

## Introduction

### The inquiry

- 1.1 On 3 September 2008, the Australian Minister for Foreign Affairs, the Hon. Stephen Smith MP, asked the Joint Standing Committee on Foreign Affairs, Defence and Trade (the Committee) to inquire into and report on international and regional mechanisms currently in place to prevent and redress human rights violations, with a view to providing options on possible models that may be suitable for the Asia-Pacific region. The United Nations human rights system, regional mechanisms and roles for parliaments were to be particular foci for the inquiry.
- 1.2 The Chair of the Committee's Human Rights Sub-Committee, Ms Kerry Rea MP, issued a media release announcing the commencement of the inquiry on 18 September 2008. The inquiry was subsequently advertised in *The Australian* and promoted through various human rights networks. The Committee invited an array of regional stakeholders, and groups and individuals with established interest in human rights to submit to the inquiry, including relevant Australian federal and state ministers and agencies, high commissions of various nations in the region,<sup>1</sup> non-government organisations and civil society groups in Australia and the region.

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<sup>1</sup> Including Brunei Darussalam, Cambodia, People's Republic of China, Republic of the Fiji Islands, Republic of Indonesia, Japan, Republic of Kiribati, Republic of Korea, Lao People's Democratic Republic, Malaysia, Union of Myanmar, Republic of Nauru, New Zealand, Papua New Guinea, The Philippines, Samoa, Republic of Singapore, Solomon Islands, Democratic Socialist Republic of Sri Lanka, Kingdom of Thailand, Democratic Republic of Timor-Leste, Kingdom of Tonga, Tuvalu, Republic of Vanuatu, Socialist Republic of Vietnam. No evidence was received from these High Commissions.

- 1.3 The Committee received 35 submissions and 19 exhibits from a range of groups and individuals within Australia and the region. The Committee also took evidence from 21 organisations and individuals at five public hearings held in Canberra, Sydney and Melbourne over the course of the inquiry.<sup>2</sup>

## The Asia-Pacific region

- 1.4 The Committee appreciates that the concept of the Asia-Pacific<sup>3</sup> region is a politically constructed rather than geographically determined entity. It understands that definitions of the region and constituent sub-regions may sometimes vary depending on the parties involved and the underlying purpose for which it is being examined.<sup>4</sup>
- 1.5 Figure 1.1 United Nations operations in Asia and the Pacific<sup>5</sup>



- 1.6 In determining its regional focus, the Committee was guided by the Office of the High Commissioner on Human Rights' sphere of operations in the region, which consists of three subregions: the Pacific, South-East Asia,

2 See Appendices A, B and C.

3 Throughout the report "Asia-Pacific" is used to refer to the region, however, quotes accurately reflect the term used by groups that have not opted to hyphenate the term.

4 Parliamentary Library, *Exhibit 19*, p. 1.

5 United Nations, Office of the High Commissioner for Human Rights (OHCHR) website: <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/AsiaRegionIndex.aspx>, viewed 6 July 2009.

and South and West Asia.<sup>6</sup> The United Nations Economic and Social Commission for Asia and the Pacific's (ESCAP) division of its operations into five subregions,<sup>7</sup> and the membership of the Asia-Pacific Forum<sup>8</sup> (APF) were also considered.

- 1.7 For the purposes of this inquiry, the areas considered were South East Asia, South and South West Asia, and the Pacific.<sup>9</sup> North and Central Asian states,<sup>10</sup> and most East and North-East Asian states,<sup>11</sup> excluding China,<sup>12</sup> were not considered by the Committee during the course of the inquiry. Also, although Afghanistan, Iran and Jordan may be included in some groupings, they were not considered for the purposes of this report.
- 1.8 Unlike other regions of the world, the Asia-Pacific region does not have strong, broad-based regional human rights mechanisms for preventing and redressing human rights violations.<sup>13</sup> This fact, coupled with the Committee's long-standing interest in human rights in the region,<sup>14</sup> lends Asia and the Pacific as natural areas of focus for an inquiry into human rights mechanisms.

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6 Ibid.

7 UN ESCAP website: <http://www.unescap.org/about/subregional-offices.asp>, viewed 6 July 2009.

8 APF website: <http://www.asiapacificforum.net/members>, viewed 22 September 2009.

9 South-East Asia can be seen to include: Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Timor-Leste and Vietnam. South and South-West Asia can be seen to include: Bangladesh, Bhutan, India, the Islamic Republic of Iran, Maldives, Nepal, Pakistan and Sri Lanka. The Pacific can be seen to include: Fiji, Kiribati, Marshall Islands, the Federated States of Micronesia, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

10 These can include Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Uzbekistan.

11 These can include Democratic People's Republic of Korea, Japan, Mongolia, the Republic of Korea and the Russian Federation.

12 The People's Republic of China is an influential player in the region and is considered in the context of its potential to impact on the future human rights landscape of the Asia-Pacific.

13 The Committee does acknowledge that the Arab Charter of Human Rights and the recently established ASEAN Intergovernmental Commission on Human Rights does cover some of the countries of the region.

14 In addition to receiving briefings on a variety of human rights issues, the Committee has conducted a number of inquiries related to human rights in the region, including *Human rights and progress towards democracy in Burma* (1995), *Improving but... Australia's regional dialogue on human rights* (1998), *Human rights and good governance education in the Asia-Pacific region* (2004), *Australia's response to the Indian Ocean Tsunami* (2006) and *Australia's aid program in the Pacific* (2007).

- 1.9 This focus on the Asia-Pacific is consistent with the 1993 *Vienna Declaration and Programme of Action*, which recognised that regional arrangements play a fundamental role in promoting and protecting human rights, and emphasised ‘...the need to consider the possibility of establishing regional and subregional arrangements for the promotion and protection of human rights where they do not already exist’.<sup>15</sup>

## Structure of the report

- 1.10 The Committee’s report focuses around the inquiry terms of reference. This introductory chapter outlined the inquiry scope and process and the concept of the Asia-Pacific as a region. Chapter 2 discusses human rights challenges facing the Asia-Pacific and includes a sampling of evidence received by the Committee to indicate the range of human rights issues affecting the region. Chapters 3 and 4 outline international, regional and national human rights mechanisms currently in operation and their application in the Asia-Pacific region. Chapter 5 is a discussion of possible future approaches for addressing human rights concerns in the region, including considering the feasibility of a regional human rights mechanism. Chapters 6 and 7 examine the roles that Australia and parliaments, respectively, can play in enhancing the promotion and protection of human rights in the region.

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15 United Nations OHCHR website:  
[http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.23.En](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En), viewed 6 July 2009.