



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

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**Committee on the Elimination of Discrimination  
against Women**

Pre-session working group

Thirty-fourth session

16 January-3 February 2006

**Responses to the list of issues and questions for  
consideration of the combined fourth and fifth  
periodic report**

**Australia**

1. Please provide information on the process of preparing the combined fourth and fifth periodic report. This information should indicate which Government departments and institutions were involved and nature and extent of their participation, whether consultations were held with non-governmental organizations and whether the report was presented to Parliament.

Paragraph six of the report (CEDAW/C/AUL/4-5) discusses in detail Australia's federal constitutional system, whereby state and territory governments are responsible for many of the government activities that give effect to the Convention on the Elimination of All Forms of Discrimination against Women. The Commonwealth worked closely with state and territory governments to ensure that the report is as informative as possible.

In 1999, the Australian Government undertook formal consultations with women around Australia, including those from regional and rural areas. In April and May 2002, 20 diverse organizations were asked to comment on the draft of the final report: the Women's Electoral Lobby, the Endeavour Forum, the Indigenous Women's Legal Services Network, the Women's Rights Action Network Australia, Women with Disabilities Australia, the Asian Women's Human Rights Council, the Young Women's Christian Association, the United Nations Development Fund for Women, the Aboriginal and Torres Strait Islander Commission, the National Council of Women Australia, the Australian Federation of Business and Professional Women, the National Women's Justice Coalition, Australian Women in Agriculture, the Bahai Office for the Advancement of Women, the Australian National Committee on Refugee Women, the University of Melbourne, Soroptimist, the

National Council of Women, the United Nations Association of Australia and Guides Australia.

The report was tabled in the Senate and Houses of Representatives prior to being lodged with the United Nations on 30 December 2003.

**2. Please provide updated information and statistical data disaggregated by sex and ethnicity on the main provisions of the Convention for the period that is not covered by the report.**

The Office for Women publication *Women in Australia 2004* and the Women's Data Warehouse (both available at [www.ofw.facs.gov.au/statistics/index.htm](http://www.ofw.facs.gov.au/statistics/index.htm)) contain relevant and updated statistical data disaggregated by sex.

**Articles 1-3: Definition of discrimination against women, obligations to eliminate discrimination, the development and advancement of women**

Australia's revised National Action Plan on Human Rights (para. 22) was released in December 2004, and is available at [www.ag.gov.au](http://www.ag.gov.au).

**Article 4: Acceleration of equality between men and women**

In the 2005 United Nations Human Development Report, Australia is ranked second in the Gender-related development index and seventh in the Gender empowerment measure. These results are very pleasing and demonstrate that Australia's ongoing commitment to gender equality is yielding tangible results.

**Article 5: Sex roles and stereotyping**

In June 2005, the Sex Discrimination Commissioner released a discussion paper entitled "Striking the balance: Women, men, work and family" (available at [www.hreoc.gov.au](http://www.hreoc.gov.au)), which explores women's and men's choices for balancing their competing work and family responsibilities. A final report will be released in early 2006. The Parliament of Australia's Standing Committee on Family and Human Services is also conducting an inquiry into balancing work and family. Together, these initiatives are promoting a national dialogue on this important issue for Australian women.

**Article 6: Suppression of the exploitation of women**

In its 2005/06 budget, the Australian Government committed AUS\$ 75.7 million over four years for a Women's Safety Agenda, following up the Government's election commitment to continue to take a lead role in eliminating domestic violence and sexual assault in the Australian community.

The Australian Government is continuing its work under the AUS\$ 20 million package of measures to combat trafficking in persons announced on 13 October 2003.

**Article 7: Political and public life**

In the 2005/06 budget, the Australian Government announced AUS\$ 15 million over four years to build women's leadership and participation in all parts of Australian life.

The number of women in the Australian Parliament is the highest it has ever been (27 Senators and 37 women in the House of Representatives). The number of women leading Government departments is also at an all-time high of six, with four new Secretaries — all women — appointed in October 2004.

#### **Article 8: International representation and participation**

In March 2005, the Minister Assisting the Prime Minister for Women's Issues led the Australian delegation to the forty-ninth session of the United Nations Commission on the Status of Women and reaffirmed Australia's commitment to the Beijing Platform for Action in her Country Statement (available at [www.ofw.facs.gov.au](http://www.ofw.facs.gov.au)).

#### **Article 9: Nationality**

The Australian Government has released a policy statement entitled "Multicultural Australia: United in Diversity", which sets strategic directions for the period 2003-2006 (available at [www.immi.gov.au/multicultural/australian/index.htm](http://www.immi.gov.au/multicultural/australian/index.htm)). A comprehensive evaluation of multicultural programmes is being undertaken and a new policy document is expected to be released in mid-2006.

The Department of Immigration, Multicultural and Indigenous Affairs helps other Government agencies implement the Charter of Public Service in a Culturally Diverse Society in meeting the needs of people from culturally and linguistically diverse backgrounds, including women.

Several Living in Harmony grants and partnership projects that seek to address racism at the community level and promote harmony between people and groups of different cultural, racial, religious or social backgrounds have featured a substantial component targeting women and girls. One priority for the 2004 grants round was Australian women, with particular emphasis on Muslim women; a number of grants addressed their specific concerns. In response to reporting of continued incidents of vilification and discrimination against Muslim women, the Department consulted with Muslim women and conducted a forum in Sydney in June 2004. The forum explored issues that affect Muslim women, assisted in creating links with established women's organizations and contributed to the development of mutual understanding and support among Australian women.

In 2004-2005, of the total 12,096 offshore visa grants made under the Humanitarian Programme, over 5,400 visas (45 per cent of total offshore grants) were granted to female applicants. The 2005-2006 Humanitarian Programme is set at 13,000 places. Australia is one of only 10 countries with an established resettlement programme and ranks among the top three resettlement countries with the United States of America and Canada. The resettlement programme goes beyond international obligations and reflects Australia's desire to assist persons in need.

Australia has granted over 6,000 "Women at Risk" visas since 1989. Such entrants in recent years have largely come from Africa, the former Yugoslavia and the Middle East. The annual target for the visa programme is set at 10.5 per cent of all refugee category visas granted each year under Australia's offshore resettlement programme. In 2004-2005, a total of 841 visas (or 15.3 per cent of the total number of refugee visas were granted under the above-mentioned programme. This

represents the highest “Women at Risk” visa grant rate in any programme year since that visa subclass was established.

Given the large number of female applicants and the fact that women are particularly vulnerable and may experience persecution and discrimination differently to men, the Department developed Guidelines on Gender Issues for Decision Makers to assist officers in assessing gender-based claims by applicants under the Humanitarian Programme. The purpose of the Gender Guidelines is to ensure that applications are dealt with effectively and sensitively. Departmental decision-makers are provided with the guidelines and strategies for approaching gender-related issues. The guidelines are currently being updated.

#### **Article 10: Education**

Women from low socio-economic backgrounds, rural or isolated areas, non-English speaking backgrounds and women with a disability are supported under the Higher Education Equity Support Programme and the Higher Education Disability Support Programme. To encourage employers to consider new female apprentices in non-traditional occupations (including agriculture, building, engineering and automotive industries), an additional special incentive of AUS\$ 1,100 is available for employers who commence a woman in an eligible Certificate II to IV level new apprenticeship in a declared non-traditional occupation.

#### **Article 11: Employment**

In the 2000/06 budget, the Australian Government announced measures to benefit women in home-based business, mature-age workers, women in the agriculture, fisheries and forestry industries, and women in small business. This builds on current Government initiatives to recognize women’s achievements in business, promote equal employment and eliminate workplace discrimination and help women to balance their work and family commitments. Details of these initiatives are contained in the 2005-2006 Women’s Budget Information Kit ([www.ofw.facs.gov.au/publications/budget2005/booklet.pdf](http://www.ofw.facs.gov.au/publications/budget2005/booklet.pdf)).

#### **Article 12: Equality in access to health care**

In the 2005/06 budget, the Australian Government announced measures to improve delivery of health services to women in rural Australia, and to address prominent health issues, such as health in indigenous communities, obesity, depression and cancer. This builds on current Government initiatives to address areas such as sexual and reproductive health, arthritis and illicit drug use. Details of such initiatives are contained in the 2005-2006 Women’s Budget Information Kit.

#### **Article 13: Social and economic benefits**

In the 2005/06 budget, the Australian Government announced measures to improve social and economic outcomes for women, including improvements to Family Assistance payments, reductions in personal income tax, assistance for carers, improvements in family law and welfare reform. This builds on current Government initiatives to support wives and widows of war veterans, improve the situation of indigenous women and older women and pursue women’s human rights more generally, including in the international context. Details of these initiatives are contained in the 2005-2006 Women’s Budget Information Kit.

**Article 14: Rural women**

Current Government initiatives for rural women include a continuing commitment to consultation and leadership development, improving delivery of health services to women in rural Australia, access to information and communications technology and jobs in rural industries. Details of these initiatives are contained in the 2005-2006 Women's Budget Information Kit.

**Article 15: Equality before the law and in civil matters**

The Australian Government's commitment to superannuation reform has continued since 2003, and is detailed in the 2005-2006 Women's Budget Information Kit. Further detailed information on relevant institutional and legislative measures is provided in our response to questions 3 and 6 of the pre-sessional questions.

**Article 16: Women's rights within marriage and family life**

In the 2005/06 budget, the Australian Government announced new services to help families who are having relationship difficulties or are separated, including Family Relationship Centres that can provide advice about the family law system and identify family violence.

In its 2005/06 budget, the Australian Government committed AUS\$ 75.7 million over four years for a Women's Safety Agenda, following up on the Government's election commitment to continue to take a lead role in eliminating domestic violence and sexual assault in the Australian community.

**3. Other treaty bodies have consistently expressed concern about the status of international human rights treaties in Australia's domestic legal system and the absence of entrenched constitutional provisions to give effect to these treaties (see for example the concluding observations of the Human Rights Committee (A/55/40, paras. 514 and 518), the Committee on Economic, Social and Cultural Rights (E/2001/22, para. 379) and the Committee on Racial Discrimination (CERD/C/AUS/CO/14, para. 9). Please provide information on what measures are being considered to provide for an entrenched guarantee against discrimination on the basis of sex in line with the Convention that would override the law of the Commonwealth and states and territories, and what measures are in place for Australia to fulfil its obligation to ensure that Convention rights are given full effect in all states and territories.**

The Sex Discrimination Act 1984 was enacted so as to give effect to certain provisions of the Convention. Section 3 of the Act expressly refers to this intention. The Act was developed in full awareness of the Convention.

It would be incorrect to assume that the Act does not affect the laws of the Commonwealth and the states and territories. For example, section 26 states:

- (1) It is unlawful for a person who performs any function or exercises any power under a Commonwealth law or for the purposes of a Commonwealth programme, or has any other responsibility for the administration of a Commonwealth law or the conduct of a Commonwealth programme, to discriminate against another person, on the ground of the other person's sex,

marital status, pregnancy or potential pregnancy, in the performance of that function, the exercise of that power or the fulfilment of that responsibility.

(2) This section binds the Crown in right of a State.

Other provisions of the Act protect against sex discrimination in areas such as employment, education and provision of goods, services and facilities.

After the enactment of the Act, a thorough review of Commonwealth, state and territory legislation was conducted over several years to check their consistency with the Act, by making Regulations extend to certain exemptions. The number of exemptions was narrowed over time until only a very few remained. They are expressly dealt with in the Act (see, for example, section 40).

Any state law that was inconsistent with the Act would, to the extent of the inconsistency, be deemed invalid pursuant to section 109 of the Australian Constitution. Similarly, any inconsistent territory law would also be inoperative.

It is theoretically possible that the later Commonwealth legislation inconsistent with the Act could be enacted by the Commonwealth Parliament. This is because under the Westminster system, a parliament generally cannot bind a future parliament.

The Government also draws the attention of the Committee to the factors described below, which indicate the resolve of all governments of Australia not to discriminate on the basis of sex and to protect the rights reflected in the Convention.

The right to freedom from discrimination on the basis of sex is protected by legislation at federal, state and territory levels, including the Sex Discrimination Act; the Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth); the Anti-Discrimination Act 1977 (New South Wales); the Equal Opportunity Act 1995 (Victoria); the Anti-Discrimination Act 1991 (Queensland); the Equal Opportunity Act 1984 (Western Australia); the Equal Opportunity Act 1994 (South Australia); the Anti-Discrimination Act 1998 (Tasmania); the Discrimination Act 1991 (Australian Capital Territory); the Human Rights Act 2004 (Australian Capital Territory); and the Anti-Discrimination Act (Northern Territory).

Given the federal nature of Australia's constitutional system and the strong protections it guarantees, this right is sufficiently protected by the measures currently in place. It would not be appropriate for the Australian Government to move to override the authority of the anti-discrimination legislation of the state and territory governments.

Australia's strong democratic institutions and traditions ensure that actions of governments are subject to review. Australia's legal system is underpinned by the rule of law, which ensures that the institutions that are the foundation of Australian society operate effectively. The actions of the legislature and the executive are subject to legal review by the judiciary; any activity deemed inconsistent with the law can be subject to judicial remedy. The independence of the judiciary is protected by the Australian Constitution and is staunchly defended.

The protection afforded to the civil and political rights of Australian citizens does not principally depend on any formal system of constitutional guarantees. The Constitution does not contain provisions in the nature of a bill of rights, indeed the

Australian Government is not convinced that a bill of rights would be an appropriate way to protect human rights in the Australian context.

The Commonwealth Parliament has power under the Australian Constitution to legislate with respect to external affairs. The High Court of Australia has confirmed that this allows the Parliament to legislate for the implementation of treaty obligations entered into by the Australian Government. Australia's federal system of government also allows the state and territory governments a role in giving effect to Australia's international obligations. Much of the public infrastructure within Australia is at the state level. The states also administer significant elements of the Australian legal system. They exercise responsibility in many matters of relevance to the implementation of human rights.

The Administrative Appeals Tribunal, established by the Administrative Appeals Tribunal Act 1975 is an independent body whose function is to review decisions made by Federal Ministers, authorities and officials under more than 200 acts of the Federal Parliament. The Tribunal is able to substitute its own decision in those areas in which it has jurisdiction, including social security, taxation, customs and veterans' entitlements. Further additions to the Tribunal's jurisdiction are made from time to time.

