



# Convention on the Rights of Persons with Disabilities

Distr.: General  
24 September 2019

Original: English

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## Committee on the Rights of Persons with Disabilities Twenty-second session

### Summary record of the 500th meeting

Held at the Palais des Nations, Geneva, on Friday, 13 September 2019, at 10 a.m.

*Chair:* Mr. Ruskus (Vice-Chair)

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

*Combined second and third periodic reports of Australia (continued)*

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*In the absence of Mr. Basharu (Chair), Mr. Ruskus (Vice-Chair), took the Chair.*

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

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

*Combined second and third periodic reports of Australia (continued)*  
([CRPD/C/AUS/2-3](#); [CRPD/C/AUS/QPR/2-3](#))

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

*Articles 11–20*

2. **Mr. Walter** (Australia) said that he wished to begin the delegation's replies to the questions put at the previous meeting by addressing the Committee's observation that Australia had not been very active in implementing the recommendations made by the Committee during the previous constructive dialogue in 2013. In fact, significant progress had been made on the realization of the rights of persons with disabilities since 2013. The National Disability Insurance Scheme, in particular, represented the most important investment Australia had ever made in support of people with disabilities. The Government recognized, however, that there was still much work to be done, and it pledged to consider the Committee's forthcoming recommendations in good faith and to take them forward as best it could.

3. **Ms. Foreman** (Australia) said that the Government was committed to implementing a consistent national approach to the assessment and diagnosis of autism spectrum disorder. It had focused on early assessment and intervention with a view to providing support at the earliest possible stage in order to reduce the impact of a child's impairments on his or her functional capacity and also to reduce the child's long-term need for support and services. In 2015, a Government-commissioned report had recommended the adoption of a minimum national standard for diagnosis of the disorder. The Cooperative Research Centre for Living with Autism had subsequently been tasked with formulating a national guideline on assessment and diagnosis, in partnership with the autistic community and health-care professionals. The guideline, which had been adopted in 2018, was designed to ensure greater transparency in decision-making processes and to generate more confidence in the accuracy of the decisions made concerning autism spectrum disorder. The Government was currently working with autistic persons, professional bodies and service providers to implement the guideline.

4. **Mr. Minihan** (Australia) said that the Government was committed to enabling persons with disabilities to participate in the community and the workforce. The Disability Discrimination Act protected individuals from discrimination on the basis of disability in the context of employment and stipulated that persons with disabilities had the right to employment on the same terms as everyone else. They were also protected under the Fair Work Act, which stipulated that no employer could take adverse action against an employee or prospective employee on the basis of a number of protected attributes, including mental or physical disability.

5. A number of specific programmes had been set up to help persons with disabilities to secure employment. Disability Employment Services was a public employment scheme that supported over 238,000 people whose disability, injury or health condition was a barrier to employment. That programme had recently undergone reforms aimed at giving participants greater choice and providing better incentives for employers who hired persons with disabilities, with a special focus on increasing the proportion of working-age women with disabilities participating in the labour market. In the 12 months immediately following the reforms, the proportion of women with disabilities participating in the programme had increased by 25 per cent, rising to approximately 111,000. The Employment Assistance Fund offered financial help to eligible persons with disabilities and funding to employers to pay for assistive equipment and support services. An independent, impartial and nationally accessible complaints resolution service had also been set up for persons with disability who received social protection under the Disability Services Act. A wage subsidy scheme

provided funding for employers who hired individuals who had been unemployed for a long time and a programme had been set up to make payments to employers who hired apprentices with disabilities.

6. **Ms. Towler** (Australia) said that the Premises Standards included the Access Code for Buildings, which set out technical specifications for accessibility. The Access Code was enforced via building laws and regulations at the state and territory levels. New buildings and substantial upgrades to existing buildings had to comply with the Access Code in order to be certified for use. That requirement provided a strong enforcement mechanism, as buildings could not be occupied or used without certification.

7. The Australian governments supported the principle that all people with disability should have the opportunity to live their lives as part of the community and were working to increase the availability of accessible housing, including mainstream housing and supported accommodation. Housing options for people with disabilities comprised a mix of independent living and shared living arrangements in private residences and group homes. In 2017–2018, of some 254,000 persons who benefitted from services under the National Disability Agreement, over 80 per cent had lived in private residences in the community, with the remainder living in some form of shared housing.

