

SPEECH

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Questioner	Responder
Speaker Perrett, Graham Douglas MP	Question No.

Mr PERRETT (Moreton) (16:05): by leave—I rise to make some comments, as deputy chair of the Parliamentary Joint Committee on Human Rights, on *Human rights scrutiny report: Report 13 of 2021*. I thank the very capable chair, the member for Mallee, for her contribution. As stated by the member for Mallee, this report makes some preliminary remarks and seeks further information about two bills and two legislative instruments. I will make some remarks on these bills and one of these instruments.

The Electoral Legislation Amendment (Voter Integrity) Bill 2021 seeks to introduce voter identification requirements at elections. This would require a person voting at prepoll or on polling day to have proof of identification before they are allowed to exercise their democratic right to vote. If they cannot provide the required proof of identity, and there is no-one to attest to their identity, they will be unable to cast their vote. We are one of the oldest continuous democracies on earth. In a healthy democracy like Australia, any rules that will make it more difficult for citizens to cast their votes—voting is compulsory—are troubling and deserve the keen scrutiny of parliament through the committee process. The preliminary legal advice this committee has received confirms that the proposed measure:

... engages and may limit the right to take part in public affairs and the right to equality and non-discrimination.

In particular, it says:

The right to take part in public affairs includes guarantees of the right of citizens to vote in elections ... and is an essential part of democratic government that is accountable to the people.

That right is subject only to reasonable restrictions, such as a minimum age for voting.

The right to take part in public affairs may be permissibly limited where a measure seeks to achieve a legitimate objective, is rationally connected to ... that objective, and is a proportionate means by which to achieve it.

The committee has also been advised that this measure 'may limit the right to equality and non-discrimination' by disproportionately disadvantaging certain groups who are unable to confirm their identity. For instance, a 2014 report prepared for the New South Wales Electoral Commission on multiple voting and voter identification identified numerous challenges that certain groups may face in providing documentation, including people with no fixed address, people with disability, people of low socio-economic status, people from non-English backgrounds, Aboriginal and Torres Strait Islander people and, significantly, women escaping domestic violence.

It is questionable that this measure addresses a legitimate objective. The Australian Electoral Commissioner recently stated that the level of multiple voting is 'vanishingly small'. There is a real concern that this measure may in fact reduce public confidence in the electoral system and discourage some voters from voting because of the idea that they cannot vote if they do not possess adequate identification documents.

The committee has requested further advice from the minister, including: evidence that there is a problem that warrants limiting the rights of Australians; what modelling has been done to assess how this measure would affect voter turnout; and whether this measure is likely to have a disproportionate impact on certain groups. The committee cannot form a conclusive view on this bill until the minister provides answers to the six requests for further information. I look forward to receiving the minister's advice before the parliament is asked to vote on this bill.

The second bill is the NDIS Amendment (Participant Service Guarantee and Other Measures) Bill 2021. This bill will allow the plan of a participant in the National Disability Insurance Scheme to be varied or reassessed. This could occur on the chief executive officer's own initiative or on request of the participant. The legal advice to the committee is that this measure may engage and limit a number of rights, including the right to health

and an adequate standard of living as well as the rights of persons with disability, including the right to live independently and be included in the community.

The committee has noted:

... the matters to which the CEO must have regard in deciding whether to vary a plan on their own initiative are to be set out in the NDIS rules.

The committee has not formed a concluded view on this bill but has asked the minister for further information, including:

- (a) what is the specific objective being pursued by enabling the CEO to vary or reassess a participant's NDIS plan on their own initiative, and how does this promote general welfare;
- (b) why is the CEO's power to vary a participant's plan not limited to changes that would benefit the participant;
- (c) why is the participant's consent not required for a plan variation or reassessment ...

I look forward to the minister's advice on these important matters of concern to the committee.

The committee has also made some preliminary comments on some legislative instruments. I will just make some remarks about one of these instruments. The Biosecurity (Human Coronavirus with Pandemic Potential) Amendment (No. 2) Determination 2021 'establishes an automatic exemption for fully vaccinated Australian citizens and permanent residents to depart Australian territory, provided they meet the specified criteria, from 1 November 2021'. On 25 March last year, the Morrison government placed a ban on Australian citizens departing Australia unless they had an exemption. This legislative instrument 'sets out an exemption from the ban from 1 November 2021 for persons who have completed a course of a COVID-19 vaccination at least seven days prior to travelling, and can show evidence of this'. So the effect of this measure is that only Australians who are fully vaccinated will be allowed to leave Australia without obtaining such an exemption.

The preliminary human rights advice to the committee said:

... an automatic exemption from the travel ban for vaccinated travellers ... promotes the right to freedom of movement and the right to a private life, by allowing a greater number of people to leave Australia without the need to apply for an exemption. The right to freedom of movement encompasses the right to move freely within a country, and the right to leave any country, including a person's own country.

... ..

Discrimination occurs if a measure is directed towards, or exclusively or disproportionately affects, people with a particular protected attribute ... Vaccination status is not one of these protected attributes, so treating unvaccinated persons differently, by only exempting vaccinated travellers from the travel ban, does not constitute direct discrimination under international human rights law.

That might be news for some of the crossbenchers in this place.

The committee has not formed a concluded view on this instrument but has requested further information to fully assess the human rights compatibility of this measure, as there is no statement of compatibility accompanying this determination. The committee again notes:

Given the human rights implications of legislative instruments dealing with the COVID-19 pandemic ... it would be appropriate for all such legislative instruments to be accompanied by a detailed statement of compatibility.

Lastly, I again thank the secretariat and chair for their work in this committee and commend this report to the House.