



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

Distr.: General  
14 February 2006

Original: English

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**Committee on the Elimination of Discrimination  
against Women**  
**Thirty-fourth session**

**Summary record of the 716th meeting**

Held at Headquarters, New York, on Tuesday, 30 January 2006, at 3 p.m.

*Chairperson:* Ms. Manalo

*later:* Ms. Pimentel (Vice-Chairperson)

*later:* Ms. Manalo

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Convention (*continued*)

*Combined fourth and fifth periodic report of Australia (continued)*

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06-22697 (E)



*The meeting was called to order at 3.05 p.m.*

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

*Combined fourth and fifth periodic report of Australia (continued)* (CEDAW/C/AUL/4-5, CEDAW/C/AUL/Q/4-5 and CEDAW/C/AUL/Q/4-5/Add.1)

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

*Articles 7, 8 and 9*

2. **Ms. Popescu**, noting that the Government had no intention of introducing temporary special measures as a means of enhancing women's participation and political status, said she wondered why that was. In her country, the population tended to oppose the use of quotas because they were associated with the former socialist regime. Perhaps there was similar public resistance to quotas and targets in Australia.

3. The delegation had mentioned a national strategy agreed in 2005 by women ministers, which sought to increase the participation of women on government boards. She wondered whether the women ministers in question were female members of the Cabinet or whether they were part of some task force of women that functioned as a semi-institutionalized decision-making body. She would also like to know who had assumed primary responsibility for drafting, monitoring and assessing the national strategy, what its scope was, what period it covered, whether it targeted specific groups of women, whether it included any priorities and benchmarks and whether it covered the private sector.

4. The delegation had also stated that the institutional mechanisms for increasing the representation of indigenous women had changed. It appeared that the regional councils of the Aboriginal and Torres Strait Islander Commission had been abolished and replaced by another council of indigenous women. According to informal and parallel sources of information, that institutional change would be detrimental to the representation of indigenous women, which was cause for concern.

5. **Ms. Shin**, while grateful for the explanations provided concerning the granting of temporary protection visas and permanent visas wondered whether the Government might reconsider its position on the issuance of visas to victims of gender-based crimes, persecution or violence, so that such individuals could be assured of receiving any social services or other assistance they might need. Similarly, she appealed to the Government to reconsider its stance on assistance to victims of human trafficking. If they had been clearly identified as victims of trafficking, surely from a humanitarian perspective they should be accorded protection, regardless of whether or not they had agreed to cooperate with the police.

6. **Ms. Flanagan** (Australia) said that there were a number of special temporary measures in place to promote increased leadership and participation in public life by indigenous women. However, it was important to understand that in the Australian context the term "temporary special measures" referred to relatively short-term programmes or initiatives designed to target a specific issue. For example, the Government had designed an indigenous leadership course, intended specifically to put indigenous women into leadership positions. It also had a training programme aimed at attracting and training indigenous people for employment in the civil service.

7. Regarding the replacement of the regional councils of indigenous peoples, she assumed that the speaker had been referring to the National Indigenous Council, which was an advisory body to Government at the national level. Similar advisory bodies existed at the state level. There were thus a variety of mechanisms through which indigenous women could make their voices heard. Responding to the question concerning women ministers, she explained that the term referred to ministers who were responsible for women's issues at all levels of government in Australia. All of the state governments had a minister for women's affairs, some of whom were men.

8. With respect to the national strategy for increasing women's participation on boards, it did indeed target both the private and the public sectors. Although it was not the Government's business to intervene in the affairs of the private sector, the women's ministers were trying to increase the number of women on private-sector boards through, for example, training and mentorship programmes

designed to enhance women's leadership and management skills. As for monitoring and evaluation of the strategy, it was still in the initial stages of implementation, having been agreed only a few months earlier. The Government had not yet decided how to go about assessing its impact.

9. **Mr. Giuca** (Australia) said that temporary protection visas were intended solely for people who arrived in Australia in an unauthorized manner, as a means of discouraging asylum-seekers who had already moved from their country of origin to another country, but for some reason had decided to move on to Australia. That was why the Government was reluctant to remove the temporary protection visa regime. People subject to that regime constituted a very small proportion of the population to which Australia granted protection visas; anyone who qualified for refugee status was entitled to permanent residence, with all the corresponding entitlements.

