



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities

#### Tenth session

#### Summary record of the 108th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 4 September 2013, at 10 a.m.

*Chairperson:* Ms. Cisternas Reyes

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 35 of the Convention** (*continued*)

*Initial report of Australia* (continued) (CRPD/C/AUS/1; CRPD/C/AUS/Q/1 and Add.1)

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

*Articles 11–20*

2. **Mr. Lovász** said that, according to the State party's report, Australia had eight jurisdictions with different legislation on adult guardianship and administration. He wondered what the relationship was between that legislation and the Criminal Code Act of 1995, which seriously limited certain freedoms in Australia. The report also stated that there were measures in place to accommodate the specific needs of persons with disabilities in the court system. He wondered whether they included the provision of sign language and whether delegation members knew of any deaf person serving as a juror.

3. **Mr. Kim Hyung Shik** noted that research by the Australian Human Rights Commission had suggested high rates of abuse and neglect of persons with disabilities in institutional settings. He wondered what the true extent of the problem was and how the State party planned to deal with it.

4. The distinction between a disability and a health condition might be blurred. When a person applied for asylum, would the State party's medical definition of disability be applied in the assessment of the application? He understood that, under section 50 of the Disability Discrimination Act, migration laws, regulations, policies and practices were exempt from the effects of the Act. That might lead to negative immigration decisions based on disability or health conditions. He would appreciate the delegation's comments.

5. **The Chairperson**, speaking in her personal capacity, asked, with reference to article 13, what reasonable accommodation had been made, including in procedures, to ensure access to justice for persons with disabilities from indigenous and rural communities. The Committee had received information that, on the Torres Straits Islands, persons with disabilities were 14 per cent more likely to be detained than in the rest of the country.

6. The Committee against Torture had commented, in a 2004 report, on non-consensual confinement, confinement using physical, chemical or mechanical means, and confinement of migrants in mental health institutions in Australia. She wondered whether the State party had considered ratifying the Optional Protocol to the Convention against Torture with a view to establishing a national preventive mechanism to eradicate such practices.

7. **Mr. Woolcott** (Australia), referring to the previous day's discussions, said that his delegation understood the Committee's concerns about the interpretative declaration made by Australia. It was not possible, with an election pending in the next few days, to commit to reviewing the declaration for the moment, but he wished to make absolutely clear that it did not constitute a reservation. It was up to the Committee to judge Australia on its measures to implement the Convention, putting aside the fact that the interpretative declaration existed; it was up to the State party to abide by the Convention and all its articles. In addition, he strongly refuted any implication that Australia did not recognize human rights for all and specifically for persons with disabilities.

8. **Mr. Bouwhuis** (Australia) said that the Disability Discrimination Act was one of the most inclusive pieces of legislation in the world, even prohibiting discrimination against a person because his or her associate had a disability. Disability was defined broadly and

covered past, present and future disabilities, including a genetic predisposition to a disability, imputed disabilities and behaviour that was a manifestation of a disability.

9. Regarding guardianship and supported decision-making, Australia strongly supported the right of persons with disabilities to exercise legal capacity while recognizing that in some cases support might be required in order for them to do so. Substitute decision-making should occur only as a last resort, for example to ensure that medical treatment was not denied in a case where a person was unable to make or communicate a decision about the treatment, and subject to appropriate safeguards. Such safeguards were regulated at state and territory level. In Queensland, for example, substitute decision makers could only make decisions on behalf of an adult in relation to a matter that the adult did not have the capacity to decide. An adult might have capacity in some matters and not others, but there was an assumption of capacity unless the contrary was established. In each jurisdiction, there were safeguards against abuse, exploitation and neglect. Guardians must act in the person's best interests, in the least restrictive manner and where possible in accordance with his or her wishes. Adult guardianship orders were made for a limited period and were subject to review by the courts. The represented person must be assisted in making as many of his or her own decisions as possible. There were limits on the type of decision that guardians could make; for example, they could not make decisions on major medical treatment or any procedure requiring an anaesthetic. Those decisions could only be made by a court or tribunal and adults subject to guardianship orders had legal representation in court hearings.

10. Some jurisdictions, such as South Australia and New South Wales, were trialling programmes to increase support for day-to-day decision-making by people with a disability. Improved decision-making skills, among other things, had been noted among the majority of participants in the trials.

