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**Committee Secretary**  
**Senate Legal and Constitutional Affairs Committee**  
PO Box 6100  
Parliament House  
Canberra ACT 2600

**Via email :** [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

**Re: Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017**

Dear Committee Secretariat,

In response to the Senate's referral of the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017 [Provisions] for inquiry and report, I submit the following for consideration.

Australian Foreign Minister, the Hon. Julia Bishop, in her address to the Asia Society Policy Institute on 26<sup>th</sup> of September in New York, stated: "all the high-income economies in the world to date are liberal democracies." By definition, a liberal democracy restricts and regulates government concentration of power with the scope of safeguarding fundamental rights and freedoms. With due regard to the transient nature of Migration Law, what is today's unlawful non-citizen may be tomorrow's voting citizen. Unlike a statutory crime, there is no delinquency in travelling to a new land. Even more so, due regard must be given to legislature in countries other than our own, where migration law is not as astringent or potentially may not even exist. It is unreasonable to expect individuals originating from such societies to predict or fully comprehend the complex nature of our migratory legal framework. Criminality does however exist in incitement of aggressive acts, in false incarceration, in committing acts of torture, in subjecting groups to cruel and inhuman treatment. As a liberal democracy, Australia should never facilitate a mechanism that can aid those with criminal intent. In upholding the law, Australian parliament bears the entire responsibility in preserving transparency and accountability, so that if any of the aforementioned crimes are committed, our Judicial Branch can exercise and apply the full extent of the law, domestic and international. Anything else and we find ourselves unable to claim Australia as a liberal democracy.

As a former employee of Department of Immigration and Broder Protection, I can certify that officers contracted to provide detention services lack the required skillset to successfully perform the full range of tasks. When your 'clients' or 'detainees' are all from a non-Australian ethnic background, cultural awareness and sensitivity training is inherent. Due regards must be given to the perils of operating in a

multicultural environment with ill equipped staff. In his speech at the Federal Parliamentary Interfaith Breakfast, our Prime Minister, the Hon. Malcolm Turnbull, stated: “You know often when people say what’s the difference between poetry and prose, well poetry is that which cannot be translated. Words often carry a deep history, a deep cultural history.” This statement holds true for all. We must show respect for some of the world’s oldest cultures, such as those of the Near East: Assyrian, Byzantine, Mongol, Persian, to name but a few.

Please allow me to pause for a moment to address a thought that may have crossed your mind. The Border Force Act 2015 does not prevent me from expressing my political opinion and is fully respected in this scenario. As it will in the future. There are fundamental rights and freedoms posing serious threats that an educated, compassionate individual will always uphold.

Returning to the issue at hand, let me connect the earlier point regarding the lack of job specific training to the Explanatory Memorandum. If tense situations arose, whereby officers claim altercations occurred that justify the use of mechanical restraints, these will undoubtedly bear a substantial originating cause on the fit-for-job skillset, or lack thereof, as applicable. The Detention Services Contract makes no provision to account for the multiculturalism of the environment it operates in.

A matter not specifically accounted for in the *Statement of Compatibility with Human Rights* is, as per *Human Rights (Parliamentary Scrutiny) Act 2011* Section 3 sub-clause 8 (5), that the full extent of the *Australian Human Rights Commission Act 1986*, *Human Rights Equal Opportunity Commission Act 1986* and the *Charter of Human Rights and Responsibilities* apply.

Furthermore, efforts to coordinate internal demonstrations with external protests are not a threat to Australian citizens’ security, but rather an affirmation of their fundamental rights. A democratic government prides itself in constructing a legal framework that upholds the rights and freedoms Australian citizens’ representatives helped immortalize in the Universal Declaration of Human Rights. In the words of Australian former Prime Minister, the Hon. Anthony Abbot, when addressing the Institute of Public Affairs on freedom of speech: “On issues of value, purpose and meaning, there is no committee, however expert, and no appointee, however eminent, with judgment superior to that of the whole community which is why the best decisions are made with free debate rather than without it.” In the same speech, he also stated: “Freedom of speech is an essential foundation of democracy. Without free speech, free debate is impossible and, without free debate, the democratic process cannot work properly nor can misgovernment and corruption be fully exposed.” This bill suggests we move away from the principles of a liberal democracy regressing and losing our reputation in the global forum.

We all know the difference between written law and its application can hide potentially unlimited abuses of person. Though they may remain unaccounted for at this present time, we all bear the duty and responsibility to never create a world reminiscent of 1944’s Europe. If you lead by example, you can create a more peaceful tomorrow for Australia’s multicultural children. They look to you to set an example on how to treat those at the mercy of the law. There are those accused of offences that are citizens of Australia, and will not be easily overlooked as they are part of our nation. You have been battling the challenges of reintegration. The challenges will not end, unless the next generation is better equipped to understand social cohesion. The aim of the judicial is to adjudicate, not perpetuate. For that to happen, the law must be

constructed in accordance. Our youth need to understand the principle of an unprejudiced society in application. In being just and equitable, you can be a role model to today's youth, a generation already lacking in positive examples in the main stream.

History remembers with kindness those with courage and self-determination toward just and humane causes. History does not show clemency to those who, in acts of self-indulgence, obstruct the course of justice and endanger democratic rights of all. It is important how we will be remembered.

Thankful to you for your time and efforts in considering the matters I raise before you.

**With respect,**

**Carmen-Emilia Tudorache.**

Australian dual national