



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

**HUMAN RIGHTS (PARLIAMENTARY
SCRUTINY) BILL 2010**

**HUMAN RIGHTS (PARLIAMENTARY
SCRUTINY) (CONSEQUENTIAL
PROVISIONS) BILL 2010**

Second Reading

SPEECH

Monday, 22 November 2010

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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Questioner
Speaker Perrett, Graham, MP

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Mr PERRETT (Moreton) (7.03 pm)—I rise to speak in support of the Human Rights (Parliamentary Scrutiny) Bill 2010 and its related bill. This bill delivers three key improvements to Australia's approach to improving human rights for all. Firstly, it establishes the Parliamentary Joint Committee on Human Rights. Secondly, it introduces a requirement for statements on compatibility on human rights to be presented to parliament for all bills and legislative instruments. And, thirdly, the bill clearly defines human rights as the rights and freedoms recognised under the seven core United Nations treaties.

Before I go on to further consideration of the bill, I would particularly like to commend the chair, Frank Brennan, and the rest of his National Human Rights Consultation Committee for the great work they did in consulting with the Australian people about human rights. We have heard a meandering range of views opposite on human rights. Some people have seemed quite fearful about human rights, whereas others in the parliament seem quite embracing of them. But I do not think anyone could question the great work done by Frank Brennan in taking the information out to the people of Australia.

There were something like 35,000 submissions, and I think about 34,000 of them came through my office! It was certainly a topic that generated a lot of discussion and debate in my electorate, as well as throughout Australia, and it was great to see those 65 roundtables in over 50 locations across Australia. It is great to see Australian people turning out to talk about this wonderful democracy of ours—about what democracy, fairness and justice mean and what should be the vision for this nation. Rather than just staying home and watching TV, people cared enough to go out to these town hall meetings. So I particularly commend Frank Brennan and the rest of his team for the great work they did.

As we consider this bill, which is really about seeing legislation that comes through this House through the human rights microscope, I think it is helpful to consider just how far we have come in Australia in our approach to human rights. The first, and probably the most significant, wrecking of human rights in Australia was 222 years ago when Indigenous people were dispossessed of their land in 1788, via the loose legal fabrication of terra nullius. It is interesting that we associate the name Frank Brennan with our current consideration of human rights because certainly his father, and he as a barrister, were instrumental in unpicking that fabrication of terra nullius back on 3 June 1992.

A long battle for human rights has ensued ever since that first dispossession in 1788. This battle for Indigenous human rights has included the battle for the right to vote, the right to live on whichever side of the street they choose to, the right to marry the person whom they love, the right to native title on their land and the right to the same health and economic opportunities as whitefellas. Indigenous people were not excluded from voting under the Australian Constitution—a copy of which you can see up on level 2—but after enough Commonwealth officials told the Indigenous people that they were not allowed to vote, following Federation, they started to believe it. Besides refusing new enrolments, misinformed officials also illegally removed Indigenous people from electoral rolls.

It was the Menzies government that officially gave the Commonwealth vote to all Indigenous people in 1962. Following that, at the referendum in 1967 nearly 91 per cent of people voted to recognise Indigenous people in the census. I will not talk about the nine per cent and how they voted, but it was pleasing to see how the 91 per cent voted. I am pleased that the Prime Minister has started us on a journey towards formally recognising Indigenous people in the Constitution.

On other human rights issues, Australia was one of the first countries in the world to give women the right to vote and stand for election, doing so in 1902. Deputy Speaker Georganas, as I am sure that you well know, South Australia was the first legislature in the world to give women the right to vote, but the nation of Australia was pipped by New Zealand—yet again. Progress for women's rights has been slow since then but we are on the cusp of the introduction of a paid parental leave scheme—not far off it at all. That will be fully funded by the federal

government. We have a female Prime Minister, a female Governor-General, a female Deputy Leader of the Liberal Party and, in my state, a female Premier and a female Governor. So there has been progress on that front.

Let us look back a few years earlier to Federation and 1901, a year in which Prime Minister Edmund Barton introduced, as one of the first acts of the new Australian parliament, the Immigration Restriction Bill 1901. And human rights took another hit in Australia. This bill was passed into law with virtually unanimous support and became the White Australia policy. As he introduced the bill, Prime Minister Barton shamefully argued:

The doctrine of the equality of man was never intended to apply to the equality of the Englishman and the Chinaman.

These shameful, racist sentiments, I must admit, were also present in the formation of the Australian Labor Party, which organised unashamedly in rural Queensland against the endeavours of Chinese and Kanaka workers. The White Australia policy was gradually dismantled after World War II and formally abolished by the Whitlam government in 1973.

I list some of the challenges that Australia has faced on human rights to make the point that you do not need to be in Burma—Myanmar—the Republic of Congo or suffering under sharia law to fall short on human rights. I understand that many of our failings came in different times and were made by well-meaning people. However, our challenge today is to ensure that Australia has a system in place that protects the human rights of all people, and we must certainly ensure that the mistakes of the past do not happen again.

More recently, Australia has been challenged to uphold the human rights and dignity of asylum seekers who come across the sea. I welcome the recent announcement by the Prime Minister that children and their families will be removed from immigration detention. During the last parliament we made a lot of progress in terms of giving same-sex couples equal recognition when it comes to superannuation and some other discriminatory areas of legislation. I hope that this parliament will continue to respond to our shortcomings on the rights of same-sex couples and particularly their right to have their relationship celebrated, recognised, and protected under the same laws that exist for opposite-sex couples. There is also much more progress to be made in advancing the human rights of Indigenous people. There is still more to be done to ensure that all Australians have that basic human right of food and shelter.

These bills introduce a requirement for statements of compatibility to be prepared for all bills and legislative instruments. It must assess whether a bill is compatible with human rights. Already, ministers or any member introducing a bill are required to declare, where relevant, the financial impact, the family impact and the regional and rural impact of that legislation. These measures have ensured that the parliament can easily weigh up how a bill will affect these areas. In the same way, the human rights compatibility statement will ensure ongoing consideration of human rights issues in policy development and law-making—and parliamentary debate, for that matter. These statements will assist the courts by helping explain the purpose and intent of legislation. And, where appropriate, the statements may need to justify restrictions or limitations on human rights. If we look at the recent High Court decision about the offshore processing of asylum seekers or the court decision on the South Australian legislation regarding motorcycle gangs, we can see the prism through which the courts view these things, so this will not be a huge leap.

To add further parliamentary scrutiny, these bills will create the Parliamentary Joint Committee on Human Rights. The parliament already does some very good things to promote awareness of human rights issues around Australia and around the world. I think particularly of groups like the Parliamentary Friends of the United Nations, the Parliamentary Friends of Red Cross and the Parliamentary Friends of Amnesty International. I am a bit biased, as I am co-convenor of the latter, but all of these cross-party groups have been helpful in getting human rights issues front and centre in the minds of members and senators. The Parliamentary Friends of Amnesty International met together last week to hear from Dr John Pace from the United Nations about the global phenomenon of irregular people movements and other human rights challenges which confront Australia. The new joint committee will have a different focus. It will examine legislation for compatibility with human rights and then report to the parliament. It will have the same powers as other parliamentary committees to hold inquiries, to seek submissions, to hold public hearings and to examine witnesses. It will have a very powerful gate-keeping and scrutiny role. The committee will help to ensure that our laws reflect our human rights obligations. These bills are practical measures to tighten the parliament's focus on human rights. I commend the bills to the House.