11. Disability legislation empowered persons with disabilities to engage as equal partners in decisions that affected their lives. A nominee could be appointed as a last resort, in cases where it was not possible for a person to be assisted in making his or her own decisions. Such appointments would usually be made on request; only rarely and in exceptional circumstances might it be found necessary to appoint a nominee for a person absent a request. Safeguards regulated who could be appointed, as well as the nominee's duties. The measure was tailored to individual circumstances. In addition, the nominee was required to develop the capacity of the person to the point where the nominee was no longer needed.

12. The Government had commissioned an inquiry into whether there were any Commonwealth laws that denied or diminished equal recognition of persons with disabilities as persons before the law and their ability to exercise legal capacity.

13. As to training for those involved in making assessments about capacity, since the judiciary and the executive were separate, the Government did not provide such training, but it was provided by the judiciary itself.

14. **Ms. Sherburn** (Australia) said that the Government recognized the rights of all to physical integrity and reproductive rights. Sterilization was such an invasive and irreversible procedure that, where a person could not give consent, a tribunal must decide, not the person's carer, family, guardian or parents.

15. The Senate committee that had conducted the recent inquiry into the topic had made 28 recommendations. There were recommendations on education and training on relationships, sexuality and sexual and reproductive health needs, as well as the ethical and legal aspects of informed consent, aimed at both persons with disabilities and the medical workforce. The Senate committee had not recommended an outright ban on sterilization as that would amount to a denial of the right of persons with disabilities to the enjoyment of

the highest standards of health without discrimination and shift the focus from the individual's needs to generic notions of what was best for persons with disabilities as a homogeneous group.

16. **Mr. Lewis** (Australia) said that the National Framework for Protecting Australia's Children was a 12-year coordinated plan to improve all children's safety and well-being; improving outcomes for children with disabilities was a key priority under the Framework's second three-year action plan, for 2012–2015.

17. The second action plan recognized that parents or caregivers with a disability might require additional support to ensure that their children were safe and well. The plan would explore the interface between the disability, child-protection and primary service systems. Statutory offices monitored protection activities and some could also investigate complaints by children or their representatives. Some of those statutory offices were also responsible for screening people who worked with children, such as teachers and community volunteers.

18. The mandate of the National Children's Commissioner covered children with disabilities. The Commissioner was currently undertaking a listening tour of the country to meet with children and young people and establish her priorities.

19. **Ms. O'Malley** (Australia) said that, under the Australian humanitarian programme, delivered in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), 12,000 refugee visas had been granted in 2012, making the programme the second largest in the world. Where required, and with the assistance of the International Organization for Migration (IOM), special support, including a medical escort if necessary, was provided to persons with disabilities for travel to Australia. The Government's website provided people with contact details if they required additional support.

20. The national Department of Immigration and Citizenship had developed an accessibility implementation plan for improved access to information and services. Over 300 staff had been trained in accessibility requirements. A further plan was being developed setting out specific, measurable steps to be taken to assist persons with disabilities in their interactions with the Department, in compliance with the 1992 Disability Discrimination Act. One example of a procedure specifically designed to address the needs of persons with disabilities was the citizenship process, which comprised certain exemptions for migrants with disabilities.

21. In terms of commitments and programmes for persons with disabilities from a non-English background, the People of Australia multicultural policy targeted, among other groups, migrants who experienced difficulties in accessing services, whether because of age, gender or disability, or a combination of those and other characteristics.

22. **Mr. Lewis** (Australia) said that the Government funded several national organizations advocating for persons with disabilities, including the National Ethnic Disability Alliance, which looked to the rights and interests of persons with disabilities from non-English-speaking backgrounds and their families. There were also a number of programmes for persons with disabilities that took account of cultural and linguistic diversity. That approach was in line with the principles of the National Disability Insurance Scheme Act of 2013.

23. The Leaders for Tomorrow Programme provided leadership training and support for around 200 young persons with disabilities, 19 per cent of whom had in recent years been identified as being from culturally and linguistically diverse backgrounds.

24. The Targeted Community Care (Mental Health) Programme required services to be culturally competent and sensitive and based on individual clients' needs. It provided

integrated community-based mental health services to help families and carers manage the impact of mental illness on their lives and to improve overall well-being.

