

## **Consideration of Australia's Second and Third Periodic Report by the Committee on the Rights of the Child**

**13 September 2005**

### **Opening Statement**

#### **Introduction**

Mr Chairperson, distinguished members of the Committee.

It is a great pleasure to meet with you today to set out Australia's record and achievements in implementing our commitments under the Convention on the Rights of the Child. My delegation and I will be pleased to answer any questions you may have.

**Allow me to introduce the members of my delegation, all of whom are senior officers in relevant Australian Government Departments.**

**Ms Renee Leon, First Assistant Secretary, Office of International Law, Attorney-General's Department**

**Mr Steve Davis, First Assistant Secretary, Unauthorised Arrivals and Detention Division, and Ms Helen Hambling, Group Manager, Policy, Office of Indigenous Policy Coordination, Department of Immigration and Multicultural and Indigenous Affairs**

**Ms Kym Nguyen, Section Manager, Children's Policy Section, Family and Children's Policy Branch, Department of Family and Community Services**

**Ms Robyn Mudie, Deputy Permanent Representative, and Ms Julia Feeney, First Secretary, Australian Permanent Mission, Geneva.**

Mr Chairperson, Australia has always taken, and continues to take, its obligations under the Convention – and other human rights instruments – with the utmost seriousness. Our periodic

report – which we will be discussing with the Committee today – underlines our respect for these obligations, and our commitment to upholding the principles contained in the Convention.

### **Consultation and Coordination**

Mr Chairperson, distinguished members of the Committee.

Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Federal Government and those of the six States and two internal self-governing territories. This means that nine governments in Australia share, or have responsibility for, issues in which the Committee will take a close interest today. The Federal Government works and consults closely with our State and Territory governments across a wide range of issues.

The Federal Government also engages Australia's national human rights institution, the Human Rights and Equal Opportunity Commission, to address human rights issues. The Commission works to foster greater understanding and protection of human rights in Australia, and plays a vital role in promoting, on behalf of the Australian Government, awareness of, and respect for human rights in the community.

The Government has also engaged in a constructive dialogue with non Governmental organisations in preparation for this hearing, in recognition of the important role played by civil society in the implementation of the Convention in Australia.

Mr Chairperson, distinguished members of the Committee, I would now like to set out a few of the significant developments for children in Australia since the preparation of our latest report under the Convention.

### **Focus on early childhood**

Mr Chairperson, Australian governments at both a federal and state level are responding to compelling evidence that investment in early childhood is an effective and cost-effective strategy for improving outcomes for children both now and into the future. Australian

Governments have also recognised the need for coordination of nation-wide activity to promote child development in Australia.

The Australian Government is therefore developing a National Agenda for Early Childhood to better coordinate current child development activity in Australia and to guide future investment to ensure all children receive the best possible start in life. The National Agenda makes specific reference to the *Convention on the Rights of the Child*.

A draft framework for action is currently being finalised with state and territory governments. It is anticipated that a final public document on the National Agenda will be released by the end of this year.

The Agenda has already proved a useful umbrella for articulating and strengthening activities across sectors in support of young children and their families.

For example, the National Agenda has influenced the development of a new report on Australia's children produced by the Australian Institute of Health and Welfare (AIHW). *A Picture of Australia's Children* was released in May 2005 and provides the first ever national snapshot of how children are faring in Australia across a range of health, education and social outcomes as well as information on family and community factors associated with child development. This report highlights data weaknesses and provides an ideal vehicle for improving monitoring and reporting on children over time.

### **New arrangements for Indigenous affairs**

Mr Chairperson, while we are making some headway, Indigenous children remain amongst the most disadvantaged children in Australian society. The Australian Government's commitment to improving outcomes for these children is reflected in a new set of arrangements for the administration of Indigenous Affairs based on the principle of shared responsibility. The new arrangements involve a close collaboration between the federal, state and territory governments through the Council of Australian Governments.

The Aboriginal and Torres Strait Islander Commission was abolished in March this year and the Office of Indigenous Policy Coordination was established to manage a 'whole of government' approach. The Office includes a network of 30 Indigenous Coordination Centres across the country. National Indigenous-specific spending has increased to a record \$3.144 billion this year.

### **New criminal law offences**

Mr Chairperson, the Australian Government is strongly committed to preventing exploitation of children both in Australia and elsewhere. As a reflection of this commitment, the Australian Government has recently introduced several new changes to criminal laws to strengthen protection of children against trafficking, pornography and other offences.

New offences in the *Criminal Code* comprehensively criminalise trafficking in persons activity, fulfilling Australia's legislative obligations under the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. The tough sentences imposed under this legislation reflect the particularly repugnant nature of trafficking in children.

The Australian Government has also demonstrated its commitment to combating the trade in child pornography and child abuse material, with the insertion of new offences into the *Criminal Code*. The new offences target the use of the Internet to access, transmit and make available child pornography and child abuse material, as well as the possession or production of such material with intent to place it on the Internet. These offences complement existing offences prohibiting the importation of such material into Australia, and each of these offences carries a maximum penalty of ten years imprisonment.

