



# International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General  
1 December 2017

Original: English

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## Committee on the Elimination of Racial Discrimination Ninety-fourth session

### Summary record of the 2597th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 28 November 2017, at 10 a.m.

*Chair:* Ms. Crickley

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Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

*Combined eighteenth to twentieth periodic reports of Australia (continued)*

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

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Combined eighteenth to twentieth periodic reports of Australia (continued)*  
([CERD/C/AUS/18-20](#) and [CERD/C/AUS/Q/18-20](#))

1. *At the invitation of the Chair, the delegation of Australia took places at the Committee table.*
2. **Mr. Strahan** (Australia) said that the diversity of Australian society was embraced as a strength and that the Government's definition of multiculturalism was based on the principles of respect, dignity and equal opportunities, enshrined in the Government's Multicultural Statement and in various acts of parliament at state level. The reference to national security in the Statement was aimed at ensuring social cohesion in order to guarantee a peaceful, inclusive and tolerant society. Indeed, efforts to combat racial tension and exclusion contributed to creating a strong and resilient society. In that context, terrorism was the enemy of diversity and inclusion and, by extension, sound security measures complemented and protected an inclusive and diverse society.
3. Although a small minority of Australians might express racist ideas, the vast majority rejected such ugly discourse. Far right parties, such as the One Nation party, were small, divided and had failed to attract many votes in recent elections. More importantly, racist language was challenged, including in the political arena. In that context, certain media commentators and political activists had recently been convicted of contravening anti-discrimination legislation. At the institutional level, the national parliament had passed a motion in 2016 on racial tolerance.
4. Reaffirming the importance of good quality, accurate, disaggregated data to contribute to the development of better public policy, he agreed that more could be done in the field of data collection. With respect to the racial and ethnic aspects of crime, some data was collected at state level on the ethnicity and the indigenous status of victims, witnesses and perpetrators. Police in certain states also collected data on "racial appearance", although such an approach was based on a subjective assessment. Moreover, people did not always want to reveal their ethnic origin or view it as relevant to the crime reported. It was, however, possible that further efforts were required with regard to data collection.
5. Training was provided to police officers on diversity and human rights. For example, in the state of Victoria, the training programme included courses on human rights, social inclusion and cultural and religious needs, delivered in the form of an interview with members of the community from different ethnic backgrounds. Similar programmes were implemented by other police forces.
6. Under the income management programme, first introduced in 2007 in the Northern Territory, welfare payments were set aside to meet basic needs. Benefit money could not be spent on certain purchases, including alcohol, tobacco, pornography or gambling. A new model, launched in 2010, was designed to help at risk groups, including the long-term unemployed, those with limited money management skills and persons who engaged in risk behaviours. The programme, which had been extended until 2019, was consistent with the provisions of the Racial Discrimination Act and open to all welfare claimants. Assessments had shown that income management reduced financial stress, improved housing stability and minimized harm. However, mixed results had been obtained in relation to tobacco and alcohol consumption and gambling. In addition to the income management programme, a pilot project was currently under way on the use of cashless debit cards. Initial trial results suggested that the project had a positive impact on parenting and reduced drug and alcohol consumption.
7. As the report of the Royal Commission into the Protection and Detention of Children in the Northern Territory had only recently been submitted to Government, it was still too early to make any substantive comments on the matter.
8. **Ms. Campbell** (Australia) said that her Government continued to increase investment in indigenous health, in order to improve access to care and address critical

needs through targeted funding. Investments had included the creation of a network of more than 140 Aboriginal Community Controlled Health Services tasked with delivering comprehensive, culturally appropriate primary care to local communities. As a result, there had been significant improvements in health outcomes the previous decade, including reductions in the child mortality rate and in the number of deaths from circulatory, kidney and respiratory diseases, as well as an increase in birth weights and the immunization uptake for indigenous children. However, progress in reducing child mortality had not been accompanied by similar achievements in eliminating the discrepancy in life expectancy between the indigenous and the non-indigenous population. The life expectancy gap was attributable to the faster rate of progress in the field of non-indigenous health and to social factors. Those issues had therefore been placed at the core of the Government's efforts to achieve its life expectancy target.

9. The Government worked closely with Aboriginal and Torres Strait Islander communities on policy development and evaluation. It funded Aboriginal peak bodies and Aboriginal Community Controlled organizations providing health services to communities, conducted regular community consultations and organized forums bringing state and territory governments and Aboriginal Community Controlled organizations together to discuss data and needs. Location-based approaches were also used to target specific issues and measures taken to implement a community co-designed evaluation of the investments made, aimed at determining the effectiveness of programmes and adapting them to meet the needs of Aboriginal and Torres Strait Islander people.