25. Gender could significantly influence the experience of disability, and the Government recognized that multiple forms of discrimination could affect the ability of women with disabilities to enjoy their rights. A 2010 government survey had shown that persons with disabilities or long-term health conditions were 1.2 times more likely than other people to have been the victims of violence or threats in the preceding 12 months.

26. **Ms. Sherburn** (Australia) said that, under the National Plan to Reduce Violence against Women and their Children 2010–2022, there were various services and campaigns, including a social marketing campaign called The Line that encouraged respectful relationships among young people. There was also funding for a national telephone counselling service for any Australian who had experienced or was at risk of family or domestic violence or sexual assault. Over 1,000 health workers had been provided with accredited training to help them understand and assist in cases of violence. The National Plan aligned with the National Disability Strategy in working to reduce violence, abuse and neglect of persons with disabilities.

27. It was important for persons with disabilities who were at risk of family violence to be protected. The police were able to help in obtaining an apprehended violence order to ensure the safety and protection of an at-risk individual, notably where the person was in a relationship of dependency or the relationship was an intimate or family one.

28. The Government had amended the Family Law Act to ensure that children's safety was prioritized in parenting matters. Unacceptable behaviour was clearly defined. The Act also set forth the primary considerations in determining the child's best interests, namely the benefit of having a meaningful relationship with both parents and the need for protection from physical and psychological harm, and stated that the greater weight must be given by courts to the safety of the child. The Act did not establish any separate rules for persons with disabilities. The capacity of parents with disabilities to provide for their children's needs was assessed on the basis of the same laws as that of parents who did not have a disability.

29. **Mr. Bouwhuis** (Australia) said that persons with mental illness or impairment were generally not held responsible for committing an offence and that national legislation provided for alternatives to prison, including detention in a secure mental health facility, for persons declared unfit to be tried owing to mental illness. The national Justice Department had issued guidelines and best practices in 2012 containing advice on the establishment of support and diversion programmes for persons with mental illness in the community. Such guidelines ensured that community safety was not compromised while the rights of both the victim and the person with psychosocial disabilities were protected. A network on cognitive disability had been set up in December 2012.

30. Prisons in the Northern Territory had introduced an elders visiting programme in order to provide support to, and build cultural resilience among, indigenous inmates, including those with disabilities. In addition, state and territory governments had devised strategies to improve the experience of persons with disabilities with heightened vulnerability who came into contact, or were at risk of coming into contact, with the criminal justice system as victims of crime or witnesses.

31. **Mr. Lewis** (Australia) said that indigenous persons with disabilities and their families continued to face multiple and aggravated disadvantage in Australia. There were cultural and practical challenges for indigenous persons in engaging with mainstream services. Those challenges were being addressed at the national level as part of efforts to close the gap that existed between Aboriginal communities and the rest of society. With the introduction of DisabilityCare Australia, a new benchmark had been developed to increase

access to specialist services and support for indigenous persons with disabilities. In addition, a network for indigenous persons with disabilities had been established. It had recently prepared an annex to supplement the National Disability Strategy first-year report.

32. Like many other countries, Australia continued to face challenges in providing appropriate accommodation for persons with disabilities. However, the Government was committed to maximizing the opportunities for persons with disabilities to live independently and participate in the economic, social and cultural life of their communities. It supported the principle that all persons with disabilities should enjoy the same choices and opportunities as the broader community, and it had increased the provision of accessible housing in order to enable persons with disabilities to freely choose their place of residence. Under a new housing initiative, all new social housing must incorporate certain accessible design elements. DisabilityCare Australia guaranteed the right of persons with significant and permanent disabilities to determine their own best interests and control the planning and delivery of their personalized assistance. As a result of such efforts, there had been a 25 per cent decrease in the total number of persons with disabilities living in institutional care since 2003 and a 45 per cent increase in persons living in community-based accommodation.

33. **Mr. Bouwhuis** (Australia) said that, in accordance with state and territory laws, accessible building standards must be applied in prisons. Steps had been taken to make court proceedings more accessible, including the introduction of audio- and videoconferencing and communication aids and the provision of court documents in different formats.

