

The Bayside Refugee Advocacy and Support Association
www.baysiderefugeesupport.com



SUBMISSION TO THE LEGAL AND CONSTITUTIONAL
LEGISLATION COMMITTEE
regarding
**THE MIGRATION AMENDMENT (PROHIBITING ITEMS IN IMMIGRATION
DETENTION FACILITIES) BILL 2020**

The Bayside Refugee Advocacy and Support Association is a community group of about 50 members who live in the southern bayside suburbs of Melbourne. It raises community awareness of the plight of refugees and provides financial and other support to refugees in our community. Since 2013 some of our members have been regularly visiting people who are held in immigration detention pending determination of the outcome of their applications for protection.

Our Association is opposed to the above proposed amendment to the Migration Act for the following reasons:

1. The increase sought in the Minister's powers to enable him to confiscate mobile phones and SIM cards from people seeking asylum is grossly unfair and detrimental to the welfare of those affected.
2. The increased searching powers that are sought, while they may be required for the cohort of immigration detainees who are charged with criminal offences, are unnecessary and repugnant when applied to people who have committed no crime and who are supposedly only detained pending the determination of their applications for protection.
3. From the Minister's second reading speech, it appears that one purpose of the Bill is to prevent information about questionable processes and procedures in immigration detention facilities from being revealed to the public because to do so causes 'significant fear and stress for staff and their families'. To confiscate mobile phones in order to suppress evidence of such practices is clearly unconscionable.

MOBILE PHONES

Asylum seekers in detention rely on their phones for contact with families and friends, and the ability to speak with their lawyers. Although the Minister argues that they would still have access to landlines, it should be noted that the landlines are very few and located in noisy common areas. For a lawyer to call in to speak to a detainee using a landline, a staff member from reception has to go and find the detainee. Often the staff are attending to other duties and no one is available to do so. This results in repeated failure to connect. If contact is made, the detainee, whose first language may not be English, is expected to converse in a public space competing with background noise. In recent years, the mobile phones have

contributed to making the facilities safer places because the detained asylum seekers have used their own phones on occasions to alert staff when a person has suffered a medical incident.

SEARCHING, INCLUDING STRIP-SEARCHING

Already the Commonwealth Ombudsman has investigated a complaint about the practice of subjecting individuals in Immigration detention facilities to intrusive body searches. When individuals are leaving the facility or returning to it, (e.g. for medical appointments) searches of an intimate and intrusive kind are routinely carried out. To expand this to include strip-searching is to further punish and humiliate those who have committed no crime but are awaiting the determination of their applications for refugee status.

Here are two photos that were included in a complaint to the Commonwealth Ombudsman showing the body searching of a detainee by a staff member.



SUPPRESSING REVELATIONS OF QUESTIONABLE PRACTICES

In recent weeks, those asylum seekers who are being detained in immigration facilities including Alternative Places Of Detention (APODs) have become very alarmed at the realisation that they now face a high risk of developing Covid19. The factors that contribute to their elevated risk are:

1. crowded conditions in which they are housed (bunk-beds with up to five men to a room)
2. shared toilets and washrooms
3. crowded eating halls where they must sit in close proximity with others,
4. unavoidable close interactions with staff. (One guard in Brisbane has been diagnosed with Covid19)
5. Lack of access to sunlight and opportunities for healthy exercise
6. many have underlying medical conditions, (especially the 65 who were brought to Australia from Manus Island and Nauru because of their pressing need for medical treatment but who have not received it).

In order to raise awareness of the failure to implement Covid19 hygiene practices and social distancing, some detainees have posted videos on Facebook revealing the conditions in which they are forced to live, and the failure to comply with the Government's own recommended practices to prevent the spread of Covid19. Understandably, the Government is sensitive on this issue, but this does not justify depriving the detainees of their phones in order to suppress public awareness of the conditions the asylum seekers must endure.

In conclusion, I and all the members of the Bayside Refugee Advocacy and Support Association urge you not to pass this proposed amendment to the Migration Act.

Yours sincerely,

Dr Geraldine Moore