

Rule of Law Association of Australia

19 April 2010

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

By email: legcon.sen@aph.gov.au

Dear Committee Secretary

Anti-People Smuggling and Other Measures bill 2010

On behalf of the Rule of Law Association of Australia ("RoLAA"), I write to make a submission on the Anti-People Smuggling and Other Measures bill 2010.

About RoLAA

RoLAA is an independent not-for-profit body formed to uphold the rule of law in Australia. The Association aims to promote discussion on the importance of the principles which underpin the rule of law. RoLAA's broad objectives are:

- to foster the rule of law in Australia;
- to promote good governance in Australia by the rule of law;
- to encourage truth and transparency in Australian Federal and State governments and government departments and agencies;
- · to reduce complexity, arbitrariness and uncertainty of Australian laws; and
- to reduce the complexity, arbitrariness and uncertainty of the administrative application of Australian laws.

RoLAA is primarily concerned about the amending of the *Telecommunications (Interception and Access) Act* 1979 to include section 233E of the *Migration Act* 1958 as included in the definition of

'serious offence'. We agree with the Law Council of Australia and the Australian Privacy Foundation that s 233E, the 'harbouring' offence, is not a 'serious' offence and should not be defined as such. It is important that statutory incursions on rights and liberties be proportionate to the alleged offence.

Also, RoLAA has reservations re the proposed changes to the definition of 'foreign intelligence' and the amendments to sections 11A, 11B and 11C which state the conditions for warrants issued by the Attorney-General. In this regard, as point of principle, RoLAA opposes grants of power to the Attorney-General which result in telecommunications intercepts, and these amended provisions 11A, 11B and 11C expand on that power. The power needs to be exercised by a member of the judiciary.

Yours faithfully

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