

SPEECH

Date Tuesday, 6 October 2020	Source Senate
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Questioner	Responder
Speaker Henderson, Sen Sarah	Question No.

Senator HENDERSON (Victoria) (18:23): I move:

That the Senate take note of the report.

I'm pleased to speak to the Parliamentary Joint Committee on Human Rights 11th scrutiny report of 2020, which was presented out of session on 24 September 2020. As usual, this report contains a technical examination of legislation with Australia's obligations under international human law. It sets out the committee's consideration of 32 bills introduced into the parliament between 24 August and 3 September 2020 and 63 legislative instruments registered on the Federal Register of Legislation between 28 July and 11 August 2020.

The committee is seeking further information in relation to six bills and one instrument. For example, the committee seeks further information about the Counter-Terrorism Legislation Amendment (High Risk Terrorist Offenders) Bill 2020. This bill would establish an extended supervision order scheme for high-risk terrorist offenders who have completed their custodial sentence or have been subject to a continuing detention order. It would enable a court to impose any conditions on a person which it was satisfied, on the balance of probabilities, were reasonably necessary, reasonably appropriate and adapted for the purposes of protecting the community from the unacceptable risk of the person committing a terrorism offence. This could include requiring that the person remain at specified premises. It would also enable evidence to be withheld from the offender, but still used against them, as well triggering monitoring powers under other acts.

The committee notes that an extended supervision order scheme may protect the public from harmful acts and so promote the right to life and security of the person. The committee also notes that these measures engage, and may limit, other human rights. For example, the committee seeks further information with respect to several human rights which may be permissibly limited where a limitation is prescribed by law, pursues a legitimate objective, is effective to achieve that objective and proportionate.

The committee also seeks information about the Crimes Legislation Amendment (Economic Disruption) Bill 2020. This bill seeks to introduce new offences which would apply absolute liability and reverse the legal burden of proof which engages the right to be presumed innocent. The bill also provides that undercover operatives may question children suspected of committing an offence without first allowing the child to communicate with a parent or guardian, which engages the rights of the child. The committee is seeking further information in relation to these and other matters in the bill.

I think it is important to reiterate that the committee has not reached a concluded view as to these bills' compliance with human rights law where the committee seeks a response or 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. Most rights can be properly limited if it is demonstrated that the limitation is reasonable, necessary and proportionate. I encourage all parliamentarians to carefully consider the committee's analysis. With these comments I commend the committee's report No. 11 of 2020 to the chamber.

Question agreed to.