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Committee on the Elimination of Discrimination against Women

Thirty-fourth session

16 January-3 February 2006

Concluding comments of the Committee on the Elimination of Discrimination against Women: Australia

1. The Committee considered the combined fourth and fifth periodic report of Australia (CEDAW/C/AUL/4-5) at its 715th and 716th meetings, on 30 January 2006 (see CEDAW/C/SR.715 and 716). The Committee's list of issues and questions is contained in CEDAW/C/AUL/Q/4-5, and Australia's responses are contained in CEDAW/C/AUL/Q/4-5/Add.1.

Introduction

2. The Committee expresses its appreciation to the State party for its combined fourth and fifth periodic report (CEDAW/C/AUL/4-5), covering the efforts of the State party at the Commonwealth, state and territory levels in implementing the Convention. The Committee expresses its appreciation to the State party for the written replies to the list of issues and questions raised by the Committee's pre-session working group and for the oral presentation and responses to the questions posed orally by the Committee.

3. The Committee expresses its appreciation for the constructive dialogue that took place between the delegation and the members of the Committee.

4. The Committee notes that Australia maintains its reservations to article 11, paragraph 2, of the Convention and in relation to women's employment in combat units.

5. The Committee notes with appreciation that the State party has accepted the amendment to article 20, paragraph 1, of the Convention concerning the extension of the Committee's meeting time.

Positive aspects

6. The Committee notes with satisfaction the wide range of legislative and other measures taken and the existence of strong monitoring institutions to advance the status of women since the submission of the last report and appreciates the priority accorded to women's human rights in the State party.

7. The Committee notes with satisfaction the introduction of the maternity payment in 2004 and the legislative and policy measures to combat violence against women. The Committee welcomes the increased participation of women in political and public life.

8. The Committee congratulates the State party for its high ranking in international surveys assessing gender-related progress and achievements at the national level, and notes in particular that the *2005 Human Development Report* ranked Australia second in the world in its Gender Related Index.

Principal areas of concern and recommendations

9. **While recalling the State party's obligation to systematically and continuously implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding comments as requiring the State party's priority attention between now and the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It calls on the State party to submit the present concluding comments to all relevant ministries and to Parliament so as to ensure their full implementation.**

10. Noting that the federal Government, under its "external affairs" jurisdiction, has power to legislate for the implementation of treaty obligations in all states and territories, and noting that states and territories have jurisdiction over certain areas covered in the Convention, the Committee is concerned that there are inadequate structures and mechanisms to ensure effective coordination and consistent application of the Convention in all states and territories.

11. **The Committee recommends that the State party promote and guarantee the implementation of the Convention throughout the country, including through its power to legislate for implementation of treaty obligations in all states and territories. The Committee recommends increased attention in existing consultative forums and other mechanisms of control and partnership to the consistent implementation of the Convention in all states and territories.**

12. While noting the existence of national legislation to prohibit sex discrimination at federal, state and territory levels, the Committee expresses concern about the status of the Convention at these levels and the absence of an entrenched guarantee prohibiting discrimination against women and providing for the principle of equality between women and men.

13. **The Committee urges the State party to ensure that all states and territories are in full compliance with the obligations under the Convention and to take steps to entrench the prohibition of discrimination against women and the principle of equality of women and men in line with article 2, subparagraph (a), of the Convention. The Committee further recommends that the State party**

undertake awareness and training programmes on the Convention for the judiciary, law enforcement officials, members of the legal profession and the public.

14. The Committee regrets that the report neither provides sufficient statistical data, disaggregated by sex and ethnicity on the practical realization of equality between women and men in all areas covered by the Convention nor information on the impact and results achieved of legal and policy measures taken. It also regrets the absence of sufficient information and data on women with disabilities.

