

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

DEPUTY CHAIR'S TABLING STATEMENT

Thursday 25 February 2016

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Thirty-fifth Report of the 44th Parliament.

The committee's report examines the compatibility of bills and legislative instruments with Australia's human rights obligations. This report considers bills introduced into the Parliament from 22 to 24 February 2016 and legislative instruments received from 22 January to 4 February 2016. The report also includes the committee's consideration of three responses to matters raised in previous reports.

Four new bills are assessed as not raising human rights concerns and the committee will seek a further response from the legislation proponent in relation to one bill. The committee has also concluded its examination of one bill and one regulation.

As members would be aware, the committee's reports generally only include matters that raise human rights concerns and the committee is typically silent on bills and instruments that are compatible with, or even promote, human rights. This means that the often good work of ministers in ensuring the compatibility of legislation with human rights goes unnoticed.

In this context, I draw Members' attention to the Territories Legislation Amendment Bill 2016. This bill seeks to address concerns raised by the committee regarding the *Norfolk Island Amendment Act 2015*, as reported in the committee's Twenty-second report of the 44th Parliament. That report noted that certain amendments to the Act had a discriminatory effect by excluding some categories of Australian permanent residents from access to social security. The current bill will make amendments to allow New Zealand citizens who hold an Australian permanent visa and reside on Norfolk Island access to social security payments, consistent with the arrangements for other Australian permanent visa holders. Accordingly, these bills promote human rights.

On behalf of the committee I wish to thank the Minister for this positive engagement with the committee and the substantive human rights issues engaged by these bills.

The report also includes the committee's final consideration of the Family Law Amendment (Financial Agreements and Other Measures) Bill 2015. This bill amends the *Family Law Act 1975* so that binding financial agreements entered into at the time of, or after, a relationship breakdown may be set aside by a court only in 'circumstances that are of an exceptional nature'. While this will clearly narrow the court's power to set aside a financial agreement on the grounds that a child of the relationship will suffer hardship, the statement of compatibility

did not address the obligation to consider the best interests of the child.

The Attorney-General provided an expeditious and helpful response to the committee's inquiries explaining that the bill would empower families to take responsibility for their own affairs without resorting to the family law system, and that important safeguards exist to protect individuals who may be unaware of their legal rights. On the basis of this analysis, the committee considers that the bill may be compatible with international human rights law.

I encourage my fellow Members and others to examine the committee's report to better inform their understanding of the committee's deliberations.

With these comments, I commend the committee's Thirty-fifth Report of the 44th Parliament to the chamber.