10. Suicide was an issue of concern, particularly as the data available suggested that the suicide rate in the indigenous community was double that of the rest of the Australian population. It was difficult to obtain accurate, real-time data owing to reporting delays and problems relating to the identification of individuals as belonging to an indigenous community or as lesbian, gay, bisexual, transgender or intersex persons, including fear of stigma. However, the Government was funding a range of suicide prevention and mental health programmes for members of Aboriginal and Torres Strait Islander communities. Those programmes included a telephone and counselling service, targeted projects in suicide hotspots and prevention trials in various sites, with a view to establishing a long-term, culturally sensitive prevention model, as well as a range of digital mental health services. The Government also sought to build on the data, evidence and research available and planned to continue its suicide prevention efforts.

11. **Ms. Roberts** (Australia) said that, ahead of the tenth anniversary of the Closing the Gap programme, commonwealth, state and territory governments had agreed to work together with Aboriginal and Torres Strait Islander organizations and communities on a refreshed agenda, which would provide an opportunity to build stronger relationships with the indigenous community and focus on education, employment, health and well-being, justice and community safety. Moreover, the National Congress of Australia's First Peoples planned to host a series of national round tables in 2017/18. The Government was committed to the meaningful recognition of indigenous Australians and, in response to the report published by the Referendum Council, had supported the establishment of a cross-party parliamentary committee to examine the issue.

12. The Indigenous Advancement Strategy had been introduced to consolidate more than 150 individual programmes. For the period 2014–2017, more than A\$ 3.6 billion had been invested, with further investments planned over the course of the following four years. The Government was committed to increasing the involvement of indigenous organizations in the delivery of activities funded under the Strategy, as such an approach ensured a direct link to communities. According to the 2017 report prepared by the Productivity Commission on indigenous expenditure by the Government and state authorities, A\$ 33.4 billion had been spent in 2016 on measures relating to Aboriginal and Torres Strait Islander communities, which accounted for 6 per cent of total State expenditure — an increase of more than 20 per cent since 2008/09.

13. With regard to data evaluation and evidence, the Government planned to earmark an additional A\$ 52.9 million over a period of four years to implement a research and evaluation strategy for policies and programmes affecting indigenous Australians. The strategy covered the evaluation of the Indigenous Advancement Strategy, the establishment

of a research fund, the creation of an evidence base and measures to enhance the capacity of the Productivity Commission, including through the appointment of an additional commissioner.

14. The Community Development Programme, which was compatible with the provisions of the Racial Discrimination Act and Australian social security legislation, focused on the unique social and labour market conditions in remote areas and helped jobseekers to build skills, overcome obstacles and contribute to their communities. It fostered service delivery by local providers, 75 per cent of which were indigenous organizations, and was open to all jobseekers in remote areas. Just over 80 per cent of approximately 33,000 beneficiaries of the programme identified as members of Aboriginal or Torres Strait Islander communities. In March 2017, the Government had asked the Senate Standing Committee on Finance and Public Administration to assess the programme. The Committee was expected to publish its report in December 2017. In May 2017, the Government had also announced plans to hold consultations on a new employment and participation model for remote areas.

15. Indigenous women were overrepresented in the Australian prison system and, as at 30 June 2016, had constituted 34 per cent of the female prison population. Just over 60 per cent of indigenous women prisoners were serving sentences for violent offences and although specific data were not available on the motives for their crimes, it was estimated that the vast majority of those women had experienced abuse prior to their incarceration. At the end of 2016, the Australian Law Reform Commission had been invited to examine the overrepresentation of indigenous persons in prisons and consider possible legislative reform. The Commission had released a discussion paper and held public consultations; its report to the Government was due in December 2017.

16. It was also important for the voices and experiences of Aboriginal and Torres Strait Islander women to be taken into account in policy discussions. In that context, the Aboriginal and Torres Strait Islander Social Justice Commissioner, June Oscar, had been given the task of launching a national consultation process to connect with indigenous women and girls, creating a safe forum to discuss their socioeconomic, cultural and personal safety needs. The resulting recommendations would contribute to a positive government agenda to ensure the safety and promote the empowerment of Aboriginal and Torres Strait Islander women and girls.

17. The Government was committed to providing safe and appropriate housing to indigenous people in remote communities and, in 2008, had invested more than A\$ 5 billion, as part of the National Partnership Agreement on Remote Indigenous Housing, in order to address problems such as overcrowding, homelessness, poor housing stock and housing shortages in remote communities. Thousands of homes had been built or renovated, the majority of which had more than three bedrooms and were covered by tenancy agreements. According to an independent expert review panel, the Agreement was on track to meet its objectives: it had contributed to reducing overcrowding and provided employment opportunities to the Aboriginal community.

