Report 177

Extradition - Jordan; Mutual Legal Assistance - Jordan

Joint Standing Committee on Treaties
Executive Summary

This Report contains the Committee’s views on the following treaties:

- the Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition; and

Australia’s bilateral extradition and mutual legal assistance treaties are based on model agreements developed by the United Nations in 1997. Australia has 39 bilateral extradition treaties and 30 bilateral mutual legal assistance treaties.

Extradition treaties establish a framework for handling the extradition of suspected criminals between parties.

Mutual legal assistance treaties enable the parties to request of each other the gathering of evidence and other material relevant to a criminal investigation.

These treaties enable nation states to combat transnational crime and terrorism in a globalised world, helping to prevent criminals and terrorists evading capture by living in or hiding evidence in another country.

The Committee has a history of support for these treaties, and has recommended that the two treaties being considered here be ratified.

However, the Committee has undertaken a more extensive examination of these treaties than it would normally undertake. There are two reasons for this:

- The potential damage to Australia’s public perception of international criminal cooperation when rights to a fair trial and reasonable treatment are seen to be at risk. The potential damage was recently demonstrated when the Senate effectively prevented the Australian Government from ratifying an extradition treaty with China because of concerns over access to fair trials.
The Australian Government’s motivation for negotiating the proposed treaties – the pursuit of foreign fighters. Traditionally, extradition and mutual legal assistance treaties target persons who have committed a crime within the jurisdiction of the requesting country. This is not the case with foreign fighters from Australia, who commit extraterritorial crimes in a third country.

Evidence provided to the Committee suggests that, in the past, the Jordanian legal system could not be considered free and fair. In particular, evidence provided to the Committee indicates that Jordan has had issues with torture and providing access to defence lawyers.

The Committee has found that Jordan has taken some steps to address these concerns in recent years by prohibiting torture and providing access to defence lawyers at the time of arrest.

However, the Committee notes that a witness for the Government said that:

…I think we would take the view that Jordan, in the intervening period that some of these issues have been raised—including in our own engagement with them—are seeking to address them. We’re not aware of it being a major issue at the moment, but that’s not to say that isolated cases of torture do not occur.1

The Committee remains concerned that the Jordanian State Security Court does not meet the international standard for judicial independence, and has suggested that the Attorney-General be advised accordingly when he or she considers all applications from Jordan for extradition or legal assistance that concern cases before this court.

The Committee is also concerned about the interpretation of the proposed Extradition Treaty in relation to extraterritorial foreign fighter laws. A lack of clarity in the interpretation may lead to an extradited person having a technical defence against prosecution.

To alleviate this prospect, the Committee has recommended that Australia and Jordan negotiate a less than treaty level agreement clarifying how extraterritorial offences will be interpreted under the proposed Extradition Treaty.

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1 Mr Matthew Neuhaus, Acting First Assistant Secretary, Middle East and Africa Division, Department of Foreign Affairs and Trade (DFAT), Committee Hansard, Canberra, 4 December 2017, p.7.
# Contents

Executive Summary ......................................................................................................................... iii  
Abbreviations ................................................................................................................................... vii  
Members ............................................................................................................................................ ix  
Terms of Reference ......................................................................................................................... xiii  
List of Recommendations ............................................................................................................... xv

## The Report

1. **Introduction** .......................................................................................................................... 1  
   - Purpose of the report ............................................................................................................ 1  
   - Conduct of the Committee’s review ................................................................................... 2

2. **Background** .......................................................................................................................... 3  
   - History of extradition and mutual legal assistance .......................................................... 3  
   - The inquiry ............................................................................................................................. 4  
     - Motivation ......................................................................................................................... 5  
     - Public perception .............................................................................................................. 6

3. **The Proposed Treaties** ......................................................................................................... 9  
   - Proposed Extradition Treaty ............................................................................................... 9  
     - Background ..................................................................................................................... 9  
     - Reasons to undertake proposed treaty action ............................................................... 10  
     - Obligations ....................................................................................................................... 10  
       - Mandatory grounds for refusing extradition ............................................................. 11
Abbreviations

NIA   National Interest Analysis
RIS   Regulation Impact Statement
Members

Chair

Hon Stuart Robert MP

Deputy Chair

Hon Michael Danby MP

Members

Senator Slade Brockman

Mr Chris Crewther MP

Senator Sam Dastyari *(to 25.01.18)*

Senator David Fawcett

Senator Sarah Hanson-Young

Senator Kimberley Kitching

Senator the Hon Ian Macdonald

Mrs Nola Marino MP

Senator Jenny McAllister

Ms Susan Templeman MP

Mr Ross Vasta MP
Mr Andrew Wallace MP

Mr Josh Wilson MP
Committee Secretariat

Ms Lynley Ducker, Committee Secretary (to 05.02.18)
Ms Julia Morris, Committee Secretary (from 06.02.18)

Dr Narelle McGlusky, Inquiry Secretary
Mr Kevin Bodel, Inquiry Secretary
Ms Cathy Rouland, Office Manager
Terms of Reference

The Resolution of Appointment of the Joint Standing Committee on Treaties allows it to inquire into and report on:

- matters arising from treaties and related National Interest Analyses and proposed treaty actions and related Explanatory Statements presented or deemed to be presented to the Parliament;
- any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
  - either House of the Parliament, or
  - a Minister; and
  - such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.
List of Recommendations

Recommendation 1

4.43 The Committee recommends that the Government negotiate a less than treaty level status agreement to provide clarity to the application of the Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition to extraterritorial offences.

Recommendation 2

4.51 The Committee recommends that the Attorney-General’s Department supplement its current annual reporting framework for extradition cases with the following information for each case of an Australian national or an Australian permanent resident held in a foreign country:

- if a trial has taken place;

- if so, the verdict handed down; and

- if a sentence was imposed, what that sentence was, and the frequency and form of consular monitoring and contact post-sentencing, and other relevant information.

Recommendation 3

4.58 The Committee supports the Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition and recommends that binding treaty action be taken.
Recommendation 4

4.59 The Committee supports the Agreement between Australia and the Hashemite Kingdom of Jordan on Mutual Legal Assistance in Criminal Matters and recommends that binding treaty action be taken.
1. Introduction

Purpose of the report

1.1 This report contains the Joint Standing Committee on Treaties’ review of the following treaty actions:

- the Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition; and

1.2 The Committee’s resolution of appointment empowers it to inquire into any treaty action to which Australia has become a signatory, on the treaty being tabled in Parliament.

