



Convention on the Rights of the Child

Distr.: General
16 September 2019

Original: English

Committee on the Rights of the Child Eighty-second session

Summary record of the 2403rd meeting

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

Chair: Mr. Pedernera Reyna

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

Consideration of reports of States parties (continued)

Combined fifth and sixth periodic reports of Australia (continued) (CRC/C/AUS/5-6; CRC/C/AUS/Q/5-6 and CRC/C/AUS/Q/5-6/Add.1)

1. *At the invitation of the Chair, the delegation of Australia took places at the Committee table.*
2. **The Chair** invited the delegation of Australia to continue replying to the questions that had been put by Committee members at the previous meeting.
3. **Mr. Walter** (Australia) said that the federal, state and territory governments were required to produce a budget statement each year, which included details of expenditure on children's services. A large proportion of government expenditure was allocated to programmes that affected children, such as health and education, and details of additional expenditure were presented to Parliament in budget statements made by specific departments. Policies that affected children were monitored, and any concerns were investigated and addressed. A lack of coordination between governments in the Northern Territory on children's services, for example, was currently under investigation. Each state and territory had a different approach to budget-setting. In the case of Western Australia, a performance management framework was used to monitor whether government services had achieved the intended outcomes.
4. The police force in Victoria had introduced a policy of zero tolerance for racial profiling. The Independent Broad-based Anti-corruption Commission was notified of all cases of police misconduct, including racial profiling. A case in which a person of Middle Eastern appearance had allegedly been the subject of racial profiling in May 2019 had been referred to the Commission and was under investigation. In addition, anti-discrimination legislation was in place at the federal, state and territory levels.
5. **Ms. Towler** (Australia) said that her delegation had been unable to confirm whether her country had the highest rates of Attention Deficit Hyperactivity Disorder (ADHD) in the world. The Australian ADHD Professionals Association received funding from the Department of Health to formalize best practice in diagnosis and treatment, and to identify research and public policy priorities. Approximately 280,000 19-year-olds were affected by ADHD; the prevalence of the disorder in children was estimated at 4 per cent and it was more common in boys. Diagnoses were made by paediatricians, psychiatrists or psychologists based on the clinical criteria set out in the Diagnostic and Statistical Manual of Mental Disorders or the International Classification of Diseases. Parents were encouraged to manage symptoms using positive parenting strategies or counselling. In the event that the positive parenting approach was unsuccessful, treatment involved the use of first-line medicines for ADHD, namely psychostimulants, for which there was evidence of both short-term and long-term benefits. Those medicines were regulated and prescribed – albeit to no more than 2 per cent of children – by paediatricians, child psychiatrists or neurologists, and in some cases family doctors. In 2017, approximately 107,000 children aged under 18 had received ADHD medication through the Pharmaceutical Benefits Scheme.
6. Although persons with ADHD were at increased risk of suicide, studies had not revealed a clear causal link between the medication and suicide. In fact, suicide attempts typically increased prior to and immediately after the commencement of treatment, after which they dropped to the baseline level. The issue was closely monitored, but it was considered that the benefits of the medicines outweighed the risks.
7. The rate of childhood obesity had increased in the past 20 years. Her Government had provided funding for the National Health and Medical Research Council to update medical guidelines on the management of overweight and obesity in children, adolescents and adults, and to promote healthy lifestyles. A number of initiatives promoted healthy eating, exercise and personal care for children and teenagers, a health rating system had been introduced for food, grants were available to schools to hold sports activities, guidelines on healthy eating had been produced for school cafeterias, and resources were

available for implementation of the healthy eating and physical activity guidelines in early learning settings.

8. Since the rate of childhood obesity was higher among Indigenous Australians, special measures had been introduced to tackle childhood obesity among Aboriginal and Torres Strait Islander children. The Medical Outreach Indigenous Chronic Disease Programme, for example, gave rural and remote communities access to nutritionists, diabetes educators and healthy weight programmes, at the same time offering support to new parents, organizing cookery classes for young people and encouraging the planting of vegetable gardens at schools. Health workers received training on the promotion of good nutrition and the prevention of chronic disease, and over 30 million Australian dollars (\$A) had been allocated to increasing Aboriginal and Torres Strait Islander peoples' participation in physical activities and boosting their emotional resilience.

