



Convention on the Rights of the Child

Distr.: General
11 June 2012

Original: English

Committee on the Rights of the Child Sixtieth session

Summary record of the 1708th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 5 June 2012, at 10 a.m.

Chairperson: Mr. Zermatten

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

Consideration of reports of States parties (continued)

Fourth periodic report of Australia on the implementation of the Convention on the Rights of the Child (continued) (CRC/C/AUS/4; CRC/C/AUS/Q/4 and Add.1; HRI/CORE/AUS/2007)

1. *At the invitation of the Chairperson, the delegation of Australia took places at the Committee table.*
2. **Mr. Gastaud** said that the State party's juvenile justice system bore witness to the two fundamental issues that had been discussed at length at the previous meeting, namely discrimination and coordination. The juvenile justice system could be described as discriminatory because juvenile delinquents were treated differently depending on the federal state in which they were located. Moreover, the treatment they received was determined by the age of criminal responsibility in a particular federal state. The different ages of criminal responsibility were barriers to effective coordination. He enquired as to whether a juvenile delinquent who had committed a serious crime would appear before specialized juvenile courts or before normal courts, and as to the type of penalty they would receive. In addition, he would like to know whether a mediation mechanism could be an alternative to court proceedings in the case of minor offences, and how judicial assistance was provided when a juvenile delinquent crossed federal state lines after having committed a crime. He would also like to know of the conditions in which juvenile delinquents were detained, given that the Committee had received reports that minors were being detained alongside adults.
3. **Mr. Kotrane** noted with regret that the Government had still not raised the minimum age of criminal responsibility from 10 years, despite the fact that the Committee had made a recommendation to that effect seven years before. Furthermore, he expressed disapproval at the Government's belief that it was appropriate to set the age of criminal responsibility at 10 years, as that age reflected the impact of increased access to education and information technology on Australian children's ability to better distinguish between right and wrong, was in keeping with modern Australian community expectations of the criminal responsibility of children and reflected the unique historical and cultural context of Australian law and society, recalling that the United Nations Standard Minimum Rules for the Administration of Juvenile Justice provided that setting the age of criminal responsibility at too low a level was unacceptable. He also reminded the delegation of the Committee's general comment No. 10, which recommended that the minimum age of criminal responsibility be set at 12 years.
4. Referring to paragraph 280 of the periodic report, concerning young people in detention, he asked why those statistics only referred to young people aged between 10 and 17, rather than between 10 and 18.
5. **Mr. Madi**, taking note of the positive developments in the immigration sphere, asked why, precisely, the Australian Human Rights Commission remained concerned by the number of children who were still detained in secure facilities. He also wished to know how long it took to consider an asylum application, how many such applications had been submitted over the last five years, how many had been accepted and what happened if an application was rejected.
6. **Ms. Aidoo** said that the progress achieved by the State party in the area of early childhood development was to be commended. However, the fact that the new initiatives tended to focus on children aged 4 was a cause for concern, given that most brain development took place before a child was 3 years old. She recalled the importance of taking a holistic approach to early childhood development and of involving parents in that

endeavour. Noting that most early childhood development programmes were carried out in private institutions, she asked what steps the State party had taken to guarantee universal early childhood education.

7. She noted with regret that, in spite of its multicultural society, the State party did not possess a good track record for the teaching of a second language. She enquired as to the current situation regarding community language schools, given that they received more funding from some federal states than from others. She requested clarification on whether bilingual education for indigenous and Torres Strait Islander children had been discontinued in 2009. She stressed the importance of allowing those children to acquire confidence and learning skills in their own language prior to immersion in the mainstream language. She would also like to know the current status of the national indigenous education plan for the period 2010–2014. Furthermore, she noted with interest that the State party had undertaken studies aimed at identifying gender disparities affecting boys in schools and would like to receive additional information on the “Success for Boys” initiative.