1.3 Treaties, and matters arising from them, are evaluated to ensure that ratification is in the national interest, and that unintended or negative effects on Australia will not arise.

1.4 Prior to tabling, major treaty actions are subject to a National Interest Analysis (NIA), prepared by the Government. This document considers arguments for and against the treaty and outlines the treaty obligations and any consultations undertaken with State and Territory Governments, Federal and State and Territory agencies, and with industry and non-government organisations.

1.5 A Regulation Impact Statement (RIS) may accompany the NIA. The RIS provides an account of the regulatory impact of the treaty action where adoption of the treaty will involve a change in the regulatory environment for Australian business. The treaties examined in this report did not require a RIS.
1.6 Copies of the treaty actions considered in this report and their associated documentation may be obtained from the Committee Secretariat or accessed through the Committee’s website at:


**Conduct of the Committee’s review**

1.7 The treaty actions reviewed in this Report were advertised on the Committee’s website from the date of tabling. The Committee received three submission, one of which was confidential.

1.8 The Committee held a public hearing into the treaties on 4 December 2017.

1.9 The transcripts of evidence from the public hearing may be obtained from the Committee Secretariat or accessed through the Committee’s website. A list of submissions received is at Appendix A. A list of witnesses who appeared at the public hearings is at Appendix B.
2. Background

2.1 This Report examines the following proposed treaty actions:

- the Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition (the proposed Extradition Treaty); and
- the Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Mutual Legal Assistance in Criminal Matters (the proposed Mutual Legal Assistance treaty).

2.2 The proposed treaties are being considered together because they have a similar purpose, similar underlying principles, and similar procedural obligations.

2.3 The issues raised during the inquiry relate largely to the proposed Extradition Treaty, so it is this treaty that is the focus of most debate in the Report.

History of extradition and mutual legal assistance

2.4 Extradition and mutual legal assistance treaties originated as a response to the influence of globalisation on crime. Criminal organisations make use of the removal of barriers to trade and movement between states to evade state based law enforcement regimes, internationalise illegal activities and expand sources and markets for illegal activities.²

2.5 The United Nations model Treaty on Extradition, on which the bulk of Australian extradition treaties are based, was agreed in 1997. The model treaty establishes a framework for the extradition of wanted persons from one country to another.

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2.6 The United Nations described the model Treaty as:

...an important tool in international cooperation in criminal matters, because of both its contents and structure. Its provisions are the result of a careful assessment of the needs and difficulties of countries in extradition procedures. It imposes clear and concise obligations, and contains acceptable safeguards for the requesting State (to whom extradition cannot be arbitrarily refused), the requested State (which maintains sovereignty and rights to protect persons wanted and nationals from unacceptable detention or treatment) and the person wanted (who has ample opportunity to have his or her particular circumstances examined).3

2.7 Australia also uses the United Nations model Treaty on Mutual Legal Assistance in Criminal Matters as a model of its mutual legal assistance treaties. This model Treaty was also agreed in 1997 and establishes a framework for one country to request from another country the gathering of evidence and other material in relation to a criminal investigation.

2.8 The United Nations describes the benefits of a mutual legal assistance treaty in the following terms:

While law enforcement co-operation by way of informal agreement and otherwise remains an important component of international cooperation, there are inherent limits to it in that it will not generally extend to the use of compulsory measures. Similarly, court to court requests, particularly as between states of different legal traditions may be of limited application and can prove slow and time consuming. For this reason, many states are striving to adopt instruments and measures to allow for the rendering of formal mutual (legal) assistance in a direct and effective manner.4

The inquiry

2.9 The Committee is taking a more considered and in-depth examination of the proposed treaties under consideration here because the issues involved are broader than those normally associated with such treaties.

2.10 In particular, the Committee notes that the main motivation for the Australian Government in negotiating these treaties with Jordan is to seek the extradition of, and evidence on ‘foreign fighters.’ As far as the


Committee is aware, this is the first time that the issue of foreign fighters has been the main motivation for the negotiation of Australian extradition and mutual legal assistance treaties.

2.11 In addition, the Committee is concerned about the apparent erosion in the Australian public’s trust in international legal cooperation over recent years.

Motivation

2.12 As indicated above, the driver for the development of the United Nations model treaties on extradition and mutual legal assistance is cooperation in relation to criminal matters.

2.13 The Australian Government’s motivation in negotiating the proposed agreements with Jordan is different:

Cooperation between Australia and Jordan is extremely important in addressing the threat of foreign fighters.5

2.14 Foreign fighters are not typical of the international criminals for which the model United Nations extradition and mutual legal assistance treaties were originally devised.

2.15 Extradition and mutual legal assistance treaties have been used to combat terrorism by seeking the extradition of, or information on individuals who have conducted or orchestrated terrorist acts against the requesting country.

2.16 Foreign fighters are committing a different sort of crime and are subject to a different legal regime in Australia. Significantly for this inquiry, Australia’s legislative response to the problem of foreign fighters is unusual in that it relies on a number of extraterritorial offences.6

2.17 Foreign fighters are individuals who travel without the consent of their home country to another country for the purposes of participating in conflict. While people have always engaged in this activity, it has become a defining feature of conflict in the Middle East and central Asia, starting in the 1980s with numbers of Saudi Arabian citizens joining the Mujahedin in Afghanistan.7

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5 Mr Stephen Bouwhuis, Acting First Assistant Secretary, International and AusCheck Division, Attorney-General’s Department, Committee Hansard, Canberra, 4 December 2017, p. 2.


2.18 The civil war in Syria is one of latest conflicts to attract numbers of foreign fighters. Jordan, which borders Syria, is a transit country for foreign fighters entering and leaving Syria. The Attorney-General’s Department estimates that up to 100 Australian foreign fighters are currently involved in the civil war in Syria or similar conflicts in Iraq.  

Public perception

2.19 Over the period of its existence, the Committee has reviewed a number of bilateral extradition and mutual legal assistance treaties. The Committee has always, and still maintains, a strong commitment to the principle of international legal cooperation as an effective method for preventing transnational crime and terrorism.

2.20 A consistent theme in the Committee’s consideration of these bilateral agreements has been a concern to ensure that persons extradited from Australia, and persons arrested in other countries as a result of legal assistance provided by Australia, are subject to fair criminal proceedings and are not subject to treatment that would be considered cruel or inhuman by Australian standards.