9. **Ms. Rishniw** (Australia) said that her Government was working with clinicians, teachers and early childhood educators to help them identify the early signs of mental distress and suicidal ideation. Funding in the amount of \$A 18 million had been provided for clinical services to identify, support and refer children at risk of suicide, while \$A 52 million had been provided for mental health programmes in early childhood services and primary and secondary schools. The "Be You" initiative was intended to build mentally healthy learning communities and help teachers to identify at-risk children, provide mental health first aid and support positive mental health in young people. The initiative's website enjoyed significant traffic and over 46,000 professional learning modules had been completed online under the programme. The Centre of Best Practice in Aboriginal and Torres Strait Islander Suicide Prevention worked with employers and schools to help children return to work or school following a first episode of mental ill health. It trained community volunteers to identify and work with at-risk children in their communities. Funding of \$A 24 million over two years had been provided to develop resilience in rural and regional communities, particularly in areas that experienced drought.

10. A young ambassadors programme allowed young people to share their experiences with mental health with other young people in group and school settings, and to provide mental health resources and referrals to relevant services. At the Youth Health Forum young people could discuss mental health services, while the Headspace Youth National Reference Group worked with young people to improve services for 12 to 25-year-olds. Online outreach enabled young people in regional and remote areas to access mental health services, and the number of Headspace mental health centres had been increased.

11. Indigenous Australians suffered from a disparity in access to medical services, which was addressed in part by providing telehealth services to regional, remote and rural communities. A national action plan had been announced to improve the health of children and young people in 2020–2030, with a particular focus on access to health services for Aboriginal and Torres Strait Islander children, children with disabilities, children living in poverty and other vulnerable groups of children. In addition to standard universal health coverage, there were more than 140 Aboriginal Community Controlled Health Organizations that provided culturally appropriate, holistic primary care to Indigenous Australians, and outreach health services worked in schools. A trauma assessment and recovery outreach team was being piloted in four Aboriginal communities, with the aim of breaking the cycle of trauma and providing child-centred care.

12. Although the Indigenous infant mortality rate had halved in the past 20 years, there had also been substantial reductions in non-Indigenous infant mortality, which meant that there was still some way to go to reach the Closing the Gap target. A new target was under discussion and would include a focus on achieving healthy birthweights for over 90 per cent of Aboriginal and Torres Strait Islander babies by 2028. The Government funded a range of services that targeted Aboriginal and Torres Strait Islander women and girls and was working with the Aboriginal Community Controlled Health Organizations to safeguard maternal and child health. The New Directions: Mothers and Babies Services programme provided antenatal care and advice on baby care and development to Indigenous women, and ensured that children received medical examinations prior to starting school. The programme was delivered in 136 locations, and the number of women seeking antenatal care in the first trimester had increased, rates of anaemia in children had gone down and

rates of smoking in pregnant women had fallen. A nurse-led home visiting programme supported Aboriginal and Torres Strait Islander women in 13 locations during pregnancy and up to the baby's second birthday. Increasing numbers of women were engaging with the intensive maternal and early childhood services now provided in many states and territories.

13. **Ms. Davis** (Australia) said that her Government was on track to achieve the target set under the Closing the Gap framework, of 95 per cent of Indigenous Australian 4-year-olds attending early childhood education by 2025, and the target of halving the Year 12 attainment gap between Indigenous and non-Indigenous students by 2020. The target for Indigenous school attendance, however, had not been met and there had been no improvement in the period 2014–2018. In March 2019, the Council of Australian Governments had agreed a 10-year partnership with Indigenous Australians to tackle inequalities in the life outcomes of Indigenous Peoples. A joint council had been set up, bringing together ministers from all jurisdictions, Aboriginal and Torres Strait Islander organizations (Coalition of Peaks), and the Australian Local Government Association, to review the Closing the Gap targets.

14. Young people could make their voices heard through a number of mechanisms, including the United Nations Youth Delegate Programme. The Youth Delegate toured the country listening to young people and prominent members of the community, and then attended the United Nations as part of the Australian delegation. At the state and territory levels, opportunities for young people to express their views on government policy, programmes and services in areas that affected them were provided through both online and face-to-face mechanisms, including youth parliaments and youth advisory councils. The youth advisory council in the Australian Capital Territory, for example, comprised young people aged between 12 and 25 and reflected the diversity of young people who lived there.