34. Australia could ratify the Optional Protocol to the Convention against Torture only once additional national legislation had been passed.

35. **Ms. Sherburn** (Australia) said that each state and territory court system in Australia operated independently. Accordingly, different approaches were taken to the convening of juries. In general, persons with disabilities could undertake jury service provided they were deemed capable of performing the tasks inherent to the role. The only exception was the Federal Court, where ineligibility to vote precluded the right to sit on a jury. The Government continued to take steps to make courts wheelchair accessible and to fit all courtrooms with hearing assistance technology in an effort to remove the barriers preventing persons with disabilities from performing jury service.

36. **Mr. Lewis** (Australia) said, regarding accessibility of information and communication, that the right to freedom of expression, association and assembly was a fundamental human right of all persons in Australia, including persons with disabilities. The Government had introduced a number of policies, programmes and initiatives aimed at facilitating the exercise of that right by persons with disabilities. One example was the national disability website set up by the Government in partnership with the Australian Broadcasting Corporation, which provided an online forum for persons with disabilities to discuss issues affecting their lives. The Government had also provided funding for Braille and captioning for different types of media, as well as strengthening postal assistance and increasing the availability of accessible print material at selected libraries.

37. **Ms. Sherburn** (Australia) said that the Government recognized the need to make provision for persons with disabilities in its disaster relief strategies. National guidelines helped emergency planners and service providers to structure their communication strategies appropriately so that all sectors of the population could be duly informed in advance of a situation of risk. The Government had taken additional steps to facilitate communication between persons with disabilities and emergency service providers via the national relay service, SMS messages and Internet technologies. Examples of similar efforts in the states and territories included the New South Wales emergency storm website, which

had specific videos for deaf and hearing impaired persons on how, inter alia, to flood-proof their homes.

38. **Mr. Woolcott** (Australia) said that Australia used the opportunities granted to it by its international aid programmes to enhance the rights of persons with disabilities. In Fiji, for example, Australian training schemes on incorporating disability-inclusive strategies in disaster risk management programmes had greatly improved national approaches to identifying and responding to the needs of persons with disabilities following a disaster.

#### *Articles 21–33*

39. **Ms. Peláez Narváez** said that the delegation should explain, as had been requested during the previous day's discussions, why the Australian police had decided not to investigate the cases of five women with disabilities who had been raped while in institutional care and why the cases had not been handled in the same fashion as others involving non-disabled victims. With regard to the Senate's inquiry into forced sterilization, it should indicate whether women with disabilities had been given the opportunity to contribute to the debate.

40. Turning to article 23, she asked which organizations representing children with disabilities had been consulted during the drafting of the national childhood plan. Concerning article 29, she enquired whether women with disabilities held positions on the advisory council established by the Ministerial Council for Tertiary Education and Employment in 2009 and how the Government ensured that women with disabilities were represented in decision-making positions at the national, state and territory levels. Lastly, noting the relatively small amount of government spending allocated to funding disabled persons' organizations, she asked what steps had been taken to ensure that such organizations received an appropriate proportion of the national budget.

41. **Mr. Ríos Espinosa** asked the delegation to provide data on the number of indigenous persons with disabilities detained on the Torres Strait Islands without formal charge. In relation to article 30, he enquired whether there was a national tourism policy in Australia setting out requirements in respect of accessible leisure activities and accommodations for persons with disabilities, including the provision of sign-language interpretation where appropriate.

42. **Ms. Pavey** asked whether the Government intended to formally recognize sign language and deaf-blind sign as official languages and do more to accommodate their use. She also wished to know whether there were any immediate plans to tackle the wage gap between men and women with disabilities in employment, and what steps the Government had taken, if any, to increase the representation of persons with disabilities in political life, particularly at the federal and state levels.

43. Although Australia had made great progress in its resettlement programme as part of the country's international coordination efforts, refugees in the country could still only receive a set amount of financial assistance for medical treatment. Did such restrictions adversely affect access to medical support by refugees with disabilities?