2.21 The public perception, and consequent ongoing support for, Australia’s extradition and mutual legal assistance activities, is easily damaged when rights to a fair trial and reasonable treatment are seen to be at risk.

2.22 For example, in 2017, a vote in the Senate effectively prevented the ratification of Australia’s bilateral Extradition Treaty with the Peoples Republic of China by disallowing its listing as an extradition country under the Extradition Act 1988. One of the reasons the Senate disallowed the listing of China was a concern about access to fair criminal proceedings.

2.23 Similar issues have been raised about Australian legal assistance to countries that use the death penalty. The most significant is the tip off provided by the

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8 Attorney General’s Department, Submission 2, p. 5.

9 See for example, the Committee’s inquiry into the bilateral Extradition Treaty with the United Arab Emirates, detailed in the Committee’s Report 91, which resulted in a commitment by the Australian Government to monitor the legal status and conditions of incarceration of Australians who had been extradited.

Australian Federal Police to their Indonesian counterparts that lead to the arrest and subsequent execution of drug smugglers in 2015.\textsuperscript{11}

2.24 Although this particular case did not involve a mutual legal assistance treaty, it is characteristic of the risks posed to international cooperation in criminal matters by public perception.

2.25 Given the motivation for the proposed treaties, the unusual legislative basis under which they will be used, and concerns about the effect of poor public perception on international legal assistance activities, the Committee feels that a more comprehensive examination of the issues involved in the proposed treaties is warranted.

2.26 Chapter three of this Report examines the proposed treaties in detail and Chapter four of this Report deals with the issues arising out of the proposed treaties.

3. The Proposed Treaties

3.1 This Chapter provides a summary of the background and provisions of the proposed treaties.

Proposed Extradition Treaty

Background

3.2 The proposed Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition (the proposed Extradition Treaty) is intended to ensure that criminals, including foreign fighters, involved in transnational crimes cannot evade justice by crossing borders.\(^{12}\)

3.3 Australia currently has bilateral extradition treaties with 39 countries and extradition obligations under a number of multilateral agreements.\(^{13}\)

3.4 Extradition treaties are given legal effect in Australia by the Extradition Act 1988.\(^{14}\)

3.5 The Act sets out a number of mandatory requirements which must be met before Australia can make or receive an extradition request. Those requirements are supplemented by requirements contained in relevant multilateral or bilateral treaties.\(^{15}\)

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14 Proposed Extradition Treaty NIA, para 7.

3.6 Australia has made one extradition request to Jordan, in 2008, however this was refused. The Jordanian Constitution requires a bilateral extradition treaty for Jordan to action an extradition request from Australia. Therefore the proposed Extradition Treaty is required before Jordan can consider Australian extradition requests.

3.7 Because there is no equivalent requirement on Australia’s part, Jordan has made a number of extradition requests of Australia. These are assessed on a case by case basis against the extradition criteria discussed below. In the last ten years, Australia has declined 40 extradition requests from Jordan.

**Reasons to undertake proposed treaty action**

3.8 The proposed Extradition Treaty National Interest Analysis (proposed Extradition Treaty NIA) states that Jordan is an important partner in the Middle East for the Australian Government’s efforts to combat serious crime including organised crime and terrorism.

3.9 In particular, the proposed Extradition Treaty NIA identifies the reasons for making the treaty as being to ensure Australia’s ability to prosecute foreign fighters and those who engage in terrorism.

3.10 The proposed Extradition Treaty NIA states that Jordan is a transit country for foreign fighters, and a formal extradition relationship with Jordan is critical in ensuring that those who engage in foreign fighter acts cannot evade justice.

**Obligations**

3.11 The proposed Extradition Treaty obliges Australia and Jordan to consider one another’s requests for the extradition of persons who are wanted for an ‘extraditable offence’ on a case by case basis.

3.12 According to Article 3 of the proposed Treaty, an extraditable offence is:

- an act or omission that is an offence in both parties; and
- is punishable by both parties with a prison sentence of at least 1 year.

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17 Proposed Extradition Treaty NIA, para 3.
19 Proposed Extradition Treaty NIA, para 8.
20 Proposed Extradition Treaty NIA, para 11.
21 Proposed Extradition Treaty NIA, para 17.
3.13  The extraditable offence does not need to be specifically the same in the terminology used or the way it is codified. In other words, the test as to whether the offence is extraditable relates to the act of the offence, rather than its specific treatment in Jordanian or Australian law.22

3.14  This is called the ‘double criminality’ test, and is discussed in detail in relation to the extradition of foreign fighters in the next chapter.

**Mandatory grounds for refusing extradition**

3.15  The proposed Extradition Treaty includes provisions that specify internationally accepted mandatory and discretionary grounds for refusing extradition.23

3.16  Under Article 4 of the proposed Extradition Treaty, extradition must be refused in any of the following circumstances:

- where there are substantial grounds for believing that the extradition request has been made in order to prosecute or punish a person because of that person’s race, sex, religion, nationality or political opinion, or that person’s position may be prejudiced for any of those reasons;
- if the offence for which extradition is requested is an offence under military law but not an offence under the criminal law of the requesting country;
- if the offence for which extradition is requested, or any other offence that may be established, carries the death penalty, and the requesting country has not provided an undertaking that the death penalty will not be imposed or, if imposed, will not be carried out;
- where there are substantial grounds for believing that the person whose extradition is requested would be in danger of being tortured if extradited;
- if the offence for which extradition is requested is a political offence; or
- where the person whose extradition is requested would be exposed to ‘double jeopardy’; that is, where that person has already been acquitted, pardoned, or punished under the laws of the requested Party for the offence for which extradition is sought.

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22 Agreement between Australia and the Hashemite Kingdom of Jordan on Extradition [2017] ATNIF 35 (hereafter referred to as the proposed Extradition Treaty), Article 3(3).

23 Proposed Extradition Treaty NIA, para 19.
Discretionary grounds for refusing extradition

3.17 Article 4(2) of the proposed Extradition Treaty sets out discretionary grounds for refusing an extradition request. Extradition may be refused where:

 the offence for which extradition is requested is considered by the requested Party as having been committed wholly or partially within its jurisdiction;
 a prosecution for the offence for which extradition is requested is pending in the requested country;
 the authorities of the requested country have decided not to prosecute the person for the offence for which extradition is requested;
 the person whose extradition is requested would be liable to be tried or sentenced or has been sentenced by an extraordinary or ad-hoc court or tribunal in the requesting country; or
 the requested country considers that, given the age, health or other personal circumstances of the person whose extradition is requested, the extradition of the person would be unjust, oppressive, incompatible with humanitarian considerations or too severe a punishment.