8. **Ms. Nores de García** asked how the family support programme was structured, who was entitled to the benefit, the criteria that had to be met to receive the benefit and whether the programme was operational in all federal states. Furthermore, she wished to know how the Government took the best interests of the child into account when repatriating refugee children, particularly Afghan children.

9. **Ms. Herczog** said the fact that working parents could now enjoy 18 weeks of paid leave was a positive development but that those households which required two salaries in order to cover their living costs, or single-parent families, would be unable to subsist on the national minimum wage. She asked whether the Government had envisaged further extending the period of 18 weeks in view of the World Health Organization (WHO) recommendation of six months for breastfeeding newborn babies. She also wished to know how the Government planned to supplement the income of families that could not subsist on the national minimum wage. She would be interested to know how many fathers were availing themselves of paid parental leave and of any steps the Government was taking to encourage both mothers and fathers to take it. She asked whether parents were informed of the emotional needs of newborn babies and whether the Government provided those parents encountering difficulties with adequate support. She expressed concern at the prospect of children under the age of 5 months being placed in day-care facilities after the 18 weeks of paid parental leave had ended, and requested clarification on how the Government planned to meet their needs.

10. The fact that the private sector had a monopoly on early childhood centres meant that it was difficult to guarantee the quality of the care provided in them. The Committee was also concerned that an emphasis on profit could cause the need for an appropriate staff-to-child ratio and for those staff to be properly qualified to be overlooked.

11. She expressed concern at the overrepresentation of indigenous children in institutional care. She asked what measures had been taken to improve the assessment, placement and supervision of carers and what kind of complaint mechanism was in place to address possible abuse. Given that a large number of children became unemployed, homeless or involved in substance abuse upon leaving institutional care, she would appreciate information on the follow-up services available. She also enquired as to whether the use of mediation techniques was widespread in schools where violence posed a problem.

12. **Ms. Lee** said that the Committee had addressed the issue of substance abuse in its previous concluding observations but that little progress appeared to have been achieved in that area. She wondered whether the programmes devised by the Government to date

successfully addressed the root causes of substance abuse. Furthermore, she wished to know the reasons for the below-par educational performance of indigenous children.

13. **Mr. Woolcott** (Australia) said that the appointment of any new Government entailed the introduction of new policies, which had included policies concerning children.

14. **Mr. Manning** (Australia) said that the legislation to enforce the plain packaging of Australian tobacco products would enter into force on 1 October 2012 and on 1 December 2012 for all other tobacco products. The plain packaging initiative was one of a series of measures taken to reduce smoking. Other measures had included a 25 per cent increase in tobacco excise to dissuade people from purchasing tobacco products. Laws had also been introduced to ban the advertising of tobacco products on the Internet. In addition, the Government had launched its most ambitious anti-smoking campaign to date, to raise public awareness about the health risks of smoking. Studies had shown that when such campaigns targeted adults, children subsequently reaped the benefits of a smoke-free environment. Smoking was now banned in almost all indoor public spaces and the ban could be extended to areas such as sporting grounds and cars carrying children.

15. The tobacco industry had sought to circumvent tobacco control measures through social media initiatives and political lobbying. Moreover, it had shown its resistance to the plain packaging initiative by instituting legal proceedings on several occasions. Requests for information had further delayed the implementation of the plain packaging initiative.

16. **Mr. Woolcott** (Australia) said that the national budget for the period 2012–2013 would allocate significantly more to official development assistance. The Government had increased official development assistance spending by around 60 per cent since 2007–2008 and planned to increase it further in the future. The overriding purpose of the Australian aid programme was to help people overcome poverty while promoting and protecting human rights. The programme sought to improve children's rights by increasing access to health care and education, and effectively implementing child protection policies. It was hoped that by the period 2015–2016, as a result of the programme, 10 million children would be vaccinated, more than 8.5 million people would have access to safe water and more than 5 million would have access to basic sanitation. Moreover, the programme aimed to afford more than 20 million boys and girls access to a quality education by training more teachers and providing learning materials.