8. A major aim of the National Disability Insurance Scheme was to ensure that people with disabilities received support based on their needs, including specialized support such as home modifications and assistive devices to allow them to live independently in the community. Work was under way to implement changes to existing disability accommodation, including removing restrictions that prevented some families from living together and giving participants more flexibility to live where and with whom they wanted.

9. While there was no plan to close residential institutions, the majority of people with disabilities who had been living in institutions had been relocated to community-based accommodation. The National Disability Insurance Scheme would enable more people to transition from institutions to accommodation of their choice. Moving younger persons out of aged care facilities was a priority. There had been 5,802 people under 65 years of age living in residential aged care facilities at the end of 2018. Such facilities were sometimes the only supported accommodation available that could meet the complex care needs of some persons with disabilities. A key challenge was therefore to ensure the availability of complex health supports in community settings. As of October 2019, persons with disabilities would be able to access such health supports through the National Disability Insurance Scheme. Plans had been introduced to stimulate investment to improve the availability of specialized disability housing, social housing and suitable private housing. An action plan introduced in March 2019 aimed to help younger people living in aged care facilities to find alternative age-appropriate housing if they wished to do so, and to halve the number of younger people entering such care by 2025. It should be noted, however, that some of the persons living in aged care facilities had indicated that they preferred not to move to other accommodation.

10. **Mr. Walter** (Australia) said that the Government was committed to respecting the physical integrity and reproductive rights of all people. It also supported the right of all people to make free and informed decisions about whether to have a medical procedure. A sterilization procedure for non-therapeutic reasons could normally occur in Australia only with the individual's consent. States and territories had their own legislation that applied in cases of sterilization involving adults who were deemed not to have decision-making capacity. Guardianship tribunals in all jurisdictions decided on a range of matters, including health matters, on behalf of such persons. The test applied in most jurisdictions was whether a procedure was in the best interests of the person concerned. A tribunal would normally only consent to sterilization if it was satisfied that the procedure was therapeutically necessary, that there was no likelihood of the person subsequently acquiring the capacity to give effective consent and that there was no evidence that the person had previously, while capable of giving consent, refused sterilization and communicated that refusal to a medical practitioner.

11. Children under the age of 18 could give legal informed consent where they demonstrated sufficient intelligence and understanding of the issues involved. Competence

was assessed on an individual basis. The High Court had ruled that disability, including cognitive disability, did not mean that a child was not capable of giving informed consent. Where a child was not found to be legally competent, parents or legal guardians were able to give consent to therapeutic medical procedures. For non-therapeutic procedures, the approval of a court was generally required. Courts took into account the child's best interests and, where possible, the child's views, and were particularly cautious about authorizing irreversible procedures. The same principles applied in cases involving intersex variation and sterilization. The Australian Human Rights Commission was scheduled to produce a report later in the year on non-consensual interventions for intersex persons, which the Government looked forward to receiving.

12. The available data indicated that, between 1 July 2017 and 30 June 2018, a total of three court-approved sterilizations of adults with cognitive impairment had taken place in Australia. There were no reports of sterilization cases involving children under the age of 18 during that period. The Government was not aware of any data on rates of abortion for women with disabilities. In most jurisdictions, abortion was defined as a special procedure that required authorization by a court or tribunal in cases where the individual was unable to give her consent. In Tasmania, for example, a guardianship administration board had been established that was tasked with making decisions for persons with disabilities who were unable to make decisions about their personal matters or medical treatment, including the termination of a pregnancy. It was a criminal offence to carry out a special treatment without the board's authorization. Contraception procedures in Australia also generally required the consent of the individual or, if he or she was unable to provide consent, the consent of the legal guardian.

13. Provisions on supported decision-making had been incorporated into the legislation of most jurisdictions in the country. In May 2019, for example, the government of Victoria had recently amended its laws on guardianship and administration, introducing a legislative framework that recognized that an individual had decision-making capacity if he or she was able to make decisions with support. The new legislation was based on the principle that persons who were capable of making decisions with support should be provided with the support they required. It also conferred appropriate responsibilities and powers to those individuals chosen to help persons with disabilities to make decisions, in addition to putting in place a range of safeguards to ensure that individuals were not coerced or unduly influenced. Training programmes on supported decision-making were available at all levels of government.