3.18 Where Australia is the requested country, section 22(3)(f) of the Extradition Act provides that a person can only be surrendered if the Attorney-General, at his or her discretion, considers that the person should be surrendered for the extradition offence.24

3.19 This requirement is additional to the mandatory and discretionary grounds for refusal and the other requirements for extradition. In making his or her determination, the Attorney-General may also have regard to international law considerations.25

3.20 Documentation must be provided with each extradition request. The required documentation includes:

 a statement of each offence for which extradition is requested;
 a statement of the acts and omissions that are alleged against the person;
 the text of the laws establishing each offence and describing the penalties involved;
 a statement about any applicable time limitations on proceedings or punishment;

24 Proposed Extradition Treaty NIA, para 25.
details establishing the identity and nationality of the person whose extradition is sought;
- a statement of the location of the person, if known;
- if the person is accused of an offence, a warrant for the arrest of that person;
- if the person has been convicted of an offence, documentary evidence of the conviction, any sentence imposed, the fact that the sentence is immediately enforceable and the extent to which any sentence imposed has not been carried out; and
- if the person has been convicted in absentia, a document authorising the person’s arrest and any options available to the person to challenge the conviction or sentence.26

3.21 Article 8 of the proposed Extradition Treaty provides that in urgent cases a requesting country may apply for the provisional arrest of a person pending receipt of a request for extradition.

3.22 A provisional arrest application must be accompanied by the following:
- a statement about the reasons for urgency prompting the making of the application;
- a description of the person;
- details of the person’s location, if known;
- for each offence for which extradition will be sought, a statement of the offence and the conduct constituting the offence;
- a statement of the existence of a warrant for the arrest of the person or evidence of a court judgment of conviction;
- a statement of the punishment that can be or has been imposed for the offence(s); and
- a statement that a formal request for the extradition of the person will follow.27

3.23 If a request for the extradition has been received from two countries, the requested country will determine which country to which the person should be extradited based on six criteria, including the relative seriousness of the offence if the requests relate to different offences, and the dates of the requests and the nationality of the person.28

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26 Proposed Extradition Treaty, Article 5.
27 Proposed Extradition Treaty NIA, para 29.
28 Proposed Extradition Treaty, Article 9.
3.24 An extradition can be postponed by the requested country were the person concerned is being prosecuted or is undergoing a sentence for another offence. An extradition cannot be postponed so the person concerned can be prosecuted or sentenced for the offence that is the subject of the extradition request.

3.25 The extradited person cannot be extradited to a third country for any offence committed prior to the person’s surrender without the requested country’s consent.

**Proposed Mutual Legal Assistance Treaty**

3.26 Mutual Legal Assistance bilateral treaties establish a formal framework for the parties to request and exchange information on criminal investigations.

3.27 Australia has a network of 30 bilateral mutual assistance treaties.

3.28 The safeguards and protections in the proposed Agreement between Australia and the Hashemite Kingdom of Jordan on Mutual Legal Assistance in Criminal Matters (the proposed Mutual Legal Assistance Treaty) are the same as those contained in the Mutual Assistance in Criminal Matters Act 1987 which underpins Australia’s mutual assistance treaties.

**Reasons to undertake the proposed treaty action**

3.29 The proposed Mutual Legal Assistance Treaty National Interest Analysis (proposed Mutual Legal Assistance Treaty NIA) states that it is in Australia’s interests to be able to provide and request the widest possible assistance in criminal matters, so that criminals cannot evade justice where evidence of their criminal conduct is located in a foreign jurisdiction.
3.30 According to the proposed Mutual Legal Assistance Treaty NIA, such requests are necessary to disrupt and deter the movement of foreign fighters.36

3.31 The proposed Mutual Legal Assistance Treaty NIA argues that:

Jordan is a key partner for Australia in the Middle East. The proposed Agreement will foster greater international crime cooperation engagement to improve procedures for the sharing of foreign evidence where necessary to support the prosecution of those involved in domestic and transnational crime including terrorism.37

**Obligations**

3.32 Parties to the proposed Mutual Legal Assistance Treaty must provide assistance when a request for assistance is made.38

3.33 A request for assistance must include the following:

- a description of the assistance sought;
- a description of the nature of the criminal matter;
- a description of the acts or omissions that constitute the specific case under investigation;
- details of the requirements to be followed; and
- a timeline for completion of the request.39

3.34 Article 1 of the proposed Mutual Legal Assistance Treaty lists the matters on which assistance can be given. These include:

- taking evidence and obtaining statements;
- providing copies of documents;
- locating and identifying persons;
- locating and confiscating the proceeds of crimes;
- serving documents; and
- collecting forensic samples.

3.35 The proposed Mutual Legal Assistance Treaty lists a number of grounds under which the requested Party can deny a request:

- the request relates to a political offence;

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36 Mutual Legal Assistance NIA, para 4.
37 Mutual Legal Assistance NIA, para 6.
38 Mutual Legal Assistance NIA, para 8.
39 Mutual Legal Assistance NIA, para 17.
the offence is an offence under military law without a similar civil offence;
• there are grounds for believing that if the request were granted, the person to whom the request relates may be tortured;
• the request would prejudice the security of the requested Party;
• the request relates to a matter that is not an offence in the requested Party;
• the request would expose somebody to double jeopardy;
• the request would impose an excessive burden on the requested Party; and
• the request relates to an offence that attracts the death penalty.40

3.36 Because Jordan uses the death penalty for a number of crimes, the proposed Mutual Legal Assistance Treaty states that Australia can only provide information in relation to crimes that are punished by the death penalty if Jordan provides an undertaking that the death penalty will not be imposed or carried out in the case in question.41

3.37 The proposed Mutual Legal Assistance Treaty obliges the requested Party to carry out the request to the extent that its laws permit. The requested Party must advise the requesting Party promptly if it is unable to carry out the request.42

Costs

3.38 The proposed Mutual Legal Assistance Treaty provides that the requested Party will meet the ordinary costs of fulfilling the request for assistance, and the requesting Party will pay the travel expenses of any person travelling to or from the requested Party in connection with a mutual assistance request.43

3.39 If the expenses are substantial or extraordinary, the parties must consult to decide how the request is to be carried out, including the allocation of costs.44

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40 Mutual Legal Assistance NIA, para 15.
41 Mutual Legal Assistance NIA, para 16.
42 Mutual Legal Assistance NIA, para 19.
43 Mutual Legal Assistance NIA, para 10.
44 Mutual Legal Assistance NIA, para 27.
4. Issues

4.1 This Chapter examines some of the issues involved in the proposed Treaties. In particular, the Chapter deal with:

- torture;
- the no evidence standard;
- judicial independence;
- extraterritorial foreign fighter offences;
- the death penalty; and
- monitoring of extradited persons.