The Administrative Decisions (Judicial Review) Act 1977 provides for judicial review by the Federal Court of Australia of administrative action taken under federal legislation. Where an order of review is sought by an aggrieved person, the Court is empowered to review the lawfulness of a decision, the conduct leading up to the making of a decision, or circumstances where there has been failure to make a decision. The grounds on which review may be sought and the powers of the Court are set out in the Act. In most cases, a person who is entitled to seek judicial review in respect of an administrative decision may seek a statement of reasons for the decision from the decision-maker.

Other legislative measures, such as the Ombudsman Act 1976, assist people when challenging a wide range of decisions made under federal laws. The Freedom of Information Act 1982 allows members of the public to obtain reasons for particular decisions.

**4. The report makes reference to judicial education programmes, including diversity training to identify and address gender bias in the legal system (paras. 530 and 531). Please provide more details of these training programmes, including whether any training is provided for judges on the application of the Convention in domestic decision-making.**

The Family Court of Australia and the Federal Magistrates Court include topics on discrimination — including the Convention on the Elimination of the Discrimination against Women — in some judicial seminars presented at annual conferences held by each court for their judicial officers.

The Justice Practitioner's Training Programme is a measure being developed within the Women's Safety Agenda that will provide training to judges, magistrates and court lawyers on women's experiences of sexual assault. The Programme is aimed at raising awareness of the sensitivities that accompany women's experiences of sexual assault in order to increase their access to justice and reduce the secondary harm caused by the process of legal redress.

The implementation of the Programme, which is expected in the 2007/08 financial year, will work towards achieving more sensitive and gender-equitable responses by the criminal justice sector to victims of sexual assault who pursue legal redress through the courts, thereby increasing access to legal redress and reducing the likelihood and/or impact of secondary harm to the victim.

**5. Please provide details of any cases in which the Convention has been used or relied on in the courts.**

The Convention on the Elimination of the Discrimination against Women is not directly implemented in Australian law. The general approach taken in Australia to human rights and other conventions<sup>1</sup> is to ensure that domestic legislation, policies and practice comply with the Convention prior to ratification. Treaties are not self-executing and require legislative implementation to be effective in Australia.

Australia's obligations under the Convention are implemented through anti-discrimination legislation at the federal, state and territory levels. The Convention is included as a schedule to the Commonwealth Sex Discrimination Act and informs the objects of the same. It does not have any independent legal status or give rise to legal rights outside those set out in the said Act and other relevant acts.

For this reason, courts do not rely on the obligations set out in the Convention in deciding cases. Some parties, however, have chosen to call upon the Convention in establishing their claims, as set out in the cases below.

**Freedom of movement**

U v U [2002] HCA 36; ZN and YH and Child Representative [2002] FamCA 453

In both cases, an appellant mother made submissions that her right to freedom of movement had been disregarded in the decisions of lower courts in relation to parenting orders.

In U v U, the appellant sought orders from the Family Court allowing her to take her daughter to live in India where the parents both had friends and family. The father filed a cross-application for orders that the child live with him in Australia. During the trial, the mother admitted that, if she was not allowed to move to India with her child, she would stay in Australia in order to keep custody of her. The trial judge found that this was a "third alternative" and ordered that the mother remain in Australia.

On appeal, the appellant relied on article 12 of the International Covenant on Civil and Political Rights to establish a right to freedom of movement. The majority of the High Court held that whatever a parent's right to freedom of mobility, this must always defer to the paramount consideration of the best interests of the child.

Justices Kirby and Gaudron, dissenting, both found that the trial judge had erred in not considering the possibility of the father moving to live near the child. The assumption had been that the mother would be the one who had to move in order to accommodate the needs of the child to have contact with both parents. Both Justices considered this assumption did not give proper attention to the impact on the mother and, in the long term, on the child.



In ZN and YH and Child Representative, Chief Justice Nicholson of the Family Court held that Australian law recognized a principle of freedom of movement that was derived from international conventions such as the above Covenant and the Convention on the Elimination of the Discrimination against Women, as well as from common law. He also recognized, however, that the best interests of the child were the paramount consideration in family law cases, even where the rights and interests of other parties were affected.

### **Provision of services**

Ferneley v The Boxing Authority of NSW & Anor [2001] FCA 1740 (10 December 2001)

In this case, Justice Wilcox of the Federal Court considered an application under the Commonwealth Sex Discrimination Act. The applicant alleged that, under the Act, the New South Wales Boxing Authority, a statutory authority, had unlawfully discriminated against her because it had failed to consider her application for registration under the Boxing and Wrestling Control Act 1986 (New South Wales) on its merits, but had rejected it on the basis that she was female. The Boxing and Wrestling Control Act expressly excludes women from eligibility for registration. It is an offence for a person to compete in a boxing contest in New South Wales if they are not registered.

Section 22 of the Sex Discrimination Act provides that it is unlawful for a person who provides services to refuse to provide those services to a person on the basis of their sex, or to discriminate in the manner of provision of a service on the basis of sex. The applicant argued that the Boxing Authority had provided a service in considering whether or not to grant her registration, but, because of her sex, the applicant had been treated less favourably than if she had been a man.

Justice Wilcox rejected the applicant's argument that the consideration of an application for registration was a "service" as contemplated by section 22 of the Sex Discrimination Act. Section 18 of the Act, a more specific provision dealing with authorities or bodies that are "empowered to confer, renew, extend, revoke or withdraw an authorization or qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in of an occupation", was the relevant part of Division 1 of Part II of the Sex Discrimination Act. The Act does not provide for Section 18 to bind the Crown in right of a state. As it was accepted that the Boxing Authority was to be regarded as the Crown in right of New South Wales, Justice Wilcox held that, although the result may be unsatisfactory, the natural construction of the Sex Discrimination Act was such that the Boxing Authority had not unlawfully discriminated against the applicant.

### **Right to choose a family name**

Mahony and McKenzie (1993) FLR 107

A father (Mahony) sought orders to ensure that his surname would be used for his child. The mother (McKenzie) proposed the use of a hyphenated surname (Mahony-McKenzie). Counsel for the mother referred the judge, Justice Warnick, to the Sex Discrimination Act and, in particular, to article 16(1)(g) of the Convention on the Elimination of Discrimination against Women but failed to develop any

arguments as to the way in which the Act or the Convention would have an impact on the judge's decision.

Justice Warnick ultimately decided that the use of a hyphenated name was in the child's best interests.

### **Right to legal representation**

T and S [2001] FamCA 1147 (14 March 2001)

Parenting orders were made in favour of a father (S). The mother (T) appealed on the basis that she had not received a fair trial because, as a victim of domestic violence who had been unrepresented for five of the six days of the trial, she had been unable to effectively meet the father's case or to present her own case. As a consequence, the trial judge had drawn negative inferences about her, in particular about her credibility, and certain relevant evidence of domestic violence had not been presented to the Court.

In a joint judgement, the full Family Court upheld the appeal and remitted the matter for rehearing. In additional reasons, Chief Justice Nicholson stated in obiter that the denial of legal aid to T in the circumstances appeared to infringe the practical enjoyment of rights, which are meant to be assured under articles 2, 15 and 16 of the Convention on the Elimination of Discrimination against Women.

### **"Special measures"**

Jacomb v Australian Municipal Administrative Clerical and Services Union [2004] FCA 1250

The applicant, Mr. Jacomb, submitted that policies instituted by the union to ensure proportional representation by women in executive positions and equal representation by women as electoral delegates unlawfully discriminated against men. He argued that the rules did not constitute "special measures" under the Sex Discrimination Act because they did not reflect "attainable levels of representation" which, in his view, would be proportional to the representation of women in the whole group and would be temporary.

Justice Crennan of the Federal Court held that the special measures provision in section 7D of the Act was to be construed in conformity with the Convention on the Elimination of Discrimination against Women, as it was one of the objects of the Act. A special measure could appear discriminatory and still be construed as non-discriminatory if one of its purposes was to overcome discrimination. Justice Crennan dismissed the appeal.

### **Refugee Review Tribunal cases**

The Refugee Review Tribunal has, in many cases, drawn on information presented in Convention reports in establishing whether an applicant could be considered a refugee under Australian law.

**6. In its previous concluding comments,<sup>2</sup> the Committee expressed concern about the reduction in funding for the Office for the Status of Women and the Human Rights and Equal Opportunity Commission, and the weakened role of the national machinery for the advancement of women in providing policy advice on equality and on monitoring the effective implementation of such**

**policies (para. 391). The Committee recommended that the State Party monitor the impact of these policy changes for inclusion in its next periodic report (para. 398). Please provide updated information in this regard, including whether the budget and the role of the national machinery for the advancement of women, including the Office of the Status of Women, has been improved and strengthened since the last report.**

On 17 November 2004, the functions of the Office for Women were formally transferred to the Department of Family and Community Services, as the Australian Government considered that the office's service delivery functions, direct work with community organizations, research and policy development roles all sat better in a line department.

None of the programmes or functions of the Office for Women have been abolished as a result of this move. The Office for Women continues to be a central point of advice on the impact of policies on women for the whole of government, and other departments continue to consult with and involve the Office for Women on issues that affect women.

In the 2005/06 budget, the Australian Government allocated the Office for Women AUSS\$ 75.7 million over four years to administer the Women's Safety Agenda, and AUSS\$ 15 million over four years to administer the Women's Leadership and Development Programme.

The staffing level of the Office for Women was 47 in 2003-2004, and is now 44. However, the Department of Family and Community Services provides corporate support that was previously undertaken by Office for Women staff when the office was in the Department of the Prime Minister and Cabinet, such as communications, public relations and website maintenance.

The Human Rights and Equal Opportunity Commission continues to play a key role in promoting an understanding and acceptance of human rights in Australia, including the rights recognized under the Convention on the Elimination of Discrimination against Women.

The Commission has undertaken a number of inquiries and produced reports on a range of issues relating to the rights of women, including: *A Time to Value: Proposal for a National Paid Maternity Leave Scheme* (2002); *20 Years On: The Challenges Continue: Sexual Harassment in the Australian Workplace* (2004); and *Striking the Balance: Women, Men, Work and Family Discussion Paper* (2005).

The Commission continues to play an active role in educating the community, including in relation to the protection and promotion of women's rights. For example, the Sex Discrimination Commissioner, Pru Goward, is currently hosting community forums as part of a series of national consultations for the *Striking the Balance* project, which aims to build on the Commission's previous work on family responsibilities and paid work.

Australian domestic legislation protecting women's rights has not been weakened in any respect. The Australian Government funding of the Commission for the financial year 2005/06 remains at a comparable level to recent years (AUSS\$ 12.093 million). The Commission's budget was reduced between the financial years of 1997/98 and 2000/01, in part due to a change in the Commission's functions. The Government considers that the Commission's current funding is adequate to

discharge its functions. It is a matter for independent agencies, such as the Commission, to appropriately allocate their resources to each of their statutory functions. Varying the allocation of resources according to current needs is part of the normal process of managing a budget. As with any agency, any request by the Commission for additional funding would be considered by the Government.

The position of Sex Discrimination Commissioner has been occupied in a substantive capacity since the passage of the Sex Discrimination Act 1984.

**7. Australia maintains its reservations over article 11(2) of the Convention. The report discusses the reservation in several places but does not state whether the Government is considering their withdrawal. Please indicate the intention of the Government in this regard, and the steps that are being taken to begin the process of consultation necessary for the removal of the reservations described in paragraph 19 of the report.**

The Australian Government is considering its options regarding its reservation to article 11 (2) of the Convention. The removal of reservations to international treaties is subject to Australia's domestic treaty process. This requires extensive consultation within the Australian Government, with state and territory governments, the community and both Houses of Commonwealth Parliament.

**8. Despite the significant achievements of the Government in its efforts to combat violence against women, the Special Rapporteur on violence against women reported a rise in the number of sexual assaults from 2000 to 2001 and noted that the 1996 Women's Safety Survey carried out by the Australian Bureau of Statistics had found that 9 out of 10 victims of sexual assault did not report the assault to the police (E/CN.4/2003/75/Add.1, para. 918). Please provide updated statistics and information on the incidence of sexual assault in Australia, including the reporting and conviction rate, and indicate what is being done to encourage women to make use of the criminal justice system to report incidents of sexual assault.**

The Government has committed AU\$ 75.7 million to raising awareness of domestic violence and sexual assault through the Women's Safety Agenda. Initiatives arising from this commitment include the Personal Safety Survey and Justice Practitioners Training.

The Office for Women and the Australian Bureau of Statistics are conducting a second national survey of personal safety. The Personal Safety Survey to be undertaken by the Bureau will be conducted in the second half of the 2005 calendar year. It will build on the data collected during the 1996 Women's Safety Survey, which established the first national data on the nature and extent of all forms of violence against women in Australia. It is anticipated that the results from the survey will be available in mid-2006, and will be comparable to the data on violence against women contained in the 1996 Women's Safety Survey. The survey will also report on violence against men.

The Personal Safety Survey will provide much-needed data about the experiences of female and male victims and their outcomes, which are not available in great detail in other collections. It will also enable analysis of the relative changes in women's personal safety over time, based on the comprehensive national benchmark provided by the 1996 Women's Safety Survey. The survey will produce national and broad state-level estimates for women, and national-level estimates for

men. The Justice Practitioner's Training Programme is a measure within the Women's Safety Agenda as outlined in the response to question 4 above.

A total of 18,237 sexual assaults were reported to the police in Australia in 2003, a rate of 91.7 per 100,000 people, an increase of 1.5 per cent over 2002. Women accounted for the majority of victims (82 per cent), with females in the 10-19 year age group recording the highest victimization rate (497 per 100,000 population). Only 1 in 7 women (14 per cent) who experienced violence from an intimate partner, and just over 1 in 6 women who experienced violence from someone else (non-partner), indicated that they had reported the most recent incident to police (16 per cent). Women who experienced physical or sexual violence from their intimate partners were more likely to report the most recent incident to police if the offender was a former (24 per cent) rather than current husband/partner/boyfriend (8 per cent).<sup>3</sup>

The Prosecutorial Decision in Adult Sexual Assault Cases: an Australian Study, commissioned by the Australian Government Office of the Status of Women in 2003, found that of the original sample of 141 cases: 38 per cent of all cases were withdrawn from prosecution; 72 per cent of these were withdrawn prior to an indictment being filed; 33 per cent of all cases were finalized by way of a guilty plea; approximately half of the guilty pleas were entered as a result of negotiations to reduce the number or level of the charges; 29 per cent of all cases proceeded to trial; and 38 per cent of cases that proceeded to trial resulted in a guilty verdict.

