



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

COMMITTEES

Human Rights Committee

Report

SPEECH

Wednesday, 24 November 2021

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Wednesday, 24 November 2021	Source House
Page 10759	Proof No
Questioner	Responder
Speaker Webster, Anne MP	Question No.

Dr WEBSTER (Mallee) (17:06): On behalf of the Parliamentary Joint Committee on Human Rights, I present the committee's report entitled *Human rights scrutiny report: report 14 of 2021*.

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

Dr WEBSTER: by leave—I am pleased to table the Parliamentary Joint Committee on Human Rights 14th scrutiny report of 2021. As usual, this report contains a technical examination of the compatibility of legislation with Australia's obligations under international human rights law. In this report, the committee has considered 91 new legislative instruments and commented on two of those. The committee has also commented on government amendments to one bill and has concluded its consideration of two bills and two legislative instruments previously introduced.

In particular, the committee is seeking further information in relation to the government amendments to the Aged Care and Other Legislation Amendment (Royal Commission Response No. 2) Bill 2021. The amendments seek to allow the Quality of Care Principles to set out who can give consent to the use of a restrictive practice on a person in aged care if that person lacks capacity to give consent. The amendments also provide immunity from any civil or criminal liability for the aged-care provider in relation to the use of such practices. The committee considers that these measures engage and may limit the rights of persons with disabilities and is seeking further information in relation to this. While it is not the usual practice of this committee to comment on amendments to a bill, the committee undertook an inquiry in 2019 into the legislation surrounding the use of restrictive practices in aged care, and as such this is an issue the committee continues to monitor closely.

This report also contains the committee's concluded comments regarding the Electoral Legislation Amendment (Voter Integrity) Bill 2021. As members no doubt know, the mandate of this important committee is to examine all bills and legislative instruments that come before either house of parliament for compatibility with Australia's human rights obligations under international human rights treaties ratified by Australia and to report to both houses of parliament on that issue. To achieve this, committee members consider expert legal advice as to the application of international human rights law. On this basis, after considering this advice and the minister's advice to the committee, the committee considers it has not been established that this bill seeks to address an issue of public or social concern that is pressing and substantial enough to warrant limiting the right to participate in public affairs and the right to equality and nondiscrimination, or that it is proportionate to the stated objectives. The committee draws this matter to the attention of the minister and parliament and has concluded its examination of this matter.

Finally, the committee has concluded its examination of the National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Bill 2021. The committee considers that, while there are various measures in this bill that would promote the rights of persons with disability, allowing the CEO to vary or reassess an NDIS participant's plan on their own initiative and without the participant's consent may limit the rights to health and an adequate standard of living, as well as the rights of persons with disability. The committee considers that the proportionality of the measure may be assisted where the bill is amended to provide that, so far as is reasonably practical, the CEO should obtain the participant's consent to vary their plan, and the CEO's power to vary a participant's plan on their own initiative should be limited to variations that would benefit the participant.

I encourage all parliamentarians to carefully consider the committee's analysis. With these comments, I commend the report to the chamber.