15. The first female Aboriginal and Torres Strait Islander Social Justice Commissioner had been appointed for a five-year term in 2017. Her role was to advocate for the best possible education for Indigenous Australian children, and she had experience of working in community education and combining traditional and Western ways. A report on her 2018 project on strengths, challenges and aspirations for change among Aboriginal and Torres Strait Islander women and girls in every state and territory would be transmitted to the Government in 2020.

16. Indigenous languages were essential to the well-being, culture and identity of Aboriginal and Torres Strait Islander children. The school curriculum included the Framework for Aboriginal Languages and Torres Strait Islander Languages, which supported language teaching and allowed curricula to be developed at the local level for all Aboriginal and Torres Strait Islander languages in active use or undergoing revitalization. Resources were being developed to support Indigenous language teaching and train Indigenous language teachers. The Year 10 curriculum covered Indigenous history and culture, but curriculum implementation – and therefore the provision of Indigenous language education – was a matter for education authorities.

17. **Ms. Phillips** (Australia) said that approximately 15 per cent of all Indigenous students lived in remote areas. School funding by the Australian Government to ensure access to quality education was weighted to take into account factors such as remoteness, school size and number of Indigenous students. Across Australia, recurrent public expenditure on school education in nominal terms had increased by more than 20 per cent between 2012 and 2017. In the next 10 years, approximately 26 per cent of all recurrent funding by the Government would be assigned to supporting vulnerable and disadvantaged students through the weighting system.

18. Australian teachers were required to demonstrate that they had sufficient cultural awareness, and effective strategies, to teach Aboriginal and Torres Strait Islander students, in the interests of promoting reconciliation between Indigenous and non-Indigenous Australians.

19. **Ms. Foreman** (Australia) said that the Australian Bureau of Statistics collected data on children aged 14 to 18 with disabilities in the same way as for children aged 0 to 14. The data were published online and were disaggregated by age group. In 2015 there had been

approximately 421,000 children aged 0 to 18 with disabilities in Australia, around half of them with a severe or profound disability.

20. Adoption legislation in all states and territories provided that the views of children regardless of age must be considered in the decision-making process.

21. While state and territory governments had the main responsibility for tackling homelessness, the federal Government played an important role through the National Housing and Homelessness Agreement, under which states and territories were granted funds if their housing and homelessness strategies satisfied certain conditions, such as implementing reforms and initiatives to help reduce homelessness. A number of specialist services for young people, focusing for example on early intervention and family reconciliation, were run by the federal Government and state and territory governments and used by an increasing number of children aged 17 and under.

22. In 2018 the Productivity Commission had conducted a review of the National Disability Agreement in which civil society organizations had participated. In its 2019 report, the Commission had submitted a number of proposals to improve the Agreement, and they were being considered by the Government. Every two years a review of the National Disability Strategy was submitted to the Council of Australian Governments, outlining progress made and improvements required, on the basis of surveys of persons with disabilities. The 2018 review had been carried out by the Social Policy Research Centre, with extensive consultations with persons with disabilities, their families or carers, employers and industry representatives.

23. The issue of domestic violence disproportionately affected Aboriginal and Torres Strait Islander women and children, who were therefore a priority group under the Fourth Action Plan 2019–2022 of the National Plan to Reduce Violence. The increase in the number of children – particularly Aboriginal and Torres Strait Islander children – in child protection systems was a result of a number of factors, including an increase in consistency of decision-making when considering removal of children from their families. Removal was a last resort, however, to be used for example if the child was at risk of harm; it was preferable to use the federal or state government family support services. For Aboriginal and Torres Strait Islander children, placements were made in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle and every effort was made to reunite the children with their families when possible. Training to improve the implementation of the Placement Principle was run by National Voice for our Children (SNAICC).

24. In cases where children had a parent with a disability, the disability in itself was not considered by the child protection system to be a risk factor. To address cases where a parent's disability limited his or her ability to care for the child, all governments provided training to carers to ensure that children remained safe within the family.

25. The Don Dale Detention Centre was to be shut down in the next few years, and there were plans to build a new youth detention centre in the Northern Territory. The federal and Northern Territory governments had taken significant steps in response to the recommendations of the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory. The use of restraint chairs had been banned by law; community justice offices had been created to support young people through community-based work and keep them out of detention; young people's physical and mental health was now required to be taken into account in decisions on custody; and draft legislation had been introduced on youth diversion programmes, aiming to ensure that detention was a last resort.

