



Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
30 July 2010

Original: English

ADVANCE UNEDITED VERSION

Committee on the Elimination of Discrimination against Women

Forty-sixth session
12 – 30 July 2010

Concluding observations of the Committee on the Elimination of Discrimination against Women

Australia

1. The Committee considered the combined sixth and seventh report of Australia (CEDAW/C/AUL/7) at its 935th and 936th meetings, on 20 July 2010 (see CEDAW/C/SR.935 and 936). The Committee's list of issues and questions is contained in CEDAW/C/AUL/Q/7 and the responses of Australia are contained in CEDAW/C/AUL/Q/7/Add.1.

Introduction

2. The Committee expresses its appreciation to the State party for its combined sixth and seventh periodic report, which was well structured and followed the Committee's guidelines for the preparation of reports. The Committee appreciates that, in response to its previous concerns about insufficient disaggregated data, the State party provided information on the steps taken to improve the collection of data by the Office for Women and the development of indicators on gender equality including data for indigenous people, people with disabilities and people from lower socio-economic and rural and remote backgrounds. The Committee expresses its appreciation to the State party for the written replies to the list of issues and questions raised by its pre-session working group, its oral presentation and the further clarifications to the questions posed orally by the Committee.

3. The Committee commends the State party for its expert delegation and appreciates the constructive dialogue that took place between the delegation and the members of the Committee and the highly detailed and comprehensive responses to questions posed by members of the Committee.

4. The Committee notes with appreciation that the report was prepared through a participatory process involving government institutions, non-governmental organizations and extensive community consultations at State and Territory level. It further notes with satisfaction that specific consultations were also held with women with disabilities, indigenous women, migrant and refugee women and women from remote or rural communities in response to the Committee's expressed concerns about the lack of information on these groups of women in previous reports. It commends the State party for

providing financial support to various non-governmental and civil society organizations to assist them in preparing alternative reports for the Committee.

5. The Committee notes with appreciation that the State party report, although not tabled before the Parliament, was endorsed by the Prime Minister and Cabinet as well as by the Ministers of Women's Affairs in each state or territory.

6. The Committee takes note that, as a result of the federal election due to take place on 21 August 2010, the present Commonwealth Government and its public service is bound by constitutional conventions which restrict it to a caretaker role pending the outcome of the election and consequently the Australian Delegation was only able to provide information on past policy positions without committing any incoming government to those positions. The Committee nevertheless notes that the provisions of the Convention bind Australia as a State party regardless of the Government in power and it expects any incoming government to take the present recommendations into account when formulating its policies.

Positive aspects

7. The Committee welcomes the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in December 2008. It also welcomes the ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol in July 2008, the two Optional Protocols to the Convention on the Rights of the Child in 2006 and 2007, and the ILO Convention on the Elimination of the Worst Forms of Child Labour in 2006.

8. The Committee notes with satisfaction the laws enacted since the last report to advance the status of women and combat discrimination, such as the Fair Work Act 2009 and the Paid Parental Leave Act 2010. It also welcomes the numerous programmes that have been adopted including the National Aboriginal and Torres Straits Islander Women's Health Policy and the National Primary Healthcare Strategy.

9. The Committee acknowledges the progress made in promoting women in leadership roles and in particular the historic landmark achieved by having two of the highest public offices occupied by women. The Committee congratulates Ms. Quentin Bryce on her appointment as Australia's first female Governor-General in 2008 and Ms. Julia Gillard for her appointment as Australia's first female Prime Minister in 2010.

10. The Committee commends the State party for its efforts to support civil society and non-governmental organizations and to encourage inclusive consultations as part of Government policy-making processes, for example by providing Government funding to support six National Women's Alliances, including an alliance for Aboriginal and Torres Straits Islander women.

11. The Committee congratulates the State party for its achievement in being ranked first in the world in the United Nations Human Development Report 2009 with regard to its gender-related development index and its consistent high ranking in other international measures.

12. The Committee welcomes Australia's endorsement of the United Nations Declaration on the Rights of Indigenous Peoples, and commends the Australian Parliament's motion of apology to Australia's indigenous peoples 'for the laws and policies of successive governments that have inflicted profound grief, suffering and loss'. The Committee also welcomes the nomination and election of the first Australian indigenous woman as a member of the United Nations Permanent Forum on Indigenous Issues.

