

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

CHAIR'S TABLING STATEMENT

Wednesday 13 May 2015

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

This report provides the Parliamentary Joint Committee on Human Rights' view on the compatibility with human rights of bills introduced into the Parliament from 23 to 26 March 2015, legislative instruments received from 6 March to 9 April 2015, and legislation previously deferred by the committee. The report also includes the committee's consideration of responses arising from previous reports.

This 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.

Of the 24 bills considered in this report, six are assessed as not raising human rights concerns and 18 raise matters requiring further correspondence. The committee has continued to defer its consideration of 1 bill and a number of instruments which had previously been deferred. The committee has concluded its examination of four bills and five legislative instruments.

This report includes the committee's consideration of the Attorney-General's response to issues raised by the committee in relation to the Counter-Terrorism Legislation Amendment Bill (No. 1) 2014. This bill passed both Houses of Parliament on 2 December 2014 and received Royal Assent on 12 December 2014. The bill contained a range of strong measures to strengthen Australian national security laws and the counter-terrorism regime. To that end, the legislation introduced a range of new powers which included expanding the control order regime and strengthening the powers of the Australian Secret Intelligence Service (ASIS) to provide assistance to the Australian Defence Force in support of military operations, and to cooperate with the Defence Force on intelligence matters. The measures limit a number of human rights, and in my view, are quite rightly aimed at countering-extremism and protecting human life.

As set out in the committee's report, limitations on most human rights may be justifiable under international human rights law where they are in pursuit of a legitimate objective, are rationally connected to that objective and the measure is a proportionate means of achieving that objective. An element for the test of proportionality in international human rights law requires consideration of whether there are any less rights restrictive measures which will achieve the same objective. That is, measures which limit human rights will be nevertheless be compatible with human rights in a range circumstances. In relation to

the expansion of control orders and the strengthening of powers to ASIS, committee members, on this occasion reached different views as to whether these measures were compatible with human rights. This difference of view is illustrated with respect to the committee's examination of the amendments to the *Intelligence Security Act 2001* and engagement of the right to life. These amendments enable ASIS to support the Defence Force including on intelligence matters. Such intelligence sharing may be used by the Defence Force and other military agencies in the context of armed conflict or other military activities. Some members of the committee, including myself, considered that this measure was reasonable and proportionate and therefore compatible with the right to life. Indeed, I would note that I would be concerned should intelligence be shared in a manner that was not consistent with Australia's obligations to respect, protect and fulfil the right to life. Other members of the committee took the view that the Intelligence Security Act may be incompatible with the right to life.

This report also contains the committee's initial analysis on the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015. The bill would introduce a broad discretionary power to collect the personal identifiers from an individual for the purposes of the Migration Act or Migration Regulations. Personal identifiers include fingerprints, handprints, measurements of height and weight, photographs or images of a person's face or an iris scan. This bill raises a number of human rights issues including the right to privacy,

the right to equality and non-discrimination and the rights of children. In accordance with its usual practice, the committee has sought further advice from the minister as to the compatibility of the power with human rights.

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-second Report of the 44th Parliament to the House.