15. The Committee requests the State party to include adequate statistical data and analysis, disaggregated by sex, ethnicity and disability, in its next report so as to provide a full picture of the implementation of all the provisions of the Convention. It also recommends that the State party regularly conduct impact assessments of its legislative reforms, policies and programmes to ensure that measures taken lead to the desired goals and that it inform the Committee about the results of these assessments in its next report.

16. While noting that the Sex Discrimination Act allows for the adoption of special measures to ensure equality of opportunity or in order to meet the special needs of women, the Committee is concerned that the State party does not support the adoption of targets or quotas to promote greater participation of women, particularly indigenous women and women belonging to ethnic minorities, in decision-making bodies.

17. The Committee recommends that the State party fully utilize the Sex Discrimination Act and consider the adoption of quotas and targets, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, to further increase 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, particularly indigenous women and women belonging to ethnic minorities.

18. While noting the efforts of the State party to address violence against women at all levels of authority, the Committee remains concerned about the continuing prevalence of violence against women, as well as by the low rates of reporting, prosecutions and convictions in sexual assault cases. It is concerned that laws that protect victims of violence and require perpetrators of domestic violence to leave the family home are not regularly enforced. It is also concerned about the high levels of violence against women, particularly domestic violence, in indigenous, refugee and migrant communities.

19. The Committee calls on the State party to take steps to fully and consistently implement and enforce laws on violence against women and to ensure that all women victims of violence, including indigenous, refugee and migrant women, are able to benefit from the legislative framework and support systems in place. It calls upon the State party to ensure that all violence against women is effectively prosecuted and adequately punished. It requests that adequate statistics be collected in a consistent manner. It requests that the State party provide information in its next report on the number of cases of violence reported to the police and other relevant authorities, and on the number of convictions. It further recommends that public officials, especially law enforcement officials, the judiciary, health-care providers and social workers,

are fully sensitized to all forms of violence against women. The Committee calls upon the State party to create public awareness of violence against women as an infringement of women's human rights that has grave social and financial costs for the whole community.

20. The Committee is concerned about the lack of a comprehensive approach to combat trafficking and exploitation resulting from prostitution. It is particularly concerned about the absence of effective strategies and programmes to prevent women from entering into prostitution, address the demand for prostitution and support women who wish to discontinue their lives in prostitution. It is further concerned about the low rates of prosecutions and convictions of traffickers and the lack of support and protection offered to victims who do not cooperate in the investigation and prosecution of traffickers.

21. The Committee recommends the formulation of a comprehensive strategy to combat the trafficking of women and exploitation resulting from prostitution, which should include the development of strategies to discourage the demand for prostitution, prevent women from entering prostitution and establish programmes of rehabilitation and support for women and girls who wish to discontinue their lives in prostitution. The State party should pursue the effective prosecution and punishment of traffickers and other offenders who exploit women on prostitution. The Committee encourages the State party to examine and adopt international good practices in combating trafficking. The Committee further urges the State party to consider the extension of temporary protection visas and reintegration and support services to all victims of trafficking, including those who are unable or unwilling to cooperate in the investigation and prosecution of traffickers.

22. While appreciating the changes adopted by the State party in relation to detention of refugee women and their families, the Committee is nonetheless concerned about the disproportionately adverse gender-specific dimensions and impact of laws and policy on refugees and asylum-seekers. It is particularly concerned that persons on temporary protection visas are denied the right to family reunion for up to five years, which may impose particular hardships on women. The Committee is also concerned that women who are in the country on their partners' protection visa face legal and procedural impediments in lodging a separate application for a protection visa in the event of domestic violence.

23. The Committee recommends that the State party review and monitor its law and policy on refugees and asylum-seekers, with a view to taking remedial measures to ameliorate any adverse impact on women. It encourages the State party to remove the current restrictions on women on temporary protection visas and to revisit the provisions of the Migration Legislation Amendment Act so that women who seek asylum and refugee protection can be considered individually in situations of domestic violence.