18. The Government also supported indigenous culture through investment in the Indigenous Visual Arts Industry Support programme and its network of art centres, providing opportunities for approximately 8,000 artists and some 350 art workers, and the work of the Indigenous Languages and Arts programme, which aimed to promote and protect 165 indigenous languages through its language centres. The Government had also awarded A\$ 40 million of funding over a four-year period to the Australian Institute of Aboriginal and Torres Strait Islander Studies to preserve, restore, manage and digitalize indigenous cultural heritage materials.

19. The Government collaborated closely with indigenous communities on land issues, particularly the management of natural resources and heritage-related activities, and invested in indigenous ranger and Indigenous Protected Area programmes, with a view to preserving the land and promoting economic development. Additional funding had been earmarked for expanding the capacity of the indigenous rangers strategy.

20. In the economic arena, the Government had launched an indigenous procurement policy in 2015 designed to stimulate indigenous entrepreneurship, and to provide

opportunities for economic participation. To date, nearly 5,000 contracts had been awarded to indigenous businesses under the policy.

21. **Ms. O’Keeffe** (Australia) said that her Government supported the United Nations Declaration on the Rights of Indigenous Peoples and its principles were embedded in the work of the Government. Approximately 35 per cent of the Australian land mass was covered by native title, with a further 26 per cent subject to ongoing claims. The High Court of Australia had found that the connection to land or water required to claim native title needed to have been handed from generation to generation but not necessarily continuously occupied. The standard of proof for establishing connection was the balance of probabilities. Approximately 97 per cent of native title claims had been made by consent, rather than through litigation. Exceptions were provided to certain evidentiary rules, such as the hearsay rule, on the basis of the traditional laws and customs of Aboriginals and Torres Strait Islanders.

22. Native title claimants and holders could negotiate voluntary land use agreements, which played a central role in providing economic opportunities to Indigenous Australians. Such agreements were subject to regulatory processes and must be negotiated in good faith. The Australian and Queensland Governments had consulted the local community about the Carmichael coalmine project. Representations had been made by the Wangan and Jagalingou people during that consultation. The agreement on the development of the mine and related railway line had been authorized in April 2016 by the Wangan and Jagalingou claim group, with one member of the group voting against the agreement.

23. Prescribed Body Corporates were established when a native title was determined and performed statutory functions, including holding, protecting and managing native titles. At present, there were more than 170 Prescribed Body Corporates, a figure that was expected to double once all native title claims had been finalized. Funds were provided to support Prescribed Body Corporates.

24. **Mr. McGlynn** (Australia) said that, between 2008 and 2013, more than 50,000 persons had attempted unauthorized travel to Australia by boat, with many drowning. Operation Sovereign Borders had been established in 2013 to stem the flow of unauthorized travel and prevent the loss of lives at sea by removing the incentive to travel. The Operation had undermined the business model of people smugglers; the last known death due to people smuggling had taken place more than three years previously.

25. A fast track process allowed persons who had arrived illegally by sea between August 2012 and January 2014 to apply for a temporary protection or safe haven enterprise visa. Visa holders could stay in the country for a period of three or five years, respectively, and were entitled to work and study; they could access services, health care and short-term counselling for trauma. In many circumstances, they could travel to countries other than the one from which they were seeking protection. Safe haven enterprise visa holders who worked or studied for at least three and a half years of the five-year visa period might be eligible to apply for other visas. They could not, however, sponsor the visas of family members. Altogether, more than 9,000 temporary protection and safe haven enterprise visas had been issued. Migrants and asylum seekers could access private and community legal services. The Government funded the applications of the most vulnerable and provided online guidance on the application process.

26. Persons intercepted at sea were not settled in Australia; rather they were safely returned or transferred to a regional processing country, which assessed their protection claims. Her Government remained committed to its international obligations on non-refoulement, including with respect to ensuring that no one was returned to a situation where he or she would face a real risk of certain types of harm. Each person intercepted was interviewed by a trained officer and had the opportunity to explain his or her reasons for travelling to Australia.

27. The Government of Papua New Guinea had closed the Manus Regional Processing Centre. Former residents who were recognized as refugees could settle in Papua New Guinea or apply for resettlement in the United States of America or Nauru. Refugees recognized by the Nauruan Government could settle in Nauru for 20 years or resettle permanently in Cambodia. Failed asylum seekers were in Papua New Guinea illegally and

should return to their countries of origin. The Governments of Papua New Guinea and Australia would facilitate voluntary returns. Accommodation for former residents of the Processing Centre had been inspected by the authorities of Papua New Guinea, which had improved security at the new facilities. Medical services, including mental health services, continued to be provided to refugees and failed asylum seekers.