Torture

4.2 Article 4 of the Agreement between Australia and the Hashemite Kingdom of Jordan on Extradition (the Proposed Extradition Treaty) states that one of the grounds under which an extradition must be refused is if there are substantial grounds for believing that the person whose extradition is requested would be in danger of being subjected to torture if extradited.

4.3 The submission from the Law Council of Australia notes that, in 2006, a Special Rapporteur to the United Nations Office of the High Commissioner for Human Rights advised that torture was widespread in Jordan, and was undertaken with impunity.45

4.4 A more recent report by the United Nations Office of the High Commissioner for Human Rights shows that Jordan has made progress in eliminating torture. The Advanced Unedited version of the Concluding Observation of the fifth periodic report of Jordan indicates that torture has been prohibited under the Jordanian Constitution since 2011, and concerns about

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torture now relate to the definition of torture in the Jordanian criminal code.\textsuperscript{46}

4.5 While torture may still be an issue in Jordan, the evidence suggests that matters have sufficiently improved so that torture concerns in themselves are not, in the Committee’s view, sufficient to prevent ratification of the proposed treaties.

No evidence standard

4.6 As discussed in Chapter 2, the proposed Extradition Treaty is based on the United Nations Model Extradition Treaty, which uses a ‘no evidence’ standard for extradition requests.\textsuperscript{47}

4.7 The proposed Extradition Treaty NIA explains that the ‘no evidence’ standard is based on the reasoning that the extradition process is not a test of the guilt or innocence, but rather an administrative process to determine whether a person is to be surrendered to face justice in the requesting party.\textsuperscript{48}

4.8 In its submission to the inquiry, the Law Council of Australia raised some concerns about the no evidence standard in the Model Extradition Treaty. The Law Council argues that:

There is, of course, a reasonable argument that the ‘no evidence’ approach is appropriate for democracies where rule of law is guaranteed. However, where there is very substantial concerns about the rule of law and the ability of a State to afford those charged with a criminal offence a right to a fair trial, then the adoption of the ‘no evidence’ rule is very likely to compromise the human rights of an extradited person.\textsuperscript{49}


\textsuperscript{47} National Interest Analysis [2017] ATNIA 28 with attachment on consultation, \textit{Agreement between Australia and the Hashemite Kingdom of Jordan on Extradition} [2017] ATNIF 35 (hereafter referred to as the proposed Extradition Treaty NIA), para 15.

\textsuperscript{48} Proposed Extradition Treaty NIA, para 15.

\textsuperscript{49} Law Council of Australia, \textit{Submission 1}, p. 9.
4.9 In response to the Law Council’s submission, the Attorney-General’s Department stated that the Extradition Act 1988 provides safeguards for decision making and opportunities for review of extradition decisions.  

4.10 Once the Attorney-General has made a determination as to whether a person sought by another country can be extradited, the person concerned can seek a determination from a Federal Court Judge or Magistrate as to whether they are eligible to be extradited. The grounds of determining eligibility for extradition are limited to the grounds under which extradition can be refused.  

4.11 In other words, the Magistrate or Judge’s determination is not a review of the evidence of criminality or any other matter outside the mandatory and discretionary grounds for refusal.  

4.12 The person whose extradition is being sought can then seek a further review by the Federal Court.  

4.13 As the review process is limited to an assessment against the mandatory and discretionary criteria for refusing an extradition request, the review process cannot make a decision about rule of law issues such as the independence of the judiciary and access to a defence lawyer.  

4.14 These rule of law issues can consequently only be considered by the Attorney-General under section 22(3)(f) of the Extradition Act, and are not subject to appeal.  

4.15 In relation to access to a defence lawyer, Human Rights Watch’s latest Report on Jordan indicates that the country made significant reforms to its judicial system in 2017. In particular, Human Rights Watch notes that criminal procedure laws have changed to guarantee all suspects the right to access a lawyer from the time of arrest.  

4.16 In the Committee’s view, these changes to criminal procedure laws in Jordan, provided they are applied, are sufficient for the purposes of the proposed treaties.

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50 Attorney General’s Department, Submission 2.1, p. 5.

51 Extradition Act 1988, ss. 7 and 19.

52 Extradition Act 1988, s. 21.

Judicial independence

4.17 The Jordanian legal system uses a mix of traditional, French and British legal traditions. Under the Jordanian Constitution, the judicial branch of Government is separate from the executive branch.\(^{54}\)

4.18 However, the Law Council argues that one of the Jordanian courts, the State Security Court, is different as the three judges are appointed, and can be removed by, the executive branch of Government, and two of those judges are serving military personnel.\(^{55}\)

4.19 The State Security Court is also a matter of concern to the United Nations Office of the High Commissioner for Human Rights, which bluntly stated in the Advanced Unedited version of the Concluding Observation of the fifth periodic report of Jordan:

> The Committee is concerned at reports that this court is neither independent nor impartial, that its practices violate the right to a fair trial, and that it consistently tries civilians under the new Anti-Terrorism Law.\(^{56}\)

4.20 The Law Council claims that extradition to Jordan for alleged terrorism offences would not be prohibited under the proposed Agreement because the offences are not military offences and the State Security Court is not an ad-hoc court.\(^{57}\)

4.21 The Attorney-General’s Department advises that:

> There are ... safeguards in the proposed Extradition Agreement and the Extradition Act that will apply to the consideration of fair trial issues, including any concerns raised in relation to Jordan’s State Security Court. The decision whether to surrender a person will be made by the Minister on a case by case basis in accordance with those safeguards.\(^{58}\)


\(^{55}\) Law Council of Australia, Submission 1, p. 16.