10. With regard to the issuance of visas to victims of domestic violence and other gender-based crimes, while Australia did not view gender-based discrimination as automatic grounds for refugee status, the Government did recognize that in some circumstances women needed protection for gender-related reasons. Protection visa applications from women were reviewed on a case-by-case basis with that in mind. Special "Woman at Risk" visas were available to women who were deemed to be in danger of victimization, harassment or serious abuse simply because they were female. Such visas made up 10 per cent of all visas granted to refugees under Australia's Humanitarian Programme.

11. In relation to victims of human trafficking, Australia had adopted what it viewed as a balanced approach, seeking to protect victims while at the same time striving to eliminate the root cause of the problem by prosecuting those who profited from trafficking. However, individuals who chose not to assist the police in investigating and prosecuting trafficking cases could still apply for and receive protection under the protection visa regime.

12. **The Chairperson**, speaking in her capacity as a member of the Committee, noted that Australia would soon be hosting the two APEC (Asia-Pacific Economic Cooperation) gender forums. APEC had evolved into a forum that also dealt with matters outside the economic realm, notably issues relating to peace and security in

the Asia-Pacific region. She wondered to what extent the gender forums might have become involved in such issues.

13. **Ms. Burrell** (Australia) said that she had not heard much discussion of peace and security issues when she had attended the gender forums the previous year in Korea, and there definitely had been no official work focused on those issues.

14. **Ms. Shin**, following up on her earlier question, enquired whether women who were victims of trafficking were made aware that they had the option of applying for a protection visa.

15. **Mr. Giuca** (Australia) said that people who applied for asylum in Australia were entitled to receive legal advice. A case manager was assigned to assist every applicant, and he felt certain that the case managers would explore all available options.

16. **Ms. Flanagan** (Australia) confirmed that trafficked women who were being assisted through the Victim Support Programme were given legal advice about their options.

#### *Articles 10-14*

17. **Ms. Simms** noted that, although the average girl was outperforming the average boy, women were not seeing the benefits in the marketplace. There appeared to be a global backlash against girls' recent educational achievements, accompanied by a new wave of oppression aimed at keeping women in their place. She wished to know whether there had been such a backlash against women and girls' achievements in Australia, and if so, what measures had been taken in response.

18. **Ms. Schöpp-Schilling** said she disagreed with the delegation's earlier remark to the effect that it was not the Government's business to intervene in the private sector; articles 2 (e) and 3 of the Convention clearly stated that a country that had ratified the Convention was responsible for non-discrimination and the achievement of equality, including with regard to the actions of organizations or enterprises.

19. On the issue of maternity leave with pay, she still lacked a clear picture of the extent of coverage. She asked whether all female public employees, at both commonwealth and state or territorial levels, were covered by a scheme of paid maternity leave and, if they were not all covered, she asked in which states or

territories they were not covered and whether the issue was on the agenda of the consultation and coordination mechanisms. She also wished to know the average length of paid maternity leave and the average amount being paid out and what percentage of female employees were covered in the private sector under work-related schemes, and whether they were predominantly employees of larger firms. Next, she sought information on the categories and percentages of working women who were not covered by work-related maternity schemes. She wondered whether a gender-based impact analysis had been conducted of the 1996 Workplace Relations Act in that area, as requested by the Committee in 1997.

20. She was pleased to see that a report by the Human Rights and Equal Opportunity Commission (HREOC) on paid maternity leave had been placed before Parliament, but wondered what its recommendations were. She asked whether the 2004 maternity payment had been a result of that report. It was not clear if it was really a maternity scheme, a family benefit, or even a population incentive benefit and if it was in addition to the work-related schemes in the public and private sectors. She also wondered what percentage of the payment was considered to substitute for loss of income, and what percentage was intended to cover the costs arising out of childbirth. Lastly, she asked whether the Government considered the introduction of the 2004 maternity payment as being compatible with article 11, paragraph (2) (b), and, if so, why it did not consider withdrawing its reservations on the article.

21. **Ms. Kahn**, noting the trend towards casualization of many jobs in female-dominated areas, and increasingly unreasonable working hours, expressed concern at the fact that the Government had recently moved from a centralized collective bargaining system to individualized bargaining in the workplace, thereby shifting responsibility for protection of labour rights to individual enterprises; as had been noted by the Committee in 1997, the changes would be quite detrimental to women in the lower echelons of employment, or casual workers. She wished to know whether there had been any initiative to undertake a comprehensive evaluation of that aspect.