13. The Committee welcomes the State party's commitment to work with indigenous communities to "close the gap" with regard to the disadvantaged situation of Australia's indigenous peoples and the fora created to allow indigenous people's voices to be heard, including an independent Indigenous Steering Committee and the National Congress of Australia's First Peoples – with gender-balanced representation - and the continuing support for the National Aboriginal and Torres Straits Islander Women's Gathering.

Principle areas of concern and recommendations

14. **The Committee recalls the State party's obligation to implement systematically and continuously all the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and views the concerns and recommendations identified in the present concluding observations as requiring the State party's priority attention between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on these areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It calls upon the State party to submit the present concluding observations to all relevant ministries, to the Parliament and to the judiciary, so as to ensure their full implementation.**

Parliament

15. **While reaffirming that the Commonwealth Government has the primary responsibility and is particularly accountable for the full implementation of the State party's obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government, and it invites the State party to encourage its Parliament, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the Government's next reporting process under the Convention.**

Federal structure

16. The Committee remains concerned about the lack of harmonization or consistency in the way that the Convention is incorporated and implemented across the country, particularly when the primary competence to address a particular issue lies with the individual states and territories. It notes for example that inconsistent approaches have arisen with regard to the imposition of criminal sanctions, for example with regard to abortion..

17. **The Committee acknowledges the important role played by the Standing Committee of Attorneys-General in harmonizing anti-discrimination strategies, but reiterates its previous recommendation that the State party promote and guarantee the implementation of the Convention throughout the country, including through its power to legislate for the implementation of treaty obligations in all states and territories.**

Reservations

18. The Committee notes that, notwithstanding recent developments with regard to women in the armed forces and the adoption of the Paid Parental Leave Act, the State party has not yet withdrawn its two reservations under the Convention.

19. **The Committee recommends that the State party withdraw its two reservations as soon as possible.**

Legislative framework for addressing discrimination

20. The Committee notes the gaps in the protection provided by the Sex Discrimination Act 1984 and welcomes the review undertaken by the Senate Constitutional and Legal Affairs Standing Committee on the effectiveness of the Act and the bill which was tabled in Parliament in June 2010. The Committee notes that the Bill has been suspended pending the outcome of the elections.

21. The Committee urges the State party, as a matter of priority, to re-table the bill before the new Parliament as soon as possible after the elections and to ensure that the bill takes into account the key recommendations of the 2008 Senate report in order to ensure that the Bill contains provisions which will provide comprehensive protection against all forms of discrimination against women. The Committee also recommends that the State party consider expanding the mandate of the Sex Discrimination Commissioner to address all issues of gender equality.

Visibility of the Convention and the Optional Protocol

22. The Committee acknowledges the efforts of the State party in training its judiciary on the intersection of gender and the legal system and the establishment of the National Judicial College and its Gender Justice Committee. However, the Committee notes that although the Convention has been invoked in a number of decisions by the courts in Australia including in the High Court, judicial decision-making could be further guided by the provisions of the Convention, the Optional Protocol and the General Recommendations of the Committee.

23. The Committee recommends that the National Judicial College of Australia include specifically the Convention and its Optional Protocol and the Committee's general recommendations in its continuing education programme for judges, magistrates, tribunal members and members of the legal profession.

Discrimination and human rights

24. The Committee welcomes the National Human Rights Consultation launched by the State party in December 2008 to inquire into the protection and promotion of human rights in Australia, but notes with concern that the recommendation for the adoption of a Human Rights Act has not been retained and that instead a Human Rights Framework has been released. The Committee notes, however, that the current Government has indicated its intention to review the Framework in 2014 to assess its effectiveness in protecting and promoting human rights.

25. The Committee urges the State party to provide adequate funding for the implementation of the Human Rights Framework and to strengthen the promotion and protection of human rights, including through the elaboration of a National Action Plan on Human Rights and the consolidation and harmonization of federal anti-discrimination law into a single act. The Committee further urges the State party to give due consideration, with a view to further protecting women's human rights, to the adoption of a Human Rights Act encompassing the full range of civil, cultural, economic, political and social rights.