26. Another important outcome of the Royal Commission and Board of Inquiry was the establishment of the Children and Families Tripartite Forum in the Northern Territory, comprising representatives from the Northern Territory government, the Australian Government and Aboriginal-controlled community organizations. The Forum's main focus was on early intervention to prevent Aboriginal children entering the criminal justice system.

27. **Ms. Zakharoff** (Australia) said that from 1 January 2018 to 31 January 2019, some 130 minors had been transferred from Nauru to Australia for medical treatment or as accompanying family members. The three children who had remained on the island after that date had been transferred in February 2019 to the United States of America. There were now no children subject to regional processing arrangements in Nauru or Papua New Guinea. The Government had agreed to assist the governments of Nauru and Papua New Guinea in resettling unauthorized maritime arrivals requiring international protection. As at 21 August 2016, around 620 people, including 36 minors, had been resettled in the United States. Although the United States resettlement arrangement continued, Australia also continued to explore further third-country resettlement opportunities for refugees under regional processing arrangements.

28. Of the children transferred to Australia from Nauru, those who remained in the country were living in the community, pending determination of their residency status. They had access to health and welfare services through community general practitioners, provided under contract by International Health and Medical Services (IHMS). Those services were comparable to those provided under the Australian public health system. Community general practitioners provided primary and mental health care, specialist care was provided through IHMS and acute care was provided by hospitals. The Department of Home Affairs helped parents arrange primary and secondary education for children aged up to 17.

29. Under the Immigration (Guardianship of Children) Act 1946, the Minister for Home Affairs was the legal guardian of unaccompanied minors, with the same rights, duties and liabilities as the natural guardian of the child. The best interests of the child were the primary consideration in all welfare, care and support services provided to such minors, who might also be entitled to services under the Unaccompanied Humanitarian Minors Programme. On the question of the perceived conflict of interest, she said that the Minister had the duty to act in the child's best interests notwithstanding any statutory obligations under the Migration Act, and would also facilitate access to independent advice and assistance for non-citizen children. The Australian Government was not planning to establish an independent guardianship entity for unaccompanied migrant children.

30. The Export Finance and Insurance Corporation, which was now known as Export Finance Australia, had decided to incorporate a child protection clause into its code of conduct, requiring its own and its business partners' staff to report any suspected or alleged cases of child exploitation or abuse.

31. **Mr. Walter** (Australia) said that, even if the Council of Attorneys-General decided to raise the age of criminal responsibility, each state and territory, and the federal Government, would still need to pass specific legislation applying in their jurisdictions. Support programmes would be required for children who were below the age of criminal responsibility but nevertheless in the criminal justice system.

32. Though the age of majority in Australia was 18, the High Court of Australia had recognized that minors were capable of giving informed consent to medical procedures when they had sufficient understanding and intelligence to fully understand what was proposed. In doing so it had followed a ruling made by the House of Lords in 1986, in the case of *Gillick v. West Norfolk and Wisbech Area Health Authority*. Each child was considered on a case-by-case basis and, if found to have "Gillick competence", was deemed able to give consent. If a child did not have Gillick competence, owing to young age or a severe mental disability, parents or guardians could give their valid consent, on behalf of the child, to therapeutic medical procedures or treatment. In adopting the Gillick competence approach, the High Court had made it very clear that simply having a disability, including a cognitive disability, did not mean that a child could not be competent. In cases where a court did intervene, the best interests of the child prevailed and the child's views were taken into account.

33. With regard to intersex children and sterilization, the Family Court had accepted that parents had the authority to authorize surgery that would have the effect of rendering a child infertile, where the treatment was considered to be therapeutic.

34. There were no plans to introduce national legislation on corporal punishment.

35. In 2017–2018 there had been around 5,500 young people, 81 per cent of them male, under youth justice supervision on an average day; 83 per cent of them had been supervised in the community. Around 10,630 young people had been supervised at some time during that year. Over the five-year period up to 2017–2018, the number of young people aged 10 to 17 under supervision on an average day had fallen by 9 per cent, with the rate dropping from 24 to 21 per 10,000. Young people from remote areas and from lower socioeconomic strata were more likely to be under supervision. While only 5 per cent of young people aged 10 to 17 in Australia were Indigenous, they had accounted for almost half of all young people under supervision on an average day in 2017–2018. They tended to enter youth justice supervision at a younger age than non-Indigenous young people.

