

SPEECH

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| Speaker Webster, Anne MP | Question No. |

Dr WEBSTER (Mallee) (17:14): On behalf of the Parliamentary Joint Committee on Human Rights, I present the committee's report entitled *Human rights scrutiny report : report 12 of 2021*.

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

Dr WEBSTER: by leave—I am pleased to speak to the Parliamentary Joint Committee on Human Rights' 12th scrutiny report of 2021. As usual, this report contains a technical examination of legislation with Australia's obligations under international human rights law. In this report, the committee has considered 111 new legislative instruments and commented on two new instruments. It has also concluded its consideration of five bills and four legislative instruments previously introduced. As I've previously noted, this committee has continued its important scrutiny work throughout the COVID-19 pandemic, including by regularly meeting remotely via teleconference, tabling scrutiny reports out of session and continuing to scrutinise the many legislative measures which have been introduced to address this unprecedented health crisis.

In this report, for example, the committee considered three legislative instruments made in response to the COVID-19 pandemic. Two extend the human biosecurity emergency period by three months each—most recently until 17 December 2021. This consequently extends existing emergency determinations, including the travel ban on Australian citizens and permanent residents from leaving Australia unless otherwise exempted. The committee also considered one instrument that removes the automatic exemption for Australians ordinarily resident overseas to leave Australia. While these measures clearly pursue the legitimate objective of controlling and preventing the entry and spread of COVID-19 in Australia and, therefore, promote the rights to life and health, they also necessarily limit a number of other rights, particularly the right to freedom of movement. The committee considers there is a risk that the longer this emergency period is extended—noting that it has been extended six times, lasting for almost two years—the less likely it is to be considered a temporary measure, and it risks impermissibly limiting the right to freedom of movement. The committee has, however, welcomed the recent announcement that the travel ban will be lifted soon and considers this will likely address many of the human rights concerns raised.

The committee also commented on the Migration Amendment (Merits Review) Regulations 2021. This legislative instrument increases Administrative Appeals Tribunal application fees for review of decisions relating to migration visas, other than protection visas, to \$3,000—a 64 per cent increase. The committee considered that, for those who cannot afford to pay the application fee, there is a significant risk that the measure impermissibly limits the right to access to justice. The committee has suggested two amendments to assist with the proportionality of the measure.

The committee also concluded its examination of the Defence Legislation Amendment (Discipline Reform) Bill 2021. This bill makes it a service offence for an Australian Defence Force member to use a social media or electronic service to cyberbully, but the offence also includes the broader prohibition on use that a reasonable person would find offensive. The committee considered this limits the rights to freedom of expression. While the measure seeks to achieve the legitimate objective of maintaining or enforcing military service discipline, noting the breadth of the offence, that imprisonment may be imposed and that it applies to members in their personal capacity and without any link to their service, the committee concluded it has not been established that the offence would permissibly limit the right to freedom of expression. The committee has suggested two amendments to limit the scope of the offence which may assist with the proportionality of the measure. I encourage all parliamentarians to carefully consider the committee's analysis.

With these comments, I commend this report to the chamber.