28. The Governments of Nauru and Papua New Guinea were responsible for processing arrangements in their respective countries and persons residing there were subject to domestic laws. The accommodation provided in Nauru and Papua New Guinea was open; residents were not detained. The Australian Government had assisted in the development of a refugee determination process for Nauru and Papua New Guinea and supported the settlement service that provided for refugees' initial needs. Most of the children lawfully residing in Nauru under the memorandum of understanding between the Governments of Nauru and Australia lived in community accommodation, with the rest living at the Regional Processing Centre. All school-age children could attend local schools.

29. The Australian Citizenship Act 2007 provided that a person was a citizen if born in Australia to an Australian citizen or a person who was a permanent resident of Australia at the time of birth. Citizenship could also be acquired if a person born in Australia remained ordinarily resident for the first 10 years of life. Australian citizenship was automatically acquired in other circumstances, such as in the case of adoption, and the Act made provision for stateless persons to acquire citizenship. Applicants for citizenship must meet a range of criteria, including a citizenship test and English language requirements. Applications were individually assessed on their merits, regardless of how and when a person had arrived in Australia.

30. While migrant workers enjoyed the same rights as other workers, underpayment and exploitation sometimes undermined the system. In March 2016, the Senate had reported on the impact of temporary visa programmes, which had led to the establishment of a task force to consider how to better protect migrant workers. In addition, a law enforcement task force had been set up to tackle migrant worker exploitation.

31. **Ms. Kidd** (Australia) said that the Fair Work Ombudsman promoted good workplace relations, ensured compliance with the law and monitored certain visa arrangements. Its budget for the financial year 2017/18 was in excess of A\$ 100 million and an additional A\$ 20 million had been allocated over 2016-2020 to address the exploitation of vulnerable workers. It was unlawful to take adverse action against an employee on the grounds of race, colour, national extraction or origin. Blind recruitment was one method of addressing unconscious bias in recruitment. While it had worked well in addressing gender parity in one example, other cases had indicated that it could frustrate efforts to promote diversity.

32. Ratification of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) was not under consideration. Government practices and policies already met the requirements of that Convention. While her Government had supported the adoption of the ILO Domestic Workers Convention, 2011 (No. 189), it was not being considered for ratification given its limited application to the country. Her Government did not intend to become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families because the rights of migrants and temporary entrants were already sufficiently protected under international and domestic law.

33. The Workplace Gender Equality Agency data consultation group was an informal group composed of staff from the Agency and representatives from across government, academia and the private sector. Diverse representation in that group ensured that the Agency received advice from different sectors, including in relation to vulnerable women and men in the workplace.

34. **Ms. O'Keeffe** (Australia) said that her Government did not intend to introduce a bill of rights at the federal level since it considered domestic law to provide adequate protection. The Parliamentary Joint Committee on Human Rights reported on the compatibility of all bills and legislative instruments with human rights during the parliamentary process and,

where the legislative programme and timely response of ministers permitted, prior to their adoption.

35. The reservation to article 4 (a) of the Convention was consistent with article 19 of the Vienna Convention on the Law of Treaties. No other States parties had objected to the reservation. In September 2017 the Northern Territory had issued a discussion paper on legislation to make public incitement to racial hatred a criminal offence. Any new legislation introduced would be in addition to federal protections under the Racial Discrimination Act, which rendered it a criminal offence — punishable by up to 5 years' imprisonment — to incite hatred of a person or group on the grounds of race. Proposed amendments to the Racial Discrimination Act 1975 (Cth) had not found support in Parliament.

36. In 2017, the complaints system of the Australian Human Rights Commission had been amended to ensure reasonable costs and time frames, transparency and justice and to keep complaints without merit from progressing to the courts. Discretion to terminate a complaint if lodged more than six months after the fact was not a time limit. The Commission had adequate resources to perform its role and would see an increase in its budget in 2018. New appointments to the Commission had been made in accordance with merit and transparency guidelines for the public service. The president of the Commission had been appointed for seven years.

37. A range of NGOs received funding to represent their views to Government and to participate in policy and programme development and review. Lobbying activities were permitted, but could not make use of commonwealth funding. The Not-for-profit Sector Freedom to Advocate Act 2013 effectively prohibited federal agencies from including gag clauses in agreements with not-for-profit service providers.

38. **Ms. Shepherd** (Country Rapporteur) said that it was unclear why the State party did not respond to calls for ratification of ILO Conventions Nos. 169 and 189 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. While she welcomed the definition of multiculturalism provided, the Committee remained concerned by inadequate support for strengthening multiculturalism. She asked for details of the government expenditure allocated for that purpose and the resources provided for anti-racism efforts. She repeated her question about who decided on the allocation of financing to projects intended to improve the situation of indigenous peoples, and whether indigenous peoples were properly consulted on such projects. There appeared to be an old-fashioned benevolent attitude to indigenous peoples, rather than a policy of consulting them on the financing needed to address critical issues.