14. It was not considered feasible to abolish substituted decision-making in its entirety, as some individuals would be unable to make certain decisions even with extensive support. Ruling out the possibility of substituted decision-making would, in the Government's view, only lead to superficial inequality, as it could mean, for example, that a person with a disability might fail to receive essential medical care. It was necessary to acknowledge the limitations and barriers associated with cognitive impairments in order to ensure that human rights were realized for all people, including those with cognitive disabilities.

15. The Government was still reviewing the "Equality, Capacity and Disability in Commonwealth Laws" report and had yet to issue a formal response to the recommendations therein. However, the report had already made an impact in some areas. For example, in 2016, the Australian Guardianship and Administration Council had amended its national standards on public guardianship to make reference to the report. In line with the recommendations of the report, the amended standards provided that staff with guardianship responsibilities should ensure that all reasonable efforts were made to support represented persons to exercise their own decision-making capacity to the greatest extent possible.

16. **Mr. Minihan** (Australia) said that it was important that juries be truly representative of the community, including persons with disabilities. While each state and territory court system operated independently, persons with disabilities were generally able to serve on juries, provided they had been assessed as being able to perform the inherent requirements of the role. In the federal system, persons could not be on a jury if they were not entitled to vote, and persons were not entitled to vote if they could not, by reason of an unsound mind, understand the nature and the significance of voting. Judges also had the power to excuse a

person from jury service based on whether the person had the capacity to serve as a juror and whether any problems could be addressed by providing the person with a reasonable level of support or assistance, in accordance with the requirements of the Disability Discrimination Act.

17. Legislation had been amended in the Australian Capital Territory to facilitate the provision of reasonable support to jurors with disabilities, and efforts were being made to provide such support in the states and territories. While some jurisdictions had passed laws to support equal participation of persons with disabilities in the jury system, there continued to be laws that stipulated that potential jurors could be deemed ineligible or excused on certain grounds, such as having a hearing impairment or being blind. Steps were being taken to address such situations. On 28 June 2019, the Council of Attorneys-General had agreed to discuss ways to remove legal and operational barriers to jury service for deaf people, in particular the common law principle that only jurors should be present in the jury room, which meant that no interpreters or other support persons were allowed.

18. Funding for legal assistance services was provided by both the national Government and state and territory governments. Under the National Partnership Agreement on Legal Assistance Services, the states and territories provided funding to a number of specialist community legal centres that provided services to persons with disabilities. The Government had allocated A\$ 390 million in funding for the period 2015–2020 for legal services for Aboriginal and Torres Strait Islander persons. It also funded independent agencies that provided advocacy support for persons with disabilities under the National Disability Advocacy Programme. Advocacy and support services were provided through the National Disability Insurance Scheme, as well.

19. Australian legislation provided for a range of measures to facilitate the giving of evidence by persons with disability, such as a revised test for witness competency and a requirement disallowing improper questioning based on mental, intellectual or physical stereotypes. State and territory courts took measures to accommodate persons with disabilities, including by adapting courtrooms and using audio and videoconferencing to facilitate the appearance of persons with disabilities. They also permitted the use of augmentative and alternative modes of communication.

20. A number of supports were available for people with disabilities at risk of entering the criminal justice system. For example, disability awareness training was provided to police and transit officers in Western Australia to enable them to interact appropriately with persons with disabilities. Alternatives to incarceration were considered for persons with disabilities by state and territory governments. All persons entering the prison system were interviewed and assessed for cognitive, physical, psychological, sensory or mental health risks or needs, and prisoners with disabilities were provided with support and services, including general and mental health services, throughout their detention.

21. The Federal Court of Australia had developed an e-learning package on access to justice for people with disability, and states and territories also provided training to court officials, including professional development courses and information and guidance for judicial officers about their role in making the court system accessible for persons with disabilities. States and territories also provided training for judicial officers to develop their understanding of potential difficulties, barriers or inequities that people with disabilities might face. Training for judicial officers was a matter for states and territories and for courts themselves, but the national Government provided some funding for the training of the judiciary.

