australia if he had not been authorized to stay. Persons who remained in detention for a long time were closely monitored to ensure that the procedures were correctly applied. Those persons generally remained in detention either because they had instituted legal proceedings or had filed an appeal, or because they had not cooperated in good faith to enable them to be identified and returned to their country of origin. In the rare cases in which a cooperative person could not be expelled from Australia, a release order could be granted.

41. In reply to the question concerning discrimination in the choice of nationalities allowed to emigrate to Australia, he said that his country was proud of its non-discriminatory immigration policy. Anyone could apply to emigrate to Australia, no matter what their ethnic origin, gender, colour or religion, on the basis of their skills or their family ties with Australia, and obtain a visa without any discrimination, provided that they satisfied the criteria laid down by law. He would have liked to have had more time to reply in greater detail to the speakers who had raised that question in order to show that the facts that had been cited were incorrect.

42. **Ms. January-Bardill** observed that Australia's multicultural approach, which the Australian delegation had explained at some length, posed certain problems. Firstly, that type of approach often set out from the principle that equal value should be accorded to the different cultures, languages and religions, which could make its implementation problematic. Secondly, that approach proposed a description of the differences rather than an analysis of the inequalities notwithstanding the differences. It sometimes happened that multicultural approaches proceeded by stereotypes and stressed group identity rather than individual identity.

43. Secondly, multicultural approaches avoided addressing the structural problems of power relationships, which often had a huge influence on the way in which the State authorities, particularly the police, behaved in their dealings with "the other". To some extent, the fact that "the other" was perceived as being "different" prevented examination of the racism that might exist in the culture of the dominant group and, in particular, of the extent to which, as a consequence of its history and culture, the dominant group was inclined to behave in a racially discriminatory fashion towards the group regarded as "different".

44. She invited the Australian Government to examine its multicultural approach in greater depth since it skirted around the problems and gave precedence to cultural dynamics. She would like to know whether there was the political will to transform Australian society and make it more egalitarian, or if leaders were merely relying on policies to make up for the inequalities. The fundamental question facing the Committee

with regard to article 5 of the Convention was that of understanding why one group was progressing faster than another at the social, political and economic levels and knowing how and according to what criteria that progress was being measured, or who was responsible when a policy failed to achieve its objectives.

45. **Mr. Sicilianos** said that, given the presence of a very substantial Greek community in Australia, he had found the report very interesting and thanked the delegation for its contribution and very clear analysis of what were often complex and difficult issues.

46. Concerning the Indigenous Land Fund, he had noted in the report that in 2000-2001 the Australian Government had granted the Indigenous Land Corporation $65 million for land acquisition and management. That was a very large sum for a group reported to represent only 2.1 per cent of the total population. With many indigenous people living in cities, he wished to know how that fund benefited the indigenous population as a whole, who managed the fund, and how the money was distributed.

47. **Mr. Thornberry**, referring to the abolition of the Aboriginal and Torres Strait Islander Commission, observed that, at first sight, the new system did not seem very participatory. That could be a problem, especially as, generally speaking, political participation was very limited in Australia. Without making comparisons with what was done elsewhere, he wished to know whether the principle of participation was being respected.

48. Concerning the Bringing Them Home report and the question of reconciliation, he said that countries adopted different approaches to healing the wounds of history, for example, a formal document or an agreement albeit symbolic. Another approach was to recognize the indigenous peoples constitutionally as the first inhabitants of the country concerned.

49. **Mr. Amir** noted that the department responsible for immigration was also that which dealt with multicultural and indigenous affairs and wondered whether the aboriginal question was handled by the immigration department. In that connection, he would like to know how the majority of Australians viewed the aboriginal people and islanders. He also wished to know whether aboriginal people could marry non-aboriginals and thus participate in a form of organization and integration of their minority with a view to making Australian society more unified.

50. **Mr. Shahi** noted the information according to which 20 per cent of Australian territory belonged to indigenous people or was under their control and wished to know what part of that percentage corresponded to land that could actually be cultivated. With respect to the implementation of article 4 (a) of the Convention, the Committee would like to be given some specific examples of cases of racial defamation of an indigenous population or individuals by the media, including on the Internet, in which the Government had taken measures.

51. **Mr. Pillai** (Rapporteur for Australia) thanked the delegation for the exhaustiveness and precision of its replies and observations. He noted that Mr. Smith had rightly mentioned the response of the Australian Government to the Committee's observations and recommendations concerning Australia's previous report and stressed the fact that they had been made in a spirit of constructive dialogue to help the State party to understand perceptions other than its own and fully implement the Convention.

52. **Mr. Smith** (Australia) thanked the members of the Committee for having received and heard the Australian delegation and expressed the hope that the information provided would prove useful for the consideration of the report. He awaited with interest the Committee's conclusions, which would be examined very closely by his Government.

53. **The Chairperson** declared that the Committee had thus concluded its consideration of the thirteenth and fourteenth periodic reports of Australia.

54. *The Australian delegation withdrew.*

The meeting rose at 1.10 p.m.