Data collected in 2003 showed that the Northern Territory had the highest recorded rate of sexual assault of any jurisdiction in Australia, with 153 victims of sexual assault per 100,000 population, compared with a national rate of 92 per 100,000. In March 2004, the Northern Territory Minister for Justice and Attorney-General established a Sexual Assault Task Force to tackle the rate of sexual assault across the territory.

The rate of reported sexual assault in New South Wales in 2004 was 79.5 per 100,000 population. Between 20 and 27 per cent of New South Wales women who had been sexually assaulted in 2003 reported the assault to the police. Some 46 per cent of persons appearing in court for a sexual assault charge were convicted. Sexual assault charges proven in court represented offences committed against less than 5 per cent of sexual assault victims in 2003.

The New South Wales Attorney-General has established a Criminal Justice Sexual Offences Task Force to explore ways to improve the criminal justice response in sexual assault matters and to consider legal, evidentiary and procedural barriers and the feasibility of creating a specialist sexual assault court in New South Wales.

In May 2005, the New South Wales government introduced legislation that allowed recording of evidence given by a complainant in a sexual assault trial to be admitted at any retrial following a successful appeal against conviction, so that the complainant was not required to give evidence on retrial. Other changes have been introduced in the past two years to reduce the trauma for complainants while they are giving evidence in court.

In relation to women making use of the criminal justice system to report incidents of sexual assault, the Government is repeating the successful national Violence Against Women. Australia Says NO campaign (see answer to question 9

below), which is an element of the Women's Safety Agenda. Through a 24-hour help line, the campaign will provide practical assistance to people experiencing violence, to friends and family who want to know what they can do to help, and to those wanting to change their violent behaviour.

**9. The Special Rapporteur on violence against women reports that the most significant group of women suffering domestic violence are indigenous women, followed by refugee and migrant women, as they are not able to benefit from the strong legislative framework and comprehensive support systems to address domestic violence (ibid.). Please provide information on what programmes are in place to enable indigenous, refugee and migrant women to take advantage of legislation and support systems to address domestic violence and the progress made in the initiative to tailor-make strategies to combat domestic violence for these groups of women. Please also provide information on the progress of efforts to systematize the domestic violence law and of initiatives aimed at strengthening law enforcement.**

The Violence Against Women. Australia Says NO campaign was launched by the Australian Prime Minister on 6 June 2004. The campaign targets the 16 to 39 years age group and involves television, magazine, cinema, indigenous and ethnic press and convenience advertising. The advertising aired in June and August 2004 and is being repeated from July to early December 2005. The campaign is also supported by a 24-hour per day, seven days per week dedicated helpline, which provides counselling and referral services. People with English as a second language can contact Translating and Interpreting Services, who will then contact the helpline on the caller's behalf. The campaign website, [www.australiasaysno.gov.au](http://www.australiasaysno.gov.au), also offers instructions on contacting the helpline in other languages.

The Violence Against Women. Australia Says NO information booklet, which is aimed at raising awareness about the harm caused when personal relationships become violent, was sent to all Australian households in June 2004.

The ethnic press advertising component includes 14 languages in over 40 newspapers. The booklet has been translated into 14 languages.

The campaign's indigenous component consists of targeted advertising in indigenous press, with the use of "indigenous ambassadors", including well-known indigenous personalities (writers, actors, sports figures) who appear under the defined slogan "Violence against Indigenous Women. Time to Say NO". A 15-page booklet containing information for Aboriginal and Torres Strait Islander young people, families and the community is available, in addition to posters featuring the indigenous ambassadors.

As part of Partnerships Against Domestic Violence, AUS\$ 6 million was allocated for the National Indigenous Family Violence Programme to support practical, grass-roots projects to strengthen indigenous community efforts to address family violence. Between 2000 and 2005, 70 indigenous communities supporting 74 projects were funded to test and develop new or better ways of responding to and preventing family violence. Funding was also provided for a mentoring programme to assist funded organizations to complete activities and milestones and deliver agreed outcomes for the projects.

The above-mentioned programme produced many worthwhile lessons and is a very useful model for future use. The projects funded through it demonstrated a

wide range of strategies, which were enthusiastically received by community members and frequently delivered with great effectiveness by indigenous service providers.

The Australian Government is providing AUS\$ 37.3 million over four years as of 2004/05 to the Family Violence Partnership Programme, through which the Australian Government is supporting a number of state and territory local projects that address indigenous family violence, particularly in remote areas.

Information provided at question 27 below on the Family Violence Prevention Legal Service is also relevant to this question.

The Australian Government funds the Australian Cultural Orientation Programme, which provides humanitarian entrants with an introduction to life in Australia prior to departure from their home countries. The course provides information about domestic violence and who should be contacted in situations involving domestic violence. Humanitarian entrants are also eligible to receive specialized settlement support upon arrival through the Integrated Humanitarian Settlement Strategy, under which case workers assist humanitarian entrants to contact appropriate support services, including those relating to domestic violence.

The Australian Government also funds a range of community organizations and local government bodies to provide settlement services to permanent residents who have arrived in the past five years as humanitarian entrants or family stream migrants with low English proficiency. In 2005-2006, over 50 projects totalling approximately AUS\$ 3.4 million were funded specifically to support women, in particular those from small and emerging communities such as the Afghan, Eritrean, Ethiopian, Kuwaiti, Somali, Sudanese and Kurdish communities. These services assist women to have access to the mainstream services they require, including those relating to domestic violence. The projects also assist women in their communities to advocate for services on their own behalf.

The domestic violence provisions of Australia's migration programme allow certain people applying for permanent residence in Australia to continue with their applications after the breakdown of their spouse or partner relationship if they, or a member of their family unit, have experienced domestic violence committed by their spouse or de facto partner. The provisions were introduced in response to community concerns that some spouses and partners might feel compelled to remain in abusive relationships rather than end the relationship and be forced to leave Australia. Under the provisions, people who are in Australia and who are applicants for certain partner and skilled visas may be eligible to continue with their applications for permanent residence. Applicants must also satisfy all other relevant legal requirements, including those regarding health and character.

For the purposes of the domestic violence provisions, prescribed acceptable evidence may be judicially or non-judicially determined. "Judicially determined" refers to evidence that has been tested in an Australian court and found to be credible. Judicially determined evidence is accepted by the Department of Immigration, Multicultural and Indigenous Affairs without further question. Non-judicially determined claims include statutory declarations from "competent persons" (that is, certain professional people who are authorized to provide statutory declarations as forms of evidence of domestic violence), police records of assault and joint declarations from the alleged victim and the alleged perpetrator made

before a court. Non-judicially determined claims have not been tested in a court. Most applicants have access to the domestic violence provisions using non-judicially determined claims.

Where there are reasonable doubts regarding the veracity of a non-judicially determined claim of domestic violence, evidence supporting the claim may be referred by the Department for assessment to an independent expert gazetted by the Minister for this purpose. The current gazetted expert is a Commonwealth body known as Centrelink, which employs a national network of social workers who have experience in handling domestic violence claims and issues. The independent expert will provide an opinion to the Department that domestic violence either has or has not occurred, basing this finding on the evidence submitted by the applicant and any other evidence available, including an interview. An independent expert's opinion on whether or not domestic violence has occurred must be taken as correct by the Department.

Domestic violence contact officers are located at offices of the Department in each state and territory. They are immigration officers who are experienced in handling applications from people seeking permanent residence on the grounds of domestic violence. They provide information on the domestic violence provisions and details of organizations that offer a range of welfare and legal services.

In New South Wales, the Bail Act 1978 was amended in August 2003 to provide additional support and protection for women who face repeated domestic violence incidents. A new power was introduced to prevent a person accused of a "serious personal violence offence" who had previously been convicted of a "serious personal violence offence" from being granted bail, other than in exceptional circumstances.

The New South Wales government is also developing a Domestic Violence Integrated Court Model to improve responses to domestic violence at each stage of the criminal justice process — from reporting through to sentencing and management of the offender — by adopting an inter-agency approach, focusing both on improving responses to individual victims and their children and on developing systemic changes in the key agencies.

The Legal Aid Commission of New South Wales administers funding for the Women's Domestic Violence Court Assistance Programme, devised to assist women and children who are experiencing domestic violence to gain access to the legal system, obtain legal protection via an Apprehended Domestic Violence Order and turn to a support system that can help with other needs (e.g. financial, housing, emotional support, counselling and legal assistance). Some 33 schemes were funded in 2004/05, servicing 55 local courts throughout New South Wales. During 2004, the Programme provided 33,618 services to women across the state.

**10. In its previous concluding comments,<sup>1</sup> the Committee noted the differing state provisions relating to prostitution and encouraged the Government to assess the effectiveness of varying measures in reducing the exploitation of prostitution (para. 403). Please provide information on whether this study has been undertaken and, if so, its outcome.**

This study has not been undertaken. The effectiveness of state and territory measures is a matter for the states and territories to evaluate.



The Australian Government is committed to combating the trafficking of women for work in the Australian sex industry, and to assisting other countries in the region to address the trafficking of women for the purposes of sexual servitude. The Government has committed AUS\$ 20 million to the Action Plan to Eradicate Trafficking in Persons, which includes work by the states and territories to assess the effectiveness of their regulation of the sex industry in the prevention and deterrence of people trafficking for sexual servitude, as part of the Australian Policing Strategy to Combat Trafficking of Women for Sexual Servitude 2004-2006. The strategy was endorsed by the Australasian Police Ministers' Council in July 2004.

**11. Provide updated information on the measures to reduce paedophilia and sex tourism involving Australian men, primarily in Asian countries, and the situation of women brought to Australia as brides.**

Australia's child sex tourism offences legislation ensures that Australians engaging in sexual activity with children while overseas may be prosecuted in Australia.

Australia's child sex tourism legislation came into effect in 1994. This groundbreaking regime is one of the toughest of its kind, containing very high penalties for Australians involved in sex offences against children under the age of 16 years while overseas.

The child sex tourism laws have extraterritorial operation, following Australians wherever they go in the world. They apply to Australian citizens, residents of Australia and bodies corporate.

The provisions prohibit persons or bodies corporate, while outside Australia, from engaging in sexual intercourse or sexual conduct with children under 16, or from inducing children under 16 to engage in sexual intercourse or sexual conduct.

The legislation also prohibits the incitement, encouragement of or gaining benefit from child sex tourism. These provisions cover the organization of sex tours in a foreign country or advertising offers in newspapers to commit a child sex tourism offence, or the organization of any other arrangement that facilitates a child sex tourism offence.

The legislation continues to be rigorously enforced. The penalties for Australia's child sex tourism are very high, reflecting the seriousness with which the Australian Government regards such offences.

In addition to these measures, new Internet child pornography offence laws came into operation on 1 March 2005. These provisions create offences for using the Internet to access, transmit or make available child pornography, and for possessing, producing or supplying child pornography for the purpose of sending it over the Internet.

Like the child sex tourism laws, the new child pornography laws will have extended geographical jurisdiction, applying to conduct by any Australian citizen or body corporate outside Australia.

The Australian Government has also enacted protections for child complainants and witnesses in proceedings for child sex tourism and other

Commonwealth sex offences to ensure that child witnesses are able to testify as freely and effectively as possible.

The Online Child Sexual Exploitation Team was created on 1 January 2005 to provide the Australian Federal Police with the capability to combat online child sexual exploitation, conduct major international and national investigations of offences relating to material depicting the sexual abuse of children and the online grooming and procuring of children and to identify and eradicate child exploitation and paedophile networks. The Team expands the capability of the existing child protection investigations by the Australian Federal Police relating to child sex tourism.

#### **Measures to reduce paedophilia in Australia**

On 1 September 2004, the Australian Government launched the Australian National Child Offender Register, which is used by police to track child sex offenders and others known to have committed serious offences against children.

Under a cooperative national scheme, states' and territories' laws will require those offenders to notify police of their address, places they frequent, car registration and other personal details. This information will be recorded on the register and used proactively by police to intervene to protect children in our schools and communities. For example, the register will enable police to monitor the movements and activities of known offenders in a state and facilitate the sharing of information between jurisdictions. It will also contain an interstate movement alert function, for use only by appropriately authorized police.

#### **Measures to reduce trafficking of women as brides**

The Criminal Code Amendment (Trafficking in Persons Offences) Act 2005 came into effect on 3 August 2005. The Act seeks to comprehensively criminalize all aspects of the crime of trafficking in persons, and fulfil Australia's international obligations under the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. It includes new trafficking offences where a person is transported into or out of Australia under force, threats or deception; where the victim's travel or identity documents are confiscated after entering Australia; or where the victim is under the age of 18 and is intended to be used to provide sexual services, whether or not they are commercial.

Higher penalties are imposed where the victim is a child, or is exploited, endangered or subjected to cruel, inhuman or degrading treatment. The Act has extended geographical jurisdiction, so that it applies to conduct by any Australian citizen or body corporate outside Australia.

**12. In its previous concluding comments,<sup>1</sup> the Committee encouraged the Government to collect statistical data on the participation of Aboriginal and Torres Strait Islander women in decision-making, politics, administration and the judiciary (para. 404). Please provide this information.**

Indigenous women continue to be underrepresented in politics and decision-making roles, however there have been positive advancements in this area in recent years. As at September 2005, there were three indigenous women in the Northern

Territory Parliament, one in New South Wales and one in Western Australia. There are currently no indigenous women in the federal Australian Parliament.

The National Indigenous Council was recently appointed to advise the Australian Government on indigenous issues and strategies. The Council charter requires it to provide expert advice to government on how to improve outcomes for indigenous peoples, including improving programme performance and service delivery in a whole-of-government environment. Members of the Council have been chosen for their expertise and experience in particular policy areas and do not represent particular regions, organizations or agencies. Of the current membership of 14, 5 are women, including the Chair, Sue Gordon.

The Indigenous Women's Development Programme forms an integral part of the Australian Government's reform agenda in indigenous affairs. Strong leadership is required to make the new arrangements work. In areas where leadership capacity needs to be strengthened and broadened, the Australian Government is providing support. The Programme has been established as one element of the Government's support for developing indigenous leadership. The Australian Government recognizes that although indigenous women play significant roles in family and community development, they continue to be underrepresented in leadership and decision-making positions.