17. **Ms. Pope** (Australia) said that, while the use of community detention had become more widespread, it was not an alternative to the expeditious processing of asylum applications and the granting of permanent visas. More than 4,000 people, including almost 1,900 children, had been approved for community detention. Around half of that number had already been granted protection visas and had been offered assistance to settle permanently in Australia. Moreover, priority was given to applications submitted by children and, in particular, unaccompanied minors.

18. Turning to the question of asylum interviews, she said that children who had applied for a visa as part of a family unit could be interviewed separately, especially if there was reason to suggest that the child was not a willing applicant. When a child was the main applicant for a visa, an interview was conducted as a matter of course. In the case of unaccompanied minors, an interview was conducted in the presence of independent support staff, who provided the child with physical and emotional support throughout the interview process. Those children also had access to free and independent legal assistance during their visa application process.

19. As to the living conditions in community detention centres, unaccompanied minors in particular benefited from specialized services and support. The Government housed families in fully furnished accommodation, enrolled children in school and covered the cost of their education, as well as the cost of health-care services. However, adults in

community detention were not permitted to work. Instead, the Government encouraged them to become involved in alternative activities, such as volunteering in schools, becoming involved in sport or attending English-language classes. Unaccompanied minors enjoyed specialized, 24-hour care, as well as access to education and to medical and mental health services. When their visa was granted, unaccompanied minors were offered assistance to move to suitable accommodation. The Government was currently trialling new living arrangements for older unaccompanied minors with a view to affording them access to long-term accommodation, education and employment.

20. The Minister for Immigration was the formal guardian of unaccompanied minors. In practice, that guardianship was delegated to federal and territorial welfare authorities and to senior immigration staff. The Government was aware of the concerns regarding the perceived conflict of interest between the Minister's role as the formal guardian of unaccompanied minors and their role as a decision maker in visa- and detention-related matters.

21. **Ms. Maurás Pérez** (Country Rapporteur), noting that priority was given to children and, in particular, to unaccompanied minors in the visa application process, requested clarification on the time it took to grant them a protection visa.

22. **The Chairperson** said that he failed to understand how the Minister for Immigration and Citizenship could be the formal guardian of unaccompanied minors when the primary aim of his ministry was not to defend children's rights. The State party should consider remedying that situation.

23. **Ms. Pope** (Australia), responding to the concern expressed about the Department of Immigration and Citizenship's dual role in respect of unaccompanied immigrant children, said that the department saw children's welfare as a primary responsibility of equal importance to border control, public order and immigration administration. The creation of the Community Programs and Children division attested to that importance and the division's well-regarded community detention programme, developed specifically to address the needs of immigrant children, had attracted very positive comments from the Australian Human Rights Commission, the Immigration Ombudsman and the Office of the United Nations High Commissioner for Refugees. The perceived conflict of interest was therefore belied by the child-centred nature of the department's work on the ground, which was in any case subject to close, ongoing scrutiny. Furthermore, expert advice had indicated that transferring the department's guardianship responsibilities to another ministry would not bring significant benefits.

24. She did not have statistics for average visa application processing times but acknowledged that they could be shorter, the main obstacle being the difficulty of establishing the identity of undocumented immigrants. However, the authorities ensured that children were held in detention centres no longer than was absolutely necessary and were moved to community detention facilities immediately upon completion of the requisite identification procedures, risk assessments and health and security checks, which generally took less than three months.

25. The number of new arrivals by sea, which was broadly equivalent to the number of visa applications received, had been 2,726 in 2009; 6,614 in 2010; 4,565 in 2011; and 3,700 in the first five months of 2012. Around half of applicants in each period had received visas. Figures for arrivals by air and a breakdown between adults and children were unfortunately not available.

26. Persons with disabilities could and did emigrate to Australia, where they made a valuable economic and social contribution, but were required to satisfy certain legally-established health requirements. The purpose of those requirements was to protect against public health and safety risks, contain public expenditure and safeguard access to stretched

services. Disability did not automatically result in failure to meet those requirements, although a visa might be refused if the assessing officer considered the applicant's condition likely to result in significant health-care and community costs. However, a negative decision could be waived in certain circumstances, especially when there were compelling compassionate grounds.