39. Information from the media had shown the use of restraints on children held in a detention centre and it was clear that the issue was not restricted to one facility or state. A cause of concern was the reluctance of the Prime Minister to extend the scope of the Royal Commission into the Protection and Detention of Children in the Northern Territory to make it a national inquiry. While the recommendations made by that Royal Commission were wide-ranging, how would they be implemented? In particular, she asked whether individuals would be held accountable for the abuse of children in the Northern Territory and whether there would be an investigation into the lack of charges brought against persons who assaulted children in care.

40. Statistics should be collected on who was most frequently subjected to racial profiling, who was targeted by racially motivated crimes and what measures were taken to punish the perpetrators of those crimes. Reliable data that included ethnic background were needed to address problems.

41. Despite the responses given by the delegation, the situation of migrants, asylum seekers and refugees in offshore processing centres remained of serious concern. According to the Refugee Council of Australia, offshore processing was a cruel and inhuman practice that caused enormous suffering to persons who were already very vulnerable. Australia had a moral obligation to ensure that persons seeking asylum were treated in line with international standards, which included the prohibition of arbitrary detention, torture and other cruel, inhuman or degrading treatment or punishment. As things stood, the use of offshore processing centres was deeply flawed. The State party had failed to provide safe

living conditions, which had led to allegations of abuse, self-harm and neglect. The violence and rapidly deteriorating and unsanitary conditions at the Manus Centre, in particular, were shocking and inexcusable. Footage had shown police and immigration officers beating refugees with metal poles. Immediate action must be taken by the State party to ensure the safety and protection of refugees and asylum seekers. She urged the State party to heed the lessons from its history, which had been characterized by migration.

42. Lastly, she would urge the State party to ensure that a well-funded and comprehensive action plan was in place to implement the United Nations Declaration on the Rights of Indigenous Peoples, with a particular focus on the articles relating to their right to self-determination.

43. **The Chair** added that the Office of the High Commissioner for Human Rights had published a document entitled “A Human Rights-based Approach to Data: Leaving No One behind in the 2030 Development Agenda”, which could prove useful to the State party in improving its data-collection practices.

*The meeting was suspended at 11.30 a.m. and resumed at 11.50 a.m.*

44. **Mr. Strahan** (Australia) said that the Government was committed to abiding by the obligations under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the ILO Domestic Workers Convention, 2011 (No. 189), but had no current plans to proceed towards ratification of those instruments nor to withdraw its reservation to article 4 (a) of the Convention. The Government had allocated significant funding to a number of organizations in support of its multicultural policy. For instance, \$A 1 million had been allocated to the Settlement Council of Australia; \$A 425,000, plus additional ad hoc funding, to the Federation of Ethnic Communities’ Councils of Australia; and \$A 2 million to the Multicultural Youth Advocacy Network. He pointed out that, notwithstanding the country’s diversity, the results of the Scanlon Foundation social cohesion survey had revealed that 91 per cent of respondents felt a strong sense of belonging in Australia.

45. All states and territories had diversion programmes in place aimed at reducing the detention of child and youth offenders, including Aboriginal and Torres Strait Islander juveniles. For instance, diversion strategies in Queensland, New South Wales and Western Australia included the use of verbal or written warnings, cautions, youth justice conferences and restorative justice, as opposed to judicial proceedings. Diversion initiatives could also include drug-support programmes, mental-health treatment and opportunities to return to education or employment. The successful completion of such programmes could result in the charges being dismissed and no conviction being recorded. A similar approach taken in the Northern Territory also involved the participation of non-governmental organizations to develop a coordinated and integrated approach to delivering services for children at risk of entering the youth justice system. The National Territory government had recently announced the establishment of youth outreach and re-engagement teams servicing a number of communities across the territory, backed by \$A 18 million in funding, the development of evidence-based youth diversion programmes and services, and the implementation of a bail support and accountability programme, which would include access to appropriate accommodation.

46. A report entitled “Youth Justice Review and Strategy: meeting needs and reducing offending”, published in August 2017, had been the most comprehensive independent review of the youth justice system in Victoria in more than 16 years. The report contained 126 recommendations and had identified areas of youth justice that should be strengthened to reduce offending, such as the need to focus on early intervention, sentence oversight and offence-specific programmes to reduce serious offending.