The Australian Government has committed AUSS 16.5 million over four years for three initiatives under the indigenous Women's Development Programme:

- Indigenous women's leadership
- Networking indigenous women
- Indigenous men and family relationships

In its first year of operation, the programme generated an emphasis on leadership and personal responsibility for community well-being within indigenous communities across Australia. Achievements included:

- Support for 84 indigenous women leaders to increase their leadership skills, confidence and level of involvement in community development
- 3,000 indigenous Australians participating in gatherings or workshops focused on local priorities
- 80 indigenous men sharing their expertise, skills and knowledge, and forming networks to enhance their community work
- 280 indigenous women participating in the first National Indigenous Women's Conference

The Australian Public Service Commission produces a yearly report entitled "The State of the Service", which reports on the Australian public service during the year. The most recent report was released in 2004. As at 30 June 2004, there were approximately 1,800 indigenous women employed in the Australian Public Service,<sup>4</sup> of whom 113 were employed at the executive level, and 9 were members of the senior executive service.

The Commission manages the Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees, which is aimed at:

- Stabilizing numbers over the next two years, then increase Aboriginal and Torres Strait Islander peoples' employment in the mainstream Australian Public Service
- Contributing to increased social equity by improving indigenous peoples' income levels and employment opportunities in the wider Australian employment market
- Increasing the extent to which Government agencies are able to use the existing and potential skills and capacity of Aboriginal and Torres Strait Islander employees in order to meet their business needs for skilled employees, including in areas of specific skill shortage and recruitment difficulty
- Building the general capacity of the Australian Public Service to provide more effective service delivery to indigenous peoples

The new strategy seeks to address these issues of national concern through initiatives directed at:

- Assisting agencies to address key barriers to the employment of Aboriginal and Torres Strait Islander employees, by identifying pathways to employment that allow indigenous peoples to develop the required skills and capacity to work in the public service
- Supporting indigenous employees to develop relevant skills that allow them to contribute to business goals and build successful long-term careers in the public service
- Supporting agencies to align strategies that promote Aboriginal and Torres Strait Islander employment with their broader strategies for achieving business outcomes through workforce planning and capability development
- Encouraging partnerships with other jurisdictions and organizations (including Job Network members) to develop innovative employment solutions that meet agency skill requirements
- Ensuring that employees working in whole-of-government service delivery to indigenous Australians have the skills they need to deliver effective outcomes<sup>5</sup>

**13. The report states that measures to increase the number of women in political and public life have not relied on prescriptions or compulsory quotas and that Australian women are selected on their merits to the highest levels (para. 112). In the light of recommendation 25 on article 4, paragraph 1 of the Convention on temporary special measures, please indicate why quotas or targets are not used to increase the number of women in political and public positions, particularly for those who may be or are subject to multiple forms of discrimination, such women belonging to ethnic minorities and immigrant women.**

The Australian Government believes that using the merit principle to encourage skilled and talented women to contribute to this country's decision-making processes is a more effective way of increasing women's participation than relying on quotas.

At 64, the number of women in the Australian Commonwealth Parliament is the highest it has ever been (27 Senators and 37 in the House of Representatives).

This is a significant increase from 14 per cent in 1995 and almost double the international average of 15.7 per cent.

In the 2005/06 budget, the Government announced AUS\$ 15 million over four years to build women's leadership and participation in all parts of Australian life.

As at June 2004, women held 32.2 per cent of Commonwealth-controlled positions on Australian Government Boards and 31.6 per cent of senior executive service positions in the Australian Public Service.

**14. The report indicates that the Government has given priority to the elimination of harmful gender stereotypes in the Beijing Plus Five Action Plan 2001-2005 (para. 68), but does not provide any details of the strategies that have been adopted for the eradication of patriarchal norms and stereotypes in Australia, nor of the measures in place to combat the stereotypical roles of men and women. Please provide details on whether a comprehensive strategy exists to address the prevalence of stereotypes that inhibit the full participation of women in Australia, and the efforts the Commonwealth, state and territorial governments have taken to eliminate stereotypes across all sectors and spheres, in accordance with article 5 (a) of the Convention.**

The Australian Government seeks to eliminate stereotypes of the roles of men and women through national dialogue, as seen in the Sex Discrimination Commissioner's discussion paper "Striking the Balance: Women, Men, Work and Family" (available at [www.hreoc.gov.au](http://www.hreoc.gov.au)), which explored women's and men's choices for balancing their competing work and family responsibilities; and the inquiry by the Standing Committee on Family and Human Services into balancing work and family commitments.

The Government also challenges stereotypes by highlighting women leaders through national awards, such as the Equal Opportunity for Women in the Workplace Agency's annual Business Achievement Awards (see [www.eowa.gov.au/](http://www.eowa.gov.au/)).

In the 2005/06 budget, the Government announced measures to benefit women in home-based business, mature-age workers, women in the agriculture, fisheries and forestry industries, and women in small business. This builds on current Government initiatives to recognize women's achievements in business, promote equal employment and eliminate workplace discrimination and help women to balance their work and family commitments. Details of these initiatives are contained in the 2005-2006 Women's Budget Information Kit.

### **Broadcasting**

The Broadcasting Services Act establishes a regulatory framework within which the Australian Communication and Media Authority, an independent statutory body, develops programme standards and assists broadcasters (commercial, community, subscription) and other service providers (e.g. narrowcast services) to develop codes of practice.

Broadcasting industry codes of practice deal with broadcast content matters that are of concern to the community, including the harmful and negative portrayal of women. The Australian Communications and Media Authority is responsible for registering and administering the codes of practice. The Commercial Television Industry Code of Practice and Commercial Radio Codes of Practice advise broadcasters to avoid placing inappropriate emphasis on gender, or on physical

characteristics and stereotyped gender portrayals that associate particular roles, ways of behaviour, personal or social attributes or use of products and services with people on the basis of gender. In addition, the Commercial Television Industry Code of Practice encourages broadcasters to achieve a better balance in the use of women and men as experts and authorities and give more prominence to the achievements of women in areas such as sport.

The two national broadcasting services, the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS), operate independently of government under their own acts, and are not subject to the above programme standards. However, both the ABC and SBS are required to submit codes of practice to the Australian Communication and Media Authority, which uses them to assess complaints against the national broadcasters. The ABC has publicly available editorial policies, while codes of practice for both the ABC and SBS are available from the respective service.

New South Wales provides the following programmes for young women:

- **GirlSavvy:** GirlSavvy is a one-day workshop for girls in middle to senior high school years. A range of activities alert girls to the diversity of job options available and focus on the benefits of good financial planning. GirlSavvy makes it clear that work choices have an impact on their financial future and quality of life.

In 2004 and 2005, some 24 workshops were conducted for 1,509 participants from 83 schools, 80 per cent of which were in rural and regional New South Wales.

- **Lucy Mentoring Programme:** Lucy aims to motivate and educate young women in higher education to become leaders in business, finance, economics, accounting and law, and provides opportunities to targeted participants to break through industry barriers and undertake leadership positions.

Lucy operates in partnership with the University of Western Sydney, University of Sydney and the Women Chiefs of Enterprises International. In 2004-2005, a total of 47 young women and 54 mentors participated in two rounds of the programme.

- **SistaSpeak:** SistaSpeak is a pilot programme which ran in Dubbo in July and August 2005, for indigenous girls in Years 6-9. Developed in partnership with Streetwise Communications, it encourages girls to focus on education, career development and financial independence and is based on the GirlSavvy model.

An important component of the programme is the use of indigenous role models and mentors of different ages who are studying, working or self-employed. The pilot will be evaluated in October 2005. It is expected that the programme will be subsequently extended to other locations.

Tertiary and Further Education (TAFE) New South Wales provides two women-only courses to address the needs of women facing a range of barriers, such as disability, age, cultural difference, language, literacy, numeracy, unemployment, imprisonment or isolation. The courses are aimed at enhancing women's access to and participation in further education and employment.

The short course, Women on Boards and Committees, was delivered in TAFE New South Wales to provide learners with the skills and attitudes required to

become members of boards and committees. Another short course, Women in Decision-Making — Boards and Committees, was delivered to provide learners with the knowledge, skills and attitudes required to improve the representation of women on government boards and committees and in decision-making roles in public and private sector organizations.

TAFE New South Wales Women Strategy 2004-2010 was developed to advance equitable vocational education and training for women students from all backgrounds and circumstances.

**15. The report notes that Australia established a new set of National Goals for Schooling in the Twenty-First Century (para. 213), but does not provide any information on what priorities and strategies have been identified to tackle specific issues relating to girls' education and national plans to eradicate stereotypes through the education system. Please provide this information. In addition, please provide information on any evaluation of the National Women's Vocational and Educational Training Strategy (1996) and the New Apprenticeship Reforms (paras. 223-224), focusing on how indigenous women have benefited from these programmes.**

The Australian Government sees education as a key means of improving the economic status of women and helping women to achieve their goals and widen their life choices. Australia has an apparent retention rate of 81.2 per cent of young women entering high school to Year 12. In 2004, 54.4 per cent of higher education enrolments were female, as were 48 per cent of enrolments in the vocation, education and training sector.

The number of women in Australia undertaking traditionally male areas of study, such as law and medicine, has increased in recent years. Participation rates of women in higher education are greater than those of men. In 2004, women accounted for 54.4 per cent of enrolments in higher education, though they continue to be underrepresented in some fields of study, such as engineering, information technology and architecture.

Stereotypes are addressed by an emphasis on the value of diversity. Australia's National Strategy for Vocational and Educational Training (2004-2010) advocates that "diversity will be valued and supported, and products services will be designed to suit all learners". Other initiatives that address stereotypes include: CD-ROMs that highlight career options in manufacturing, boating and aerospace industries, with case studies of women discussing their employment experiences in these industries; and the New Apprenticeship advertising campaign, which showed women in non-traditional trades.

Women: Shaping our Future, a national framework document for women in vocational education and training, was launched in 2004. It was designed to work with Australia's National Strategy for Vocational and Educational Training (2004-2010), to improve women's training and employment outcomes and advance the agenda for women nationally.

A range of other initiatives to increase the participation of women in vocational and educational training include: financial incentives for employers of female new apprentices in non-traditional trades; Australian Government funding for additional places for parents returning to the workforce in the 2005-2008 Commonwealth-State Funding Agreement (currently being negotiated between

state/territory and federal governments); and products to engage women in industries such as manufacturing.

The National Women's Vocational and Educational Training Strategy 1996-2000 was evaluated in 2001. The evaluation found that enrolment rates for women during the period of the strategy increased at a faster rate than for men. It also highlighted issues of ongoing concern; a women's forum was subsequently formed to investigate them.

From 2001 to mid-2003, an extensive research and consultation process was undertaken to work out how to improve results for women from training linked to employment.

In 2003, Australian, state and territory ministers for vocational and educational training agreed to women's issues being addressed in an ongoing fashion through annual vocational and educational training planning and reporting processes. Ministers also agreed to a new integrated approach to dealing with issues affecting women in vocational and educational training, namely maximizing the value of relevant existing funds by better integrating women's issues into core vocational and educational training business.

To that end, a new framework, Women: Shaping our Future, was released in March 2004. It was designed to work with Australia's National Strategy for Vocational and Educational Training (2004-2010), to improve women's training and employment outcomes and advance the agenda for women nationally.

In 2004, 48 per cent of vocational and educational training students were women. The number of women completing new apprenticeships increased by 10 per cent in the 12 months to March 2005 (to 62,100, compared with 56,300 in the 12 months to March 2004). There has been a significant increase in the number of women completing higher level qualifications and commencing qualifications in trade and related occupations (source: National Centre for Vocational Education Research (NCVER) statistics collection):

- In the 12 months to March 2005, 41,600 women completed a Certificate III. This is 19 per cent higher than in the previous 12 months (35,100)
- In the 12 months to March 2005, 6,980 women completed a Certificate IV. This is 30 per cent higher than in the previous 12 months (5,380)
- In the 12 months to March 2005, 10,800 women commenced a qualification in trade and related occupations. This is a 20 per cent increase over the previous 12 months (9,010)

A national strategy, Partners in a Learning Culture, and an accompanying blueprint for implementation are in place to address the underrepresentation of Aboriginal and Torres Strait Islander peoples in vocational and educational training. At present 1.7 per cent of students in vocational and educational training are indigenous women, an increase on the reported 1 per cent in 1995. The number of indigenous women completing new apprenticeships has increased by 19 per cent in the 12 months to March 2005 (to 1,580) (source: NCVER statistics collection). Information on the New South Wales programme SistaSpeak provided at question 14 above is also relevant to this question.



**16. The report states that while young women perform better than young men at schools and are better represented in higher education, women still have inferior labour market outcomes owing to a variety of factors (para. 222). What strategies has the Government put in place or considered to ensure that young women seek and retain jobs commensurate with their academic achievements?**

Since 1996, the access of women to education and training has dramatically improved to be equal to that of men; nevertheless, women remain underrepresented in certain fields of study and level and range of qualifications. Australia has an apparent retention rate of 81.2 per cent of young women entering high school to year 12. Women account for 54.4 per cent of all higher education students; between 1996 and 2004, the number of women enrolled in higher education increased from 344,200 to 513,400. Importantly, women are now participating in the highest levels of education at much more comparable rates. In the first semester of 2004, women accounted for 46 per cent of all students beginning a masters course, with 49 per cent of them undertaking a doctorate. The same year, women accounted for 57 per cent of graduate diploma/graduate certificate students, 56 per cent of advanced diploma/diploma and bachelor degree students.

The Government provides a range of legislative protection to enable the full participation of women in the workforce and to assist employees in balancing their work and family responsibilities. The Workplace Relations Act 1996, the Sex Discrimination Act 1984 and the Equal Opportunity for Women in the Workplace Act 1999 combine to provide a positive framework within which women's participation in the labour force is supported.

The Sex Discrimination Act 1984 makes sex discrimination illegal. The Act gives effect to Australia's obligations under the Convention on the Elimination of All Forms of Discrimination against Women and parts of International Labour Organization Convention 156, Convention Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities. Its major objectives are to promote equality between men and women; eliminate discrimination on the basis of sex, marital status or pregnancy and, with respect to dismissals, family responsibilities; and eliminate sexual harassment at work, in educational institutions, in the provision of goods and services, in the provision of accommodation and the administration of federal programmes.

In 2003, the Government amended the Sex Discrimination Act to provide better protection for pregnant and breastfeeding women. The Act was amended to explicitly recognize breastfeeding as a potential ground of unlawful discrimination. The amendments also made it unlawful to ask women for information about pregnancy or potential pregnancy in situations where it was unlawful for women to be discriminated against on those grounds.