36. The issue of diversion was taken very seriously; it was better to keep young people out of the youth justice system wherever possible. All states and territories, supported by the federal Government, implemented diversion programmes and strategies based on principles of early intervention and prevention. While all jurisdictions had children's courts, some also had specialized courts to deal with Aboriginal young people or young people with drug-related or mental health problems.

37. Outlining the youth diversion programmes in place in various territories, he said that studies had shown that if offenders could be kept out of the justice system for two years, the chances of recidivism decreased.

38. On the question of remand, he said that in 2017–2018 around 60 per cent of the young people in detention had been awaiting sentence or some other outcome to their case. Youth justice supervision could apply to both sentenced and unsentenced offenders and could be carried out either in the community or in detention; around 80 per cent of supervision was community-based and could take various forms, such as curfew, home detention bail or supervision by an appropriate guardian. Even though alternatives to detention were limited in some remote areas, detention was considered a last resort. Several reforms had been introduced to reduce the number of young people in short-term or avoidable remand. Courts in some states had other options, including fast-track processing or a system of intensive bail for young people requiring a high level of monitoring while on bail in the community; intensive bail required more frequent reporting to the Department of Justice or the police, and compliance with training and work requirements.

39. **Ms. Khazova** (Country Task Force) said that she would like to know whether parents were consulted before psychostimulants were prescribed for children with ADHD and whether they were aware of the significant negative side effects. She wished to know the concrete results of the Government's investments to improve access to health care. For example, how long would parents or caregivers have to travel to get a sick child to health-care facilities in a remote area? She wondered how adopted Indigenous children were helped to maintain their links with their community, culture and language of origin.

40. **Mr. Lumina** (Country Task Force) said that he would like to know whether the Government conducted benefit-incidence analyses to ensure non-discrimination in the distribution of budgetary allocations. He asked whether children had the opportunity to participate in budgeting processes at all levels.

41. It was well known that projects funded through export credits had an impact on human rights. He wondered how Export Finance Australia would be held accountable for the impact of its projects in the region, particularly those in the extractive industries.

42. He asked why the Government appeared to be reluctant to enact national legislation that explicitly prohibited medical interventions on intersex children. The delegating of responsibility to the states for considering the recommendations of the Australian Senate Committee on the forced sterilization of intersex persons did not relieve the Government of its own obligation to respond to those recommendations.

43. **Ms. Aho Assouma** said that she would appreciate more information on the prevalence of HIV/AIDS resulting from rape, programmes relating to mother-to-child HIV transmission, approaches to early and unwanted pregnancy and child poverty-reduction programmes.

44. **Mr. Rodríguez Reyes** said that, given the lack of data on the main indicators relating to breastfeeding, he wondered whether data was collected systematically and whether the Government envisaged incorporating into national law the International Code of Marketing of Breast-milk Substitutes and the International Labour Organization (ILO) Maternity Protection Convention, 2000 (No. 183).

45. **Ms. Ayoubi Idrissi** asked whether the budget allocated to the Australian Security Intelligence Organization was sufficient to enable it to carry out its functions. In the light of reports showing that children from poor Indigenous communities were over ten times more likely than other children to be removed from their families, she asked whether poverty constituted a risk factor justifying removing children from their homes. She wondered whether it was true that Australian immigration law provided for detention of all migrants in an irregular situation, including children. Could the delegation provide an example of a case where a trade agreement had not been signed because it contained no safeguards protecting human and children's rights?

46. **Mr. Nelson** (Coordinator, Country Task Force) said that he would appreciate statistics on diversion measures in other states and territories. He wondered whether pretrial supervision of children was subject to periodic review. He would like information on the implementation of the recommendations of the Royal Commission into the Protection and Detention of Children in the Northern Territory and on legislative efforts to explicitly prohibit the use of isolation in detention centres. He asked whether an inquiry had been carried out into the reasons for the evacuation of migrant children from Nauru to Australia for urgent medical treatment, and what measures had been put in place to prevent that situation from recurring.

47. Referring to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, asked the delegation to provide details of the legislative measures taken to define and prohibit child prostitution and child pornography, the efforts made to tackle the sale of children, and the measures taken to combat and prevent the sexual exploitation of children online.

