

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

CHAIR'S TABLING STATEMENT

Wednesday 24 June 2015

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Twenty-fourth 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 15 to 18 June 2015, legislative instruments received from 15 to 28 May 2015, and legislation previously deferred by the committee. The report also includes the committee's consideration of responses arising from previous reports.

In line with the committee's statutory function, the report outlines the committee's examination of the compatibility of these bills and instruments with our human rights obligations.

Of the five bills and one instrument considered in this report, two are assessed as not raising human rights concerns, and four raise matters requiring further correspondence.

The committee has continued to defer its consideration of a number of instruments, and concluded its examination of three bills.

In this report the committee has examined the Foreign Death Penalty Offences (Preventing Information Disclosure) Bill 2015, which was recently introduced by the member for Fairfax (Mr Clive Palmer MP). This bill raises a number of complex human rights questions which

have been explored by the committee. The bill makes it an offence to disclose information which may assist in the investigation, prosecution or punishment of a person in another country where the death penalty may be applied. This is clearly intended to promote the right to life under the International Covenant on Civil and Political Rights, under which every human being has the inherent right to life, which should be protected by law.

However, the bill also contains an exception to allow information to be shared if the disclosure is said to be necessary to prevent or assist in the investigation or prosecution of a person suspected of engaging in terrorism or an act of violence causing death or endangering life.

This raises some complex questions over the nature of Australia's international obligations in relation to providing cooperation to foreign authorities. This is particularly so in circumstances where the provision of information may be necessary to thwart an attempted terrorist attack and therefore protect the lives of many innocent people.

We must remember that the right to life includes an obligation on the state to protect people from being killed by others. Yet, as Australia long ago abolished the death penalty, we are also under an obligation not only not to subject people to the death penalty ourselves, but not to expose a person to the real risk of the death penalty in another country.

This is an area that has generated considerable debate within the committee, particularly as many members acknowledge the difficult operational questions for police if they are to be prohibited from providing international cooperation or assistance where the death penalty might apply.

However, I note that the committee's mandate under the *Human Rights (Parliamentary Scrutiny) Act 2011* is to examine all legislation that comes before Parliament for compatibility with human rights, and to report to Parliament on this issue. In this case, the statement of compatibility accompanying the bill did not address the human rights concerns outlined above and, as such, the committee has determined that it requires further information to be able to complete its human rights assessment.

As I've said before, the committee seeks to engage in dialogue with proponents of legislation, both to help the committee better understand the intent of the legislation and to help relevant legislation proponents to identify and explore questions of human rights compatibility.

This report also concludes the committee's examination of three bills for which the committee has now received responses from the relevant ministers. Two of these bills, the Australian Citizenship and Other Legislation Amendment Bill 2014 and the Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015, raised complex issues for the committee. I would

like to thank my colleagues for the constructive discussion we had in relation to seeking to resolve a number of difficult questions. As will be apparent in the report, the committee did express different views as to whether a number of measures had been justified, and I encourage my fellow Members and others to examine the committee's report to better inform their understanding of the committee's deliberations.

The ultimate purpose of the committee is to inform the debates of the Parliament on the merits of the legislation which we are asked to consider, and in that spirit and with these comments, I commend the committee's Twenty-fourth Report of the 44th Parliament to the House.