22. Her second question related to superannuation payment of which was available to fully retired workers over a certain age. That provision was very discriminatory, given that indigenous women and Asian

migrant women normally had a much lower life expectancy than non-indigenous Australians and were less likely to have a long unbroken period of work — a requirement under the superannuation scheme. She urged that the scheme should be reviewed and made equally applicable to all women, without impractical conditionalities.

23. Her third question related to the workforce participation rate for Asian women and rural women in the private sector and how it compared with the figures for non-indigenous women. She also wished to know what kind of educational and language training programmes were available to Asian and rural women, and whether there was any policy to accelerate their acquisition of marketable skills. She also sought the statistics on the increase since 1997 in the numbers of Aboriginal and Torres Strait Islander women in paid employment or pursuing business and entrepreneurial activities.

24. She asked how the Discrimination Act of 1991 and the Sex Discrimination Act of 1984 dealt with discrimination faced by minority groups, Asian groups or indigenous people and whether any complaints had ever been lodged under those Acts. Turning to the issue of wage discrimination, she asked whether all six states had the same wage structure for men and women and the same minimum wage and whether the principle of equal pay for work of equal value was being followed.

25. She asked whether health insurance was universal in all jurisdictions, and paid for by the employer, whether state governments were responsible for providing special health insurance and care to women with disabilities and to single parents and whether all indigenous women and other minorities qualified for the low-income concessional health card. It appeared that indigenous women experienced higher levels of ill health, disease and mortality because they still suffered from unequal access to health services.

26. Turning to abortion, she asked whether the reformed abortion law applied in all states and territories and whether Australia's high abortion rate was due to inadequate access to family planning services or to ignorance of contraception. She wondered why approval from a minister was needed for procurement of the RU-486 drug.

27. Noting that the report had referred to a significant rate of suicide among females between 12 and 24 in rural areas due to unemployment and family stress, she

wondered how a girl as young as 12 could be suffering stress related to employment and asked what kind of educational facilities and mental health services were available to young girls in rural areas.

28. Finally, she asked whether single parents living in rural areas, and those in some form of detention centre while waiting for a visa, qualified for child support.

29. **Ms. Flanagan** (Australia), responding to Ms. Simms, said that Australia, like many countries throughout the world, did observe girls doing very well in education, but then slowing down when they entered employment. Her office was monitoring the issue. It had not experienced the sort of backlash described. On the other hand, since the positions of power were very often held by men, the Government knew that it had to enlist their support in order to achieve its aims for women.

30. Turning to the comment by Ms. Schöpp-Schilling, she clarified that in order for the Government to have an impact on the behaviour of the private sector, it needed to work with the private sector and persuade the latter to make use of the mechanisms that worked best for it. If the Government simply imposed measures, they would be resisted.

31. Her understanding was that all commonwealth and state government female public employees received maternity benefits though these benefits varied slightly from one place to another as Australia was a federation. Paid maternity leave varied between 6 and 12 weeks, and was available after 6 to 12 months of employment. The payment was usually equivalent to the mother's full salary. In the private sector, the coverage was much lower. Workplace relations legislation stipulated that after 12 months' employment women were entitled to 52 weeks' unpaid leave, but any more detailed arrangements were up to the individual workplace. Recalling the question as to whether a gender analysis had been conducted of the 1996 changes, she explained that a new Workplace Relations Bill was currently before Parliament and that it certainly included an intention to monitor the impact of those changes on women's employment conditions.

32. The introduction of the 2004 maternity payment had not directly been a result of the HREOC report. While it could, perhaps, be seen as a population incentive, that had not been its intent. All the evidence seemed to suggest that the best way to ensure an increase in a country's birth rate was to have a stable

and productive economy, with people in stable and productive relationships. The benefit was paid on top of other benefits. It had been seen as a general way of assisting the family at the important time of childbirth. As to whether it would be compatible with article 11, paragraph 2 (b), she said that Australia had such an unusual system of social assistance and family benefits that it was quite difficult to determine what a "comparable social benefit" might be. However, the Government was certainly considering its options about removing that particular reservation.

33. Regarding the question of whether the increase in women's participation in employment might have been caused by casualization or increasing hours, she said that the evidence suggested that women were choosing to work at part-time jobs in order to be able to strike a balance between work and family life. Examination of the statistics on casualization appeared to show that men and women were fairly equally impacted by it, and surveys seemed to indicate that many women preferred casual jobs because, again, they made it easier to balance the demands of work and family.

34. With regard to the move from a centralized collective bargaining system to an individualized one, her office would certainly be monitoring the impact with regard to changes in workplace relations. While it was true that many women were in low-paying jobs, the principle of equal pay for work of equal value was enshrined in legislation, and enforced.

