



Australian Government

Attorney-General's Department

**Department of Families, Housing, Community
Services and Indigenous Affairs**

INFORMATION ON THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The Convention

The purpose of the Convention, as set out in Article 1, is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms for all people with disability, and to promote respect for their inherent dignity. It aims to achieve this purpose by laying out the way in which countries can enable people with disability to exercise those human rights and fundamental freedoms on an equal basis with others.

As stated on the United Nations website, the Convention does not create any new rights or entitlements. Rather, it expresses existing rights in a manner that addresses the needs of people with disability. An electronic version of the full text and further information about the Convention are available at: <www.un.org/disabilities/>

The Committee on the Rights of Persons with Disabilities

Article 34 of the Convention establishes a new international monitoring mechanism—the Committee on the Rights of Persons with Disabilities. Under the Convention, countries are required to report regularly to the Committee on the measures they have taken to give effect to the obligations in the Convention (Article 35). The Committee will consider those reports and make general recommendations to the reporting countries (Article 36).

The Optional Protocol

The Optional Protocol is a separate instrument to the Convention, which gives the Committee the power to receive complaints from individuals and groups of individuals who believe that their country has breached the Convention (Article 1). Complaints to the Committee may be made about any rights guaranteed under the Convention, but only after all domestic remedies have been exhausted, and only in relation to events occurring after the Optional Protocol enters into force for that country (Article 2).

If an individual complaint is made to the Committee, the Committee may require the country concerned to submit written explanations regarding the matter or provide details of any remedies provided to the complainant, or the Committee may request that that country consider urgent measures to avoid irreparable damage to the victim (Articles 1 to 4). The Committee is required to bring any confidential complaint submitted to the attention of the

relevant country, and to hold closed meetings when examining communications under the Optional Protocol (Articles 3 and 5).

The Optional Protocol also gives the Committee the power to conduct inquiries into complaints of grave or systematic breaches of the Convention, where there is reliable information to support such allegations. These inquiries may include country visits where warranted and with the consent of the country. Inquiries are conducted confidentially and with the cooperation of the country concerned at all stages (Article 6). At the conclusion of an inquiry, the Committee will share its findings and any recommendations with the country concerned, and the country will have six months to respond. The Committee may also ask the country concerned to include details of what it has done in response to an inquiry in its next report to the Committee (Article 7).

Article 8 allows a country to declare that it does not accept Articles 6 and 7 when it becomes party to the Optional Protocol. This would mean that individual complaints could still be made against that country under the Optional Protocol, and the Committee would be able to examine those complaints, but the Committee would not have the power to inquire into allegations of grave or systematic breaches or make country visits. In all cases, the findings and recommendations of the Committee are not legally binding on any country—the country concerned may either accept or reject recommendations.

An electronic version of the full text and further information about the Optional Protocol are also available at: <www.un.org/disabilities/>