22. **Mr. Walter** said that, in order to be considered fit to stand trial, an individual must be able to understand the nature of proceedings. A number of states and territories had recently amended their fitness to plead laws to render them more compatible with the obligations under the Convention. A finding of unfitness to plead did not necessarily mean that the person concerned would be detained. In accordance with the Crimes (Mental Impairment and Unfitness to Be Tried) Act 1997 of Victoria, for example, when a person was deemed unfit to stand trial, a special hearing could be conducted to determine attribution of responsibility. A person could thus be found not guilty and released. Under the Act, a court could issue a supervision order, which could allow the person to be released

into the community, subject to conditions. Supervision orders were of an indefinite duration, but the term could not exceed the term of imprisonment that a person would have served had he or she been convicted in a normal criminal proceeding. A supervision order could not commit a person to custody in a prison unless there was no practicable alternative.

23. In 2015, a cross jurisdictional working group had been established and had developed the National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment, which had been endorsed by all states and territories except South Australia. The Principles recognized the rights of, and identified safeguards for, persons with cognitive or mental health impairments deemed unfit to plead or found not guilty by reason of cognitive or mental health impairment. They stressed the importance of developing individual plans for such persons, the importance of providing culturally appropriate services, particularly for Aboriginal and Torres Strait Islander persons, minimizing detention and ensuring the availability of review processes. The Principles were already beginning to influence policy development in the states and territories.

24. The Government recognized that data on fitness to plead and detention was often inconsistent among states. Estimates in a Senate committee report on the indefinite detention of people with cognitive and psychiatric impairment in Australia, released in 2016, had indicated there were at least 100 unconvicted people detained in prisons and psychiatric units under mental impairment legislation and that at least 50 of those people were Aboriginal and Torres Strait Islander people.

25. The Government also recognized that there were challenges in relation to the treatment of persons with mental impairment in the health and criminal justice context. Those were ongoing areas of review and reform. During the 1990s, most jurisdictions had amended laws that allowed for the indefinite detention of people found unfit to plead. While some jurisdictions continued to have indefinite detention, it was subject to safeguards, such as requirements that the term must be appropriate for the offence involved, that oversight and periodic review was provided by an independent body and that there was a complaints process.

26. **Mr. McGlynn** (Australia) said that in March 2015 Australia had endorsed the Sendai Framework for Disaster Risk Reduction 2015–2030. The Government was working closely with stakeholders on implementing and reporting on the Framework. In order to determine how best to work with persons with disability to support their preparedness for natural disasters, national emergency management officials had organized a national forum for people with disabilities most at risk in emergencies in August 2019 with a view to arriving at a clearer understanding of the needs of such persons in a disaster situation. Disability-inclusive natural disaster risk reduction was also being considered in implementing the National Disaster Risk Reduction Framework, which had been released in April 2019. The Framework was aligned with the Sendai Framework and the 2030 Agenda for Sustainable Development.

27. The national visa system required that all non-citizens coming to Australia must obtain a visa permitting travel to and entry and/or stay in the country. By law, those who did not have a visa were to be detained, although such detention was an administrative, not a punitive, mechanism. One approach to detention was community detention whereby unlawful non-citizens were free to move about the community, subject to certain conditions. As of June 2019, 155 individuals in community detention had been identified as having a disability. As unlawful non-citizens, such individuals did not have the right to work, nor could they access government welfare payments or health insurance schemes, including the National Disability Insurance Scheme. However, the Status Resolution Support Services programme delivered support to such individuals, including specialized counselling, health care, housing and individual support. In order to receive support under the National Disability Insurance Scheme, a person with a disability must be an Australian citizen, permanent resident or holder of a protected category of visa, such as a refugee or humanitarian visa. Access to disability support pensions and other welfare benefits for migrants and non-citizens was time-limited and most payments entailed a four-year waiting period for newly arrived residents.

28. **Ms. Rishniw** said that the Government was working to close the gap in life expectancy between indigenous and non-indigenous Australians, including through funding for mental health and social support. The Prime Minister had appointed a special advisor for suicide prevention to review and provide advice on what more could be done to prevent suicide. In particular, the Government was committed to ensuring that appropriate mental health and suicide prevention services were available and accessible for Aboriginal and Torres Strait Islander people, whose suicide rates were double the national average.