48. With respect to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, information would be appreciated on the measures taken to prohibit the sale of firearms to children and prevent children from accessing firearms, to prohibit the sale of firearms to countries that recruited, or potentially recruited, children to their armed forces, and to uphold the State party's obligations under the Convention on Cluster Munitions.

49. **Ms. Todorova** requested further information on policies on inclusive education for children with disabilities. She wished to know whether there were social policy measures in place for children affected by fetal alcohol syndrome, how the syndrome was diagnosed and whether treatment was affordable for families.

50. **Ms. Skelton** said that she would like to know whether studies had been conducted to determine the reasons for the decrease in the numbers of children in the juvenile justice system. Was the increase in serious offences committed by young people an actual increase or a percentage increase in relation to an overall fall in numbers?

The meeting was suspended at 11.50 a.m. and resumed at 12.05 p.m.

51. **Mr. Walter** (Australia) said that detention of minors was always under the control of the courts; children had access to lawyers and could file complaints, and all states and territories had oversight bodies. A national preventive mechanism was being set up, in accordance with the Optional Protocol to the Convention against Torture, comprising a network of oversight bodies and encompassing places of juvenile detention. Isolation of young people was closely contained in all jurisdictions and was authorized only in situations of absolute necessity.

52. The Law Reform Commission's Pathways to Justice Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples had made recommendations to reduce the rate of detention of Indigenous people, which the Government was considering. The Government focused on addressing the drivers of those high rates, such as poor community safety and alcohol and drug abuse. In 2018–2019, the Government had invested \$A 245

million in actions to divert young people away from the justice system, including providing intensive support for children leaving detention and the reduction of substance abuse.

53. The Government took its obligations under the Paris Agreement on Climate Change seriously and was engaged in discussions on climate change in other forums. Schoolchildren in Australia were coming out of school to attend rallies against climate change and future rallies were planned. While the Government upheld the right to freedom of association and peaceful assembly, it was also committed to promoting school attendance.

54. **Mr. Hayward** (Australia) said that, under the Arms Trade Treaty, where an overriding risk was found that exporting arms could be used to violate human rights law, the export was not authorized. Military export controls were administered through the Department of Defence under the Customs Act 1901, which prohibited the export of military arms without official authorization. Applications to export arms were considered on a case-by-case basis against export control criteria, which included consideration of international obligations. In the event the Government became aware that arms had been diverted for another use, it could, inter alia, revoke the permit or engage with the end-user Government.

55. The Criminal Code Amendment (Cluster Munitions Prohibition) Act 2012 gave effect to the Convention on Cluster Munitions. It ensured that the Government acted consistently with the purpose of that Convention even when working with States that were not obliged to comply with it. The legislation prohibited defence forces from using or requesting use of cluster munitions in a situation where the choice of munitions was within the State's exclusive control. Personnel were not permitted to use cluster munitions themselves even when deployed with the forces of non-States parties, and defence forces were only permitted to retain or transfer munitions for limited purposes, including training, counter-measures and destruction.

56. **Ms. Zakharoff** (Australia) said that, under the National Firearms Agreement between the Commonwealth of Australia and the states and territories, firearms licences could be issued only to persons aged over 18. However, some jurisdictions allowed minors aged between 12 and 18 to apply for a restricted permit authorizing them to use, but not to own, a firearm for specific purposes, subject to the consent and supervision of a responsible adult who held a firearms licence. In Western Australia, a firearms licence or permit could not be issued to a person aged under 18. However, minors could be authorized to use a club firearm when on club premises and under supervision.

57. As part of measures to implement the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, offences, including offences related to child sex tourism, committed against children outside Australian territory by an offender subject to Australian law were penalized.

58. While the Optional Protocol referred to "child pornography", the Australian Government's preferred term was "child abuse material". The Criminal Code Act 1995 established the criminal offences of possessing, controlling, producing, supplying or obtaining child abuse material, and criminalized the grooming or procuring of children online for sexual activity. Certain offences could incur up to 25 years' imprisonment. The offences were considered as such regardless of any transactional element, such as in situations of child prostitution.

59. In March 2018 the Government had established the Australian Centre to Counter Child Exploitation. The Centre brought together key stakeholders and partners in an effort to counter the global epidemic of child sexual exploitation and abuse. It had received \$A 68.6 million of funding to support the investigative role of the police. The Government also recognized the importance of enhancing international cooperation to prevent child sex abuse and exploitation, and took steps to do so in international forums.