44. **Mr. Buntan** asked whether the State party had introduced any key indicators to measure the overall success of its disability policies and programmes, and whether the Government had any long-term plans to replace sheltered workshops with open or supported employment for persons with disabilities. He sought clarification on the action the State party had taken to preserve the cultural heritage and linguistic identity of persons with disabilities, citing the case in South Australia in which a deaf persons' organization had been forced to sell a building that was historically important for the deaf community owing to a lack of funds. He enquired how the Government involved disabled persons' organizations in monitoring the implementation of the Convention, as part of both the focal

points and the independent mechanisms, and how it distinguished for that purpose between service providers and disabled persons' organizations. Lastly, he asked whether indigenous disabled persons' organizations received government funding on the same basis as other disabled persons' organizations and whether they too were involved in the monitoring process.

45. **Mr. Lovász** asked whether reports that the decision of just one local medical practitioner could deprive a person with disabilities of his or her right to vote were correct and whether in future the Government intended to make decisions on a person's capacity to vote subject to a ruling by an independent judge, in line with the procedures for decisions regarding contraception and sterilization.

46. **Ms. Maina** asked whether persons with mental illness were recognized as persons with disabilities in Australia and, if so, whether they were represented by their own disabled persons' organization. She also wished to know which act provided for the use of chemical and physical restraints on persons with psychosocial disabilities and whether disabled persons' organizations representing persons with psychosocial disabilities had been consulted by the Government about such treatment. Lastly, she enquired whether the State party intended to make the transition from a medical to a more human-rights based approach to habilitation and rehabilitation services.

47. **Ms. Mulligan** asked which mechanisms were used by the joint focal points on matters relating to the implementation of the Convention to coordinate data collection on disability issues and to measure and monitor progress across Government. She also wished to know whether the Government collected data on the number of persons with disabilities in the Aboriginal community and, if not, whether it intended to start doing so. She would appreciate data on the number of indigenous persons with disabilities who were being held indefinitely in places of detention. Lastly, she wondered how the State party planned to increase the funding and capacity of indigenous disabled persons' organizations.

48. **Mr. Kim Hyung Shik** said that the accessibility and inclusion best practices applied in Australia should be transferred to countries receiving official development assistance from the State party. Noting that such assistance appeared to be focused on States in the surrounding region, he asked in which other parts of the world the State party had implemented disability-inclusive development programmes and what data the delegation could provide to demonstrate the quantitative difference made by such programmes. Had the State party taken any specific steps to encourage and support participation by Australian disabled persons' organizations in disability-inclusive development efforts?

49. **Mr. Tatić** asked whether persons with disabilities had access to sign-language interpretation when using the national 1-800 telephone line service and whether persons with intellectual disabilities could receive plain text answers when making emergency calls to the number.

50. Turning to the issue of employment, he enquired what percentages of persons with disabilities worked in sheltered workshops and open employment, respectively. Stressing the need for the State party to provide incentives for employing persons with disabilities, he requested data on the proportion of the national budget allocated to the Wage Subsidy Scheme and the Employment Assistance Fund. Lastly, he asked whether the global economic crisis had adversely affected the availability of employment incentives.

51. **Mr. Langvad** asked what obstacles had been encountered by the authorities in attempting to move from a system of sheltered employment to open or supported employment. He requested confirmation that nobody could be deprived of the right to vote because of disability. He asked what kind of support was available to ensure that persons with all kinds of impairments were encouraged to enrol on the electoral register. He enquired whether persons with psychosocial disabilities were more likely to be deprived of



their right to vote because they tended to receive longer prison sentences that rendered them ineligible. Lastly, he would be interested to know why the Government had not established focal points for implementation of the Convention at both the federal and state levels or an independent monitoring mechanism that was in full compliance with the Paris Principles.

52. **Mr. Ben Lallahom** asked how the State party intended to monitor the different programmes in the country's states and territories in order to ensure the implementation of the Convention.

53. **Mr. Al-Tarawneh** said that there was great potential for Australia to play a role in raising awareness of the Convention in the developing countries with which it undertook international cooperation projects.

54. **The Chairperson**, speaking in her personal capacity, asked whether there were indicators to assess the quality of teaching in the inclusive education system and whether persons with disabilities from indigenous and immigrant communities received the same allowances as others.