This legislation allows the Australian Federal Police to identify and arrest predatory adults before they have the opportunity to sexually abuse children. Further, the offences in the Act have extended geographical jurisdiction so that they extend to conduct by an Australian citizen or body corporate outside Australia.

## **Release of children from detention**

**Mr Chairperson, as part of Australia's orderly and managed migration and visa system, the comprehensive arrangements for detention of unauthorised arrivals and those who breach visa conditions has further developed such that, as of 29 July 2005, all families with children were moved from immigration detention facilities into the community.** This is in line with a number of legislative changes to the *Migration Act*, which came into effect on 29 June this year. The changes will ensure that the current immigration detention policy is administered with greater flexibility, fairness and in a more timely manner. They affirm as a principle that a minor child shall only be detained as a measure of last resort, and provide an additional non-compellable, non-delegable power for the Minister to specify alternative detention arrangements for a person and the conditions which will apply to that person's detention.

In future, all families with children who enter into immigration detention will be placed in community-based arrangements as soon as possible, following a decision by the Minister.

These community-based arrangements have been put in place in partnership with non-Government organisations (NGOs). The NGOs undertake individual assessments, develop care plans and provide case worker support, fully funded by the Australian Government.

The overall intention of the package of amendments is to ensure that the best interests of children are taken into account and that alternatives to detention of children are considered in administering the relevant provisions.

## **Family law reform**

Mr Chairperson, the Australian Government has also recently announced major changes to the family law system and a package of Budget measures costing \$397 million over four years.

The amendments to the *Family Law Act* will facilitate shared parenting and promote parents consulting together on important parenting decisions such as where a child goes to school or major health issues.

A national network of 65 Family Relationship Centres is also being established, which will assist parents to make arrangements for children after separation. The Centres will provide information, advice and dispute resolution services to separated families to help them reach agreement on parenting arrangements without the need to go to court. They will be supported by a national telephone information and advice line and a web-site.

The Government's family law reforms also address the specific needs of Indigenous children in the family law system. Under the changes, children of Indigenous origins have the right, in the community with other members of their group, to enjoy their own culture, consistent with article 30 of the *Convention on the Rights of the Child*. Courts will need to have regard to the kinship obligations and child-rearing practices of Indigenous cultures when making relevant decisions under the *Family Law Act*.

### **Engagement with the Committee**

Mr Chairperson, distinguished members of the Committee.

I hope this overview I have provided to the Committee proves helpful for you in considering issues raised by our periodic report, and developments in Australia since our submission of the report.

I would like to record our sincere appreciation to the Committee for the early and helpful list of questions which you have provided to us as a guide to issues that might be of particular interest to the Committee. Mr Chairperson, we welcome the questions raised by the Committee. They reflect debate and views expressed in our own community. My delegation and I would be pleased to respond to these and any other issues in more detail when we take questions from the Committee.

I would also like to record our appreciation for the work of the Committee's Country Rapporteurs, Mr Filali and Mr Zermatten.

Australia is pleased that the need for reform of the human rights treaty body system has been recognised at the highest levels of the UN. We note that Secretary-General Annan has

repeatedly highlighted the urgent need to streamline and increase the effectiveness of the human rights treaty bodies.

Australia also observes that tomorrow in New York, world leaders will take part in a High Level Plenary meeting of the General Assembly. Australia is pleased that improving the effectiveness of the human rights treaty bodies has been part of discussions in the lead-up to the Summit and we hope that the Summit outcomes will provide a fillip to reform efforts.

As Committee members will be aware, Australia has been very active, including here in Geneva, in support of efforts to find practical ways to streamline the treaty body system.

In line with this, Australia appreciates the efforts made by the Committee to streamline its operations. We welcome the businesslike approach of Committee members and their determination to use their time efficiently to focus on issues of substance. We also welcome the Committee's innovative approach to procedural matters. The introduction of parallel chambers, due to commence in January 2006, will significantly streamline the Committee's work. We encourage the Committee to continue looking into the modalities of considering reports on the Convention and its Optional Protocols at the same time. We also wish to register our appreciation for the innovative and proactive approach taken by members of this committee to broader discussions about reform of the treaty body system at the annual inter-committee meeting held in June.

Mr Chairperson, as a result of the efforts of the Secretary-General, the Committees themselves, and concerned States such as Australia, reforms are becoming accepted practice across all the Committees. As efficiencies in the system are achieved, valuable resources are freed to be directed towards the egregious human rights abuses that still plague global society in the twenty-first century.

## **Conclusion**

Mr Chairperson, distinguished members of the Committee.

Australia is a strong and vibrant democracy, with an active and independent media, a dynamic and diverse civil society, and a robust range of legal and administrative checks and balances. We take pride in the success of our society, draw strength and innovation from its diversity, and work to meet challenges that inevitably arise.

We of course welcome considered and helpful advice on how we might do things better. In this regard we look forward to a constructive dialogue with the Committee.

Thank you.