

SPEECH

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Questioner	Responder
Speaker Perrett, Graham, MP	Question No.

Mr PERRETT (Moreton) (09:37): On behalf of the Parliamentary Joint Committee on Human Rights, I present the committee's report, incorporating a dissenting report, entitled *Human rights scrutiny report: Report 1 of 2021*.

Report made a parliamentary paper in accordance with standing order 39(e).

Mr PERRETT: by leave—I am pleased to table the Parliamentary Joint Committee on Human Rights's first scrutiny report of 2021. As usual, this report contains a technical examination of legislation with regard to Australia's obligations under international human rights law—that is, flowing from treaties that the nation has ratified. In this report the committee considered 19 new bills and 191 new legislative instruments. The committee is seeking further information in relation to three new bills and has concluded its examination of three bills and six legislative instruments. In this report, the committee has concluded its consideration of the Federal Court and Federal Circuit Court Amendment (Fees) Regulations 2020. This instrument increases the application fee for migration matters in the Federal Circuit Court by 483 per cent, increasing it from \$690 to \$3,330.

The committee noted that such a significant increase could limit the right to access to justice, but considered that the fee waiver and exemption provisions—which could be 50 per cent or even down to zero—were sufficient to safeguard against an impermissible limitation in practice. However, Labor members have issued additional comments with respect to this Federal Court and Federal Circuit Court instrument. Labor members have noted that the court's migration division determines important matters of law in cases including claims for asylum due to religious persecution or claims for asylum due to torture and many other cases. The decisions the court makes have life-changing consequences. In some circumstances a practical denial of access to this court could be fatal for the applicant. Labor members are very concerned that raising application fees for migration matters in the Federal Circuit Court by such an extraordinary amount will deter applicants and prevent, in a real and practical sense, access to justice for those litigants.

In addition, in this report, the committee issued concluding comments on the Social Security (Administration) Amendment (Continuation of Cashless Welfare) Bill 2020. The committee notes that the cashless welfare scheme limits several human rights, including the right to privacy and social security and including equality and nondiscrimination, and considers it unclear that the measure permissibly limits these rights. In particular the committee notes that the results of evaluations of the cashless welfare scheme raise significant questions as to whether it has been effective in achieving its stated objectives. Further, the committee considers that questions also remain as to whether the continuation of the cashless welfare card in trial or in an ongoing form constitutes a proportionate means by which to achieve the objectives of the scheme, noting, in particular, the difficulty for participants to be able to exit the program.

The committee further notes the cashless welfare card disproportionately impacts on Indigenous Australians. Forty per cent of cashless debit card participants and 81 per cent of income management participants in the Northern Territory and Cape York identify as being Indigenous despite making up less than four per cent of the Australian population. The right of Indigenous peoples to be consulted about measures which impact on them is a critical component of free, prior and informed consent. The committee considers that questions remain as to whether the consultation undertaken in relation to the cashless debit card could be said to meet the requirements necessary to demonstrate that affected Indigenous participants were given the opportunity to provide their free, prior and informed consent to this measure for the purposes of international human rights law, including the United Nations Declaration on the Rights of Indigenous Peoples.

I encourage all parliamentarians to carefully consider the full report. With these comments, I commend the report to the chamber.