

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

CHAIR'S TABLING STATEMENT

Tuesday 11 August 2015

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

The committee's reports examine the compatibility of bills and legislative instruments with Australia's human rights obligations, and this report considers bills introduced into the Parliament from 22 to 25 June 2015, and legislative instruments received from 29 May to 11 June 2015.

The report also includes the committee's consideration of responses to matters raised in previous reports.

Of the 22 bills and two instruments examined in this report, 18 are assessed as not raising human rights concerns, and six raise matters in relation to which the committee will seek a response from the legislation proponents. The committee has concluded its examination of six bills, and has deferred consideration of one bill.

A number of the bills examined are scheduled for debate during the sitting week commencing 10 August 2015, including:

- the Migration Amendment (Strengthening Biometrics Integrity) Bill; and
- the Social Services Legislation Amendment Bill.

In this report the committee has examined the Australian Citizenship (Allegiance to Australia) Bill 2015, which is an important and complex bill that raises a number of human rights questions. In keeping with its usual approach, the committee has determined to ask the Minister for Immigration and Border Protection for further information to help the committee assess the human rights compatibility of the bill. In particular, the committee wishes to understand:

- whether there is reasoning or evidence that establishes that the stated objective of the bill addresses a pressing or substantial concern;
- whether there is a rational connection between any limitations on rights and that objective; and
- whether any limitations on rights are reasonable and proportionate to achieving that objective.

These questions reflect the analytical framework that the committee has applied since its inception, and which allows the committee to assess whether any limitations on human rights are justifiable.

In relation to the committee's consideration of responses to matters raised in previous reports, I would like to highlight what is an excellent example of the scrutiny dialogue between the committee and the executive working as intended.

In its initial examination of the Safety, Rehabilitation and Compensation Amendment (Improving the Comcare Scheme) Bill 2015, the committee raised concerns about the human rights compatibility of a substantial number of measures in the bill. In response, the minister provided an extensive and detailed human rights assessment of the measures, which directly addressed the matters raised by the committee. Clearly referencing the committee's analytical framework and expectations, the response explained the legitimate objective of the measures, set out the safeguards and processes in place to protect human rights, and provided clear and compelling evidence to underpin this analysis. On the basis of this response, the committee was able to assess almost all of the limitations on rights as being reasonable and proportionate, and therefore compatible with human rights.

This can be helpfully contrasted with the response provided in relation to the Seafarers Rehabilitation and Compensation and Other Legislation Amendment Bill 2015, which was also considered in this report. The response to the committee's inquiry on this bill was very brief, did not address the specific question asked by the committee, and did not reflect the application of the committee's analytical framework. Although the response contained an assurance that amendments to the bill during its passage adequately addressed the committee's concerns, there was no attempt to explain how these complex amendments in fact addressed the human rights issues identified by the committee. Looking at the substance of those issues,

it appears quite possible that a more helpful and informative response could have enabled the committee to conclude that the bill was likely to be compatible with human rights. However, in the absence of the information sought, the committee was unable to assess the extent of the limitation on the right to social security and was therefore unable to conclude that the bill was compatible with that right.

The key element of the committee's work is the scrutiny dialogue it maintains with executive departments and agencies regarding the consideration of human rights in the development of policies and legislation. As this tale of two responses demonstrates, the committee's ability to appropriately perform its scrutiny function in assessing bills and instruments for compatibility with human rights is greatly influenced by the quality of the dialogue it undertakes with the proponents of legislation.

As always, 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 Twenty-fifth Report of the 44th Parliament to the House.