47. It was a government priority to keep children and families safe. Indigenous children were significantly more likely to experience child abuse and neglect than were other children. Between 2015 and 2016, indigenous children aged 0-17 years were 6.8 times more likely to be the subject of child protection notifications. The third action plan under the National Framework for Protecting Australia’s Children 2009-2020 was aimed at reducing the likelihood of children entering the child-protection system and decreasing the



overrepresentation of indigenous children in child protection. He would emphasize that out-of-home care was a measure of last resort; the preference would always be for children to be reunited with their birth parents, if possible. The Government was currently evaluating a study by the Australian Human Rights Commission regarding the overrepresentation of indigenous children in child protection or childcare.

48. **Ms. O’Keeffe** (Australia) said that, in February 2017, the Government had announced its intention to ratify, by December 2017, the Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment. It intended to establish its national preventive mechanism as a cooperative network of commonwealth, state and territory inspectorates, which would be coordinated by the Commonwealth Ombudsman and would have responsibility for monitoring and inspecting primary places of detention, including youth facilities, under Australian jurisdictional control with a view to preventing torture and other cruel inhuman or degrading treatment or punishment.

49. Each of the eight different policing jurisdictions in Australia had taken steps to prevent racial profiling and ensure that robust frameworks, standards and complaints mechanisms were in place. For instance, the Victoria police had released a report entitled “Equality is not the same”, which contained an action plan for the period 2014 to 2016 aimed at improving the way the police engaged with diverse communities. Measures had included the development of a human rights e-learning module and awareness-raising activities. In a similar vein, the Australian Federal Police had undertaken cultural awareness-raising among its officers to ensure that policies were applied fairly and without discrimination. Complaints of racial profiling were taken seriously and a range of disciplinary sanctions were available, including dismissal of the officer concerned.

50. **Mr. Yeung Sik Yuen** said that, while he had listened with interest to the explanation given, he would respectfully disagree with the arguments put forward to justify the State party’s continued reservation to article 4 (a) of the Convention, which concerned criminalizing the dissemination of racist ideas, incitement to hatred or discrimination. It was entirely possible to fully comply with that article while providing aggrieved parties in local jurisdictions with the opportunity to seek redress through the civil courts in so-called minor cases of discrimination.

51. He had been pleased to learn that Australia was committed to preventing immigration policies from having a discriminatory effect and wished to know whether the same applied to the issue of citizenship. He noted, for example, that one of the requirements for Australian citizenship was proficiency in English to Level 6 of the International English Language Testing Scheme, which was the equivalent of postgraduate-level English. If that was the case, the qualifying test might discriminate against persons from non-English-speaking backgrounds.

52. **Mr. Marugán** said that he wished to know whether the State party collected data as regards the ethnic composition of the population and, if not, why not. He noted that the Closing the Gap initiative was on course with respect to just one of its seven targets and wished to know what action the Government was taking to improve progress in other areas, such as the mortality rate of indigenous children. Reports suggested that health and housing services for Aboriginal and Torres Strait Islanders were chronically under-resourced. Moreover, decades-old organizations, some providing critical services to those communities, had been disbanded or had had their funding slashed. Housing, in particular, was a serious concern, especially since, in the Northern Territory, the homeless rate among those populations was 15 times the national average. An explanation as to why those services were so underfunded should be provided.

53. The State party’s income management scheme appeared to be flawed and seemed to have encouraged dependence, instead of promoting independence. He wished to know what measures had been taken to make income management a voluntary rather than mandatory scheme and to reconsider cuts to social security, in line with the recommendations made by the Committee on Economic, Social and Cultural Rights ([E/C.12/AUS/CO/5](#)). Similarly, he wondered whether the State party intended to make changes to the Community Development Employment Programme. Far from creating job, reports suggested that the

Programme was discriminatory in nature and had forced indigenous people to work long hours for basic social security payments, instead of earning a fair wage in proper employment with labour protection.

54. He was given to understand that 50 per cent of persons with disabilities in Australia were Aboriginal and Torres Strait Islanders and wished to know what data the State party collected and what specific policies it had put in place in that regard. Lastly, the Committee had received information that, over the past four years, 2,000 refugees and asylum seekers, including children, had been detained offshore in the Manus Island detention centre, held in desperate conditions and subjected to violence, sexual assault and even murder. Although around 1,700 persons had been categorized as refugees, only 54 had been resettled, leaving the rest in limbo: exhausted, terrified and traumatized. He would like to know: how the State party was offering those persons the safety and protection they needed; when it intended to ensure that every person currently in offshore processing centres could be safely resettled; how it justified its refusal of an offer of resettlement from the New Zealand Government; and what time frame was envisaged for the completion of resettlement to the United States.