Temporary Special Measures

26. The Committee notes with concern that, despite a large number of policies and programmes adopted by the State party to address under-representation of certain vulnerable groups of women, including indigenous women, women with disabilities, migrant women, women from culturally and linguistically diverse backgrounds and women from remote or rural communities, there has been slow progress in ensuring their

equal participation in leadership and decision-making positions, in public and political life as well as their equal access to education, employment and health. The Committee continues to be concerned that the State party does not favour adoption of temporary special measures in the form of compulsory targets and quotas to address the under-representation of women in decision-making bodies, in political and public life and the persistent inequality of their access to education, employment opportunities and health care services.

27. The Committee reiterates its recommendation in its previous concluding observations (CEDAW/C/AUL/CO/5, para. 17) that the State party fully utilize the Sex Discrimination Act and consider the adoption of temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, to increase further the number of women in political and public life and to ensure that the representation of women in political and public bodies reflect the full diversity of the population, including indigenous women and women from ethnic minorities.

Violence against Women

28. The Committee notes with concern the unacceptably high levels of violence against women that persist in Australia, with one in three Australian women experiencing physical violence in their lifetime and one in five experiencing sexual violence. It also notes the lack of federal legislation or minimum standards for protection of women against violence and domestic violence. The Committee welcomes the establishment in 2008 of a National Council to advise on the development of an evidence-based national plan to reduce violence against women and their children and the Council's report, "Time for Action", presented in April 2009.

29. The Committee encourages the State party to continue its efforts to tackle the persistent problem of violence against women and urges the State party to adopt national legislation and adopt, implement and adequately fund as a matter of urgency the National Action Plan to Reduce Violence against Women and their Children including a mechanism for independent monitoring. The Committee further recommends that the State party develop strategies to prevent homelessness resulting from domestic violence and ensure that women who are victims of domestic and family violence and their children are provided with appropriate ongoing accommodation and integrated support. The Committee recommends that the State party take appropriate measures, including specific legislative measures criminalizing acts of domestic violence, prosecute acts of domestic violence and punish the perpetrators of such acts. The Committee requests the State party to include under the Committee's follow-up procedure referred to in paragraph 50 of the present concluding observations available information on the number and nature of reported cases of domestic violence, on the conviction and the sanctions imposed on perpetrators, as well as any assistance and rehabilitation measures provided to victims of domestic violence.

Trafficking

30. The Committee commends the State party for the measures it has adopted in order to combat trafficking in human beings and the exploitation of women, including the implementation of a multi-million dollar National Plan to Eradicate Trafficking in Persons mirroring the objectives of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons. It furthermore notes with satisfaction that, in response to the Committee's 2006 recommendations, the State party provides a more humanitarian response to suspected victims of trafficking through the Support for Victims of People

Trafficking Programme and the People Trafficking Visa Framework since 1 July 2009. The Committee also notes the efforts made by the State party internationally and regionally to address the problem of trafficking in human beings across borders.

31. **The Committee recommends that the State party adopt a human rights framework in its revised Action Plan and consider complementary approaches to the current criminal justice approach. The Committee recommends that the State party take steps to improve coordination among government agencies involved in anti-trafficking for its full cycle of work. The Committee further recommends that the State party undertake a formal review on the return and reintegration of trafficking victims and develop guidelines for repatriation for police and other relevant personnel. The Committee also recommends that the State party review the provision of accommodation for women trafficked into Australia with a view to offering more options and reduce stress on their victims. The Committee requests the State party to include in its next report information on civil proceedings for provision of access to compensation for victims, the number of cases and the amount of compensation awarded. The Committee urges the State party to undertake an impact assessment of the Bali Process in order to ensure the sustainability of its networking among the countries under this project. The State party is also encouraged to evaluate and monitor the Asia Regional Trafficking in Persons Project (ARTIP) and to continue its assistance to member states of ASEAN in order to improve investigation and judicial process in cases of trafficking in human beings.**

Exploitation of prostitution

32. The Committee notes the efforts made by the State party to regulate prostitution but is concerned that these efforts do not aim to reduce demand for the services of women in prostitution and/or provide alternatives to women entering into prostitution.