27. **Mr. Cardona Llorens** said that the decision to refuse a German doctor permission to live permanently in Australia because his son had Down's syndrome was difficult to comprehend as there were no health risks involved. In his view, that refusal constituted discrimination.

28. **Ms. Pope** (Australia) said that, regrettably, a lack of available information prevented her from commenting on that case.

29. **Ms. McKenzie** (Australia) said that the Government provided significant financial support for families with children through the family payments system, which was a broad-based but targeted social security system that combined means-testing with a highly progressive system of direct taxation. Recently introduced benefits included paid parental leave, increased assistance for families with teenagers in school and help with childcare costs. In the case of low-income earners, those allowances were supplemented by concessions on health, utility and transport costs and rental subsidies. In addition, all citizens benefited from a heavily subsidized universal health-care system, free education, paid sick leave and a high minimum wage.

30. Family Tax Benefit was currently paid to around 2 million families to help with the cost of raising children. In 2013 over a million would also receive the new SchoolKids Bonus of 410 Australian dollars (A\$) a year for every primary school child and A\$ 820 a year for every secondary school child. Other allowances to be introduced in 2013 included the Clean Energy Future – Household Assistance Package, designed to offset cost-of-living increases associated with the introduction of a carbon price, and the Single Income Family Supplement, providing tax relief of up to A\$ 300 a year. Furthermore, a major structural reform of the tax system to be implemented in July 2012 would reduce the tax burden for all taxpayers with an annual income of less than A\$ 80,000 (around 60 per cent of all taxpayers) and would raise the tax-free threshold to A\$ 18,200.

31. **Mr. Ayres** (Australia) said that a comprehensive and well-funded assistance and support package was available to all unemployed persons through the national employment services network, Job Services Australia, from around 2,000 sites nationwide. Young job seekers were a particular focus of attention and targeted services had been developed for high-need groups such as young unemployed parents living in disadvantaged communities. The recent budget had also earmarked A\$ 225 million over four years for the Jobs, Education and Training Childcare Fees Assistance programme, which would help predominantly single parents to meet childcare costs and access the training and education that would enable them to enter the workforce as their children grew older and became more independent.

32. **Ms. Wijemanne** (Country Rapporteur), turning to the issue of child mental health, said that, in view of disturbing reports of case mismanagement and excessive use of psychotropic drugs in children as young as 4 years of age who had been diagnosed with hyperactivity and attention deficit disorders, she would like to know whether the effects of those drugs had been properly researched, whether their use was adequately monitored and whether behavioural therapies were offered as an alternative. She also sought information about counselling services and helplines for young people experiencing emotional problems, including those contemplating suicide, and measures to ensure that particularly vulnerable children were able to access them, as well as details of sexual and reproductive health education and counselling services for young people, programmes to help them

avoid or escape substance abuse and any non-formal schooling programmes, including basic literacy and numeracy programmes that had been developed for young school dropouts for whom reintegration within the formal education system was not an option. Noting lastly that in a recent survey two thirds of girls had claimed to have been victims of some form of bullying and around 20 per cent had claimed to have suffered online bullying, she wondered whether bullying was perceived to be a major social problem and, if so, how it was being addressed.

33. **Mr. Manning** (Australia), turning to the issue of corporal punishment, said that although “reasonable chastisement” by a parent was lawful in Australia, corporal punishment was prohibited by law or policy in all public-sector institutions, including schools, residential care facilities and juvenile justice institutions, and that the Government did not in any way endorse its use. Although corporal punishment was not expressly prohibited in private schools in a small number of states, the Government was aware of only a couple of private schools in which it was still practised.

