

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

TABLING STATEMENT

Tuesday 2 February 2016

I rise to speak to the tabling of the Parliamentary Joint Committee on Human Rights' Thirty-third 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 30 November to 3 December 2015 and legislative instruments received from 13 November to 10 December 2015. The report also includes the committee's consideration of three responses to matters raised in previous reports.

Twenty-four new bills are assessed as not raising human rights concerns and the committee will seek a response from the legislation proponents in relation to three bills, as well as a further response on a number of legislative instruments. The committee has also concluded its examination of two bills.

The report includes the committee's continued consideration of a number of instruments made under the *Autonomous Sanctions Act 2011* and the *Charter of the United Nations Act 1945*. The committee, in considering 30 instruments made under these Acts, has focused its analysis on measures that freeze the assets of designated persons or prevent declared persons from travelling to, entering or

remaining in Australia. These instruments expand the operation of the sanctions regime and so, to assess whether the instruments are compatible with human rights, it is necessary to assess whether certain aspects of the sanctions regime are compatible with human rights.

The committee recognises the importance of Australia acting in concert with the international community to prevent egregious human rights abuses, and agrees that laws designed to prevent such abuses pursue a legitimate objective under international human rights law. The committee also acknowledges the information provided by the Minister for Foreign Affairs and her advice that in her opinion the sanctions regime only imposes limitations on human rights that are proportionate. However, notwithstanding this advice, the committee considers that further specific information is required to conclude that the process of designation of persons under the sanctions regimes is proportionate to the stated objective.

While the committee is unaware whether anyone in Australia has been affected by these measures, I note that the committee's mandate is to examine Acts and legislative instruments for compatibility with human rights and whether legislation *could* be applied in a way that would limit rights. It is on this basis that the committee has applied its usual analytical framework to engage in a constructive dialogue with the minister in relation to this matter.

This report also includes the committee's consideration of the Social Services Legislation Amendment (Miscellaneous Measures) Bill 2015. Schedule 3 of the bill seeks to amend the Social Security Act to provide that in assessing a full-time study load for Youth Allowance or Austudy, two or more courses of education cannot be aggregated to satisfy the undertaking full-time study requirement.

The committee considers that this amendment engages the right to social security and education, a position accepted by the bill's statement of compatibility. However, the committee does not believe that the statement of compatibility sufficiently justifies the limitation for the purposes of international human rights law. As such, the committee seeks the advice of the Minister for Social Services on this point.

Lastly, the committee concludes its consideration of the Federal Courts Legislation Amendment (Fees) Regulation 2015 in this report. Schedule 1 of the regulation increased the costs in all fee categories by 10 per cent for all proceedings in the federal courts. This includes the costs of commencing an application or appeal and the costs for the hearing of the application or appeal. The committee noted in its previous report that this engages and may limit the right to a fair hearing because it may prevent access to justice for some individuals.

Of course, the imposition of reasonable fees in relation to Court proceedings does not, of itself, constitute denial of access to justice so

as to limit the right to a fair hearing. Nevertheless, the committee sought the advice of the Attorney-General as to whether there is any ability for an applicant to seek to have the fees waived if the fees would effectively prevent them from accessing the federal courts.

The committee welcomes the advice provided by the Attorney-General on the availability of fee exemptions, waivers and deferrals available for individuals suffering financial hardship. In light of this information, the committee considered that the regulation does not indiscriminately prevent access to justice, and is likely to be compatible with the right to a fair hearing.

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-third Report of the 44th Parliament to the House.