

# **PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS**

## **DEPUTY CHAIR'S TABLING STATEMENT**

**Tuesday 10 November 2015**

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Thirtieth Report of the 44<sup>th</sup> 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 12 to 22 October 2015 and legislative instruments received from 18 September to 1 October 2015. The report also includes the committee's consideration of five responses to matters raised in previous reports.

Nine new bills are assessed as not raising human rights concerns and the committee will seek a response from the legislation proponents in relation to six bills and four legislative instruments. The committee has concluded its examination of two bills and four instruments.

One of the bills considered in the report is the private member's bill titled Marriage Legislation Amendment Bill 2015. The bill would introduce same-sex marriage. While I note that some members chose to provide a dissenting report on this bill, the majority of the committee were of the view that the bill was compatible with the right to equality and non-discrimination, the right to family and the rights of children. These conclusions are based on a lengthy legal analysis which I encourage members to consult in detail.

The bill also engages the right to freedom of religion. The bill preserves the existing right of ministers of religion not to solemnise a marriage for any reason, including if this is contrary to their religious beliefs. In contrast, under the bill civil celebrants (who are not ministers of religion) would be prohibited from refusing to solemnise same-sex marriages. Accordingly, the bill would limit the right of civil celebrants to exercise their religious beliefs and refuse to solemnise a same-sex marriage.

The committee was divided as to whether this limitation was justified. A number of committee members were of the view that the bill is compatible with the right to freedom of religion, as the limit it imposes on the right is proportionate to the objective of promoting equality and non-discrimination.

However, a number of committee members considered that this limitation is not justified as the bill does not provide civil celebrants with the option to refuse to solemnise marriages that are contrary to their religious beliefs.

This report also includes the committee's consideration of a further response from the Attorney-General in relation to the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014. The committee previously sought further information as to whether the operation of the counter-terrorism laws will, in practice, be compatible with the rights to equality and non-discrimination.

The Attorney-General has provided a fulsome response to the committee outlining the training provided for law enforcement officers. On the basis of the Attorney-General's assurance that such powers are used by officers trained to be impartial and non-discriminatory, the committee has concluded that, while the operation of counter-terrorism laws engage and may limit the right to equality and non-discrimination, particularly in relation to profiling and targeting of individuals, the powers may be justified.

The Attorney-General's response also covered the amendments in the bill allowing for the cancellation of social security payments following the suspension or cancellation of a person's passport on national security grounds. In relation to these powers, the committee stressed that the prevention of the use of social security to fund terrorism-related activities is a legitimate objective for the purposes of international human rights law.

However, the committee has also sought to make constructive recommendations to improve the bill's compatibility with the right to social security and right to equality and non-discrimination. The committee has therefore suggesting that the Attorney-General adopt regulations and guidelines that provide objective criteria and safeguards for the cancellation of welfare payments, including that there must be a link between the social security payment and the funding of terrorism.

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 Thirtieth Report of the 44<sup>th</sup> Parliament to the House.