34. The point at which reasonable chastisement became assault, taking into consideration the child’s capacity for reasoning, the method of punishment used and the harm caused, remained a contentious issue. However, a review of 200 cases of violence against children conducted in Queensland in 2008 had found that the defence of “reasonable chastisement” did not serve as a loophole for escaping prosecution and a similar review conducted in New South Wales in 2010 had reached similar conclusions. Furthermore, the definition of reasonable chastisement was narrow and any departure from it necessarily led to investigation by the child protection authorities and prosecution.

35. **Ms. Maurás Pérez** said that, although the justification given for the absence of an absolute ban on corporal punishment might appear reasonable, the relatively high rate of violence against women in Australia postulated a link between acceptance of corporal punishment against children, even with caveats, and a higher incidence of domestic violence among adults. She invited the State party to reflect upon that relationship and on how a firmer position on corporal punishment might help to reduce violence in general.

36. She also invited the delegation to clarify the relationship between the National Plan to Reduce Violence against Women and their Children, which had been discussed at a previous meeting, and the National Framework for Protecting Australia’s Children. She would also like to know whether the former plan included measures to address situations in which women were not able to protect their children from violence or were themselves the perpetrators.

37. **Mr. Manning** (Australia) said that positive parenting programmes were actively promoted and were an important tool in protecting children from corporal punishment. Telephone support services were also available.

38. **Mr. Ayres** (Australia) said that educational programmes designed to increase parental knowledge of early childhood development and the effects of violence were run by the Ministerial Council for Education, Early Childhood Development and Youth Affairs and that in-school anti-bullying programmes encouraged children to speak up and take action if they had concerns about violence in the home.

39. **Ms. McKenzie** (Australia) said that the two programmes mentioned by Ms. Maurás Pérez were complementary in that domestic violence was recognized to be a major factor in child abuse and neglect and that increased engagement with women who had suffered violence should help reduce similar suffering among children.

40. **Mr. Ayres** (Australia), turning to the issue of children with disabilities and their education, said that individual states, territories and education services had different eligibility, assessment and identification processes and that there was no uniform national

approach. However, since nationwide figures for 2008 indicated that 4.4 per cent of Australia's schools were special schools and that 8.8 per cent of schoolchildren either identified themselves as having, or were considered to have, a disability of some form, it could be surmised, in the absence of precise statistics, that a significant proportion of children with disabilities were attending mainstream schools. Furthermore, the national education curriculum applied to all children, irrespective of disability, although its delivery could be adjusted to individual circumstances and abilities, in which case various funding sources were available.

41. As part of a broader national reform of funding and support for persons with disabilities in general, disability standards within education had recently undergone a major review with the aim of improving consistency and equity in service delivery, and the resultant report was currently before Parliament.

42. **Ms. McKenzie** (Australia) said that the Council of Australian Governments had drawn up a 10-year plan for reforming the disability care and support system, focusing on the following major outcome areas: inclusive and accessible communities; rights protection through justice and legislation; economic security; personal and community support; learning and skills; and health and well-being. The "Better Start for Children with Disability" initiative provided up to A\$ 12,000 in early intervention support for children with cerebral palsy, Down's syndrome, fragile X syndrome and vision and hearing disabilities, and a similar programme was also in place for children with autism. The reforms would also include the establishment of a national disability insurance system catering to the needs of each individual. That system was expected to benefit 10,000 persons by mid-2013 and 20,000 persons by 2014.

43. **Mr. Cardona Llorens** said that the figure of 8.8 per cent cited as the percentage of schoolchildren with disabilities seemed rather high. He wondered if some of those children might have special education needs but not necessarily disabilities. He wished to know how many children attended the 415 special schools in the country, and how many children with disabilities attended regular schools. Of those, he wondered how many attended special classes within regular schools. The delegation's comments regarding a standardized process for deciding where children with disabilities should attend school were not in line with article 24 of the Convention on the Rights of Persons with Disabilities, which stated that children with disabilities should not be excluded from the general education system on the basis of disability. He asked if the Government would consider changing its viewpoint on that issue.