In addition, the Equal Opportunity for Women in the Workplace Agency, under the Equal Opportunity for Women in the Workplace Act 1999, works with employers to assist them to achieve equal opportunity for female employees.

The Australian Government aims to maximize the ability of unemployed Australians to find work and to create the conditions to foster strong employment growth and higher productivity workplaces in Australia. The Australian Government develops policies and manages programmes that support efficient and effective

labour market assistance; higher productivity, higher pay workplaces; and increased workforce participation, including for women.

The Australian Government announced a series of changes in the 2005/06 budget to increase the workforce participation of parents, including sole parents, in employment. In Australia, around 90 per cent of people currently receiving income support for sole parents are women.

Changes to income support arrangements, participation requirements and employment services will help people to become less dependent on welfare and to participate more in the workforce. Parents who have a child aged 6 or older will be required to work part-time or undertake suitable activities to help them return to work for at least 15 hours a week. There will be more practical support to parents to help them prepare for employment and to assist with childcare, including over 85,000 new childcare places. The new measures will reduce welfare dependency and provide individuals with more opportunities and support to enter the workforce.

Workforce participation rates for women have risen. The Australian Government's economic policies have seen the creation of over 1.6 million new jobs, with over 53 per cent of these being taken by women (with the growth rate of female employment being 47.5 per cent higher than that for men), as well as strong earnings growth and reforms to taxation and income support policies directed at allowing Australians and their families to retain more of what they earn and to enhance support for families.<sup>6</sup>

These increased opportunities for employment and rewards from working have seen an increase in the participation of women in the economy, with the proportion of women aged 15 years and over in paid work increasing from 49.6 per cent in 1996 to 54 per cent by March 2005.<sup>7</sup> Women's wages have also increased. Women's earnings as a proportion of men's has risen from 83.2 per cent in February 1996 to 85.1 per cent today.

Additionally, about one third of small business operators in Australia are now women. Data published by the Australian Bureau of Statistics shows the number of female small business operators rose from 462,300 in February 1997 to 528,600 in June 2003.

**17. Please provide information on the gender differentiated impact of the Higher Education Support Act (2003), which increases university fees by 25 per cent, and the Higher Education Support Amendment Bill (2005), which limits essential services on campuses such as affordable and flexible childcare, welfare, accommodation and counselling services.**

It is widely accepted in Australia that students who directly benefit from higher education should contribute towards the cost of their education. Currently, Commonwealth-supported students (previously known as Higher Education Contribution Scheme students) contribute, on average, around 26 per cent of the cost of their education, with taxpayers providing the rest.

The Higher Education Support Act 2003 does not prescribe increases to student contributions as suggested in question 17. Instead, the Act requires that higher education providers set their own student contributions for Commonwealth-supported places within a range between AUS\$ 0 to a maximum set by the

Australian Government, which is no more than 25 per cent above the former indexed rates.

The most student contributions have increased by is AUS\$ 1,600 a year for courses in areas such as medicine, law and dentistry. Student contributions for courses in areas such as arts and social science have increased by a maximum of AUS\$ 960 a year. Importantly, every dollar of student contributions goes directly to higher education providers, which may then use these funds for such purposes as improving quality and reducing class sizes.

Nursing and education have been identified as areas of national priority by the Australian Government. The maximum student contribution for units of study in these disciplines, which are traditionally dominated by women, has been set at the former contribution rates to ensure that these units of study remain exempt from any increases.

The Australian Government believes that all Australians must have equal opportunity for access to higher education. A central feature of the Government's policy is the availability of loans under the Higher Education Loan Programme, which enables eligible students to defer their student contribution and repay it later through the taxation system. This ensures that students are not deterred or prevented from participating in higher education if they are unable to pay their student contributions up front.

Students who receive a loan are not required to make repayments until their income exceeds a minimum threshold. The Government increased this threshold from AUS\$ 25,348 in 2003-2004 to AUS\$ 36,184 in 2005-2006. This is a significant equity measure, consistent with the income-contingent nature of the scheme, and will particularly benefit many women and those in lower-paying or part-time employment.

In addition, the higher education reform package has been designed to include a range of measures to assist students from disadvantaged backgrounds.

The Commonwealth Learning Scholarships programme was introduced in 2004. The Government is committing approximately AUS\$ 400 million over five years through this programme to assist disadvantaged students to meet the costs of higher education. By 2009, around 43,000 scholarships will have been awarded to students in need. Eligible students who receive both types of scholarship assistance in 2005 will receive approximately AUS\$ 6,000 per year to meet the general and accommodation costs associated with attending university. Importantly, the Commonwealth Learning Scholarships will not be subject to social security income testing.

As a further enhancement to the Australian Government's equity provisions for higher education students, the Higher Education Equity Support Programme was introduced in 2005 following a review of higher education equity measures under the reforms. In particular, the programme is aimed at improving access and academic outcomes for students from designated equity groups, including those from low socio-economic backgrounds; rural and isolated areas; non-English speaking backgrounds; and those with a disability. It is also aimed at helping to overcome educational disadvantage associated with gender.

The Government's Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005 was designed not to limit service provision on campuses, but to ensure that students were not forced to pay for services that they do not choose to use. The Government's policy on voluntary student unionism is based on two key principles: freedom of association, and freedom of choice. The Bill will give effect to these principles, by seeking to ensure that higher education providers cannot require a student to be a member of a student association, union or guild. It also seeks to ensure that students are not required to pay any fees to a provider or any other entity for the provision of an amenity, facility or service that is not of an academic nature, unless the person has chosen to make use of it.

Student organizations will always be free to recruit members and offer services to students. Universities and student groups are free to explore options and innovations that might ensure that the non-academic services that are valued by students remain viable.

The Government supports a large number of welfare services for all Australians. As part of the broader Australian community, university students have access to these services. They include the Government's universal health insurance scheme (Medicare) and its assistance for families with childcare costs (the Child Care Benefit). The Australian Government is committed to ensuring that childcare is both available and affordable for parents working, looking for work, or undertaking training and study. Families with childcare costs receive assistance through the Child Care Benefit; in addition, the Government is introducing a new 30 per cent childcare tax rebate.

The quality of life on campus for students will certainly not be damaged by services needing to be responsive to the wants of students. It will be enhanced by students having a choice about how they spend the money that would have been used to pay the previously compulsory service charge.

**18. Please indicate what steps are taken to ensure full access to and retention of indigenous girls at schools across all states and territories and their level of achievement.**

The Australian Government is committed to closing the educational divide between indigenous and non-indigenous students. As of 2005, it has restructured the indigenous education funding arrangements to states and territories in order to accelerate improvement in educational outcomes for Australia's indigenous students. The changes implemented are underpinned by three principles: redirecting existing resources to initiatives that work; greater weighting of resources to students of greatest disadvantage (i.e. those in remote areas); and commitment to improving mainstream service provision.

The indigenous education programmes are based on the 21 goals of the National Aboriginal and Torres Strait Islander Education Policy. The goals can be grouped under four main headings: involvement of Aboriginal and Torres Strait Islander peoples in educational decision-making; equality of their access to education services; equity of educational participation; and equitable and appropriate educational outcomes.

All state and territory governments have endorsed the policy. Indigenous education programmes are supplementary to mainstream programmes (both state

and federal) and are aimed at addressing specific areas of need, including improving access and retention.

The Australian Government's indigenous education programmes do not specifically target female students. As can be seen from the table below, the school retention rate for female indigenous students is higher than that for male students, although well below that for all non-indigenous ones. However, data show that retention from Year 7/8 to Year 12 for indigenous females increased from 32.1 per cent in 1996 to 43.9 per cent in 2004.

2004	Total school enrolments	Retention (percentage)		
		Year 7/8-10	Year 7/7-12	Year 10-12
Indigenous females	63 868	87.4	43.9	49.1
Indigenous males	66 579	84.3	35.3	42.3
All indigenous	130 447	85.8	39.5	45.7
All non-indigenous	3 201 517	98.5	76.8	78.0

Programme funding recipients are required to detail and then report on the effectiveness of the projects funded, in terms of agreed milestones or agreed targets and indicators.

No details are available on educational attainment levels for male and female indigenous students. However, university enrolment data show that there are more female indigenous university students than male. In 2004, 64.13 per cent of all indigenous university students were female.

The gender equality objective in education is underpinned by commitment to the 1997 document entitled "Gender Equity: A Framework for Australian Schools". The Gender Equity Framework binds all school systems in Australia to 10 principles for action. These principles emphasize equitable access and a rewarding education experience for both boys and girls.

The Government is developing the National Agenda for Early Childhood, in collaboration with all states and territories. This is a framework for action to promote the positive development of all children living in Australia. In recognition that some groups of children are "missing out", indigenous children are a particular focus of the Agenda. In line with the Agenda, the Australian Government's Ministerial Taskforce on Indigenous Affairs has identified early childhood interventions as one of three priority areas for action. Many of the outcomes of these efforts will not be measurable for some time, but recent data (provided in the table above) indicate that there are already measured improvements in school retention rates.

There are a number of initiatives targeted at improving educational outcomes for indigenous students in the Northern Territory. In 2004, the Learning Lessons Implementation Steering Committee took part in community consultations for the Secondary Education Review. The Secondary Education Report builds on and extends recommendations for indigenous education made in the Learning Lessons report.

19. In its previous concluding comments,<sup>1</sup> the Committee recommended an evaluation of the Workplace Relations Act of 1996, including an assessment of its impact upon women of different age groups, different educational levels and in different occupational groups. The Committee particularly required an assessment of the impact of the Act on part-time and casual work, on women workers' benefits and on workers with family responsibilities, particularly women's ability to obtain maternity leave (para. 399). Please indicate whether such an evaluation has been conducted and its results. Please also indicate the impact of the Equal Opportunity for Women in the Workplace Act of 1997.

#### **Workplace Relations Act 1996**

The principal objective of the federal Workplace Relations Act 1996 was to provide a framework for cooperative workplace relations, to promote the economic prosperity and welfare of the people of Australia.

The Department of Employment and Workplace Relations reports every two years on the effects of bargaining on the employment of women as part of the Government's responsibilities under the above-mentioned Act. The latest report for 2002-2003 shows an improvement in women's access to flexible hours of work and family friendly provisions under agreements compared with the previous report for 2000-2001.

While the effects of the Act cannot be isolated, an analysis of women's participation in the labour force since 1996 indicates that there has been an increase in labour force participation and an improvement in workplace flexibility for women. The data show that:

- Between March 1996 and July 2005, the labour force participation rate for women grew from 53.7 per cent to 57.4 per cent
- Over the same period, full-time employment for women grew by 18.1 per cent, while part-time employment for women grew by 34.4 per cent
- The proportion of women employed on a casual basis remained largely unchanged at 30 per cent for the period between August 1996 and 2004
- In June 2003, 80 per cent of federal certified agreements covering 91 per cent of employees contained at least one family-friendly or flexible-hours provision; as at June 2005, this has increased to 84 per cent of agreements and 94 per cent of employees
- 45 per cent of all female employees are entitled to paid maternity leave as of November 2004

#### **Equal Opportunity for Women in the Workplace Act 1999**

The Australian Government is committed to maintaining a strong emphasis on equal opportunity for women in the workforce, and the promotion and implementation of equal opportunity principles in the private and public sectors. Employers with more than 100 employees continue to report to the Equal Opportunity for Women in the Workplace Agency on the actions they are taking to achieve equal opportunity for women in the workplace. The Agency continues to focus on building business partnerships and relationships with employer groups and individual employers.

In 2004, there were 2,712 reporting organizations registered with the agency. Of these, 2,695 organizations complied with the requirements of the Equal Opportunity for Women in the Workplace Act (only 17 were deemed non-compliant). This high level of compliance with the legislation demonstrates the strong engagement by Australian employers with the principle of equal opportunity for women in the workplace. This is supported by the Agency's emphasis on building partnerships with employers as the most effective way of securing organizations' commitment to improving equal opportunity outcomes.

The Agency workplace profile data from equal opportunity compliance reports also indicate an upward trend in the proportion of women in management in reporting organizations, increasing from 30 per cent in 2002-2003 to 31.7 per cent in 2004-2005. The reporting data shows an increasing trend in the proportion of organizations that reported taking action in relation to each of the seven legislated employment matters has steadily increased each year.

Since 2001, the Agency has been hosting the Business Achievement Awards to honour leaders in the field of equal employment opportunity. It also awards "Employer of Choice for Women" citations to organizations that are leading the way in their programmes to advance women.

To increase the participation of women in leadership positions and to promote their leadership, the Agency has been conducting an annual census of women in senior executive positions and on private sector boards in the top 200 Australian Stock Exchange companies on the basis that "what gets measured gets done". The census allows Australia to benchmark itself internationally.

According to the Agency's 2003 Census of Women Board of Directors and Executive Managers, 43 per cent of managerial and professional positions in the top 200 companies were occupied by women. In addition, 8.8 per cent of executive managerial positions were occupied by women; 8.4 per cent of women were board directors. There were five female chief executive officers in Australia, and 3.2 per cent of women working in the top 200 companies occupied highest title positions.

**20. Australia does not have legislation providing for paid maternity leave, and according to the report, only 38 per cent of women workers have access to paid maternity leave (para. 254). The report also indicates that a study was conducted in 2001 by the Human Rights and Equal Opportunities Commission on the options available for implementing a national paid maternity leave scheme in Australia (para. 255). Please indicate what options are presently being considered to institute paid maternity leave across all states and territories in Australia.**

Australia's workplace arrangements and family assistance payments work in a complementary way to provide a comprehensive system of support for families at the birth of a child. In particular, the introduction of the Maternity Payment in 2004 ensures that every woman has access to financial assistance at the birth or adoption of a child. The payment recognizes the extra costs associated with the birth or adoption of a child, including loss of income while on unpaid maternity leave. This payment will increase from AUS\$ 3,079 in 2004 to AUS\$ 4,000 in 2006, and to AUS\$ 5,000 in 2008.

Under the provisions of the Workplace Relations Act 1996, all eligible women and men in both the private and public sectors are entitled to 52 weeks of job-

protected unpaid parental leave for the birth or adoption of a child, subject to a 12-month qualifying period. Regular casual employees covered by federal awards and agreements have the same access to job-protected unpaid parental leave as permanent employees.

Awards contain a range of provisions to help workers balance their work and family responsibilities. These include flexible hours of work provisions, 12 months of unpaid parental leave at the time of the birth or adoption of a child, and paid carer's leave.

