

# **PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS**

## **CHAIR'S TABLING STATEMENT**

**Tuesday 24 March 2015**

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Twenty-first Report of the 44<sup>th</sup> Parliament.

This report provides the committee's view on the compatibility with human rights as defined in the *Human Rights (Parliamentary Scrutiny) Act 2011* of bills introduced during the period 16 to 19 March 2015, and legislative instruments received during the period 27 February to 5 March 2015. The report also includes consideration of legislation previously deferred by the committee, as well as one response to issues raised by the committee in a previous report.

Of the seven bills considered in this report, six are assessed as not raising human rights concerns and one raises a matter requiring further correspondence. The committee has deferred its consideration of the remaining two bills introduced during this period and a number of instruments.

This short report outlines the committee's examination of the compatibility of these bills and instruments with our human rights obligations. The committee seeks to engage in dialogue with relevant ministers, both to help the committee better understand the intent of the legislation before it and to help relevant ministers and officials to identify and explore questions of human rights compatibility.

The committee has approached its consideration of the human rights implications of the legislation before it using the same analytical framework that it has consistently applied to the assessment of limitations of rights. When examining legislation, the committee assesses whether the legislation engages human rights and, if so, whether it limits or promotes rights. The majority of legislation, as can be seen in this report, either does not engage human rights or, if it engages with rights, either promotes rights or does not limit them. Where legislation does limit human rights, the committee's analytical framework allows it to focus on three key questions:

1. whether the measures are aimed at achieving a legitimate objective;
2. whether there is a rational connection between the measures and that objective; and
3. whether the measures are proportionate to that objective.

These questions are the first stage of the committee's analysis. It is on this basis that in the present report the committee has sought the advice of ministers in relation to a small number of bills and instruments.

Also in this report, the committee has examined the Criminal Code (Foreign Incursions and Recruitment—Declared Areas) Declaration 2015—Mosul District, Ninewa Province, Iraq. This regulation makes it an offence under the Criminal Code Act 1995 to enter, or remain in, the Mosul district in Iraq. The declared area offence provision was

included in the Criminal Code as part of the government's 'Foreign Fighters' Bill in late 2014. The committee has previously examined this offence provision and, after conducting substantial dialogue with the Minister for Foreign Affairs, found that it is incompatible with a number of human rights. As this regulation implements that offence provision with respect to the Mosul district in Iraq, the committee has concluded that the regulation is also incompatible with a number of human rights. Notwithstanding this conclusion, the committee agrees that there is a public interest argument in declaring areas under the Criminal Code as 'no go zones' to pursue the legitimate objective of national security particularly the threat of returning foreign fighters.

I encourage my fellow Members and others to examine the committee's report to better inform their consideration of proposed legislation.

With these comments I commend the committee's Twenty-first Report of the 44th Parliament to the House.