

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

CHAIR'S TABLING STATEMENT

Tuesday 24 November 2015

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Thirty-first Report of the 44th 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 9 November to 12 November 2015 and legislative instruments received from 2 October to 29 October 2015. The report also includes the committee's consideration of two 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 one bill and three legislative instruments. The committee has also concluded its examination of one bill and one instrument.

This short report considers one bill in detail—the Omnibus Repeal Day (Spring 2015) Bill 2015. While the vast majority of the bill, which is largely designed to reduce unnecessary red-tape, raises no human rights concerns, there are two issues that require further consideration from a human rights perspective. One relates to the removal of consultation requirements when making disability standards, which engages the rights of persons with disabilities. The

other relates to removing a statutory requirement to have an independent review into the effectiveness of the Stronger Futures measures, which may affect the proportionality of any limitation on rights caused by these measures.

I note that the committee raised the same concerns in relation to these matters when the amendments were introduced as part of the Omnibus Repeal Day (Spring 2014) Bill 2014. However, the committee's concerns were not reflected in the statement of compatibility for the bill. In order for the legislative scrutiny process to be effective, where the committee has previously commented on provisions in a bill, I would encourage all members to have regard to those comments when preparing the explanatory material for the legislation.

The committee has also considered three legislative instruments in this report which raise complex human rights issues. These instruments relate to implementation of a United Nations Security Council resolution in relation to the misuse of cultural property from Iraq and Syria. The committee recognises the importance of complying with this resolution, and considers the objective of preventing terrorist groups from profiting from illegally removed cultural property is clearly legitimate for the purposes of human rights law. However, the instruments make breach of the provisions subject to a term of up to ten years imprisonment, and as the report notes the drafting of the provisions is somewhat broad and imprecise. In simple

terms, an offence provision that is insufficiently precise may offend the right not to be arbitrarily detained, and the committee will therefore write to the Minister for Foreign Affairs to seek her advice as to whether the offence provisions are sufficiently precise to satisfy the requirement of legal certainty in the context of Australia's international human rights obligations.

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 Thirty-first Report of the 44th Parliament to the House.