29. The Continuity of Support Programme provided individualized support for people over 65 who had been receiving disability services and supports at the time of the introduction of the National Disability Insurance Scheme, but were ineligible under that Scheme. The Programme ensured that approximately 8,500 older people with disabilities continued to receive disability services.

*Articles 21–33*

30. **Mr. Chaker** said that he wished to have more information on the implementation of the National Disability Employment Framework, the nature of the changes made to disability employment services that sought to address the structural barriers faced by women with disabilities and the work done with those women and organizations representing them to implement such changes. He also wished to know whether the State party planned to implement the recommendations arising from the Willing to Work inquiry, including the recommendation to expand the role of the Workplace Gender Equality Agency.

31. **Ms. Fefoame** said that the Committee had been informed that parents with disabilities were up to ten times more likely than other parents to have their children removed from their care. She wondered what measures the Government was taking to implement the recommendations of the Australian Human Rights Commission in that regard and to provide comprehensive gender- and culture-specific support to enable parents with disabilities to care for children with disabilities in their own homes. In addition, she would like to know what steps were being taken to ensure equal access to assisted reproductive technology for women with disabilities.

32. She would be interested to learn more about what efforts were being made to train and register more behavioural clinicians so that persons with disabilities, particularly those with autism, could be properly assessed and provided with effective support and rehabilitation services. Given the prevalence of poverty among persons with disabilities, she wondered what the Government was doing to promote the transition from segregated employment to mainstream employment so that such persons had genuine opportunities for well-paid work. She would like up-to-date information on laws enacted and policies implemented to ensure that persons with disabilities, particularly those with intellectual and psychosocial disabilities, were able to vote and to do so by secret ballot. She was also keen to know what the State party had done to accelerate the equal participation of women with disabilities in political and public life, in line with the concluding observations issued by the Committee on the Elimination of Discrimination against Women in 2018 ([CEDAW/C/AUS/CO/8](#)).

33. Lastly, she would like to know what efforts the State party was making to collect and disaggregate statistics on the full range of obligations provided for in the Convention. Information on efforts to ensure that data was collected on women and children with disabilities would be particularly welcome.

34. **Mr. Rebrov** said that he wished to know whether the State party intended to officially recognize Australian Sign Language in its legislation. In addition, while the roll-out of the National Disability Insurance Scheme was a positive step, he noted that it did not cover persons who were recognized as having disabilities after the age of 65 years and wondered how the Government planned to provide such persons with the benefits and services that they needed.

35. **Mr. Schefer** said that he wondered why, in the six years since the Committee had issued its concluding observations on the State party's initial report ([CRPD/C/AUS/CO/1](#)),

the Government had done nothing more than draft a set of non-binding principles on the fitness of persons with disabilities to plead in court proceedings. He urged it to do more.

36. **Mr. Basharu** said that he would like to know what steps were being taken to abolish the health requirement under migration law, which unduly discriminated against visa applicants with disabilities. Equating disability with disease was unacceptable. He would appreciate an update on the progress made towards reforming laws and policies on education, including the Disability Discrimination Act 1992, to uphold the right to inclusive education and ensure the progressive implementation of article 24 of the Convention, with due regard for the Committee's general comment No. 4 (2016). Specific measures should be taken to transform customs and attitudes in the education system, ensure adequate teacher training on the inclusion of students with disabilities and end the restraint and seclusion of students with disabilities in schools.

37. **Mr. Chaker**, noting that many persons with disabilities and their families received support from faith-based organizations, asked how the State party planned to ensure that the religious freedom bill, once enacted, did not create conditions that might lead to discrimination against lesbian, gay, bisexual, transgender and intersex persons with disabilities.

38. **Ms. Kim**, noting that, according to reports received by the Committee, around 70 intersex children were forcibly sterilized each year in Australia, asked whether the State party intended to prevent such harmful interventions.