\(^{57}\) Law Council of Australia, Submission 1, p. 17.

\(^{58}\) Attorney General’s Department, Submission 2.1, p. 5.
4.22 Given the assessment of the United Nations Office of the High Commissioner for Human Rights, the Committee considers that the Attorney-General’s Department should specifically state the concerns about the independence of the State Security Court in all cases it refers to the Attorney-General that might result in a person being tried in this court.

**Death Penalty**

4.23 Jordan has executed a number of convicted criminals in recent years, and according to the Law Council of Australia, 120 prisoners in Jordan are currently sentenced to death.\(^5^9\)

4.24 Australia’s extradition provisions contain well established procedures for dealing with requests for extradition for crimes that may incur the death penalty. The Extradition Act and the *Mutual Assistance in Criminal Matters Act 1987* specifically prohibit the extradition of persons or provision of evidence if the offence for which the request is made carries the death penalty, and the requesting country has not provided an undertaking that the death penalty will not be imposed or, if imposed, will not be carried out.\(^6^0\)

4.25 The United Nations Model Extradition and Mutual Legal Assistance treaties contain no mechanism for redress were such an undertaking to be broken by a requesting country. However, the Committee notes the high risk to a country’s international reputation in doing so, provided the requested country was aware that this has occurred.

**Extraterritorial offences**

4.26 One of the specific reasons for Australia entering into the proposed treaties is to strengthen Australia’s ability to prosecute foreign fighters.\(^6^1\)

4.27 The Attorney General’s Department stated:

> With foreign fighters coming out of Iraq and Syria, it makes sense, with Jordan being a nearby country, to make sure that you have strong international crime cooperation and relationships in place with the countries bordering the region.

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\(^5^9\) Law Council of Australia, *Submission 1*, p. 19.

\(^6^0\) See for example, the proposed Extradition Treaty, Article 4.

\(^6^1\) Proposed Extradition Treaty NIA, para 8.
If foreign fighters are coming out of those countries, you can then pick them up in the nearby countries.  

4.28 The group of offences to which this statement applies are commonly known as foreign fighters offences, and are detailed in Part 5.5 of the Criminal Code Act 1995. Of the offences detailed in Part 5.5, two are relevant here because they apply to people who have already allegedly engaged in foreign fighter activity:

- the offence of engaging in hostile activity or engaging in subverting society in a foreign country; and
- the offence of entering into a ‘declared area’ in which a terrorist group is engaged in fighting.

4.29 These offences are extraterritorial. That is, the offences involved take place wholly outside Australian territory.

4.30 According to the Law Council of Australia, the double criminality test makes extradition for extraterritorial offences more complicated than for other offences.

4.31 The double criminality test holds that for extradition to occur, the offence must be considered an offence in both countries.

4.32 There are two possible approaches to dealing with extraterritorial foreign fighter offences when considering double criminality:

- the requested country must have similar extraterritorial foreign fighter laws; that is, Jordan must prohibit its citizens from engaging in hostile activity or entering into declared areas outside Jordan for the double criminality test to be met; or
- the requested country need only prohibit the acts a foreign fighter might engage in; that is Jordan only needs to prohibit acts of violence and subversion within its borders for the double criminality test to be met.

4.33 Without clarification in the treaty it is not clear how the double criminality test is to be applied in relation to extraterritorial foreign fighter offences.

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62 Mr Stephen Bouwhuis, Acting First Assistant Secretary, International and AusCheck Division, Attorney-General’s Department, Committee Hansard, Canberra, 4 December 2017, p. 2.


64 Law Council of Australia, Submission 1, p. 19.

65 Law Council of Australia, Submission 1, p. 19.
4.34 The Law Council points out that Australia has specific provisions in some of its bilateral extradition treaties to clarify how extraterritorial laws will be treated in extradition considerations.\(^{66}\)

4.35 The Attorney-General’s Department states that, if a foreign fighter can be brought to Australia, there is no issue in Australian domestic law that would make it difficult to prosecute that person.\(^{67}\)

4.36 However, the Attorney General’s Department does identify a caveat:

Difficulties may … arise in securing the fugitive’s return to Australia if the requirement for dual criminality is not met, that is if the alleged conduct does not constitute an offence in the requested country. As a matter of best practice, the Attorney-General’s Department assess whether dual criminality is likely to be met, and makes inquiries with the foreign country as necessary, prior to making an extradition request.\(^{68}\)

4.37 The Committee is concerned that, as the Australian Government emphasises the usefulness of this extradition treaty as a mechanism for extraditing foreign fighters, the Attorney-General’s Department did not make these inquiries during the negotiation for the proposed Extradition Treaty.

4.38 Given that there appears to be a willingness on behalf of the Australian and Jordanian Governments to cooperate in the extradition process, the question of extraterritorial offences meeting the double criminality test may not be a significant hindrance to the extradition process for Australian foreign fighter suspects.

4.39 The Committee is concerned that the lack of clarity in the proposed Extradition Treaty in relation to extraterritorial offences might provide accused foreign fighters with a legal defence against prosecution.

4.40 The likelihood of such an argument succeeding is slim, but neither the Committee nor the Australian Government are in a position to second guess the judicial process. In these circumstances, the Committee must make a judgement of risk.

4.41 In the Committee’s view, the risk of a foreign fighter making a successful defence based on an argument that they were illegally extradited is small. However, the consequences would be significant, both in terms of the

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\(^{66}\) Law Council of Australia, *Submission 1*, p. 20.

\(^{67}\) Attorney General’s Department, *Submission 2.1*, p. 1.

\(^{68}\) Attorney General’s Department, *Submission 2.1*, p. 1.
damage to the public perception of the extradition process and the threat posed by the potential release of a radicalised and experienced combatant into the Australian community.

4.42 Clarifying how extraterritorial offences are treated under the proposed Extradition Treaty would eliminate this small risk. The Committee recommends that the Government negotiate a less than treaty level status agreement to provide clarity to the application of the proposed Extradition Treaty to extraterritorial offences.

Recommendation 1

4.43 The Committee recommends that the Government negotiate a less than treaty level status agreement to provide clarity to the application of the Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition to extraterritorial offences.

Monitoring extradited persons

4.44 As discussed in Chapter 2, in considering extradition treaties the Committee has sought to make sure that persons extradited from Australia obtain fair criminal proceedings and are not subject to treatment that would be considered cruel or inhuman by Australian standards.