33. **The Committee recommends that the State party adopt measures to discourage women and prevent girls from entering into prostitution. The Committee urges the State party to develop effective strategies and programmes to address the demand for prostitution and support women who wish to discontinue their lives in prostitution.**

Political Participation and Participation in Public Life

34. The Committee notes with appreciation the positive developments in increased women's representation in senior ranks of public office, that thirty percent of all Australian parliamentarians are women, that women constitute fifty-eight percent of the Public Service and that three out of seven High Court judges are women. The Committee however remains concerned that the measures taken to enhance the participation of Aboriginal and Torres Straits Islander women and women with disabilities in public life remains inadequate.

35. **The Committee recommends that the State party adopt targeted measures, including temporary special measures with clear time frames, in accordance with article 4, paragraph 1 of the Convention and the Committee's general recommendation No. 25, to ensure the equal participation and representation of women in public and political life, with a particular focus on Aboriginal and Torres Straits Islander women and women with disabilities.**

Education

36. The Committee notes that a number of well-resourced initiatives have been undertaken to eliminate discrimination against girls and women at all levels in the education system. The Committee is however concerned that information, as provided,

does not always allow for a full understanding of ways in which multiple forms of discrimination impact outcomes for specific groups such as indigenous women and girls. The Committee is also concerned with segregation of fields of study in higher education and vocational training which ultimately results in occupational sex segregation of the labour market.

37. The Committee recommends that data related to school retention, completion and achievement in literacy and numeracy be disaggregated and cross-tabulated on the basis of sex, ethnicity and geographical location to ensure that the needs of specific groups can be identified and appropriate interventions applied to eliminate sex-based disparities. The Committee urges the State party to allocate resources to encourage females to pursue programmes of study and professional development in areas which are traditionally dominated by men.

Employment

38. The Committee is concerned about the labour force which continues to be segregated by gender; the persistence of the pay gap with women working full time earning eighteen percent less than their male counterparts; the caring responsibilities which continue to affect women's labour force participation and the limited access to job opportunities for women with disabilities and indigenous women. The Committee also notes that, despite the provisions in the Sex Discrimination Act, sexual harassment continues to be a serious problem in the workplace. The Committee welcomes the first paid parental leave scheme which will come into operation on 1 January 2011, but notes that it does not include superannuation which impacts on the major gender gap in retirement savings and economic security between older women and men, that the leave is of limited duration (18 weeks), that compensation is limited to an amount equal to the federal minimum wage and subject to other conditions.

39. The Committee urges the State party to take concrete measures to eliminate occupational segregation including by removing barriers to women in all sectors and to ensure equal opportunities for, and equal treatment of, women and men in the labour market. The Committee welcomes the Fair Work Act 2009 and urges the State party to develop a National Pay Strategy and establish a specialized unit within the new wage setting body of Fair Work Australia to develop and monitor pay gaps mechanisms. It further requests that the State party provide a comprehensive assessment of the effectiveness of the Fair Work Act in eliminating pay gap in its next periodic report. The Committee urges the State Party to adopt appropriate legislative measures as well as a preventive strategic plan in order to combat sexual harassment in the workplace. The Committee calls on the State party to ensure that the statutory independent review of the Paid Parental Leave Act gives due consideration both to an increase in compensation and to the provision of superannuation on paid leave in order to protect better women's financial security and to encourage equal participation of both parents in child care. The Committee urges the State party to develop a comprehensive child care policy to include out of school hours and vacation care and to increase the supply of affordable and quality child care.

Disadvantaged Groups of Women

40. The Committee notes with concern that, despite strengthened efforts to address the issue since the last report, socio-economic indicators consistently show that the Aboriginal and Torres Straits Islander communities continue to be amongst the most disadvantaged amongst Australians, with indigenous women being particularly disadvantaged. The Committee is concerned that indigenous women and girls face the highest levels of violence, especially at home where indigenous women are thirty five times as likely to be

hospitalized as a result of family violence related assaults as non indigenous females. The Committee also continues to be concerned that indigenous women have fewer opportunities and more restricted access to quality education, health care and legal aid services.