39. **Mr. Schefer** said that he would like to know whether the State party planned to prioritize students with disabilities and promote inclusive education within the framework of the Melbourne Declaration on Educational Goals for Young Australians or any other such policy statement. He also wondered whether the Government intended to revise its position on inclusive education. Segregated education of children with disabilities, even if it was at the request of their parents, was decidedly at odds with the Convention.

40. According to the Office of the United Nations High Commissioner for Refugees, asylum seekers who arrived in Australia without visas were subjected to a number of punitive measures that could significantly impair their mental health and general well-being. If that was the case for asylum seekers in general, he dared not imagine how much worse the situation was for asylum seekers with disabilities. He would appreciate the delegation's full and frank appraisal of the situation, rather than a mere overview of asylum procedures.

41. **Mr. Martin** (Country Rapporteur) said that he would like to know whether the State party provided information on important matters, such as legislative and policy changes, in a range of accessible formats, such as Easy Read, for persons with intellectual disabilities. Further, he would like to know how the Government ensured the right to privacy of persons with disabilities in institutions, including group homes. He also wondered what was being done to improve health outcomes for persons with intellectual disabilities, especially those who lived in institutions, and whether health care and information about health care was available, affordable and accessible. He was curious as to whether health-care professionals were trained to communicate with and care for persons with intellectual disabilities. He would welcome information on social housing for persons with disabilities, including on its accessibility and proximity to amenities.

42. In view of reports that persons with disabilities in Australia did not enjoy the same standard of living as other people, he wished to know what plans the Government had to ensure an equal standard of living for all citizens. With respect to participation in political life, he wondered whether voting material was available in accessible formats, such as Braille, sign language and Easy Read, and what was being done to ensure that persons with intellectual disabilities were aware of their right to vote. Finally, he would be interested to hear whether the Government funded organizations of Aboriginal persons with disabilities to help raise awareness of their rights and the services available to them.

43. **The Chair** said that he would like to know what measures were taken to collect disaggregated data on mental health, in particular on forced detention on the grounds of disability, psychiatric treatment without consent and deaths among persons with disabilities



undergoing psychiatric treatments and procedures. Based on the delegation's comments so far, it was his impression that Australia continued to apply a medical model of disability; he wished to know whether the Government planned to adopt the human rights model of disability.

*The meeting was suspended at 11.45 a.m. and resumed at 12 p.m.*

44. **Ms. Phillips** (Australia) said that it was the Government's view that States parties could meet their obligations under article 24 of the Convention through a range of educational modalities, including supported settings in mainstream schools, special schools with transition pathways to mainstream schools and specialized schools. The Government believed that parents were best placed to choose the most appropriate educational setting for their children and noted that article 13 of the International Covenant on Economic, Social, and Cultural Rights provided for the liberty of parents and guardians to choose schools for their children, so long as educational institutions met certain minimum standards and educational objectives. It had budgeted \$A 28.75 billion over the coming ten years to support students with disabilities and ensure an inclusive learning environment for all students. Funding was based on the level of support required by students rather than on the type of school that they attended. In 2018, more than 750,000 students with disabilities in Australia had received support to allow them access to education on the same basis as other students, primarily in mainstream schools.

45. The Melbourne Declaration was currently the subject of an extensive review and public consultation. Inclusive education and support for students with disabilities had been among the various issues raised. The revised declaration was due to be discussed by ministers in December.

46. Teacher training included modules on support for students with disabilities. As part of the Nationally Consistent Collection of Data on School Students with Disability initiative, a web-based portal provided free information and professional learning resources for teachers in that regard. Policies and procedures to address student behaviour varied greatly between states and territories; however, restrictive practices were used only where absolutely necessary.

47. Removing a child from a parent's care was considered a measure of last resort in Australia. The Government was intensifying its efforts to support families, especially the most vulnerable, including through efforts to enhance parenting skills. It had allocated an annual budget of \$A 260 million to the Families and Children Activity programme, which funded community organizations to enable them to deliver parenting and early childhood intervention programmes throughout the country. To be eligible for funding, programmes must be inclusive and accessible to parents and carers with disabilities. Other government-backed initiatives, including a website and a free national helpline, provided information and support to parents with disabilities. The National Disability Insurance Scheme funded a range of training programmes for children, parents and carers with disabilities. State and territory governments had also implemented projects to support parents with disabilities, including those with intellectual disabilities.