35. Turning to the issue of superannuation and indigenous women, who might have a lower than average life expectancy, she explained that Australia had a quite unique retirement income system, with a flat-rate pension paid by the Government to everybody, on the one hand, and on top of that an individual contributory system, on the other. Studies by the Organization for Economic Cooperation and Development and other international bodies suggested that Australia had a fairly progressive retirement income system, through which it did redistribute to low-income people.

36. With regard to assistance for rural and indigenous women in obtaining employment, a jobs network was available throughout the country, based on the barriers that people might face in job-seeking. Within that network, case managers would propose a range of interventions that would facilitate people's entry into the labour force.

37. The health insurance scheme was universal, giving all Australians access to public hospitals throughout the country. For those on low incomes there was a low-income health-care card, which provided access to discount pharmaceuticals and to a system known as bulk billing, under which patients did not have to pay anything when they visited the doctor, who was reimbursed directly by the Government.

38. In response to the suggestion that Australia's high abortion rate might be due to a lack of access to family planning, she explained that both the national and the state Governments funded a range of services that gave people choices and advice. It seemed that it would be easier in rural areas to gain access to family planning than to get an abortion. The issue of whether or not to allow the RU-486 abortion drug was currently under examination by Parliament. If the drug was approved, it would probably join the schedule of drugs that were partially funded by the Government.

39. She did not have the statistics about suicide rates of young girls in rural areas; her recollection was that rates of suicide among young people had been dropping. There was certainly a need to look into the underlying problems that were leading to youth suicides.

40. Finally, she clarified that all women in Australia, including those from rural areas, qualified for child support, although it might be more difficult actually to provide childcare services in rural and remote areas.

41. *Ms. Pimentel took the chair.*

42. **Mr. Giuca** (Australia) said that single mothers held in immigration detention facilities were entitled, upon their release, to rent assistance, family tax benefits and childcare benefits, whether they were on a temporary or permanent visa. They were also entitled to Medicare benefits which assured them the same access to health care generally enjoyed by Australians.

43. **Ms. Morvai** expressed concern that the delegation seemed to consider abortion a form of family planning; it was not. She wondered whether the State party recognized the need to help women make an informed choice and also to provide post-abortion counselling. She also requested information on the number of pregnancy crisis centres, the rate of teenage pregnancy, how many teenagers decided to have their babies and whether support services were provided to them, and whether pregnant adolescents continued to

attend school. She warned against considering the RU-486 abortion pill a "safe" form of abortion and asked whether the State party recognized a woman's right to be provided with information on the use of that pill in order to make an informed choice.

44. **Ms. Flanagan** (Australia) said that her Government was committed both to helping women make a free and informed choice about the size of their family and the timing of their pregnancies and to providing safe and accessible reproductive health care in the context of a responsible sexual and reproductive health strategy. In order to offer women as many choices as possible, over-the-counter emergency contraception was available and funded by the State health system. Obstetrical services included coverage for abortion. Since legislation regarding abortion fell under the jurisdiction of the States and Territories, the maximum length of time up to which pregnancy could be terminated, varied.

45. **Ms. Dairiam** said she had been informed that despite the increase in the rate of bulk billing, health care in rural areas remained problematic; she wondered whether the State party was satisfied with the current situation. It also appeared that problems relating to transport were preventing disabled women from receiving health care, and that appropriate screening equipment for breast and cervical cancer was not always available to them. She wondered whether women held in immigration detention centres were given access to reproductive health care and whether they were treated in a culturally appropriate manner.

46. The Committee had previously expressed concern about the health status of aboriginal women. She wondered what specific improvements had been made and what had been the impact of the culturally appropriate birthing centres and other measures mentioned in the current report.

47. She wished to know whether the State party investigated every maternal death of aboriginal and indigenous women and whether it had formulated a time-bound plan to reduce that maternal mortality. Lastly, she wondered how the Government monitored and collected data on the health needs of all its people, including specific groups of women, and how the Australian health system addressed different risk factors on the basis of gender and other specific characteristics, as set forth in the Committee's general recommendation 25.

48. **Ms. Šimonović** asked whether the Sex Discrimination Act covered access to health services and whether or not the Government saw the need to unify states' laws on medically assisted procreation in order to prevent discrimination.