41. **The Committee reiterates its previous recommendation that the State party adopt and implement targeted measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, to improve indigenous women's enjoyment of their human rights in all sectors, taking into account their linguistic and cultural interests. It urges the State party to implement specific strategies within the National Plan to address violence against Aboriginal and Torres Straits Islander women, including funding culturally-appropriate indigenous women's legal services in urban, rural and remote areas of Australia. It recommends that the State party pay particular attention to ensuring access to quality education, including post-graduate education, vocational training, adequate health and social services, legal literacy and access to justice.**

42. The Committee is concerned that women with disabilities are almost entirely absent from key leadership and decision-making positions and continue to be disadvantaged with regard to educational and employment opportunities. It is concerned about the high levels of violence experienced by women, particularly those living in institutions or supported accommodation. The Committee also notes with concern that non-therapeutic sterilizations of women and girls with disabilities continue to be practiced in some states in Australia and notes that the Commonwealth Government considers this to be a matter for state governments to regulate.

43. **The Committee urges the State party, in the light of its recent ratification of the Convention on the Rights of Persons with Disabilities, to undertake a comprehensive assessment of the situation of women with disabilities in Australia. The Committee recommends that the State party address, as a matter of priority, the abuse and violence experienced by women with disabilities living in institutions or supported accommodation. The Committee further recommends that the State party adopt urgent measures to ensure that women with disabilities are better represented in decision-making and leadership positions, including through the adoption of temporary special measures such as quotas and targets, in accordance with article 4, paragraph 1 of the Convention and the Committee's general recommendation No. 25. The Committee recommends that the State party enact national legislation prohibiting, except where there is a serious threat to life or health, the use of sterilisation of girls, regardless of whether they have a disability, and of adult women with disabilities in the absence of their fully informed and free consent.**

44. The Committee appreciates some of the measures taken by the State party to prevent discrimination against migrant women as well as the initiatives of the Department of Immigration and Citizenship but notes with concern the prevailing high level of violence experienced by migrant women, their low levels of participation in the labour market and their concentration in low-paid jobs and their particular linguistic and cultural needs when accessing universally available health care services.

45. **The Committee urges the State party to ensure the full and effective enforcement of the measures taken to protect migrant women. The Committee recommends that the State party intensify its efforts to prosecute acts of domestic violence and to provide adequate support services including shelters for the victims. The Committee urges the State party to take targeted measures to address existing barriers to workplace participation of migrant women, to develop a policy of equal access to effective job training and placement services that are not limited to**

traditional employment areas. The Committee urges the State party to develop a broad framework for health services for migrant women which will take into account their specific health profiles. The Committee draws the State party's attention to its general recommendation No. 26 on women migrant workers.

Beijing Declaration and Platform for Action

46. The Committee urges the State party, in the implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.

Millennium Development Goals

47. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.

Dissemination

48. The Committee acknowledges the efforts made by the State party to disseminate the Committee's previous concluding observations and requests that the present concluding observations be similarly disseminated in order to make all people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure the de jure and de facto equality of women, as well as the further steps that are required in that regard. The Committee recommends that the dissemination should include the local community level including remote communities. The State party is encouraged to organize a series of meetings to discuss the implementation of the present observations. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme "Women 2000: gender equality, development and peace for the twenty-first century".

Ratification of other treaties

49. The Committee considers that the adherence of the State party to all nine of the major international human rights instruments would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life.¹ The Committee therefore encourages the Commonwealth Government to consider

¹ The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

ratifying the treaties to which it is not yet a party, that is: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW); and the International Convention for the Protection of All Persons from Enforced Disappearances.

Follow-up to concluding observations

50. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 29 and 41 above.

Preparation of next report

51. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next report, as well as to consult a variety of women's and human rights organizations during that phase.

52. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its next periodic report in July 2014.

53. The Committee invites the State party to update its common core document in accordance with the "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents", approved at the fifth Inter-committee meeting of the human rights treaty bodies in June 2006 (see HRI/MC/2006/3 and Corr.1). The treaty-specific reporting guidelines, adopted by the Committee at its fortieth session in January 2008, must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together they constitute the harmonized guidelines on reporting under the Convention on the Elimination of All Forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages, while the updated common core document should not exceed 80 pages.