4.45 The Committee’s Report 91, published in June 2008, examined a proposed extradition treaty with the United Arab Emirates, amongst others, and recommended that Australia implement formal monitoring arrangements of the trial status, health, and incarceration arrangements of people extradited from Australia.69

4.46 The reason for this was to:

... ensure that Australia is not party, directly or indirectly, to any injustice or abuse of the human rights of persons it has extradited.70

4.47 The Government agreed to establish formal monitoring arrangements for Australian citizens only.71

4.48 The Attorney-General’s Department has advised that at present nine Australian citizens who have been extradited from Australia are being monitored.72

4.49 The Committee accepts that there are difficulties in monitoring persons extradited from Australia who are not Australian citizens.

4.50 However, as noted previously, the Committee is concerned about the adverse impact on the public perception of the extradition and mutual legal assistance process if the process results in the death, torture or other mistreatment of a person. Monitoring extradited persons is an effective way of preventing such mistreatment of an extradited person.

Recommendation 2

4.51 The Committee recommends that the Attorney-General’s Department supplement its current annual reporting framework for extradition cases with the following information for each case of an Australian national or an Australian permanent resident held in a foreign country:

- if a trial has taken place;
- if so, the verdict handed down; and
- if a sentence was imposed, what that sentence was, and the frequency and form of consular monitoring and contact post-sentencing, and other relevant information.

Conclusion

4.52 The Committee reiterates its support for treaties combating international crime and terrorism.

4.53 In relation to the proposed Treaties, the Committee notes that Jordan has in recent years made significant steps towards alleviating issues that have concerned this Committee in relation to other extradition and mutual legal assistance treaties.

4.54 In particular, the Committee notes that Jordan has made torture illegal and has guaranteed that accused persons will have access to lawyers from the time they are arrested.

72 Attorney General’s Department, Submission 2, p. 4.
4.55 The Committee is concerned about the application of the double criminally test in relation to extraterritorial offences, and has made a recommendation in relation to this matter.

4.56 The Committee is also concerned about extradition or mutual legal assistance in relation to matters before the Jordanian State Security Court, and suggests that the advice provided to the Attorney-General on all requests received by Australia that relate to matters before this court specifically state the concerns about its independence.

4.57 Bearing in mind these concerns, the Committee supports both the proposed treaties and recommends that binding treaty action be taken.

**Recommendation 3**

4.58 The Committee supports the Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition and recommends that binding treaty action be taken.

**Recommendation 4**

4.59 The Committee supports the Agreement between Australia and the Hashemite Kingdom of Jordan on Mutual Legal Assistance in Criminal Matters and recommends that binding treaty action be taken.

The Hon Stuart Robert MP
Chair
12 February 2018
A. List of Submissions

1. Law Council of Australia
2. Attorney-General's Department
   - 2.1 Supplementary to submission 2
3. Confidential
B. List of Witnesses

Monday, 4 December 2017

Canberra

Attorney-General’s Department

Mr Stephen Bouwhuis, Acting First Assistant Secretary, International and AusCheck Division

Mr Mark Gray, Assistant Secretary, International Law Enforcement Cooperation

Mr Adrian Breen, Assistant Secretary, Transnational Crime Branch

Ms Wendy Kelly, Director, Treaties Taskforce

Mrs Toni Burgess, Senior Legal Officer, Treaties Taskforce

Department of Foreign Affairs and Trade

Mr Matthew Neuhaus, Acting First Assistant Secretary, Middle East and Africa Division

Mr Luke Davies, Director, Levant, Iran and North Africa Section

Australian Federal Police

Assistant Commissioner Lee Scott, National Manager International Operations
Dissenting Report

Michael Danby MP, Senator Kimberley Kitching, Senator Jenny McAllister, Susan Templeman MP, Josh Wilson MP

1.1 The Committee has been asked to consider the Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Extradition and the associated Agreement between the Government of Australia and the Hashemite Kingdom of Jordan on Mutual Legal Assistance in Criminal Matters.

1.2 Jordan is a country listed under the *Extradition Act*, and Australia can already consider extradition requests from Jordan. These proposed agreements create a bilateral framework under which Australia will be able to seek extradition from Jordan for the first time.

1.3 Labor members note that the proposed agreement would apply broadly, permitting extradition to Jordan on a wide range of offences. While Labor members recognise that the treaty would have value in relation to Australia’s efforts to prevent terrorism through the collection of evidence and, potentially, extradition of ‘foreign fighters’, this is only one area for which the treaty could be applied. We also note that Jordan has been and continues to be a strong partner internationally in the fight against Islamist extremist groups, particularly Islamic State, and continues to prosecute terrorists and proponents of terrorism to the full extent of its laws. Terrorists, including foreign fighters, will not find any sanctuary in Jordan.
1.4 Labor members support the objectives that have given rise to the treaty but do not support taking the treaty action at this time for broadly the same reasons set out in Report 167. Australia’s extradition arrangements, both under the *Extradition Act* and through recent bilateral agreements, have long needed review, not least because they include flaws that can and should be corrected. The Government has continued to fail to address this need. Furthermore, the issues that give rise to that state of affairs were once again raised through the inquiry process, and they have not been adequately addressed in the published report.

1.5 Accordingly, Labor members do not support the recommendations to take binding treaty action at this time.

**Australia’s extradition framework and related obligations**

1.6 As was observed in Report 167, Australia has ratified bilateral extradition treaties with thirty-nine countries. The proposed extradition treaty with Jordan stands to be the fortieth.

1.7 Labor members recognise the gravity of the underlying rationale for extradition arrangements, namely the international effort to ensure that serious criminal conduct does not escape justice by crossing transnational borders. This has particular significance in the effort we share with many countries to ensure that terrorism does not occur and does not spread.

1.8 But there is gravity too in our obligation to ensure that people in our jurisdiction, whether citizen or non-citizen, are not made subject of an unjust process or unacceptable treatment through return to another country. When any nation agrees to an extradition request it is placing faith in the probity of the criminal justice system in the recipient country, and that faith must be based on a rigorous assessment of its laws, institutions, practices, and outcomes.

1.9 As this Committee noted in a previous report:

> Australia has a moral obligation to protect the human rights of extradited persons beyond simply accepting the undertakings of countries making extradition requests.