48. **Mr. McGlynn** (Australia) said that the Government considered it appropriate to impose a health requirement on non-nationals seeking to enter or remain in Australia, based on legitimate, objective and reasonable criteria. Applicants with disabilities were assessed in the same way as applicants with any other significant disease or condition. Disability in itself was not, however, a reason for systematically refusing visas. The health requirement was intended to protect the Australian community from threats to public health, in particular active tuberculosis, and to contain public spending on health and community services. To meet the health requirements, applicants must be free from any disease or condition that was likely to entail significant health-care and community service costs for the Australian community and therefore limit the access of Australian citizens and permanent residents to such services.

49. **Ms. Towler** (Australia) said that all states and territories had medical training curricula aimed at equipping medical professionals to meet the needs of people with disabilities. To give an example, Victoria had developed an e-learning module to help allied health professionals maximize client independence and outcomes. Under its "Keeping Our

Sector Strong” workforce plan for the National Disability Insurance Scheme, the government was developing an allied health workforce capability framework to provide training to disability workers.

50. **Ms. Rishniw** (Australia) said that Australia had a strong universal health system that sought to ensure that persons with disabilities enjoyed the right to the highest attainable standard of health. It was unlawful to discriminate against someone on the basis of disability in public health services. The Government took a range of steps to ensure that people with a disability had access to medical services, for example through the provision of sign language interpretation. Public health information was provided in a range of formats in order to meet the needs of the whole population. The Government had conducted a meeting with a broad range of stakeholders on the health of people with intellectual disabilities in August 2019, which had resulted in the development of a national road map for improving the health of, and providing better health care for, people with intellectual disabilities.

51. With regard to disability services and support for people over the age of 65, particularly those with hearing impairments, in 2017 Hearing Australia had provided over 60,000 services to 25,000 adults with specialized hearing needs. It also provided a home visiting service for people who were unable to travel to a hearing centre and made available interpreters, including in Aboriginal languages and sign language.

52. The Government was committed to providing people with disabilities the same health care as was provided to all Australians, including sexual and reproductive health services. Sexual and reproductive health care in Australian was offered by a number of agencies. In particular, the Department of Health funded several organizations that provided education and advice to women about fertility management, menstruation, reproduction and other matters.

53. The Government had recently appointed a National Data Commissioner, who reported to the Department of the Prime Minister and Cabinet. Data collection was a key part of the Government’s National Disability Strategy. In that connection, she wished to draw attention to the recently released report of the Australian Institute of Health and Welfare “People with Disability In Australia”, which brought together data from a number of sources to contribute to greater understanding of disability.

54. **Mr. Minihan** (Australia) said that the Government had established a task force in November 2018 to improve employment outcomes for participants in the National Disability Insurance Scheme. The task force objectives included ensuring that the participants were connected to the support they needed to seek and maintain employment in a setting of their choice. The task force was drawing on findings and recommendations of several consultations, including the Willing to Work inquiry conducted in 2015 by the Australian Human Rights Commission.

55. In relation to voting, in general the Government was committed to ensuring the meaningful participation of people with disabilities in decision-making processes at all levels. The Australian Electoral Commission had developed easy English and video guides to facilitate voter enrolment and voting in federal elections. During elections, information was available in large print, Braille and other formats.

56. **Mr. Walter** (Australia) said that the proposed law on religious discrimination had recently been released for public comment. The aim of the legislation was to protect people from discrimination on the basis of religious belief. The Sex Discrimination Act provided protection against discrimination on the basis of a range of attributes, including sexual orientation, gender identity and intersex status.

57. Australia did not have official languages. However, the importance of Australian Sign Language, known as Auslan, was recognized. There were a range of programmes that supported the use of Auslan, particularly in education. The Disability Discrimination Act required all Australian government agencies to ensure that information and services were provided in a non-discriminatory and accessible manner. All agencies had to comply with Digital Transformation Agency’s Digital Service Standard, which required that all government services must be accessible to all Australians, including people with disability

and older people. The Government also had a range of policies and practices in place to encourage clear communication, the aim being to ensure that communications were written at the level that a reader between the ages of 12 to 14 would normally be expected to understand.

