

SPEECH

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Speaker	Perrett, Graham, MP	Question No.	

Mr PERRETT (Moreton) (10:02): On behalf of the Parliamentary Joint Committee on Human Rights, I present the committee's report entitled *Human rights scrutiny report 3 of 2020*.

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

Mr PERRETT: by leave—I'm very pleased to speak to the tabling of the Parliamentary Joint Committee on Human Rights third scrutiny report of 2020.

This report contains a technical examination of legislation with Australia's obligations under international human rights law, as required under the committee's statutory mandate. It sets out the committee's consideration of 12 bills introduced into the parliament between 10 February and 13 February 2020, and legislative instruments registered under the Federal Register of Legislation between 9 January and 5 February 2020.

As members know, the committee's mandate, as set out in the Human Rights (Parliamentary Scrutiny) Act 2011, is to examine legislation for compatibility with human rights: defined to mean the rights contained in the seven core international human rights treaties to which Australia is a party. In understanding how human rights are to be applied, the committee has regularly looked to the way in which UN human rights treaty bodies have interpreted the treaties, as well as to the interpretations by comparable regional, international and domestic human rights courts of other countries. While none of this is binding on how the committee carries out its scrutiny function, it can assist the committee in gaining a broader understanding of the content and application of human rights.

Where a provision in a bill or instrument appears to limit rights, the committee considers whether any limitation is reasonable, necessary and proportionate. To do so it asks three key questions:

whether the limitation is aimed at achieving a legitimate objective;

whether there is a rational connection between the limitation and that objective; and

whether the limitation is proportionate to that objective.

In undertaking its task, the committee has access to specialist human rights law advice, which guides the committee as to the application of these legal tests on a case-by-case basis. The committee's deliberations need to be underpinned by this legal advice, as having full consideration of well-established legal tests and precedents assists the committee to accurately identify the rights engaged by legislation and the permissibility under international law of any limitation on these rights. While we as parliamentarians are well equipped to consider debatable questions of whether a measure appears to be reasonable, necessary and proportionate, we do so based on this important legal advice. This is vital to ensure the legitimacy of the process of technical legislative scrutiny.

Where further information is required to determine these questions the committee writes to the relevant minister seeking clarification. In this report the committee seeks further information in relation to two bills and has made an advice-only comment in relation to two more. The process of requesting information from the legislation proponents reflects the committee's role in establishing and maintaining a dialogue regarding the human rights implications of legislative measures, which contributes to the broader respect for and recognition of human rights in Australia.

With these comments, I commend the committee's report No. 3 of 2020 to the House.