60. The new Combating Sexual Exploitation Legislation Amendment Bill of 2019 would introduce the additional offence of possessing child abuse material in the form of data accessed online. The Government was committed to the development of new online

safety legislation to strengthen and modernize Australia's regulatory and legislative response to current and emerging online harms.

61. Individuals who did not hold a visa were defined as unlawful non-citizens and detained under the Migration Act 1958. Whether a person was placed in an immigration detention facility or not was determined in accordance based on risk assessment. As of 9 September 2019, fewer than five children were being held in immigration residential housing or other places of immigration detention, while 285 children were living in the community pending determination of their residency status. Since February 2019, there had consistently been fewer than 10 minors in immigration detention in Australia, and many of those had been detained only briefly. The Government considered the best interests of children whenever there was scope to do so, including when taking action against their parents or guardians. Children were detained only as a last resort and for the shortest practicable time.

62. Australia did not tolerate the exploitation of workers. A robust legislative framework was in place to combat modern slavery, including human trafficking and forced labour. The Government strongly encouraged Australian mining companies to comply with key international human rights initiatives and ethical practices specific to the extractive sector, including the Voluntary Principles on Security and Human Rights and the Kimberley Process Certification Scheme for Rough Diamonds. The Government was an active participant in those mechanisms, while Australian companies themselves played a leadership role as members of the International Council on Mining and Metals and the United Nations Global Compact Network Australia. Under the Modern Slavery Act 2018, Australian mining companies with a minimum annual consolidated revenue of \$A 100 million were required to consider and report on modern slavery risks in their operations, including their supply chains.

63. **Ms. Rishniw** (Australia) said that the prevalence of HIV and AIDS in children and young people in Australia was very low. The high quality of antenatal care had led to the virtual elimination of mother-to-child transmission, with no cases of HIV reported in Australian-born prenatally exposed infants in recent years. Of the 963 HIV notifications received in 2017, 2 had been in children aged between 0 and 14 and 11 in adolescents aged 15 to 19. The Government actively supported the dissemination of prevention messages to young people in order to minimize the occurrence of sexually transmitted infections.

64. The goal of sex education in schools was to enable young people to make responsible, safe choices. The national curriculum provided children in Years 3 to 10 with age-appropriate content on reproduction, sexual health and related practices such as contraception, consent, the prevention of sexually transmitted infections and blood-borne viruses, and celebrating and respecting difference and diversity in individuals and communities.

65. As the land mass of Australia was vast and diverse, no two remote communities were the same. Many of the Aboriginal Community Controlled Health Organisations funded by the Government operated in remote locations and covered extremely large areas. In addition, the Royal Flying Doctor Service of Australia was one of the most comprehensive aeromedical services in the world, providing 24-hour emergency services and primary care across the country, and covering an area of around 7 million km².

66. **Ms. Towler** (Australia) said that physicians were required to provide information on the negative effects of psychostimulant drugs used to treat ADHD and to obtain informed consent from parents or guardians, which entailed assessing an individual's capacity to provide consent as well as supplying the relevant information in a comprehensible format. Physicians were expected to monitor children's responses to the medication administered and, in the event of adverse effects, adjust the dosage or discontinue the treatment. In general, prescription medication in Australia was highly regulated at the national, state and territory levels. Complaints could be made if medication was felt to be inappropriate.

67. Infant feeding guidelines in Australia recommended exclusive breastfeeding up to around 6 months of age, when solid foods could be introduced, and breastfeeding up to 12 months or longer if both the mother and the infant so wished. Around 90 per cent of infants initiated breastfeeding, and one in three received non-human milk or formula before 1

month of age. Between 2017 and 2018, around 61 per cent of children aged up to 3 years and 11 months had been exclusively breastfed to 4 months, while 29 per cent had been exclusively breastfed to 6 months.

68. According to a 2010 survey, rates of breastfeeding in the first month of life were quite similar for Indigenous and non-Indigenous infants, at 59 per cent and 61 per cent respectively. Data on breastfeeding was not always easy to gather, and not all jurisdictions collected data on the proportion of children exclusively breastfed to each month of age. The Government was considering how best to achieve nationally agreed definitions of terms such as “exclusive breastfeeding”, and to develop reporting strategies to improve data collection. A national breastfeeding report card was due to be produced to track the country’s performance with respect to breastfeeding indicators.