*The meeting was suspended at noon and resumed at 12.20 p.m.*

55. **Mr. Garner** (Australia) said that the Government was committed to ensuring that persons with disabilities received opportunities to reach their potential through participating in the community and workforce, and believed that people were better off working if they were able to, rather than relying on income support. Successive Governments had dedicated significant resources and effort to improving the participation of persons with disabilities in the public service, although, unfortunately, the figures were not yet moving in the right direction. Representation of persons with disabilities, as officially recorded in human resources databases, stood at only 2.9 per cent of the Australian Public Service as of December 2012, having fallen from 5 per cent in 1999. Disclosure remained a challenge: for a variety of reasons, people might choose not to indicate that they had some form of disability. However, according to the 2012 Australian Public Service employee census, 7 per cent of employees had a disability. The percentage of persons with disabilities in the public service varied by state and territory, with the highest proportion in Tasmania and the lowest in the Northern Territory and the Australian Capital Territory.

56. Responsibility for the strategy to increase representation of persons with disabilities was shared across the whole of the public service, although the Australian Public Service Commission took a leadership role. The *As One: Australian Public Service Disability Employment Strategy 2012–2014* aimed to strengthen the public service as a disability-confident employer and to improve the experience of employees with disabilities. The strategy was structured around four main themes: improving leadership, increasing agency demand for candidates with disabilities, enhancing recruitment processes to enable more candidates with disabilities to enter the public service, and fostering inclusive cultures that supported and encouraged employees with disabilities. The "Recruit Ability" scheme offered a guaranteed interview for persons with disabilities, including for the most senior positions. The Australian Public Service Diversity Council had been established in February 2012 to implement a range of strategies designed to bring visibility to diversity issues, share best practice and monitor agency performance in improving workforce diversity.

57. The Government also provided services to assist persons with disabilities in finding and maintaining employment in the private sector and funded Australian disability enterprises, which provided supported employment assistance to approximately 20,000 persons. Many Australian disability enterprises were transitioning to a social enterprise model, under which they would employ persons with and without disabilities. Funding for supported employment was expected to exceed 217 million Australian dollars in 2013.

58. **Mr. Bouwhuis** (Australia) said that the concerns in relation to the possible sale of the Deaf Can: Do building in Adelaide had been referred to the Minister for Disabilities of South Australia.

59. Throughout the development process for the National Disability Strategy, the Government had consulted with persons with disabilities, their families and carers and other stakeholders and had discussed options for ongoing engagement with persons with disabilities. The National Disability Strategy Implementation Reference Group, which was made up of members of the National People with Disabilities and Carer Council and national organizations representing persons with disabilities, provided advice on the ongoing implementation of the Strategy. Each jurisdiction, with the exception of the Northern Territory, also had a disability advisory body. Individual government departments had protocols to improve consultation with persons with disabilities. There had been extensive consultation in the preparation of the Senate Committee report on sterilization, which could be viewed online and included a list of the persons and witnesses consulted. The Government actively supported the participation of representatives of persons with disabilities in international forums on human rights. It also funded several nationality disability peak organizations to advocate for persons with disabilities and liaise between the Government and the community on social policy issues affecting persons with disabilities.

60. **Mr. Lewis** (Australia) said that the Disability Advisory Council comprised 28 members, many of whom also chaired the advisory boards in their respective state or territory.

61. **Ms. Sherburn** (Australia) said that the Australian system of compulsory voting maximized the participation of many sectors of the community, including persons with disabilities. The Australian Electoral Commission supported persons with disabilities, *inter alia* by providing general enrolment and electoral information in accessible formats, such as large print, Braille, Australian sign language, plain English and easy English, having an accessible enrolment form, allowing voters to contact the Commission via their preferred communication channel, making polling stations physically accessible and providing a range of assisted or other voting options to allow electors to vote in a way that suited their needs. By law, a person was not entitled to be enrolled to vote if they were incapable of understanding the nature and significance of voting. However, there were numerous ways to challenge such a decision, including requesting a review on the merits under the Electoral Act, the Disability Discrimination Act or the Administrative Decisions Judicial Review Act or approaching an ombudsman. Persons serving a full-time prison sentence of more than 3 years could remain on the electoral register and vote when they were released. The Australian Law Reform Commission inquiry into equality before the law and access to justice for persons with disabilities had been requested to consider electoral matters.