55. **Ms. McDougall** said that, notwithstanding the assertions of the delegation, alternative sources had raised serious questions about the free, prior and informed consultation and consent of the local community — the Wangan and Jagalingou people — affected by the Carmichael coalmine project. Moreover, the project itself would do untold harm to the environment and damage the ability of the community to exercise their cultural and traditional rights on their ancestral land. The Committee remained concerned about the Native Title Act, which was opposed by the indigenous peoples. Indeed, the native title system seemed to be based on the doctrine of *terra nullius*, which denied the existence of the Aboriginal and Torres Strait Islander peoples and their right to their land and, thus, was discriminatory. She wondered on what basis the title claims already settled, as well as those that were in the pipeline, had been calculated and whether the State party rejected the notion of *terra nullius* in principle. The rights of the Aboriginal and Torres Strait Islander peoples to their lands, to self-determination and to effective and participatory free, prior and informed consent must be recognized. Lastly, she noted with concern that Aboriginal children were significantly more likely than other children to be taken out of their home environment and placed in child protection. She wondered whether the State party had given consideration to setting national targets for eliminating the overrepresentation of Aboriginal children in child protection, by investing in culturally appropriate family support to enable those children to stay with their families, and by guaranteeing that, in the event that they had to be removed, they were placed in culturally appropriate foster care.

56. **The Chair** said that the State party should consider appointing a commissioner for Aboriginal children in each of its states and territories.

57. **Mr. Strahan** (Australia) said that the national census of 2016 had collected data on the place of birth of respondents' parents, respondents' ancestry and religion and the language or languages they spoke at home. The three most common birthplaces of migrants to Australia were, in order, England, China and India. In the past 15 years, however, migrants from China and India had begun accounting for an increasingly large share of the country's newcomers. The ancestries mostly commonly reported by census respondents were English, Australian, Irish, Scottish, Chinese, Italian, German, Indian, Greek and Dutch. It was not clear what the respondents who had reported that their ancestry was Australian meant. Christianity, followed by Islam and Buddhism, was the country's predominant religion. Some thirty per cent of census respondents had not reported a religion.

58. The practice of income management was compliant with the Racial Discrimination Act 1975. Twenty-one per cent of the welfare recipients currently participating in income-management schemes were not of indigenous background. The income of welfare recipients was managed only on certain conditions, including living in an approved location, volunteering for the scheme, receiving welfare payments of a particular kind or being referred to the scheme by social workers, a local child protection authority or other authorities. The Parliamentary Joint Committee on Human Rights had sought additional information on income management from the relevant Minister. It had not yet released a report on the practice, however.

59. **Ms. Roberts** (Australia), referring to participants in the Government's Community Development Programme, said that all activity-tested job seekers nationally were required to undertake up to 25 hours of mutual obligation activity, depending on their assessed capacity to work. Jobs in remote areas were often more sporadic and short-term, and each remote area had unique opportunities and barriers. The upshot was that those areas offered fewer opportunities to take up work and engage in work-like routines. It was critical for job seekers in the programme to remain active, so that they would be ready to work when the opportunity arose. Ensuring that participants took paid work, when such work was available, was the clear priority. Persons engaged in mutual obligation activities did not displace paid workers. Additional information about the programme and other related matters would be provided in writing in due course.

60. It was likely that the state and territorial governments would consider developing targets in relation to the care of children in child protection systems as part of the "Closing the Gap" strategy. The development of culturally appropriate support services had increased incrementally in recent years. The National Indigenous Critical Response Service had recently been funded for four years in a bid to reduce suicide rates among Aboriginal and Torres Strait Islander people.

61. **Mr. McGlynn** (Australia) said that a bill strengthening citizenship requirements had been introduced in Parliament in June 2017. Since the bill's discharge from the Senate in October without having been adopted, its provisions, including those concerning a language test, had been eagerly debated in the media and elsewhere. It was likely that a new version of the bill would require a less demanding language test.

62. The Papua New Guinea Immigration and Citizenship Service Authority had inspected accommodation facilities for refugees at three locations in eastern Lorengau on Manus Island and confirmed their readiness. Catering, cleaning and security services were also provided. A medical clinic operated at the East Lorengau Refugee Transit Centre.

63. Access to alternative accommodations was a matter for the Government of Papua New Guinea. In any event, however, residents of the Lorengau facilities for refugees and failed asylum seekers could come and go as they wished. In dismissing a case brought before the Supreme Court of Papua New Guinea, the Chief Justice had written that there was no good reason for the refugees and failed asylum seekers from the newly closed Manus Regional Processing Centre not to move voluntarily to the satisfactory facilities that had been provided for them by the Government of Papua New Guinea.

64. **Ms. O'Keeffe** (Australia) said that the Government of Australia rejected the doctrine of *terra nullius*. The Native Title Act 1993 had been adopted to facilitate the consideration of applications for land title submitted by indigenous peoples.

