

Submission No.....	125
Date Received.....	AG



Committee Secretary
Joint Standing Committee on Migration
Department of House of Representatives
PO Box 6021
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CANBERRA ACT 2600
AUSTRALIA

RECEIVED
27 AUG 2008
BY: MIG

Dear Committee Secretary

INQUIRY INTO IMMIGRATION DETENTION IN AUSTRALIA

The Law Council welcomes the Joint Standing Committee on Migration's Inquiry into Immigration Detention in Australia.

For over a decade the Law Council has been strongly and consistently opposed to mandatory, indefinite and non-reviewable immigration detention and has repeatedly called for the Federal Government to replace that policy with a limited form of reviewable detention.

The Law Council welcomes the Minister for Immigration's recent announcement of reforms to Australia's current immigration detention policy but notes these reforms do not completely remove the mandatory aspects of the policy, nor do they appease the full range of human rights concerns previously raised by the Law Council and highlighted by international human rights bodies.

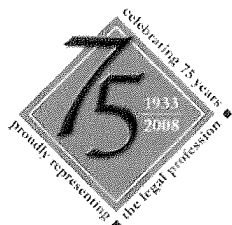
For this reason, it is critical that the current Inquiry fully explore its broad terms of reference.

Further reforms are needed to ensure Australia's immigration policy meets international human rights standards and does not continue to be characterised by mandatory, punitive and arbitrary features.

For the purposes the present Inquiry, the Law Council is pleased to endorse the joint submission made by the Law Institute of Victoria, Liberty Victoria and The Justice Project and commends its recommendations to the Committee.

The submission addresses and makes recommendations in respect of a number of concerns previously raised by the Law Council, including:

- The mandatory and arbitrary features of Australia's immigration policy as provided for in the *Migration Act 1958* (Cth) and the punitive character of immigration detention in Australia;
- The provisions of the *Migration Act* that permit indefinite detention of unlawful non-citizens in circumstances where there is no real prospect of removing them from Australia;



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- The lack of Government response to and implementation of past recommendations by international human rights bodies, in particular, those made by the UN Human Rights Committee and the UN Special Rapporteur on Refugees;
- The lack of judicial oversight and access to regular review of all forms of detention, particularly for those persons detained in excised territories; and
- The Federal Government's obligations to manage and regulate the conditions and operation of immigration detention centres.

The submission also recommends that the Australian Government:

- Set maximum periods of immigration detention for all categories of detainees;
- Ensure all detainees are fully informed of their legal rights and have access to publicly funded legal advice;
- Develop clear, objective criteria to determine the length of detention and time of release for those detained in immigration detention following health and security checks;
- Adequately and consistently compensate those persons wrongfully or unlawfully detained;
- Remove the provisions of the *Migration Act* that permit the imposition of the costs of immigration detention on asylum seekers;
- Expand the transparency and visibility of immigration detention centres and processes by ensuring clear standards of treatment and operation are codified and enforced;
- Improve the conditions of immigration detention in line with recommendations made by Human Rights and Equal Opportunity Commission in its review in 2007; and
- Actively consider and adequately fund alternatives to detention, including reception centre style accommodation and community release.

The Law Council supports these and the other recommendations contained in the submission prepared by the Law Institute of Victoria, Liberty Victoria and The Justice Project.

Yours sincerely,

Bill Grant
Secretary-General

25 August 2008