49. *Ms. Manalo resumed the Chair.*

50. **Ms. Flanagan** (Australia) said that the Government had provided incentives to doctors to increase their bulk billing rates and that those incentives were applied across the country; she did not have data indicating whether or not the system was being applied consistently. She would discuss with her health department the issue of problems with access to specific health services for women with disabilities.

51. With respect to monitoring progress in the provision of health care to indigenous women, she noted that Australia's main tool was a long-term study of the impact of women's health services. The reports published as part of that study could be made available to the Committee if desired. The Bureau of Statistics was also conducting a survey on indigenous people in general, which could also be made available. All Government programmes included an evaluation component, and that was also true of the culturally appropriate birthing centres. She noted that the Committee would wish the Government to formulate a specific plan for the reduction of maternal mortality in indigenous communities.

52. **Mr. Minogue** (Australia) said that the Sex Discrimination Act and the Disability Discrimination Act had been worded in such a way as to ensure a combination of coverage under either Act and thus avoid a procedural debate about whether or not a complaint was properly grounded in the law. The Sex Discrimination Act did cover health issues, aiming to prevent discrimination in the provisions of services and facilities. The provisions of the Disability Discrimination Act could also give grounds for complaints of discrimination which would be brought before the Sex Discrimination Commissioner. Lastly, the Disability Discrimination Act required that providers of public transport must ensure that their vehicles were accessible to persons with disabilities.

53. **Mr. Giuca** (Australia) said that Australia's current immigration detention standards were consistent with Australia's international treaty obligations, including the provision of interpreting services, a complaints mechanism, and access to life

skills training on issues such as personal health, pregnancy and parenting. The standards identified females and expectant mothers as a special needs group.

*Articles 10-14: follow-up questions*

54. **Ms. Tan** said that it had been over six years since the establishment of the Regional Women's Advisory Council and the organization of the regional and rural women's round table. She would therefore be grateful to know the impact of the regional council on rural women and girls and the nature of the recommendations made by the round table, and to what extent the recommendations had been implemented by the Government.

55. **Ms. Flanagan** (Australia) said that the Regional Women's Advisory Council had reported to the Deputy Prime Minister; she was not aware of the round table's recommendations. However, her office, the Regional Women's Advisory Council and the National Indigenous Council had all worked together to hear the views of regional women and pass them on to the Government.

56. The Regional Women's Advisory Council had recently set up an inquiry into leadership positions in rural areas and efforts were being made to increase women's participation in such positions. It had also commissioned studies on the impact of drought on rural communities, as well as access to water. The Office for Women included a secretariat concerned with rural women's issues, which had conducted a number of rural forums. The issues discussed at the forums had included access to health counselling services, water reform, telecommunications, skill shortage, managing change and promoting community resilience.

*Articles 15 and 16*

57. **Ms. Morvai** said it was all very well to introduce reforms to guarantee fathers' rights with regard, for example, to shared custody of children after divorce but she wondered why the laws said nothing about men's equal responsibility during the marriage. She also wondered why more men were not working part-time. Perhaps some effort should be made to increase men's awareness of their duties with regard to their families.

58. **Ms. Khan** welcomed the statement in the report (para. 559) according to which there were no longer any areas of discrimination between men and women with respect to article 16, paragraph 1, of the Convention, but requested clarification regarding the “exceptional circumstances” mentioned in the next paragraph, whereby a person aged between 16 and 18 years could marry an individual over 18. She wondered whether that provision applied equally to boys and girls. The report also stated that the Government respected Australians’ choices in defining their own families (para. 561). She wondered whether such definitions could include polygamy, or marriages under Islamic law, and whether such arrangements would affect inheritance and divorce rights or whether there was a uniform civil code applicable to all.

59. She expressed concern about reports of discrimination against Arab and Muslim women, which could be attributed to racial and religious stereotyping and prejudice. The delegation had said that such incidents were due in large part to a political reaction to the events of 11 September 2001 but she believed they were a sign of a pervasive attitude towards certain minority groups and women. She nevertheless applauded the Government’s National Plan of Action in that regard but stressed that legislation alone would not suffice; political and societal factors must be addressed. She suggested that the experience of States such as Turkey, Indonesia, Morocco and Bangladesh in reconciling Islamic laws with secular civil law could be used as a model.

60. **Ms. Flanagan** (Australia) said, with regard to the issue of why more men were not working part-time or acting as family caregivers, that her Government’s intention was to ensure that women could freely choose whether or not to work; currently, it so happened that many women were choosing to be the main caregivers. If they chose to work full-time, they could do so. As for the National Plan of Action, she said that document was still in draft form; the experience of other countries with regard to the reconciliation of Islamic precepts with secular law could certainly be studied with a view to strengthening protection of women’s rights.