44. **Mr. Ayres** (Australia) said that since 2009 the Australian Bureau of Statistics had been working to improve its surveys to gather disaggregated data on persons with disabilities, though there was room for further improvement. There was an overarching national policy in place to encourage the integration of children with disabilities into the regular education system whenever possible, and children with disabilities were more likely to be in regular schools than in special schools.

45. **Mr. Woolcott** (Australia) said that Australian Aid had developed the strategy entitled "Development for All: Towards a Disability-Inclusive Australian Aid Program 2009–2014" to ensure that persons with disabilities benefited from the Government's development programmes.

46. **Mr. Manning** (Australia) said that the Government recognized the right of persons with disabilities to retain their fertility, and that the sterilization of children with disabilities was authorized only as a last resort after due consideration of the best interests of the child. Sterilizations of children could be performed on the basis of parental consent only as a by-product of a surgical procedure to treat an illness; otherwise authorization from a court or tribunal was required. The Government was aware of the concern surrounding the issue and

continued to work with state and territory governments to improve related laws and practices. While not complete, the available data indicated that the number of such sterilizations was quite low. The Australian Human Rights Commission was still seeking further information from the various courts and tribunals.

The meeting was suspended at 11.40 a.m. and resumed at 11.50 a.m.

47. **Mr. Ayres** (Australia) said that the Australian Curriculum, Assessment and Reporting Authority had issued a paper evaluating the national curriculum for health and physical education. A range of support programmes were available for children with health issues, such as a pilot programme to help childcare workers identify early signs of mental health problems among young children. A comprehensive set of strategies was in place to ensure the health, education and well-being of children of all ages, with the National Early Childhood Development Strategy covering children from birth to 8 years of age, and the Melbourne Declaration on Educational Goals for Young Australians covering school-age children. All schools provided counselling services, including on issues such as sexual health and suicide prevention.

48. **Ms. McKenzie** (Australia) said that the Government was developing a 10-year road map for mental health and had established the National Mental Health Commission to monitor the implementation of the road map and report back to the community. In 2011 a total of A\$ 4 million had been allocated to the KidsMatter mental health initiative for primary schoolchildren and A\$ 6 million to the MindMatters initiative for secondary schoolchildren. The national youth mental health foundation called Headspace had received A\$ 200 million in funding over the past five years and aimed to establish 90 centres across the country by 2015. More than 96 per cent of young people who had used Headspace's services said they had been helpful. A range of early psychosis prevention and intervention services, family mental health support services, and enhanced services for suicide prevention were also in place.

49. **Ms. Davie** (Australia) said that, in an effort to encourage breastfeeding, the Government had signed an agreement with baby formula manufacturers whereby such products were not promoted within the health-care system. In 2011 the Sex Discrimination Act had been amended to include breastfeeding as an unlawful ground for discrimination in the workplace and in public spaces.

50. **Mr. Ayres** (Australia) said that the Government realized the importance of educating children about sexually transmitted diseases and their prevention. A range of initiatives and programmes were being implemented to that effect, particularly at the state and territory level.

51. **The Chairperson** asked the delegation to provide information on drug and alcohol use among children and young people.

52. **Ms. McKenzie** (Australia) said that the Stronger Futures in the Northern Territory initiative was a long-term community-based plan with a strong focus on improving alcohol management. Similar efforts had been made in Central Australia to combat petrol-sniffing.

53. **Mr. Woolcott** (Australia) said that the National Drugs Campaign aimed to reduce young people's motivation to use illegal drugs by informing them about the negative consequences. The campaign was currently focusing on ecstasy in the light of its popularity among 15 to 21 year olds.

54. **Mr. Ayres** (Australia) said that at the national level early childhood development and education were now included in the same portfolio, in accordance with the recommendations of the Organization for Economic Cooperation and Development. While the Government was heavily promoting universal access to preschool in the year before

school, that was not its only priority, and in fact those efforts represented a small percentage of its total expenditures on early childhood education and care.