62. **Mr. Lewis** (Australia) said that the Government was moving towards a social model of disability across all its programmes. DisabilityCare Australia, for example, followed an approach that was based on functional impairment, rather than on a medical diagnosis, and was tailored to the individual.

63. **Mr. Woolcott** (Australia) said that the delegation would provide written replies to those questions it had not had time to answer.

64. **Mr. Innes** (Disability Discrimination Commissioner, Australia) said that, although Australia had made significant progress towards compliance with its Convention obligations, there was much still to do. The 4 million Australians with disabilities were among the most disadvantaged groups in society. Almost half lived in or near poverty, and their median weekly income was about half that of persons without disabilities. Labour force participation rates remained significantly lower than for people without disability, and secondary school completion rates were about half those of non-disabled persons.

Aboriginal and Torres Strait Islander people with disabilities were particularly marginalized.

65. The national disability insurance scheme would have a profound impact when it was fully functioning in 2019, but it alone would not solve all problems. Part of the solution must be jobs. The incoming government would be encouraged to use internal programmes, targets and tax incentives to improve employment levels in the public service.

66. Persons with intellectual, cognitive and psychosocial disabilities were overrepresented in the Australian prison population, and some, particularly Aboriginal people, remained in jail for long periods without being convicted of crimes. The Australian Human Rights Commission would propose principles for best practice in the justice system by the end of the year. Persons with disabilities experienced significantly higher levels of violence, exploitation, abuse and neglect, and women and those in institutional settings faced increased risks. There were no national data on the prevalence and nature of such violence. The Commission supported the civil society recommendations in that area.

67. The Commission shared the concerns of the Committee and civil society regarding the interpretative declaration made by Australia on articles 12, 17 and 18 of the Convention and would encourage the incoming government to withdraw it.

68. The Australian Law Reform Commission inquiry into legal barriers for persons with disabilities would examine restrictive practices, parenthood and family law, supported and substitute decision-making, disability services and support, giving of evidence, and medical treatment. The National Mental Health Commission had recommended that action should be taken to reduce the use of involuntary practices and had commenced a project on elimination and reduction of restraint and isolation. There was also a proposed national framework for reducing restrictive practices, and recognition among policymakers of the need to move towards the ultimate eradication of such practices. The Australian Human Rights Commission supported the civil society recommendations that Australia should establish a nationally consistent legislative and administrative framework for the protection of persons with disabilities from behaviour modification and restrictive practices that caused harm and punishment.

69. The National Disability Strategy incorporated implementation plans and periodic reporting to monitor the progress of the Strategy. However, the indicators to be used were not based on data on persons with disabilities disaggregated by sex, age, race, ethnicity and geographical location, which were not available.

70. The Government had developed standards in the areas of accessible public transport and access to premises and education. However, enforcement of those standards depended on persons with disabilities making complaints. The areas of airline access and accessible taxis had been problematic.

71. There needed to be a mechanism for systemic engagement with organizations representing persons with disabilities, plus adequate funding that recognized the broader scope of the work of such organizations and disability advocacy organizations since the ratification of the Convention by Australia.

72. He welcomed having had the opportunity to present the Commission's independent views and wished to encourage the Committee to continue to provide national human rights institutions with that opportunity.

73. **Mr. Woolcott** (Australia) said that his country was committed to removing the barriers faced by persons with disabilities and accommodating their diverse needs to enable them to enjoy their rights on an equal basis with all other Australians. Australia was proud of its record under the National Disability Strategy. Its successes in increasing employment, enhancing social participation and improving health care and personalized programmes of

individual support were clear. DisabilityCare Australia demonstrated the Government's commitment to promoting and protecting the rights of persons with disabilities, and the national disability insurance scheme was an enormous step forward. The Government recognized that women, children and indigenous Australians with disabilities might face multiple intersecting disadvantage and was taking steps to ensure that the specific needs of those vulnerable groups were considered during development and implementation of relevant policies and programmes. The Convention underpinned much of the work to advance disability rights. The Disability Discrimination Act and the Disability Services Act gave effect to the Convention, and the Human Rights Parliamentary Scrutiny Act of 2011 ensured compatibility of new laws with the Convention.

74. **The Chairperson** thanked the delegation for the frank and constructive dialogue with the Committee.

*The meeting rose at 1 p.m.*