



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

PROOF

COMMITTEES

Human Rights Joint Committee

Report

SPEECH

Wednesday, 20 March 2024

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner	Responder
Speaker Burns, Josh MP	Question No.

Mr BURNS (Macnamara) (16:32): On behalf of the Parliamentary Joint Committee on Human Rights, I present the committee's report entitled *Human rights scrutiny report: Report 2 of 2024*.

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

Mr BURNS: by leave—This will be short but meaningful! I am pleased to table the Parliamentary Joint Committee on Human Rights's second scrutiny report of 2024. In this report, the committee has considered 32 new bills and 104 legislative instruments. It has substantially commented on three new bills. In particular, the committee has considered the Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Bill 2024. Among other things, the bill seeks to remove administrative reviews of decisions to make, extend or further extend preventive detention orders. While judicial review remains available, it is a more limited form of review and, by reducing the availability of possible remedies, the measure may have implications for the right to an effective remedy. The committee considers that the sufficiency of judicial review for the purposes of the right to an effective remedy will depend on the circumstances of each case and draws these human rights concerns to the attention of the Attorney-General and the parliament.

The committee has also commented on the Autonomous Sanctions Amendment Bill 2024, which seeks to retrospectively confirm that individuals and/or entities can be validly sanctioned based on past conduct or status. The committee has, over a long period of time, commented on the importance of the sanctions regime. However, the committee has previously found that there is a risk in relation to sanctions imposed on individuals in Australia and that the autonomous sanctions regime may be incompatible with several human rights. By validating actions taken under the autonomous sanctions regime, this bill also risks being incompatible with those rights. The committee reiterates its long-held view that the compatibility of the sanctions regime may be assisted with a legislation amendment to include safeguards that could alleviate human rights concerns.

Finally, the committee has commented on the Crimes Amendment (Strengthening the Criminal Justice Response to Sexual Violence) Bill 2024. This bill seeks to strengthen protections afforded to victims and survivors of sexual abuse and vulnerable persons in Commonwealth criminal proceedings. In doing so, it promotes a number of human rights. However, one aspect of the bill would require an assessment of the adult's decision-making capacity and their ability to give informed consent. Given that adults with a cognitive disability would likely be the only adults at risk of being found to lack decision-making capability, this measure engages and may limit the rights of people with a disability to equal recognition before the law. The statement of compatibility does not identify this right as engaged. In relation to whether this measure is compatible with these rights, the committee has concluded that much will depend on the criteria by which the court determines if a person has decision-making capacity and whether any assistance is given to the person to support them in the exercise of their legal capacity.

I encourage all members to consider the committee's report closely. I thank the secretariat, the deputy chair and all members who participated in the *Human rights scrutiny report: Report 2 of 2024*. I commend the committee's report to the House.