55. The National Indigenous Education Action Plan was a comprehensive and detailed strategy currently being implemented to improve indigenous student outcomes, including by identifying schools with significant indigenous populations in order to better meet those students' needs. The Northern Territory Government was currently examining the policy of conducting classes in English for four hours each day. The quality of, and access to, education in the Northern Territory was a high priority for the Government, as indicated by its investment of A\$ 3.5 billion over 10 years in the "Stronger Futures in the Northern Territory" initiative. Enrolment rates for preschool had improved, and the goal was to achieve 95 per cent enrolment by 2013. A number of community-based programmes to encourage school attendance had shown positive results, and resources would continue to be provided for those initiatives.

56. **The Chairperson** requested further information on any peer conflict resolution mechanisms in place to deal with bullying in schools.

57. **Mr. Ayres** (Australia) said that an initiative entitled "Bullying. No Way!" had been implemented to inform students, parents and teachers about the support services available via the Internet, social media and smartphone applications. The emphasis was on early intervention and reconciliation. As part of that initiative, the National Day of Action against Bullying and Violence had been celebrated on 16 March.

58. **Ms. Herczog** asked how the Government was tackling the root causes of bullying and how offenders were dealt with, given that they were often troubled youngsters who had experienced violence themselves. She wondered if there might be a connection between corporal punishment and bullying.

59. **Mr. Ayres** (Australia) said that he was not aware of any data indicating a higher incidence of bullying in schools where corporal punishment was used. The "Bullying. No Way!" campaign was aimed at instilling respect for others, teaching children that violence was not a valid way of resolving conflicts, and reminding teachers and parents of their duty as role models to refrain from improper behaviour.

60. Teachers and school counsellors did not simply reprimand bullies; they were well trained in identifying signs that a larger problem might exist. The system to deal with bullying offered a wide range of responses commensurate with the situation in each individual case, with an emphasis on reconciliation and restorative justice.

61. **Mr. Manning** (Australia) said that the age of criminal liability was 10 years in all jurisdictions, although they all applied a rebuttable presumption clause that made it incumbent upon the prosecution to demonstrate that a child understood the gravity of his or her actions at the time of the offence. Thus, children aged 10–14 were not automatically deemed criminally liable. Although it was the subject of some academic debate, there was a view that children nowadays were perhaps more worldly and better able to evaluate the consequences of their actions and therefore it was reasonable to maintain the current age of criminal liability. Extradition was possible from one internal jurisdiction to another. Although there were children's courts in every jurisdiction, criminal prosecution and detention were seen as a last resort and preference was given to rehabilitation and community service, particularly for minor offences.

62. **Ms. McKenzie** (Australia) said it was recognized that juvenile offenders had often come through the child protection system. In order to address that problem, standards were being set, in cooperation with children, to regulate alternative care. Programmes would be rolled out over the upcoming year to help children in alternative care make the transition to independence, whether through education or employment.

63. **Mr. Manning** (Australia) said that all states and territories in Australia had established children's courts and detention facilities separate from those for adults. Young offenders were detained separately from adults until at least the age of 18 years, except in Queensland, where segregation could end as early as 17. They could be transferred to an adult facility once they turned 18, but it was more common to wait until they turned 21. In rare circumstances, children aged 16–18 could be remanded to an adult facility if their behaviour posed a risk to other detainees, but they would nonetheless be segregated from the adult inmates. An inquiry by the human rights commission of the Australian Capital Territory into conditions at the youth facility in Canberra had led to some adjustments being made to the system.

64. **The Chairperson** asked whether a child of 13 who had been deemed criminally liable of a serious offence could be deprived of his or her liberty.

65. **Mr. Manning** (Australia) said that if, after application of the rebuttable presumption clause, a child aged 10–14 was deemed criminally liable, prosecuted and found guilty, that child could be imprisoned.

