

Senate, Tuesday 18 March 1997

COMMITTEES: Foreign Affairs, Defence and Trade Committee: Joint: Report

Senator O'CHEE (Queensland) —On behalf of Senator MacGibbon, I present the report of the Joint Committee on Foreign Affairs, Defence and Trade entitled *The Human Rights and Equal Opportunity Commissioner and the Commonwealth Ombudsman: report on public seminars, 20 and 25 September 1996*, together with minutes of proceedings. I seek leave to move a motion in relation to the report.

Leave granted.

Senator O'CHEE —I move:

That the Senate take note of the report.

I seek leave to incorporate Senator MacGibbon's tabling speech in Hansard and to continue my remarks at a later date

Leave granted.

The speech read as follows—

[Madam President] I have pleasure in presenting the report by the Joint Standing Committee on Foreign Affairs, Defence and Trade on two public seminars held in Canberra last September in relation to the work of the Human Rights and Equal Employment Opportunity Commission (HREOC), and the office of the Commonwealth Ombudsman, which together deal with international and domestic issues relating to human rights. HREOC is a statutory body responsible for ensuring Australia's compliance with, and implementation of, international human rights treaties and conventions. The Commonwealth Ombudsman has a more domestic focus on the everyday human rights of citizens in their dealings with government agencies. The office of the Ombudsman is established within the Prime Minister and Cabinet portfolio.

Through its Human Rights Sub-Committee, the Joint Standing Committee has adopted the practice of meeting on an annual basis with the heads and senior office-holders of both statutory offices. The purpose of conducting the two public seminars was to keep the Committee up to date on current work programs, challenges and future directions being planned for the Commonwealth Ombudsman's office and the Human Rights Commissioner. The report presented today examines issues of concern to each particular office, as well as a shared concern about racism and the human rights of indigenous Australians. There are five recommendations in the report. Two of them relate to the implementation of the International Convention on the Rights of the Child and HREOC's major concerns for the children of Australia, particularly the welfare, care and protection system, and the treatment of children in the family law and juvenile justice systems. The Committee shares these concerns, and was most disappointed that no specific Act of Parliament has yet been passed to implement the Convention on the Rights of the Child nor, I should add, the International Convention on Civil and Political Rights. Back in 1994, ie Committee's report on the Review of Australia's Efforts to Promote and Protect Human Rights highlighted the plight of abused children both internationally and in Australia. At that time, criticisms of the youth welfare and justice systems in Australia, and youth homelessness were drawn to the attention of the Parliament. Those warnings are even more timely today than they were in 1994.

Accordingly, the Committee recommends that the Australian Government introduce legislation to incorporate the International Convention on the Rights of the Child into domestic law, and recommends also that the Attorney-General investigate the feasibility of establishing a Children's Commissioner within the Human Rights and Equal Opportunity Commission.

Within the time constraints imposed by only two short meetings, the seminars could not cover in great detail all areas of concern. However, in addition to the issues to which I have already referred, the report mentions several other important areas of concern to the Committee: for example, the rights of refugees in detention, the rights of women in Australia and in the region, and the right of transgender people.

Of the issues specific to the Ombudsman the Committee made particular note of the independent statutory role of the office which reports direct to Parliament, notwithstanding the fact that it is established within the portfolio of the Prime Minister and Cabinet. As highlighted by the Ombudsman in her annual report for 1995-96, and reiterated during the seminar, this situation has given rise to funding constraints during budget considerations for the portfolio. One of the proposals put forward to the Government by the Ombudsman was for the status of an Officer of the Parliament to be applied to the Ombudsman, thereby guaranteeing its independent operation in terms of administrative arrangements such as budget allocation.

The Committee believes there is merit in strengthening the office of the Commonwealth Ombudsman, and has recommended that the Government expedite the necessary changes to jurisdiction and funding arrangements proposed in the Ombudsman's annual report. As well, the Committee has recommended that a parliamentary review of the office be conducted in order to examine the resources available to the Ombudsman, the mechanisms for ensuring its independence from any specific portfolio, and the desirability of giving the Ombudsman the status of an independent officer of the Parliament.

A shared concern which the Committee highlighted in the report relates to the problem of racism in Australia and the difficulties faced by indigenous Australians in gaining access to services. Both HREOC and the Ombudsman have to confront racism as a significant issue raised in complaints, and clearly recognise the need for continuing support for indigenous people in the areas of health, employment, housing, education and welfare services in particular.

The Ombudsman emphasised the special needs of indigenous people and the disadvantages which need to be addressed on their behalf. Both HREOC and the Ombudsman were critical of the limited access that indigenous people are able to gain to services provided for all Australians by DSS and DEETYA, for example. These difficulties were the result of the particular needs of indigenous people and the barriers erected by the current administrative arrangements for delivery of services, which can be quite complex. In the Committee's view, one solution would be to fund a position within the Ombudsman's office to cater for the special needs of indigenous Australians, and the report recommends that the Government consider that option.

The final observation by the Committee as a result of the seminars was that the role of both HREOC and the Ombudsman is being undermined by budgetary pressures, and the Committee foresees serious consequences if the workloads of each office continue to increase while funding and other support mechanisms are reduced.

Madam President I would like to conclude by thanking all involved in the seminars for their contributions—Sir Ronald Wilson, President of HREOC, Mr Chris Sidoti, Human Rights Commissioner, and the Senior Adviser to the Human Rights Commissioner, Mr Kieren Fitzpatrick, and the Commonwealth Ombudsman, Ms Philippa Smith—who gave their time to attend and to inform the Committee about their work I would also like to thank the members of the Committee who were able to attend the seminars and the staff of the Joint Standing Committee, in particular, Margaret Swie ringa and the staff of the Human Rights Subcommittee who organised a very successful seminar program and drafted the report.

I commend the report to the Senate.