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## Submission re MIGRATION AMENDMENT (Maintaining the Good Order of Immigration Detention Facilities) BILL 2015

**The Conference of Leaders of Religious Institutes in NSW** represents some 3,500 members working in areas such as education, health, social services, the environment and refugee support.

A number of members of CLRI (NSW) work with asylum seekers and refugees as social workers, support workers and volunteers in a variety of services. They are concerned at the conditions faced by asylum seekers both on-shore and off-shore.

“Good Order” is, most certainly, required in our detention centres but the question is: will this Bill provide the safety and security we owe to people who have sought our protection from the conflict, the threats and the upheavals of their countries of origin?

The Moss Report, regarding the physical and sexual abuse of asylum seekers in Nauru and *The Forgotten Children* inquiry conducted by Professor Gillian Triggs and her team from the Human Rights Commission indicate all is not well in our detention centres. Physical violence, sexual harassment, abuse and intimidation from guards, as well as locals and inmates, are endemic to the centres, while prolonged periods without processing and with little prospect of release, family reunion and employment lead to mental illness, self-harm and suicide.

1. This “Good Order” Bill aims to authorize an officer to use *reasonable force* against any person in refugee detention in order to protect the lives, health, and safety of others, including the officer, or to maintain the good order, peace and security of an immigration detention facility. While the aims of this Bill are to protect and maintain peace, the general and unspecified nature of the terms “reasonable force” and “good order” allow for too broad a definition. How is “reasonable” defined and what characterises “good order”? Without clearly stated circumstances when “reasonable force” is able to be used and an adequate definition of “reasonable”, situations can easily give rise to physical violence and unnecessary force. Do peaceful protests, verbal arguments or disagreements disturb the “good order” of immigration detention facilities? It is difficult to support a Bill which is vague when it should be specific, and which may place people at risk of unnecessary force.

2. The Bill aims to establish a complaints mechanism which allows a person to make a complaint to the Department of Immigration and Border Protection about the use of force, rather than have the complaint adjudicated in a court of law. Under no circumstances could our members support any Bill which limits the rights of people to apply to a court for adjudication. Making a complaint to a Department, which may or may not respond, is, in no way comparable, to having the matter heard before a judge or magistrate. What measures would be in place to ensure the complaint was heard? We have a responsibility to protect the rights and freedoms of people who have sought our protection. Such fundamental human rights cannot be so easily brushed aside.
3. It seems to our members that this Bill is totally unnecessary. Protecting people from harm and maintaining peace and security are surely fundamental to running a detention centre? Why is it necessary to enshrine something so essential in a Bill? People, who feel they have been mistreated, have the right to seek a review and this Bill severely limits their rights. People who pose a risk to others could be accommodated in separate facilities, a measure which already exists in some places. A less costly and eminently more practical solution to this situation is to release people, who pose no risk, into the community as soon as the requisite checks have been completed.
4. It seems to the members of CLRI that this “Good Order” Bill tinkers at the edges of the Australian immigration detention system without really addressing its fundamental problems. There is ample evidence to indicate that the prolonged incarceration of people, often traumatised, in isolated and inhospitable places, frequently without their families, with little prospect of a happy and purposeful life will bring about tension, mental illness, protest and disruption of any order, good or otherwise. The Government does not need to prolong the detention of people and it must end, immediately, the detention of children in Immigration detention facilities.

It seems, so often, that we focus on control, order, behaviour when what is required of a stable, prosperous and democratic nation is to offer refuge, compassion and care. Australian can do better than focussing on authorising “force” and lend itself to offering desperate people hope and a future full of promise. .

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*for the Conference of Leaders of Religious Institutes NSW*  
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