24. While welcoming the introduction of the maternity payment in 2004 and the existence of paid maternity leave for female government employees in some states and territories as well as some paid maternity leave schemes in private sector employment, the Committee remains concerned about the lack of uniformity in work-related paid maternity leave schemes. It is also concerned that there is no national system of paid maternity leave and that, as a consequence, the State party continues to maintain its reservation to article 11, paragraph 2, of the Convention.

25. The Committee urges the State party to take further appropriate measures to introduce maternity leave with pay or with comparable social benefits. It also recommends that the State party evaluate its maternity payment introduced in 2004 in the light of article 11, paragraph 2 (b), of the Convention and to expedite the steps necessary for the withdrawal of its reservation to this article.

26. The Committee is concerned that although the rate of bulk billing for health services is increasing, there is still a disparity in the application of this principle in the rural areas and that, consequently, rural women may face difficulties in accessing health services. The Committee is also concerned that there is no information on how the State party is addressing specific health needs of different groups of women in accordance with risk factors on the basis of biology and social conditioning. The Committee is further concerned that the health needs of disabled women are inadequately met due to the lack of special equipment and other infrastructure.

27. The Committee recommends that the State party monitor bulk billing for health services, particularly in the rural areas, and take necessary action to ensure that it is fully applied. The Committee recommends that the State party take account of general recommendation 24 on health and develop full competence to address the health needs of women in accordance with their specific risk factors. The Committee also recommends that the State party develop the necessary infrastructure to ensure that disabled women have access to all health services.

28. The Committee expresses concern that immigrant, refugee and minority women and girls, based on their ethnic background, may be subject to multiple forms of discrimination with respect to education, health, employment and political participation. It is also concerned that women belonging to these groups seem to be particularly vulnerable to violence.

29. The Committee urges the State party to take more effective measures to eliminate discrimination against refugee, migrant and minority women and girls and to strengthen its efforts to combat and eliminate xenophobia and racism in Australia, particularly its impact on women and girls. It also encourages the State party to be more proactive in its measures to prevent and eliminate discrimination against these women and girls within their communities and in society at large and to report on the steps taken in this regard in its next report.

30. The Committee is concerned about the ongoing inequalities suffered by Aboriginal and Torres Strait Islander women, whose enjoyment of human rights remains unsatisfactory in many areas, particularly with regard to employment, education, health and political participation. The Committee is particularly concerned about the lower life expectancy among indigenous women. It is also concerned about the disproportionately large number of indigenous women in prisons.

31. The Committee recommends that the State party adopt and implement targeted measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention, to improve indigenous women's enjoyment of their human rights in all sectors, taking into account their

linguistic and cultural interests. It recommends that the State party increase indigenous women's access and awareness of the availability of targeted social services in all sectors. It further recommends that the State party take steps to increase indigenous women's legal literacy and improve their access to remedies for claims of discrimination. The Committee urges the State party to examine the reasons for the high rate of incarceration of indigenous women and take steps to address its root causes. It calls on the State party to continue to review and monitor the fulfilment of the provisions of the Convention in respect of indigenous women in all sectors and provide in its next report specific and analytical information and disaggregated data on these issues.

32. The Committee recommends that the State party increase its funding to non-governmental organizations involved in the provision of services for the promotion of women's rights, including those working in the area of trafficking.

33. The Committee encourages the State party to ratify the Optional Protocol to the Convention.

34. The Committee urges the State party to utilize fully, in its implementation of its obligations under the Convention, 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.

35. The Committee also emphasizes that a full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals (MDGs). 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 MDGs and requests the State party to include information thereon in its next periodic report

36. The Committee notes that States' adherence to the seven major international human rights instruments¹ enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Australia to consider ratifying the treaty 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.

37. The Committee requests the wide dissemination in Australia of the present concluding comments in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in that regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the

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 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Convention, its Optional Protocol, 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, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

38. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its sixth periodic report, which was due in 2004, and its seventh periodic report, due in 2008, in a combined report in 2008.