1.10 Indeed, we can go further in saying that Australia has a legal obligation to that effect.

1.11 Labor members of the Committee are again grateful to the Law Council of Australia for their work in illuminating the issues that still go unresolved in our current extradition arrangements, and in the proposed agreement.
1.12 Extradition in Australia is conducted under the *Extradition Act 1988* (Cth) in conjunction with various pieces of subordinate legislation.

1.13 In its submission to this inquiry, the Law Council of Australia raised a number of ongoing concerns about the operation of this legislative framework. These concerns include:

- the limited protections for the right to a fair trial,
- the limited evidentiary thresholds for determining an extradition request,
- the definition of a political offence,
- adequacy of undertakings that the death penalty will not be imposed,
- insufficient protections for children, and
- inadequate monitoring systems.

1.14 These concerns are not new and were expressed in the Law Council’s submission to the Committee’s inquiry that resulted in Report 167.

1.15 It is important to remember that six years ago the relevant governing legislation was amended by the *Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Act 2011*.

1.16 At that time the House of Representatives Standing Committee into Social Policy and Legal Affairs (House Legal Affairs Committee) inquired into and reported on that bill. The House Legal Affairs Committee noted the human rights issues raised by extraditions and acknowledged:

> [...] the concerns of some submitters regarding the operation of the safeguards and the scope for the Attorney-General to exercise his or her discretion.

1.17 This Committee has been alive to those concerns. In almost every report into an extradition treaty in the last decade, this Committee has raised concerns about the human rights of extradited persons, or made recommendations regarding the monitoring of their welfare.

**The need for a review of Australia’s extradition arrangements**

1.18 In its report on the *Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Act 2011*, the House Legal Affairs Committee recommended that:

> [...] within three years of its enactment, the Attorney-General’s Department conduct a review of the operations of the amendments contained in the *Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011*. 


1.19 Plainly that review has not occurred in any meaningful and independent form.

1.20 Australia’s network of extradition treaties has grown since the passage of the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Act 2011. We now have extradition arrangements with a range of countries whose legal systems differ in material ways from ours. In the last six years Australia has entered into and ratified extradition treaties with India, Vietnam, Uruguay, and the United Arab Emirates.

1.21 As we have argued consistently, and as recently as in Report 167, Labor members consider that it is well past time for a proper review of Australia’s extradition arrangements.

The Proposed Extradition Agreement between the Government of Australia and the Hashemite Kingdom of Jordan

1.22 In addition to the general concerns about the operation of Australia’s extradition system, there are some concerns specific to this proposed treaty.

1.23 In relation to Australia’s obligation to ensure that any person extradited not be subject to torture, we draw attention to the following comments in the main report:

A more recent report by the United Nations Office of the High Commissioner for Human Rights shows that Jordan has made progress in eliminating torture. The ‘Advanced Unedited version of the Concluding Observation of the fifth periodic report of Jordan’ indicates that torture has been prohibited under the Jordanian Constitution since 2011, and concerns about torture now related to the definition of torture in the Jordanian criminal code [emphasis added].

1.24 Labor members of the Committee note that while Jordan has made some progress in relation to these issues, the submission by the Law Council of Australia included reference to contemporary evidence that torture is still practised, and, furthermore, the prohibition against torture in Jordanian law is too narrowly defined (it only includes conduct for the purpose of extracting a confession).

1.25 Moreover, the proposed treaty itself does not use the formulation prohibiting ‘torture, cruel, inhuman or degrading treatment or punishment’ which is used in the UN Model Extradition Treaty and whose prohibition and prevention, in those terms, is a non-derogable obligation under the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Australia ratified on 21 December 2017.
1.26 A person reading this Report could easily be misled into thinking that the proposed treaty is consonant on the question of prohibited treatment with the UN Model Extradition Treaty.

1.27 For example, at [2.5] it states: “The United Nations model Treaty on Extradition, on which the bulk of Australian extradition treaties are based, was agreed in 1997. The model treaty establishes a framework for the extradition of wanted persons from one country to another.”

1.28 Labor members of the Committee sought to amend the Report to reflect that fact that “both the Extradition Act (Cth) and this proposed treaty do not include the formulation prohibiting ‘torture, cruel, inhuman or degrading treatment or punishment’ – but this important matter of accuracy was not supported by Government members.

1.29 Labor members of the Committee agree with the position put forward by The Law Council that:

The proposed Extradition Treaty and the Extradition Act do not provide adequate safeguards to avoid surrendering a person in circumstances where they would be subjected to cruel, inhuman or degrading treatment or punishment.

1.30 In negotiating treaties, Australia should seek to ensure that the formulation accepted under international law is reflected in such treaties, covering the full scope of unacceptable treatment in line with Australia’s obligations under the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

1.31 Australia should encourage Jordan to ratify the Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and to accept the competence of the Committee Against Torture to receive individual communications under article 22 of the CAT.

1.32 In the context of the concerns raised by the Law Council in terms of the operation of the existing legislation framework, and the ability to enforce undertakings effectively, we note that Jordan continues to employ the death penalty for a range of serious crimes.

**Contact and Monitoring of People who are Extradited**

1.33 Through the course of the Committee’s inquiry into the proposed treaty and related agreements it became clear that Australia’s approach to monitoring
and assessing the circumstances and treatment of people whose extradition we facilitate is not as thorough or transparent as it should be.

1.34 Without knowing the consequences of extradition in each case where it occurs it is impossible for Australia to be sure that our extradition arrangements, and the decisions made under those arrangements, are in keeping with our human rights obligations.

1.35 For that reason, Labor members of the Committee proposed an additional recommendation in the course of the Committee’s consideration of Report 177, namely:

That the Government consider reporting biannually to the Joint Standing Committee on Treaties in an appropriate format the details of both Australian citizens and no-citizens extradited under bilateral agreements and/or the Extradition Act 1988 (Cth), including the status and progress or consequences of any legal action, the frequency and form of consular monitoring and contact, and other relevant information.

1.36 While this was not accepted, we are glad that an amended form of the similar recommendation made in Report 167 was adopted as Recommendation 2:

The Committee recommends that the Attorney-General’s Department supplement its current annual reporting framework for extradition cases with the following information for each case of an Australian national or an Australian permanent resident held in a foreign country:

- if a trial has taken place;
- if so, the verdict handed down; and
- if a sentence was imposed, what that sentence was, and the frequency and form of consular monitoring and contact post-sentencing, and other relevant information.
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