

6 June 2020

Senator Amanda Stoker
Legal & Constitutional Affairs Legislation
Committee
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Legal and Constitutional Affairs Legislation Committee,

Re: Submission to the inquiry into the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020

I am writing as a concerned member of the public regarding the Migration Amendment Bill. I am particularly concerned about the following sections of the bill:

- Section 2 of the Bill, which states that mobiles phones, SIM cards, and computers and other electronic devices designed to be capable of being connected to the internet, may be determined to be ‘prohibited things’, if they are ‘a risk to the health, safety or security of persons in the facility, or to the order of the facility’.
- Section 8, which allows for a ‘screening procedure’,
- And section 11, which allows for a strip-search to be conducted in search of ‘prohibited things’.

Mobile phones, SIM cards, and other communication devices are essential for people detained in immigration detention. Removal of these communication devices will lead to isolation from family, legal representation and outside supports.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) stress the need for people in detention to communicate with family and friends at regular intervals (Rule 37), stay connected with their community (Rule 61), foster an improved relationship with family (Rule 79) and access legal representation (Rules 30; 35, para. 1; 37; and 93).

As stated by Amnesty International Australia, the availability of fixed phones and computers in detention centres over the last 20 years has been inadequate. This has severely inhibited the ability of detained people to contact and have private conversations with legal representatives and family members. It has also created tensions between groups in the centres. These issues were never able to be resolved and it has only been through access to mobile phones that Australia has been able to come close to meeting its commitments under the Mandela Rules.

The criteria set-out in the Bill to seize and/or search detainees for ‘prohibited things’ is inappropriately broad. The wording, ‘a risk to health, safety or security of persons in the facility, or to the order of the facility’, will give officers disproportionate power over detainees and lead to a breach of the above articles of the Mandela Rules. This will further remove transparency regarding the treatment of those administratively detained. This is worsened by the cessation of visits from oversight bodies such as Ombudsman, the Australian Human Rights Commission and the Red Cross, in addition to the fact that there are currently no visitors allowed at the centres. This poses a serious risk, compounded for those in remote centres such as Yongah Hill and Christmas Island.

The Bill warrants unnecessary powers to officers over detainees, to fix a non-existent problem. I urge that the Bill is not passed in its current form, as it will serve to further break Australia's commitments under the Mandela rules and reduce transparency regarding the treatment of detained people, who have already suffered numerous human rights abuses whilst in detention.

Thank you for the opportunity to participate in this inquiry. Should you require further information, please contact me using the details provided on the following page.

Yours sincerely,

Chloe Zentilin