58. **Ms. Foreman** (Australia) said that the Government was committed to ensuring an adequate standard of living for all Australians, including those with disabilities. To that end, it made direct payments to individuals, including pensions for people who for various reasons, including disability, were unable to support themselves through work, allowances for people who were unemployed or studying and family payments for people with dependent children. In addition to direct payments to individuals, the Government had formed partnerships with various stakeholders in providing family and children, disability and housing services.

59. **Ms. Davis** (Australia) said that the Australian Government funded independent disability advocacy agencies under the National Disability Advocacy Programme. The Government supported the First Peoples Disability Network Australia to ensure that indigenous Australians had a say on issues affecting people with disabilities, their families and carers. The Network had developed a 10-point plan to support the implementation of the National Disability Insurance Scheme in Aboriginal and Torres Strait Islander communities. It had also collaborated with the organization Positive Partnerships to extend culturally appropriate support to school-aged children with autism in those communities. The Government was working with the Aboriginal and Torres Strait Islander Social Justice Commissioner to consult indigenous women and girls across Australia as part of the Wiyi Yani U Thangani Women's Voices project.

60. **Mr. Walter** (Australia) said that there was increasing recognition in national, state and territory law and policy of the needs of intersex people. In 2013, the Sex Discrimination Act 1984 had been amended to introduce protections against discrimination on the basis of intersex status. The Australian government guidelines on the recognition of sex and gender clearly defined intersex as a biological condition and provided an avenue for people who were intersex to establish or change their gender in Australian government records.

61. The Family Court decision in the *Re: Carla (Medical procedure)* case had affirmed that therapeutic medical interventions could take place without a court decision. However, non-therapeutic procedures required a court decision. In the absence of a court decision, performance of a non-therapeutic procedure without consent would constitute a criminal offence.

62. **Mr. Buntan** (Country Rapporteur) said that the Committee was deeply concerned about the lack of legally binding instruments to address several issues, such as accessibility, inclusive education, employment and the voting rights of persons who had been deprived of their legal capacity. It was also concerned that the State party had not clearly demonstrated a long-term commitment to disability-inclusive development through its international assistance programmes and that there was no formal mechanism to ensure continued support for the full participation of persons with disabilities in monitoring policy and legal frameworks.

63. **Mr. Walter** (Australia) said that he wished to thank the Committee for its very thoughtful questions and the Country Rapporteurs for the particular interest that they had taken in Australia. His delegation was also grateful to civil society, the Australian Human Rights Commission and the Disability Discrimination Commissioner for their contributions.

64. **Mr. Gauntlett** (Australian Human Rights Commission) said that the Government should be required to report back to the Committee as a matter of priority on the issues he had raised during the Committee's previous meeting relating to articles 12, 14, 17, 31, and 33 of the Convention. The Australian Government had stated that almost A\$ 50 billion was spent annually on matters related to disability. The National Disability Strategy itself, however, had no guaranteed money associated with it. It was difficult to properly assess the extent to which the Convention had been complied with, particularly given the unknown number of people in indefinite detention, the continued application of a medical model of

migration, low rates of employment for people with disability and increasing segregation in education. The Government should provide data on the number of people indefinitely detained in Australia, disaggregated by form of disability, sex, age and jurisdiction. It should also report on the progress made on improving the National Disability Strategy, including with respect to dedicated resourcing, measurable goals and robust monitoring, governance and accountability requirements.

65. **Mr. Martin** said that he wished to commend the Government for including people with intellectual disabilities in the constructive dialogue with the Committee. Not enough countries did so. Although the Committee applauded Australia for the positive steps it had taken, it remained concerned about a number of issues, including the use of language that was not in line with the human rights model of disability; the lack of formal involvement of disabled persons' organizations in decision-making; the continued application of interpretive declarations on articles 12, 17 and 18; the exclusion of persons with disabilities from court procedures and their indefinite detention; the lack of rights, discriminatory practices and poor life outcomes for Aboriginal and Torres Strait Islander persons with disabilities; the fact that persons with disabilities were living in institutions because of the lack of accessible, safe and affordable housing; and the absence of a national employment plan for persons with disabilities.

*The meeting rose at 12.55 p.m.*