61. **Mr. Minogue** (Australia) said the emphasis of shared responsibility of both father and mother with regard to child custody was aimed at protecting the interests of the child. Parents were encouraged to reach an agreement without going to court simply in order to

ensure that the children maintained a positive relationship with both parents. As for Australians’ ability to define their own families, he stressed that the Marriage Act defined marriage as exclusively between a man and a woman even though the rights of de facto partners, including same-sex partners, were recognized in many areas. Although in practice there was great sensitivity to cultural issues relating to marriage and divorce, the criteria set out in the Marriage Act applied to all situations. Divorce was considered to be a no-fault undertaking and was granted on the grounds of irretrievable breakdown in the relationship and following a 12-month separation. Under Australian law polygamy was a crime.

62. **Ms. Tan** said she had information according to which the State party had not made any real attempt to enter into a dialogue with indigenous women with a view to formulating a strategy for the protection of children at risk. Furthermore, not one indigenous organization felt that child welfare agencies had provided an effective response to the need to protect children. In 2000, indigenous children had accounted for 20 per cent of children removed from their homes even though indigenous peoples represented only 2.7 per cent of the population. There were not enough indigenous caregivers to take custody of those children and those caregivers did not receive sufficient support. She asked whether the State party intended to make a real effort to listen to indigenous women with a view to improving the child protection system.

63. **Ms. Belmihoub-Zerdani** noted that according to the report (para. 540) the Government had improved the quality and accessibility of legal services available to indigenous women, including in their communities. She requested further clarification on the Family Law Act 1995, including whether it fell under Commonwealth jurisdiction and whether it applied to death, divorce and inheritance rights, and whether indigenous customary law could take precedence over civil law. She expressed great interest in the use of dispute resolution services such as counselling and mediation rather than litigation, (referred to in para. 529) and requested more information on such initiatives, including how those services were organized and whether decisions taken had real legal force.

64. **The Chairperson**, speaking in her personal capacity, noted that the delegation, in its oral responses, had referred to unlawful discrimination on

the basis of sex and wondered whether there was such a thing as lawful discrimination on the basis of sex.

65. **Ms. Flanagan** (Australia) said that child protection services fell under State jurisdiction and practices therefore varied. Her delegation was aware of the higher rate of removal for indigenous children but assumed that the same criteria were applied to all children. She noted the Committee's concern with regard to the need to provide culturally appropriate care for indigenous children and to enter into a dialogue with indigenous women; those concerns would be communicated to the competent State authorities.

66. **Mr. Minogue** (Australia) recalled that under international human rights law, differential treatment was not necessarily discriminatory. He had used the term "unlawful" discrimination because that was the term contained in the Sex Discrimination Act 1994; that did not however imply that there was any tolerance of "lawful" discrimination. As for the proposed new family law and its shared parenting regime, his Government had only recently taken a decision on its implementation and the establishment of the family relationship centres which would be at the core of the system was still at the planning stage. More information would be provided to the Committee as it became available.

67. Turning to the matter of the status of Commonwealth law, he recalled the delegation's opening statement concerning the federal nature of the Australian system of government. In practice if a matter involved international relations such as the signing of a treaty, the Commonwealth Government was empowered to act. Family law was a Commonwealth responsibility and therefore applied in all States and Territories, although the latter had jurisdiction in matters relating to such things as succession rights, disposal of property, wills and probate, which could have an effect on marriage and divorce. Any legislation with regard to the latter must, however, be non-discriminatory.

68. As for customary law, he said such laws could be observed in some cases but could not supersede legislation; the approach was to be sensitive to cultural diversity but to observe basic standards which were applicable to all. He cited the case of an indigenous man who had claimed that, under customary law, he had the right to have non-consensual sexual

relationships with a woman who had been promised to him as a bride; his claim had been rejected under criminal law.

69. **The Chairperson** thanked the delegation for a positive and informative exchange of views on many important issues relating to the elimination of all forms of discrimination against women. The Committee's concluding observations and recommendations would be transmitted to the State party in the near future.

70. **Ms. Flanagan** (Australia) said she welcomed the opportunity for an interesting and fruitful dialogue with Committee members. Her delegation looked forward to the Committee's consideration of its next periodic report in 2008.

*The meeting rose at 5.10 p.m.*