

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Output 1.1 ILHRD**

**Question No. 48**

**Senator Wright asked the following questions Following the hearing on 14 February 2012:**

Ratification and implementation of the Optional Protocol to the Convention Against Torture (OPCAT).

1. What is the timetable for Australia's ratification and implementation of OPCAT?
2. What, if any, cost-benefit analysis has the Federal Government undertaken relating to the implementation of OPCAT and preventing ill-treatment in places of detention in Australia?
3. What are the social and economic costs associated with failure to prevent torture and ill-treatment in places of detention?
4. Public submissions on a National Interest Analysis of ratification of OPCAT were received in July 2008. When will the National Interest Analysis be completed and publicly released?
5. Over the last 5 years, what is the total compensation paid by the Federal Government for unlawful or wrongful detention or for ill-treatment or injury in or as a consequence of detention?

**The answer to the honourable senator's questions are as follows:**

1. The proposed timetable for ratification of the Optional protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is set out in the National Interest Analysis (NIA) tabled in Parliament on 28 February 2012. The NIA indicates the aim of ratifying the OPCAT, if possible, by the end of 2012.
2. The NIA sets out the consideration of this issue by the Government. Given the currently undetermined nature of the precise domestic implementation arrangements, which will be undertaken in each jurisdiction, and improvements that may follow, the NIA does not undertake an exact cost-benefit analysis. It notes the potential for wider monitoring pursuant to the OPCAT to bring about general improvements in the treatment of persons in places of detention and for savings arising from reductions in compensation and litigation arising from improper or unlawful practices.
3. The NIA notes that there are already significant monitoring arrangements for most places of detention in Australia although these vary from jurisdiction to jurisdiction. It points to the opportunity afforded by the implementation of the OPCAT to make improvements in this regard. It notes that Australia has been a Party to the Convention Against Torture which has

been in force in Australia since September 1989. Implementation of the OPCAT should minimise instances giving rise to concerns about the treatment and welfare of people detained in prisons and other places of detention including those not necessarily subject to systematic independent inspection or monitoring such as police cells. In addition to the human rights benefits, monitoring pursuant to the OPCAT has the potential to minimise the costs of addressing such instances, including avoiding some costs of litigation and compensation payments.

4. The NIA was tabled in the Parliament on 28 February 2012 and is now publicly available from the website of the Joint Standing Committee on Treaties.
  
5. The Attorney-General's Department does not have the responsibility for detaining individuals nor does it make or generally monitor payments for or in relation to detention in Australia. This question is best directed to agencies that have responsibility for detaining individuals.