

Introduction

Purpose of Report

- 1.1 On 26 November 2003 the Senate resolved that the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (the Optional Protocol) be referred to the Joint Standing Committee on Treaties (the Committee) for inquiry and report by 23 March 2004.¹ This report contains the findings and conclusions of the Committee's inquiry.

Conduct of inquiry

- 1.2 The Committee's review of the Optional Protocol was advertised in the *Australian* newspaper on 10 December 2003, inviting members of the public to make written submissions for the Committee's consideration.² Information concerning the inquiry was also made available on the Committee's website at <http://www.aph.gov.au/house/committee/jsct/OPCAT/index.htm>
- 1.3 Letters inviting comment were sent to all State Premiers, Chief Ministers and Presiding Officers, relevant Commonwealth, State and

1 *Senate Journals*, 26 November 2003, p. 17886 and *House of Representatives Votes and Proceedings*, 27 November 2003, p. 1337.

2 House of Representatives, 'What's happening at your House?' *Australian*, 10 December 2003, p. 2.

Territory government departments and authorities, peak bodies, and individuals who have expressed an interest in being kept informed of the activities of the Committee.

- 1.4 During the inquiry, the Committee received 20 submissions and five exhibits. A joint submission was received from three Commonwealth departments: the Attorney-General's Department, the Department of Immigration and Multicultural and Indigenous Affairs, and the Department of Foreign Affairs and Trade. A list of submissions and their authors is at Appendix A, and a description of exhibits is at Appendix C.
- 1.5 The Committee held one public hearing on 9 February 2004, at which evidence was taken from the Attorney-General's Department and the Department of Foreign Affairs and Trade, Amnesty International Australia, Associate Professor Michael Levy, and the Human Rights and Equal Opportunity Commission. A list of witnesses who gave evidence at the public hearing is at Appendix B, and a transcript of evidence can be obtained from the Committee Secretariat or accessed through the Committee's internet site at <http://www.aph.gov.au/house/committee/jsct/index.htm>. The public hearing was advertised in the *Australian* on 4 February 2004.³

Scope and structure of Report

- 1.6 Chapter Two describes the significant functions of the substantive *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (the Convention) and the Optional Protocol.
- 1.7 At the time of the referral by the Senate, Australia had neither signed, ratified nor acceded to the Optional Protocol. Consequently, most submissions received by the Committee focused on the relative advantages and disadvantages relating to Australia becoming a State Party to the Optional Protocol, and Australia's current mechanisms to prevent the occurrence of torture and other cruel, inhuman or degrading treatment or punishment under domestic law and international human rights mechanisms. Chapter Three canvasses the

³ House of Representatives, 'What's happening at your House?' *Australian*, 4 February 2004, p. 2.

various issues raised during the Committee's inquiry and lists the Committee's findings.