The award system underpins the system of agreement-making at the workplace level, which is particularly suited to tailoring working arrangements in ways that assist employees to balance work and family commitments. The Government supports and actively encourages employers to introduce and implement family-friendly policies and practices through agreement making at the workplace level. Around 89 per cent of employees covered by a federal certified agreement are covered by an agreement with at least one family friendly provision, and 71 per cent have three or more such provisions.

Paid maternity leave is available to many Australian women employees, particularly in the public sector. The latest Australian Bureau of Statistics data show that 45 per cent of female employees in Australia are entitled to paid maternity leave.

The Australian Government provides other forms of funded assistance that are available to women in paid and unpaid work. These include the Maternity Immunization Allowance, a non-income tested payment to encourage immunization of children; and the Family Tax Benefit, which provides ongoing financial assistance to families to help raise their children.

**21. In its previous concluding comments, the Committee encouraged the Government to collect statistical data on the participation of Aboriginal and Torres Strait Islander women in the workforce (A/52/38/Rev.1, para. 404). Please provide these data as well as steps taken to develop a policy on equal opportunities and details on financial resources that have been allocated to the Indigenous Employment Programme.**

#### **Statistical data on participation of indigenous women in the workforce**

In 2001, 44.6 per cent of indigenous women were participating in the labour force, an increase of 42.6 per cent in 1996. While the participation rate for indigenous women has risen in recent years, it remains significantly below that of non-indigenous women (55.8 per cent in 2001). The employment rate for indigenous women also increased between 1996 and 2001 (by 2.7 percentage points to 36.7 per cent), while the unemployment rate for this group fell by 2.6 percentage points to 17.6 per cent. Despite the improvements over this period, indigenous women still record significantly higher unemployment rates than non-indigenous women (6.5 per cent in 2001). Data from the 2002 National Aboriginal and Torres Strait Islander Social Survey indicate that Government support remains important to indigenous women, with approximately 22 per cent of indigenous women's employment at the time being covered by the Australian Government's Community Development Employment Project. Participants of this programme voluntarily forgo



their income support for a wage, in return for employment preparation, community work or enterprise development activities.

### **Steps taken to develop a policy on equal opportunities**

Through the Indigenous Employment Policy, the Australian Government provides a focus on improving indigenous employment rates. Indigenous women have access to both indigenous-specific and mainstream programmes and services, such as Job Network, the Indigenous Employment Policy and the Community Development Employment Project.

### **Details of financial resources allocated to the Indigenous Employment Programme**

During the financial year commencing 1 July 2005, a total of AU\$ 77.7 million (US\$ 58.1 million) was allocated to the Indigenous Employment Programme by the Australian Government. No separate amount is assigned to indigenous women from this allocation.

**22. The Committee on Economic, Social and Cultural Rights expressed its concern that homeworkers, who are predominantly women, do not enjoy any social protection and earn substantially less than the minimum wage (E/2001/22, para. 383). Please indicate what measures the Government has taken to address the position of homeworkers, including measures to ensure that they receive the official minimum wage and that they benefit from adequate social security.**

Under the current workplace relations framework, regulation of homeworkers, or outworkers, tends to be a matter for state and territory jurisdictions. However, paragraph 89A(2)(t) of the federal Workplace Relations Act 1996 permits federal awards to contain provisions covering pay and conditions for outworkers. This is permitted to the extent necessary to ensure fair and reasonable pay and conditions for outworkers, as compared to relevant award provisions for employees who perform the same kind of work at an employer's business or commercial premises.

The Australian Government enacted the Workplace Relations Amendment (Improved Protection for Victorian Workers) Act 2003, which took effect on 1 January 2004. The Australian Government was able to legislate in relation to Victorian outworkers because the Victorian government had referred a broad range of workplace relations powers to the Federal Government in 1996.

This legislation introduced a requirement that contract outworkers in the textile, clothing and footwear industry in Victoria receive the same minimum rates of pay applicable to employee outworkers.

The legislation also authorized federal workplace inspectors to enter premises where contract outwork is performed and permitted them to enforce minimum remuneration requirements and seek remedies in the courts, on behalf of outworkers, where non-payment or under-payment of wages has taken place.

The Office of Workplace Services in the federal Department of Employment and Workplace Relations conducted an education campaign for employers and contract outworkers in the textile, clothing and footwear industry in Victoria in

2004. The campaign included an outworker hotline and distribution of information kits.

In early 2004, the Office of Workplace Services investigated compliance levels in the industry in Victoria. Although there was a reluctance by outworkers to deal with the inspectors, no evidence was found that outworkers were not being paid in accordance with the requirements of the Act. Outworkers have the same right to access social security as all other workers.

The Women's Leadership and Development Programme, and its predecessor, the Women's Development Programme, provide funding to national women's non-governmental organizations for targeted research, policy and service development projects that strengthen the voice of women and contribute to policy areas that affect women, and capacity-building projects that strengthen organizations' effectiveness and increase their capacity to contribute to the development of public policy.

Under this programme, Fair Wear (partnering with Asian Women at Work Inc) was provided a grant for AUS\$ 50,000 in 2004-2005 to bring attention to the situation of outworkers in the corporate and designer wear industry by developing an action kit and resources, and by lobbying clothing manufacturers to become accredited under the Homeworkers Code of Practice.

The initiative has successfully contributed to raising awareness among women consumers of both the realities for outworkers in the clothing industry and the opportunities for women consumers to be active in efforts to improve outworkers' wages, conditions and lives. The strategy has also assisted in raising awareness in the fashion industry generally and with designers specifically.

A number of resources were developed as part of the project, which will continue to draw attention to the employment conditions of clothing outworkers well beyond its conclusion. These include: an action kit, with tools and ideas for women wanting to lobby corporate wear suppliers; a starter kit for fashion designers distributed through fashion schools, tertiary and further education institutes and colleges; and a consumer kit, which is available in English, Vietnamese and Chinese for individuals wishing to shop ethically.

Following the completion of the New South Wales government's three-year, AUS\$ 4 million dollar clothing outworker strategy, "Behind the Label", in mid-2004, the government remains committed to addressing the exploitation of the state's most vulnerable workers. One of the most successful initiatives of the scheme was the Vocational Education and Training Programme, which is aimed at increasing the skills base of the labour force and at providing opportunities for those who wish to leave the industry.

Elements of the strategy including compliance activities continue to be integrated into the mainstream activities of the New South Wales Office of Industrial Relations. The Office has continued targeted inspections in the clothing industry, with more than 335 workplaces inspected in 2004. Since 2001, when the strategy began, the Office of Industrial Relations has recovered over AUS\$ 243,417 in unpaid entitlements for clothing workers.

To assist the clothing industry and protect Australian businesses from unethical competitors who exploit outworkers, the New South Wales government has introduced a mandatory code of practice for the clothing industry. The Ethical

Clothing Trades Extended Responsibility Scheme came into effect on 1 July 2005. The objective of the scheme is to ensure outworkers in the state clothing trades industry receive their lawful entitlements under the Clothing Trades (State) Award. It is the first of its kind in Australia and the product of years of close collaboration between the state government and all major players in the industry.

**23. In its previous concluding comments,<sup>1</sup> the Committee requested that the Government provide data and indicators on health disaggregated by sex, age, ethnicity, rural/urban areas and other distinctions (para. 400). Please provide this information, including information on maternal mortality rates, incidence of sexually transmissible diseases and cancers affecting women and rate of screening of such cancers.**

Note: age-standardized rates in this section are standardized to the Australian population unless otherwise indicated.

### **Life expectancy**

In 2001-2003, life expectancy at birth in Australia was 82.8 years for females and 77.8 years for males. Australian women and men can expect to enjoy good health for around 90 per cent of their average lifespan, with only 10 per cent of their time lived with illness or disability. The Health-Adjusted Life Expectancy for women is 74.3 years and males 70.9 years. This compares favourably with other countries with high life expectancies.

Life expectancy estimates for Aboriginal and Torres Strait Islander Australians born in the period 1996-2001 indicate that life expectancy at birth is around 18 years lower than the average life expectancy for all Australians. Indigenous males born in 1996-2001 can expect to live, on average, for 59 years compared to 78 years for all males, and indigenous females for 65 years, compared to 83 years for all females.

The Australian Government is providing funding to improve indigenous peoples' access to comprehensive primary health-care services. The funding provides for coordinated clinical care, population health and health-promotion activities to facilitate illness prevention, early interventions and effective illness management.

In 2005, the Australian Government announced a new initiative called "Healthy for Life", to improve the health of Aboriginal and Torres Strait Islander mothers, babies and children, enhance the quality of life for people with a chronic condition and, over time, reduce the incidence of adult chronic disease.

### **Maternal mortality ratio**

Australia's maternal mortality ratio of 8.2 maternal deaths per 100,000 confinements for the triennium 1997-1999, while not as low as that observed in the 1991-1993 triennium, is a return to the steady decline of the ratio observed over the past 24 years. The absolute risk of maternal death during pregnancy and the puerperium remains very small, being 1 in 8,423 confinements in the triennium 1997-1999. Improved general health status and reproductive patterns, together with access to appropriate general and specialized health care, have greatly reduced the incidence of maternal mortality in the last century.

The maternal mortality ratio for Aboriginal and Torres Strait Islander women continues to be higher than that for non-indigenous women. Between 1997 and 1999, the six deaths of Aboriginal and Torres Strait Islander women gave an indigenous mortality ratio of 23.5 deaths per 100,000 confinements compared with 6.7 for non-indigenous women, which is three times lower.

Indigenous status was reported for 75 (83 per cent) of the 90 maternal deaths between 1997 and 1999. Indigenous deaths accounted for 9.3 per cent of the 75 deaths where indigenous status was known. As a result of incomplete ascertainment of indigenous status, the indigenous maternal mortality ratio is likely to be an underestimation.

Aboriginal and Torres Strait Islander women continue to have their first and subsequent babies at significantly younger ages than non-indigenous mothers. These population characteristics coupled with more general health risk factors, such as higher smoking rates and incidence of sexually transmitted infections, increase the risks for Aboriginal and Torres Strait Islander women during childbirth. Aboriginal and Torres Strait Islander women are 1.4 times more likely than non-indigenous women to visit hospital for pregnancy and childbirth-related issues, experiencing higher rates of perinatal mortality and adverse maternal outcomes, including death. In addition, Aboriginal and Torres Strait Islander peoples have a significantly lower life expectancy and experience lower levels of access to health services than the general population, and are nearly twice as likely to live outside urban centres.

The Australian Government's efforts to reduce maternal mortality and morbidity among indigenous women include the establishment of culturally appropriate birthing centres (which also provide prenatal care), antenatal care programmes, the training of indigenous health workers, and a network of community-controlled primary health-care services at the local level.

The risk of maternal death between 1997 and 1999 was highest for women aged between 40 and 44 years (mortality ratio of 23.2 deaths per 100,000 confinements), and was lowest for women aged between 20 and 24 years (with a ratio of 4.0).

### **HIV/AIDS**

In 2004, it was estimated that 14,840 people in Australia were living with HIV/AIDS, of whom an estimated 1,100 (or 7 per cent) were adult or adolescent women. AIDS incidence and estimated HIV prevalence in Australia at the end of 2004 were 1.2 and 74 per 100,000 of population, respectively. HIV continues to be transmitted in Australia primarily through sexual contact between men, which accounted for more than 86 per cent of cases of newly acquired HIV infection diagnosed between 2000 and 2004. The proportion of newly diagnosed HIV cases in women has been two to four times higher in the Indigenous population than in the non-indigenous population over the last six years. In 2004, the proportion of newly diagnosed indigenous HIV cases in women (27.3 per cent) was higher than for the non-indigenous population (11 per cent). Among indigenous HIV cases in 2004, a higher proportion of HIV diagnoses were attributed to injecting drug use (20.0 per cent) compared with the non-indigenous population (4.2 per cent).

In 2000-2004, the rate of HIV diagnosis was 4.7 per 100,000 in the non-indigenous population, against 5.2 per 100,000 in the indigenous population. The

rate of AIDS diagnosis in the indigenous population increased from 1.5 per 100,000 in 2000 to 3.6 per 100,000 in 2004, whereas the rate of AIDS diagnosis in the non-indigenous population continued to decline, to 0.8 per 100,000 in 2004. The recent trends in the rates of HIV/AIDS diagnosis in the indigenous population are based on relatively small numbers and may reflect localized occurrences rather than national patterns.

The National Aboriginal and Torres Strait Islander Sexual Health and Blood-Borne Virus Strategy 2005-2008 was developed to continue to guide Australia's response to HIV/AIDS, blood-borne viruses and sexually transmissible infections within Aboriginal and Torres Strait Islander populations.

The strategy will build on the work of the National Indigenous Australian's Sexual Health Strategy 1996/97 to 2003/04, and is aimed at reducing the transmission of, and morbidity caused by HIV/AIDS, sexually transmissible infections and blood-borne viruses in the Aboriginal and Torres Strait Islander community, and to minimize the social and personal impact of these infections.

A number of target populations and actions have been identified in the strategy. The four areas identified as high priority by ample population-based and disease-based evidence are:

- Sexually transmissible infections
- Aboriginal and Torres Strait Islander people living in the cross-border region of Australia and Papua New Guinea
- Access to needle and syringe programmes
- Increased capacity in the health and community workforce to address all aspects of Aboriginal and Torres Strait Islander HIV/AIDS, sexually transmitted diseases and blood-borne viruses.

The annual number of new HIV diagnoses in women has remained stable over the past 10 years, at around 60 to 90 per year, except in 2004, when 119 adult/adolescent women were newly diagnosed (Table 3.3). Females account for around 11 per cent of all new HIV diagnoses. An increasing number of HIV diagnoses among women, and in the subgroup of women who had had perinatally exposed children, was associated with heterosexual contact in a high-prevalence country or heterosexual contact with a partner from a high-prevalence country. Two thirds of cases of new HIV diagnoses among women are for those aged between 20 and 39 years.

The rates of AIDS diagnosis among overseas born and Australian born people were 1.2 and 1.1 per 100,000 population respectively in the period 2000-2004. The age-standardized incidence of AIDS in the period 2000-2004 was highest among people born in countries in Sub-Saharan Africa (10.3 diagnoses per 100,000 population), South/Central America and the Caribbean (3.3) and "other Oceania" (2.2). The rates of new diagnoses of HIV were highest in people born in Sub-Saharan Africa (67.4 diagnoses per 100,000 population), North America (15.8), and South/Central America and the Caribbean (11.1). The rate for people born in Australia was 4.1.

