

SPEECH

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Questioner	Responder
Speaker Henderson, Sen Sarah	Question No.

Senator HENDERSON (Victoria) (17:47): It's my great pleasure to present *Human rights scrutiny report: Report 7 of 2020* of the Parliamentary Joint Committee on Human Rights. I move:

That the Senate take note of the report.

I am pleased to table the Parliamentary Joint Committee on Human Rights' seventh scrutiny report of 2020. This report contains a technical examination of legislation with Australia's obligations under international human rights law. The report continues the committee's important work of scrutinising legislation developed in response to the COVID-19 pandemic. I note in particular the legislative instruments that determine requirements to prevent or control the entry or spread of COVID-19 in designated remote communities. The committee considers that these measures promote and protect the rights to life and health. While they may necessarily limit the rights to freedom of movement, equality and non-discrimination, the committee considers these are permissible limitations. In forming this view, the committee was mindful of the potential loss of life that our nation was facing when the pandemic was first declared and the critical importance of responding immediately and urgently to mitigate and manage these risks.

The committee also notes the importance of consultation with those in remote communities. I would like to quote the Minister for Indigenous Australians, the Hon. Ken Wyatt, who advised the parliament on 14 May 2020 in relation to these measures:

So, right from the beginning, we worked with elders, leaders and peak organisations. Working with my colleague Greg Hunt, we used the Biosecurity Act to define secure areas for remote communities in order to isolate them from people bringing COVID-19 in. One of the best expressions I heard was from an elder who said, 'This thing has no songline, and we don't want to create a songline that brings death.'

This demonstrates the very real human rights need for such action to be taken.

I would also like to briefly note the committee's concluding remarks with respect to two Civil Aviation Safety Authority instruments. The committee thanks the minister for explaining the human rights compatibility of these measures and commends CASA for revising the statements of compatibility to reflect this and for adopting the same course of action for two additional relevant instruments that it has identified. This is an excellent example of the way that the committee's dialogue model of engagement with ministers and departments can work in practice.

The committee has also continued to consider non-COVID-related legislation. In this report, the committee seeks further information in order for it to assess the human rights compatibility of the Australian Security Intelligence Organisation Amendment Bill 2020 and the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020. I think it's important to reiterate that the committee has not reached a concluded view as to these bills' compliance with human rights law. I wish to also further reiterate that the committee's statutory role is to assess proposed legislation for compatibility with the seven core international human rights treaties to which Australia is a party and then to report to the parliament. In performing this function, the committee receives legal advice from, and is assisted by, an external legal adviser as well as the secretariat staff. Our report clearly sets out the legal advice received, which is separate from any view of committee members, and I spoke about that in my last contribution. Where the committee seeks a further response from the relevant minister, the committee is seeking information as to whether particular limitations on rights which have been identified are permissible as a matter of international human rights law. I stress that most rights can be properly limited if it is demonstrated that the limitation is reasonable, necessary and proportionate.

Finally, the committee has concluded its consideration of the Telecommunications Legislation Amendment (International Production Orders) Bill 2020. This bill seeks to establish a new framework for international production orders to provide Australian agencies with access to overseas communications data for law enforcement and national security purposes and to allow for reciprocal arrangements for certain countries. While

the committee considers that the bill seeks to achieve the important and legitimate objective of protecting national security and public safety, it has some concerns as to whether it includes sufficient safeguards. In particular, the committee has expressed its concerns that the bill, as currently drafted, does not specifically prohibit mutual assistance with a foreign country where it may lead to the imposition of the death penalty or to degrading treatment. The committee has made a number of recommendations that consideration be given to amending the bill in order to reduce the risk that information which could expose a person to the death penalty or to degrading treatment or punishment may be shared with a foreign country and to improve the compatibility of the bill with the right to privacy.

I encourage all parliamentarians to carefully consider the committee's analysis. With these comments, I commend the committee's report No. 7 of 2020 to the chamber.

Question agreed to.