65. **Mr. Avtonomov** said that in its next periodic report, the State party should address the steps that had been taken in the wake of legal proceedings concerning the death in custody of an Aboriginal resident of Palm Island, Queensland, in 2004. It would also be interesting to know whether Australia took part in activities organized as part of the International Decade for People of African Descent.

66. **Mr. Calí Tzay** said that he would welcome a comment on reports that, in some parts of Australia, including those with the largest numbers of deaths in custody, the training given to the police to help them deal more sensitively with Aboriginal residents was grossly inadequate.

67. **Mr. Amir** asked whether the State party intended to withdraw its reservation to article 4 (a) of the Convention. He also asked what could be done to protect the State party's Aboriginal peoples from the ills, including suicide and alcoholism, that could lead to their gradual disappearance.

68. **Mr. Murillo Martínez** said that he wondered about the depth of the dialogue between the State party's authorities and its Aboriginal residents. It would be interesting to know what bodies facilitated that dialogue and at what levels they worked. He, too, wished to know whether Australia was participating in the International Decade for People of African Descent.

69. **The Chair** said that she would welcome an indication of the efforts made by the State party to help all its public servants, not just the police, deal sensitively with a diverse public. In addition, the State party should set targets for reducing the disproportionate number of Aboriginal children taken into residential care. Suicide-prevention efforts targeting specific population groups were also essential.

70. A comment would be welcome on three issues that had been raised earlier, namely, the appointment of commissioners for Aboriginal children, the development of a national action plan to combat violence against Aboriginal women and the outcome of the investigations of allegations of ill-treatment of children in detention in the Northern Territory. It would also be interesting to know how it could be argued that income management was not inherently discriminatory.

71. **Mr. Strahan** (Australia) said that, as he had mentioned earlier, a significant proportion of the people whose incomes were managed were not indigenous. Although income management could be compulsory, support for the programme was strong throughout the country, as it was believed to deliver results.

72. Australia was not involved in activities organized as part of the International Decade for People of African Descent. Training programmes for service-delivery staff at the state and territory and federal levels included human rights training. Further information on relevant training programmes could be provided in writing.

73. A federal court had ordered the payment of A\$ 220,000 to the three applicants who had brought a class action against the Queensland Police Service for the abuses committed by its officers on Palm Island. The claims of the islanders on whose behalf the three applicants had brought their case would be considered at a later date. Mediation of the claims of the 430 residents of Palm Island who had registered for relief would take place in Townsville, Queensland. The State of Victoria had a commissioner for aboriginal children and young people.

74. **Ms. Roberts** (Australia) said that the authorities took their relationship with indigenous peoples very seriously. Respectful and constructive engagement was the rule from the local up to the national levels. Ties with such bodies as the Redfern Alliance, the Prime Minister's Indigenous Advisory Council and the National Congress of Australia's First Peoples were particularly close.

75. **Ms. Kidd** said that one of the priorities defined in the National Plan to Reduce Violence against Women and their Children 2010-2022 was to focus on combating violence specifically against Aboriginal and Torres Strait Islander women and their children.

76. **Ms. Shepherd** said that although Committee members and the State party might not always share the same views on every issue, the State party's answers to the many questions it had been asked would be considered fairly. It was also clear that the State party was striving to ensure that its diverse populations and classes coexisted peacefully. Peaceful coexistence, however, required justice, equality and equity, and the reversal of the wrongs of history. It also required swaying the small percentage of the population that remained opposed to living in a multicultural society. The authorities should therefore make every effort to ensure that those who opposed the notion of Australia as a multicultural space understood that nowhere could know peace until, as Haile Selassie had said in his 1963 address to the United Nations, the philosophy that held one race superior and another inferior was finally and permanently discredited and until the basic human rights were equally guaranteed to all without regard to race.

77. **Mr. Strahan** (Australia) said that although it was indeed the case that the Australian Government and the Committee did not always agree on every policy, the country's commitment to multiculturalism and combating racism could not be doubted. The Australian Human Rights Commission and Australian civil society were important partners in the Government's efforts to fulfil that commitment. As civil society organizations had a role to play in ensuring the effectiveness of the international human rights system, Australia had resisted the efforts made by some countries to exclude such organizations from United Nations proceedings.

78. The opposition to multiculturalism put up by a small minority of the population in Australia highlighted the need to make concerted efforts to combat prejudice and racism. In that connection, the Committee could rest assured that country's state and territorial governments, working in combination with the federal Government, would continue striving to ensure that the inherent value of diversity — whose enemies were the enemies of democracy — was evident to all.

*The meeting rose at 1 p.m.*