The AIDS incidence in Australia at the end of 2004 of 1.2 per 100,000 population was higher than that in Germany (0.6) and Canada (0.7), but lower than

that recorded in the United Kingdom of Great Britain and Northern Ireland (1.4), and substantially lower than in France (2.3), Italy (2.9), Spain (4.3) and the United States of America (14.7).

### **Other sexually transmissible infections**

Chlamydia is the most frequently reported sexually transmissible infection in Australia, with 35,189 cases reported in 2004. The population rate of reported diagnoses has more than doubled over the past five years (from 91.4 per 100,000 population in 2000 to 186.1 per 100,000 population in 2004). Rates of chlamydia infection are generally higher in females than males.

The population rate of diagnoses of syphilis has remained relatively stable in the period 2000-2004, at less than 10 per 100,000 population. The population rate of diagnosis of gonorrhoea has gradually increased, from 31.4 per 100,000 population (5,897 cases) in 2000 to 37.0 per 100,000 population (7,098 cases) in 2004. Infection rates are higher for men (49.4 per 100,000 males) than for women (22 per 100,000).

Infection rates among women were higher in the younger age groups (15-19, 20-24 and 25-29) than for men (20-24, 25-29, 30-34). Substantially higher rates of diagnosis of chlamydia, gonorrhoea and syphilis are recorded among indigenous peoples than non-indigenous peoples.

In response to these increases in diagnoses, the National Sexually Transmissible Infections Strategy 2005-2008 was launched on 27 June 2005. At the launch, the Minister for Health and Ageing, Tony Abbott, announced funding of AUS\$ 12.5 million over four years for increased awareness, improved surveillance and a pilot testing programme for chlamydia. Implementation of the strategy commenced on 1 July 2005, focusing on three key action areas: sexually transmitted diseases in Aboriginal and Torres Strait Islander communities; sexually transmitted diseases in homosexually active men; and chlamydia control and prevention.

### **Cancer in Australia**

Excluding non-melanoma skin cancers, there were 88,398 new cancer cases (337.6 per 100,000\*) and 36,319 deaths due to cancer in Australia (127.3 per 100,000\*) in 2001. This compares with 65,921 new cases (318.1 per 100,000\*) and 31,195 deaths (143.7 per 100,000\*) in 1991. Even allowing for the fact that a person may have more than one cancer, at the incidence rates prevailing in 2001, it would be expected that one in three men and one in four women would be diagnosed with a cancer in the first 75 years of life. Cancer currently accounts for 31 per cent of male deaths and 26 per cent of female deaths.

In females, breast cancer (11,791 cases, or 93.1 per 100,000 population\*) is the most common registrable cancer, followed by colorectal cancer (5,883), melanoma (3,861) and lung cancer (2,891), in total, they account for 60 per cent of all registrable cancers in females. The cancers most commonly causing death are breast (2,594 deaths), lung (2,382) and colorectal (2,153).

Australia's national mammographic screening programme, BreastScreen Australia, introduced in 1991, is aimed at achieving significant reductions in

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\* Age standardized to the World Health Organization 2000 World Standard Population.

mortality and morbidity from breast cancer through early detection of the disease. BreastScreen Australia provides free breast cancer screening and assessment services at two-yearly intervals to women aged between 50 and 69 years. Women aged between 40 and 49 years and over 70 years are also eligible for screening. The increase in the rate of new cancers, especially in the target age group, coincided with the introduction in 1991 of BreastScreen Australia (then known as the National Programme for the Early Detection of Breast Cancer). Although the underlying rate for breast cancer is increasing, the sharp increase between 1992 and 1994 is likely to be, at least partly, the result of the early detection of cancers which may otherwise have gone undiagnosed for some years.

With some fluctuations, a notable increase over the period 1987 to 2001 can be seen in the age-standardized breast cancer incidence rates in the target group (women aged between 50 and 69 years). Incidence has increased in this group from 196.9 new cancers per 100,000 women in 1987 to 305.4 per 100,000 women in 2001. A similar pattern of increase in incidence rates is apparent in the 70 and over age group. Incidence rates have remained more consistent over time in the "all ages" category and in women under 50 years of age.

Since 1993, the age-standardized mortality rates for women in the target age group have declined steadily. The mortality rate for these women was 68.3 deaths per 100,000 women in 1988; in 2001, the corresponding figure was 51.8 deaths per 100,000 women. Mortality rates for women aged under 50 years remained the lowest and most consistent, staying below 8 deaths per 100,000 women for the period 1988 to 2002.

### **Cervical screening**

The National Cervical Screening Programme, established in 1991, is aimed at reducing incidence and mortality through the screening and early detection of abnormalities of the cervix, allowing medical intervention to avert the possible progression to cervical cancer.

The programme continues to be very successful in meeting this goal. The combined detection rate of both high- and low-grade abnormalities in 2003 was approximately 1.8 per cent (33,255) of all screenings. Consequently, the incidence of cervical cancer fell among women aged 20-69 from 16.5 per 100,000 women in 1990 to 9.5 in 2001; the mortality rate has declined by 60 per cent from 5.4 per 100,000 women in 1982 to 2.2 in 2003. The participation level is currently around 60.7 per cent. Since the programme commenced, the incidence of cervical cancer has fallen by over 30 per cent (from 1,078 new cases detected in 1990 to 735 cases in 2001); mortality from cervical cancer has fallen by over 50 per cent (from 6.1 deaths per 100,000 women in 1983 to 2.8 per 100,000 women in 2003).

The age-standardized incidence rate of micro-invasive cervical cancer was 1.5 per 100,000 women in 2001 for women in the target age group of 20-69 years and 1.0 per 100,000 for women of all ages. The 20-69 rates, fell sharply between 1995 and 1999, then stabilized between 1999 and 2001 at 1.5 per 100,000 women.

In both 2000 and 2001, the highest detection rates for micro-invasive squamous cell cancer were found in women in the 30-34 age group. The rate declined with age in both years to rates of 1.4 per 100,000 and below for women

aged 50 years or more, however there was some fluctuation in the age-specific incidence rates for women aged 35-45 years.

In 2001, there were 735 new cases of all cervical cancer (squamous, adenocarcinoma, adeno-squamous and other cervical cancer) diagnosed in Australia, compared with the peak of 1,135 new cases in 1994. Of the 735 new cases, 584 were women in the target age group of 20-69 years.

The age-standardized incidence rate of all cervical cancers declined to 7.3 per 100,000 women for all women in Australia in 2001, and to 9.5 per 100,000 women in the target group. Between 1990 and 2001, the decline over all ages was 45.1 per cent; in the target age group, it was 46.7 per cent.

Cervical cancer was the eighteenth most common cause of cancer deaths in Australian women in 2003, accounting for 238 deaths. The age-standardized mortality rate for women of all ages fell to 2.2 per 100,000 women in 2003, much lower than the pre-screening programme peak of 5.0 per 100,000 in 1985.

The age-standardized mortality rate attributable to cervical cancer among indigenous women in the target age group in 2000-2003 was 12.0 per 100,000 women, considerably higher than the mortality rate for non-indigenous women in the same age range (2.5 per 100,000 women). Compared with non-indigenous women, indigenous women experienced high rates of mortality in every age group.<sup>8</sup>

To help address the fact that the incidence of and deaths from cervical cancer among Aboriginal and Torres Strait Islander women is significantly and disproportionately high compared to non-indigenous women, the Aboriginal and Torres Strait Islander Women's Forum has been supported by the Department of Health and Ageing since 2000. The Forum gives Aboriginal and Torres Strait Islander women, in consultation with their own communities, the opportunity to develop and implement proactive, health-promoting strategies in relation to cervical screening at the national level.

**24. As requested by the Committee in its previous concluding comments (para. 400), please provide data on the impact on women of the shift in responsibility of health care from the federal to the state level. In light of the trend towards privatization of hospitals and health services, please provide information regarding affordability of health services for women as indicated by average individual amount spent on health care in relation to income, length of waiting period and Government expenditure on health services based on gender and ethnicity and services for disabled women living in remote areas.**

Over the past decade there has not been a discernible shift in responsibilities for health care from the federal to the state level. Rather, the Australian Government works in partnership with state and territory governments to deliver health care in a system with a range of funding and regulatory mechanisms. Both levels of government work to ensure that a coordinated system of health care is available to all Australians.

This cooperation is formalized through a range of funding agreements with associated performance-reporting requirements and in joint ventures, such as the Australian Council for Safety and Quality in Health Care and through the work programme of all Health Ministers, including the National Health Reform Agenda. Other examples of joint initiatives are the Australian Health Care Agreements,



Public Health Outcome Funding Agreements, Australian Immunisation Agreements, Home and Community Care Programme, Multipurpose Services and Indigenous Programmes.

Australia has a mixed system of public and private health-care financing and health-care delivery. The private sector has traditionally played a major role in providing and to a lesser extent in funding health services. Private sector funding accounts for approximately one third of all health expenditure. This includes expenditure by private health insurance funds (7.3 per cent) and by individuals (19.7 per cent).

Currently, some 42 per cent of hospitals are private, providing 34 per cent of the bed stock. Females account for 55.1 per cent of all patient separations in private hospitals. Hospital provision and regulation is primarily a state and territory responsibility.

Australia's public insurance system, Medicare, covers all Australians through programmes that fund some or all of the cost of hospital care, physician care and pharmaceuticals. Medicare does not discriminate on the basis of gender. Access to the public hospital system is based on clinical need. Australians can choose to have private health insurance to complement their Medicare coverage. Private health insurance is prohibited by statute from discriminating on the basis of gender.

In Australia in 2000-2001, total annual health expenditure of AUS\$ 2,908 per female was 27 per cent more than the AUS\$ 2,291 per capita for males. Excluding expenditure on maternal conditions, total health expenditure per female was AUS\$ 2,773 (21 per cent more than male per capita expenditure). These figures include expenditure by all levels of government (national, states and local), plus the private sector (private health insurance funds and out-of-pocket costs of the individual). Data disaggregated by these sources of expenditure, are not currently available.

In 2001-2002, total expenditure on health services for Aboriginal and Torres Strait Islander peoples was AUS\$ 1.8 billion, or 2.8 per cent of total national health expenditure. In the same period, Indigenous peoples comprised 2.4 per cent of Australia's population.

Government per-capita expenditures were much higher for indigenous than non-indigenous peoples (AUS\$ 3,614 per indigenous person, compared with AUS\$ 2,225, or 62.4 per cent more), the reason being that Aboriginal and Torres Strait Islander peoples rely heavily on publicly funded health-care providers, particularly public hospitals and community health centres.

Total expenditure on welfare services for people with a disability was AUS\$ 3.1 billion. Data, disaggregated by gender, are not readily available on income, waiting times for elective surgery or emergency departments, indigenous status, geographical status, disability status and country of birth.

**25. The report states that the Government is providing funding to improve indigenous peoples' access to comprehensive primary health-care services (para. 370). Please provide information on what other strategies, including awareness-raising, are in place to improve Aboriginal and Torres Strait Islander women's access to health-care services.**

The Government is providing funding to improve indigenous peoples' access to comprehensive primary health-care services. The funding provides for coordinated clinical care and population health, as well as health promotion activities including screening, antenatal services and maternal and child health, to facilitate illness prevention, early interventions and effective illness management. Efforts to reduce maternal mortality and morbidity among indigenous women have included the establishment of culturally appropriate birthing centres (which also provide prenatal care), antenatal care programmes, the training of indigenous health workers and a network of community-controlled primary health-care services at the local level.

In 2005, the Australian Government announced a new initiative called Healthy for Life, which provides AUSS\$ 102.4 million over four years to improve the health of Aboriginal and Torres Strait Islander mothers, babies and children, enhance the quality of life for people with a chronic condition and, over time, reduce the incidence of adult chronic disease.

Over 80 Healthy for Life sites will be established over four years, with 20 to 25 sites commencing in 2005-2006, to undertake targeted activities, early intervention and quality improvements in health-service delivery to improve the health of Aboriginal and Torres Strait Islander peoples.

**26. Please provide information on the impact of national initiatives described in the report (paras. 141-142 and 477-478) on rural women's participation in decision-making.**

The "Missed Opportunities — Harnessing the Potential of Women in Australian Agriculture" project has informed the development of key initiatives under the Department of Agriculture, Fisheries and Forestry's Industry Leadership programme. The Industry Leadership is part of the AAA — Agriculture Advancing Australia package, which was introduced by the Government in 1997 as an integrated suite of programmes for all producers, across all industries and stages of farming.

During the initial phases of the Industry Leadership programme, individual women were targeted for leadership development opportunities through sponsorships to the Australian Rural Leadership Programme. Rather than only assist one or two women per year, the programme now focuses on raising the profile and skills of a larger number of individual women involved in primary industries through the Corporate Governance for Rural Women project. Through joint funding arrangements with individual rural industry research and development corporations, the project enables women aged 36 years and over to attend a five day residential Australian Institute of Company Directors course and be mentored by an industry leader for 12 months. Women less than 36 years of age have access to similar opportunities through the Young Peoples' Corporate Directors project, in which they represent more than 50 per cent of the participants.

Thirty-seven women have now participated in the Corporate Governance for Rural Women project. Some 153 (44 per cent) women under 36 years old have also taken advantage of the Industry Leadership initiatives for young people, which include leadership, export development training, corporate governance and study awards.

The Department of Agriculture, Fisheries and Forestry is reviewing the impact of the Industry Leadership programme in 2006. Part of this review will identify the impact training and development opportunities have had on rural women's participation and contribution to decision-making.

Another outcome of the Missed Opportunities — Harnessing the Potential of Women in Australian Agriculture project is the Rural Research and Development Corporation Rural Women's Award. This is a joint Australian/state government initiative that acknowledges and celebrates women who have displayed a strong and positive vision for the future of rural and regional Australia. To date, 41 women have received the award and a bursary to undertake a project that furthers their vision and therefore contribution to rural industries. All winners also attend the course of the Australian Institute of Company Directors under the Corporate Governance for Rural Women project.

The Australian Government, through the Rural Research and Development Corporation, will be reviewing the Missed Opportunities — Harnessing the Potential of Women in Australian Agriculture project in 2006-2007.

