



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**PROOF**

**COMMITTEES**

**Human Rights Joint Committee**

**Report**

**SPEECH**

**Wednesday, 14 June 2023**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

<p><b>Date</b> Wednesday, 14 June 2023</p> <p><b>Page</b> 81</p> <p><b>Questioner</b></p> <p><b>Speaker</b> Burns, Josh MP</p>	<p><b>Source</b> House</p> <p><b>Proof</b> Yes</p> <p><b>Responder</b></p> <p><b>Question No.</b></p>
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**Mr BURNS** (Macnamara) (16:22): On behalf of the Parliamentary Joint Committee on Human Rights, I present the committee's report, incorporating a dissenting report, entitled *Human rights scrutiny report: report 6 of 2023*.

Report made a parliamentary paper in accordance with standing order 39(e).

**Mr BURNS:** by leave—I'm pleased to table the Parliamentary Joint Committee on Human Rights' sixth scrutiny report of 2023. In this report the committee has considered 10 new bills and 37 legislative instruments and has commented on six of these bills and three legislative instruments.

The committee has commented on the appropriation bills for 2023-24. These bills seek to appropriate money from the Consolidated Revenue Fund for a range of services. This may engage, limit or promote a range of human rights; however, the statements of compatibility accompanying these bills state that no rights are engaged. The committee acknowledges that appropriation bills may present difficulties, given their high-level nature; however, the committee considers that the allocation of funds through these bills is susceptible to a human rights assessment directed at broader questions of compatibility. As such, the committee is seeking further information from the Minister for Finance about the compatibility of these bills with human rights.

The committee is also seeking further information in relation to three legislative instruments: the Migration (Specification of evidentiary requirements—family violence) Instrument, the Public Service Regulations 2023 and the Telecommunications (Interception and Access) (Enforcement Agency—NSW Department of Communities and Justice) Declaration 2023.

The committee has also concluded its consideration of the Family Law (Bilateral Arrangements—Intercountry Adoption) Regulations. These regulations declare the Republic of Korea and Taiwan as prescribed overseas jurisdictions for the purposes of bilateral arrangements relating to intercountry adoptions. Intercountry adoptions may separate families and involve placing a child in care outside their country of origin. As such, there may be a risk that the rights of the child and right to protection of the family are limited if the adoption does not comply with international human rights law. However, based on the advice of the Minister for Social Services, the committee considers that the country program review process, which found the intercountry adoption programs in the Republic of Korea and Taiwan to be compliant with the relevant international law, as well as the Commonwealth-state agreement to be important safeguards ensuring that these intercountry adoptions do comply with international human rights law. The committee has recommended that the statement of compatibility be updated to reflect the information provided by the minister and otherwise considers its concerns have been addressed.

Lastly, the committee has concluded its consideration of the Migration (regional processing country—Republic of Nauru) designation, which redesignates Nauru as a regional processing country for 10 years. The committee notes that providing for the removal of unauthorised maritime arrivals from Australia and Nauru engages and limits several human rights. The committee has raised concerns about offshore processing on numerous occasions and considers that redesignating Nauru as a regional processing country enlivens those same concerns. In particular, the committee considers that there is a risk that this instrument is not consistent with Australia's absolute nonrefoulement obligations and the prohibition against torture.

The committee considers that the remedies available to people subject to removal do not meet the threshold required by the right to an effective remedy. The committee does note that, while no children have been sent to Nauru for years, as a matter of law it is still possible for children to be removed to Nauru in the future, and therefore considers it is not clear that the processes for transfer and the services to children upon transfer would adequately protect their rights. The committee also notes that applying this measure only to persons who arrive by sea has a disproportionate impact on the basis of national origin. There is a risk that this breaches the right

to equality and nondiscrimination. The committee draws these concerns to the attention of the minister and the parliament. With these comments, I commend the committee's scrutiny report 6 of 2023 to the House.