Initial report of Australia on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/AUS/1; CRC/C/OPSC/AUS/Q/1 and Add.1)

66. **Mr. Gurán** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) asked whether the Optional Protocol was included in curricula to the same extent as the Convention; what kind of training on it was given to professionals working with children; and what progress had been achieved in raising awareness among victims and vulnerable groups. Pointing to the lack of data at the federal level, he asked whether steps were being taken to amalgamate state and territorial data in order to facilitate comparison. He wondered if Australia's anti-trafficking strategy encompassed all forms and victims of trafficking. He expressed concern about the differing legislation across states and territories and asked whether children involved in prostitution were considered victims or offenders. Given that Australia considered trafficking as related to slavery, he asked if the definition of slavery covered all forms of trafficking, including trafficking of organs. He requested an update on the situation of sexual abuse in Aboriginal communities and information on strategies and service standards for victims in remote areas. Was there a helpline for child victims? He commended the State party on the progress made in the area of sex tourism, especially regarding prevention and criminalization, and asked what measures were being taken to address sex tourism in Australia itself.

67. **Mr. Kotrane**, noting that the age of sexual consent was 16, asked whether minors aged 16–18 could take part in prostitution and pornography and whether they were no longer protected under the law by virtue of being above the age of consent. He requested additional information on the State party's definition of the sale of children, specifically on whether compelling a child into forced labour and facilitating unlawful adoption came under that offence, and on the criminalization of the various types of pornographic material. Clarifications of the State party's exercise of extraterritorial jurisdiction would be useful. He welcomed the Extradition Regulations of 2006, which were based on the Optional Protocol, and asked whether they had been applied in any specific cases.

68. **Mr. Koompraphant** asked whether possession of child pornography was an offence in the State party; how the authorities identified child victims of offences covered by the Optional Protocol; whether specific measures were taken regarding especially vulnerable children, including runaways, children in street situations and homeless children; what kinds of measures were taken to protect Aboriginal children from sexual exploitation and support Aboriginal child victims; what steps were taken in cases where a child victim was

unable to testify; and what measures were taken to reintegrate child victims or vulnerable children into their families.

69. **Mr. Madi** welcomed the array of procedures, legislation and training related to combating sex tourism, but asked whether convictions for offences committed abroad included compensation for the foreign victim.

70. **Ms. Wijemanne** asked what, if any, action was being taken to address the emerging phenomenon of online grooming and, given that most child pornography available in the State party was imported, what steps were taken to prevent such materials from entering the country. She commended the State party on its ample legislation on sex tourism and active prosecution of child sex tourists, and asked how such offenders and potential offenders were monitored.

71. **Ms. Sandberg** commended the State party on the level of its official development assistance, and asked if taking measures to eliminate offences covered by the Optional Protocol was a condition for receiving Australian development assistance.

72. **Ms. Nores de García**, referring to instances in Aboriginal communities of girls as young as 5 years of age being diagnosed with a sexually transmitted disease, asked what efforts were being made to counter sexual abuse in those communities. She also wondered how costly it would be to eliminate fees for birth registration.

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73. **Mr. Pollar** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) asked whether children had been consulted in the preparation of the report. Notwithstanding recent amendments to the Commonwealth Criminal Code, he asked whether the participation of children under the age of 18 years in hostilities was explicitly criminalized and whether provisions banning the recruitment by the Armed Forces of children under the age of 18 years were valid in both peace and wartime. He requested further details on recruitment procedures and the amount of information provided to potential recruits and their parents. He asked for comments on the fact that the Defence Instructions provided for measures to ensure minors did not participate in hostilities but only insofar as they did not adversely affect the conduct of operations. The Committee had received reports that minors had been present during operations of the Australian Defence Forces in East Timor. In that light, he enquired about the State party's definition of "direct participation" and asked for data on the deployment of minors since 2009. He wondered whether the Government intended to review its laws and policies on the deployment of minors to ensure full compliance with article 1 of the Optional Protocol. Lastly, referring to paragraph 30 of the report, he requested comments on the State party's stance on compulsory recruitment in relation to article 2 of the Optional Protocol.

The meeting rose at 1 p.m.