69. Australia had a voluntary, industry-led self-regulatory code of conduct for the manufacturers and importers of infant formula, namely the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement. The Agreement gave effect to the principles of the World Health Organization (WHO) International Code of Marketing of Breastmilk Substitutes. In 2017 the Government had commissioned an independent review of the Agreement’s complaints procedure. As a result, responsibility for the oversight and management of complaints had been transferred to the Department of Health.

70. A National Fetal Alcohol Spectrum Disorder (FASD) Strategy 2018–2028 had been adopted, accompanied by funding of \$A 10.5 million up to 2020 and further funding to build on the achievements of the previous action plan. Funding had also been made available to support activities that aligned with the priorities of the national strategy. An Australian FASD Diagnostic Tool had been developed, and guidelines implemented for providing access to diagnostic, education and referral services for high-risk communities. States and territories provided a range of services to children and their families in relation to prenatal alcohol exposure and FASD, many of them free of charge or highly subsidized under the universal health insurance system.

71. **Ms. Foreman** (Australia) said that, although children were not removed from their parents on account of poverty, poverty increased the risk of removal. The Government had responded to that risk with an extensive income support scheme. In 2018, \$A 172 billion had been allocated in welfare payments and allowances to families with children. Each year, around \$A 260 million was allocated to community organizations and other bodies to invest in parenting and early learning initiatives with a view to building parents’ capacity and disrupting the entrenched pathways of disadvantage experienced by vulnerable children and their families.

72. A number of jurisdictions recognized that adoption was not customary in Aboriginal communities. Accordingly, adoption was not normally considered in those states if the child was of Aboriginal or Torres Strait Island origin. Nevertheless, adoption was permitted in certain circumstances and with appropriate safeguards such as the involvement of Indigenous community representatives in decision-making and the maintenance of a link to the child’s family, community and culture of origin.

73. **Mr. Walter** (Australia) said that, with respect to medical interventions, there were no plans for new national legislation. Decisions regarding medical interventions were already governed by a federal statute, namely the Family Law Act, and were handled by the welfare jurisdiction of the Family Court. The issue remained under review in a number of jurisdictions in Australia, and it was expected that the therapeutic and legal position would continue to evolve. Though aware of the decision taken in the 2008 Family Court case of *Lesley (Special Medical Procedure)*, the Government took the view that the current law was best stated in *Secretary of the Department of Health and Community Services v. JWB and SMB* (Marion’s case) and the 2016 Family Court case of *Carla (Medical procedure)*.

74. **Ms. Mandla** (Australia) said that, as the National Office for Child Safety was part of the Department of the Prime Minister and Cabinet, its budget was an internal allocation. The Office worked mainly on developing national policy and coordination, and was not a service-delivery agency. A good deal of its work was focused on consulting and co-designing with civil society, children and young people, and sectors that provided services to children and young people who had experienced abuse. Although children were not

involved in the budget process itself, they were sometimes involved in the policy development leading up to budget allocation.

75. The Government was committed to helping children to have safe, positive experiences online. The Office of the eSafety Commissioner had been established in 2015 to promote online safety, initially for children, and subsequently for all Australians. It provided a complaints service for children and young people who experienced serious cyberbullying, identified and removed illegal online content, and tackled image-based abuse, particularly that relating to children.

76. In 2019, \$A 10 million had been allocated to online education and training programmes run by non-governmental organizations (NGOs) to help keep children safe online. The Government was developing an online safety charter for technology companies setting out the expectations of Australian users, with a particular focus on children's safety.

77. A student well-being framework was in place in Australian schools. The Government hosted an online student well-being hub with 27 resources to address bullying in schools, including culturally appropriate resources for Indigenous students and an anti-bullying website which contained resources for children, parents and educators.

78. **Mr. Nelson** (Coordinator, Country Task Force) thanked the delegation for the information it had provided on its programmes and specialized offices for addressing some of the most pressing children's rights issues. He hoped that the Committee's concluding observations would provide leverage for further positive developments.

79. **Mr. Walter** (Australia) thanked Committee members for their informed questions. His Government undertook to engage in good faith with the Committee's concluding observations.

80. **The Chair**, thanking the delegation for their participation and replies, said that the priority in the State party should be to tackle inequalities, particularly with respect to Indigenous and refugee children.

The meeting rose at 12.55 p.m.