**27. In its previous concluding comments, the Committee was concerned that the situation of Aboriginal and Torres Strait Islander women, as well as those of migrant women, had been further compromised by an apparent rise in racism and xenophobia in Australia (para. 397). Please indicate whether any studies have been conducted to indicate the impact of racism and xenophobia on women and what strategies the Government has considered to alleviate their impact on women.**

The relevant pieces of legislation are: the Anti-Discrimination Act 1977 (New South Wales); the Equal Opportunity Act 1995 (Victoria); the Anti-Discrimination Act 1991 (Queensland); the Equal Opportunity Act 1984 (Western Australia); the Equal Opportunity Act 1994 (South Australia); the Anti-Discrimination Act 1998 (Tasmania); the Discrimination Act 1991 (Australian Capital Territory); the Human Rights Bill (Australian Capital Territory); and the Anti-Discrimination Act (Northern Territory).

The Attorney-General's Department operates four specialist programmes intended to assist indigenous Australians achieve equity before the law. With regard to alleviating the impact of social disadvantage, racism and cultural insensitivity experienced by indigenous women, indigenous Women's Projects and the Family Violence Prevention Legal Service programme are the most relevant.

Through its Community Legal Services Programme, the Government funds seven organizations across Australia to operate the specialist Indigenous Women's Projects, providing culturally appropriate legal-aid services for Aboriginal and Torres Strait Islander women. Some of the projects are located in mainstream community or women's legal centres; others are stand-alone services. Existing projects are located in Sydney, Brisbane, Townsville, Port Augusta in South Australia and Geraldton, Port Hedland and Kununurra in Western Australia.

The Family Violence Prevention Legal Service units provide legal, counselling, support and referral services to indigenous adults (particularly women) and children who are victims of family violence or who are at immediate risk of it. The Government recently doubled the number of legal service units from 13 to 26, opening the new units in areas identified by specialist research as having the

greatest need. The Department of Family and Community Services is responsible for the non-legal aspects of programme operation and liaises with the Attorney-General's Department on this initiative.

The Attorney-General's Department funds the Law and Justice Advocacy programme, which supports Aboriginal and Torres Strait Islander Australians in their pursuit of social, cultural, economic and political rights through the legal system. The Attorney-General's Department supports the alleviation of xenophobia and racism through policy development, advocacy activities and project funding, including advisory committees and test cases. The National Network of Indigenous Women's Legal Services, funded as part of this programme, specifically operates to advance the rights and position of indigenous women in Australia.

**28. The Committee on the Elimination of Racial Discrimination expressed its concern about mandatory detention of illegal immigrants and asylum-seekers, in particular in the case of women and children (CERD/C/AUS/CO/14, para. 23). Please provide information on how many women are in mandatory detention and for how long, and what is being done or contemplated to alleviate the plight of women in mandatory detention.**

The Australian Government has a strong commitment to responding to the needs of women and children in immigration detention.

As at 29 July 2005, all families with children were moved from immigration detention facilities and placed in the community under residence determination arrangements. This is in line with a number of legislative changes to the Migration Act 1958 that came into effect on 29 June 2005, in order to ensure that the current immigration detention policy is administered with greater flexibility, fairness and in a more timely manner. The Act has also been amended to state that "the Parliament affirms as a principle that a minor child shall only be detained as a measure of last resort".

The Minister for Immigration and Multicultural and Indigenous Affairs now has a non-compellable, non-delegable power to specify alternative arrangements for a person's detention and the conditions that will apply to that person. The purpose of this change is to enable the detention of families with children, and adults presenting exceptional circumstances, in the community where conditions are set to meet their individual circumstances.

The department has made arrangements with non-governmental organizations for the provision of support to these families in the community. The organizations are funded by the department to source housing for the families and allow payment of their bills and other living expenses.

On 17 June 2005, the Prime Minister announced a number of changes to both the law and the handling of matters relating to people in immigration detention. As a consequence of these changes, families with children who enter into immigration detention (primarily as a result of compliance action, where people have overstayed their visa, or had their visa cancelled) will, within four to six weeks of being detained, be considered for residence determination.

Cases will be referred to the Minister within four to six weeks of detention, subject to the detainee's removal prospects, seeking the Minister's views as to

whether a family/person may be placed in the community under a residence determination.

In the first instance, families will be placed in a Residential Housing Project closest to their city of prior residence (where available) while their primary processing is completed and assessments are made of their prospect for removal. As at 26 August 2005, there was one such operational housing project, located at Port Augusta in South Australia. The idea of Residential Housing Projects was developed to provide a more domestic and independent family environment, giving families housing or motel-style accommodation in a community setting. A new project is being built in Sydney, while another is planned for Perth.

It is the Government's intention that where primary assessment is being made, removal is imminent or conditions of alternative detention have been breached, families (including fathers) will be housed in a housing project in the capital city of their prior residence (where available) rather than in an immigration detention centre.

As at 2 September 2005, there were 91 women in immigration detention. Of these, 69 women were in immigration detention facilities and 22 were in community-based arrangements.

**29. The Committee on the Elimination of Racial Discrimination noted that indigenous women constitute the fastest-growing prison population (CERD/C/AUS/CO/14, para. 21). Please indicate the reasons for this trend and what is being done to remedy the situation.**

In 2003, the National Centre for Crime Statistics of the Australian Bureau of Statistics released a report entitled "Women in Prison — Why is the Rate of Incarceration Increasing?" The report tested five hypotheses to explain the rising rate of female incarceration in Australia against statistics spanning a seven-year period. It confirmed the disturbing trend affecting Australian women, noting a 60 per cent increase in incarceration rates between 1995 and 2002, compared to a 14.8 per cent rise for men. This disparity has significant implications for the Government's prevention and diversion programmes and its prisoner support services. Furthermore, female convictions for non-violent crimes were found to have decreased substantially, while female convictions for violent crimes rose startlingly, creating a unique trend not seen in the general prisoner population.<sup>9</sup>

Violent crimes attract much longer custodial terms, increasing the number of women in prison at any one time. An increasing number of women were also being held in remand, heightening incarceration statistics still further.

The indigenous background of female prisoners was assessed as a factor in the overall female imprisonment rate. A year later, the Australian Bureau of Statistics noted that indigenous women were being imprisoned nationally at a rate almost 21 times that of non-indigenous women.<sup>10</sup>

### **Causal factors**

The Aboriginal and Torres Strait Islander Social Justice Commissioner of the Human Rights and Equal Opportunity Commission has tabled a number of reports that analyse the background, statistics and experiences of indigenous women exposed to the justice system. Chapter 5 of the Commissioner's Social Justice

Report 2002 focused on the position of indigenous women in custody. It highlighted the relationship between offending behaviour and underlying economic and non-economic causes, including drug and alcohol addiction, unemployment, lack of education, forced removal from families, and experiences of childhood and/or adult assault. The report also criticized the disproportionately high rate of arrest and the overuse of custodial sentences against indigenous women.

The Commission stated that incarcerated indigenous women suffer particularly from the disruption to their responsibilities within their family and community life. Indigenous women were found to have difficulty in gaining access to adequate health care and other services while in prison, a situation then compounded by the lack of basic support, such as housing, upon exit.

The 2002 report concluded that further research was urgently required into indigenous women's experience of intersectional discrimination (on the basis of race, gender and social position) in order to develop holistic programmes and strategies that could respond effectively to their needs. It was apparent that early and culturally appropriate intervention and support were crucial.

The Social Justice Report 2004 by the Commission provided further analysis of the needs of indigenous women leaving prison. It found that there was only limited pre- and post-release support, and a lack of coordination between prisons, community corrections, housing providers, government agencies and other community service providers with respect to existing programmes. It criticized the failure to mention this issue in the state and territory justice agreements that had been developed following the 1997 Ministerial Summit on Indigenous Deaths in Custody.

A significant factor among indigenous female prisoners is the high rate of recidivism. National data indicates that 77 per cent of female prisoners had previously been imprisoned and, in some states and territories, almost 85 per cent had previously been in custody. This is in comparison to a rate of recidivism for non-indigenous women of 49 per cent.

### **Government response**

The Australian Government has considered very seriously all the commentary and analysis provided by its agencies and other specialist bodies.

In July 2004, programmes previously administered by the Indigenous Law and Justice Branch of the Aboriginal and Torres Strait Islander Services were transferred to the Attorney-General's Department. The benefits of mainstreaming were maximized by placing the new Indigenous Law and Justice Branch within the same division as the Legal Assistance Branch. This co-location created important synergies and injected significant experience and a holistic perspective into the development and administration of indigenous justice policies and programmes. The Legal Assistance Branch is responsible for programmes and policy relating to mainstream legal aid, financial assistance, community legal centres and the operation of the National Pro Bono Resource Centre.

Several of the indigenous justice initiatives operating within this context specifically target the needs of indigenous women.

### **Prevention, diversion, rehabilitation and education**

The Prevention, Diversion, Rehabilitation and Restorative Justice programme is designed to address the underlying causes of offending, thereby helping to reduce the adverse contact experienced by indigenous Australians with the justice system. Over 140 initiatives are funded under the programme with an emphasis on breaking cycles of offending as early as possible.

The types of activities that receive funding under the programme include community night patrols, programmes for youths at risk, offender post-release support and prisoner support initiatives. Two of these prisoner support services are tailored to specifically address the needs of indigenous women.

### **Family Violence Prevention Legal Services**

The Family Violence Prevention Legal Services units deliver legal assistance, case work and court support to victims of family violence. They also provide other support services, such as referrals, crisis counselling, group awareness-raising, community education and the production of publications and resources.

In 2004, the programme funded 13 such units, located in high-need remote, rural and regional areas. The units consist of a solicitor and two or three other staff, including a sexual assault worker. The Government has recently funded a further 13 units, bringing the total number to 26.

### **Indigenous Women's Projects**

The Indigenous Women's Projects provide specialized legal services to indigenous women. Some of the projects funded by the Community Legal Services Programme are located in mainstream community or women's legal centres, while others are stand-alone services.

### **Accommodation support**

#### *a. Commonwealth State Housing Agreement*

This agreement is negotiated between the Commonwealth and state and territory governments to deliver housing assistance. The 2003 agreement provided AUS\$ 4.75 billion for the provision of public, community, indigenous and crisis housing.

Funds are provided to the states in untied capital grants. As partners, each state or territory is responsible for the delivery of public housing, but waiting lists for housing can be as long as several years. In May 2001, the Australian and state and territory Housing Ministers agreed to a national commitment to improve indigenous housing over the 10-year period to 2011.

#### *b. Supported Accommodation Assistance Programme*

This programme allocated funds to state or territory governments for the provision of supported accommodation services to people who are homeless or at risk of homelessness. State and territory governments also contribute to the funds through the Crisis Accommodation Programme. In 2002, total available funding was AUS\$ 310.4 million. Many community organizations are funded to provide services

under this programme and many services provide crisis housing to ex-prisoners, including indigenous women.

*c. Aboriginal Hostels*

Aboriginal Hostels provide 3,300 beds for Aboriginal and Torres Strait Islander peoples across the country. While these beds are used extensively, only one hostel is specifically designated for use by indigenous women exiting prison.

### **Healing programmes**

Evidence from overseas has indicated that addressing healing has a positive impact on reducing the over-representation of indigenous peoples in the criminal justice system, and also for empowering communities to create improved partnerships to address the effects of family violence and abuse and in overcoming the legacy of past government practices.

Indigenous concepts of healing address the relationship between the spiritual, emotional and physical in a holistic manner, recognizing the interconnections between and the effects of violence, social and economic disadvantage, racism, dispossession from land and culture. That healing is a process or journey without an end point needs to be recognized. The Government currently supports a small number of healing programmes through discretionary grants and other non-ongoing funding sources.

### **Other initiatives**

a. The Australian Government, through Centrelink, has developed a Memorandum of Understanding and Programme Protocol Agreement with each state and territory government through the line agency with responsibility for both adult corrections and juvenile centres. The agreements provide that welfare payments are arranged pre-release, and exiting prisoners are provided with assistance with proof of identity and study options.

b. Most jurisdictions have established programmes that seek to address the needs of prisoners exiting the system. In 2004, the first voluntary post-release support through a Community Re-Entry programme was commenced, to assist in the coordination of service delivery, including the provision of transitional accommodation and support, a justice mediation service, drug/alcohol management, family relationship services and mental health issues. The service is provided by a mainstream organization, but has some experience in indigenous service delivery.

c. The Throughcare Strategic Framework has also been launched, to provide continuity of care, support offenders in their re-integration into the community, getting access to accommodation, health, welfare benefits and health connections.

d. Community-based organizations are funded to provide pre- and post-release services to all women prisoners. One such service employs indigenous women (and includes indigenous women on its management board), while in another jurisdiction a community organization is funded to provide support, advice, referral and telephone counselling to prisoners and families.



e. In a partnership with the Australian Government, Aboriginal Hostels operates a prison-release and diversion hostel in Adelaide, specifically for indigenous women.

**30. The report does not provide any information on steps that are being taken or considered to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Please indicate any progress made with respect to ratification of the Optional Protocol.**

Ministers decided that Australia would not ratify the Optional Protocol, which established a new complaints procedure.

### Notes

<sup>1</sup> Most cases are available at [www.austlii.edu.au](http://www.austlii.edu.au) by searching for “CEDAW”.

<sup>2</sup> *Official Records of the General Assembly, Fifty-second Session, Supplement No. 32 (A/52/32/Rev.1)*.

<sup>3</sup> Statistics by the Australian Centre for the Study of Sexual Assault.

<sup>4</sup> State of the Service data reveal that 1,822 indigenous women were employed in the public service, but does not provide exact numbers for agencies in which the total number of indigenous women employed was fewer than four.

<sup>5</sup> Information on the Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees is taken from the Australian Public Service Commission website: [www.apsc.gov.au/indigenousemployment/index.html](http://www.apsc.gov.au/indigenousemployment/index.html).

<sup>6</sup> ABS Labour Force, Australia, selected monthly summary tables, Cat. No. 291.0.55.001.

<sup>7</sup> Ibid.

<sup>8</sup> Due to the difficulties of indigenous identification in mortality data, only data from Queensland, Western Australia, South Australia and the Northern Territory are considered to be of publishable standard; all cervical cancer mortality data for both indigenous and non-indigenous women used in this analysis are therefore confined to these jurisdictions. These statistics should be used with due caution.

<sup>9</sup> Gelb, Karen: *Women in Prison — Why is the Rate of Incarceration Increasing?* National Centre for Crime Statistics, Australian Bureau of Statistics, presented at the Evaluation in Crime and Justice Conference, Australian Institute of Criminology, March 2003.

<sup>10</sup> ABS 4517.0 *Prisoners in Australia 2003* (2004), p. 6.