



Blue Mountains Refugee Support Group

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11th October 2017
Committee Secretary

Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra, ACT 2600
Email: legcon.sen@aph.gov.au

Dear Committee Secretary,

Submission regarding Migration Amendment (Prohibiting items in Immigration Detention Facilities) Bill 2017

I am the Chair of the Blue Mountains Refugee Support Group (BMRSG), which is a community organisation with about 800 members. I am concerned about Australia's treatment of people seeking asylum. Some of my concerns are the following:

1. As a criminal lawyer I am very familiar with the conditions in prisons. I believe that people currently in our detention centres should be treated with respect and not as dangerous criminals. The provisions of allowing dogs, strip searches and draconian search provisions without search warrants, denies people who have fled to us for safety any sense of wellbeing and risks further traumatising them. It does not demonstrate the Australian values of decency and respect. It makes our detention centres more punitive and more degrading than our correctional centres.

2. The changing of the definition of what is a "prohibited thing" in section 251(2)(b) of the Act gives the Minister absolute discretion to determine what is "a prohibited thing." This has a flow-on effect throughout **Migration Amendment (Prohibiting items in Immigration Detention Facilities) Bill 2017** when it is combined with the power to undertake strip searches, the use of dogs and other invasions of what we usually understand to be the unassailable rights and inherent dignities of a human being. The proposed amendment to this subsection is excessive. The previous definition in section 251(2)(a), which prohibits things which are unlawful in Australia, is sufficient.

3. The changes foreshadowed by this Bill are already being put in place in some detention centres, and the result is an undermining of detainees' mental health. Since the first reading of the Bill in parliament on September 13th 2017 visitors to detention centres have been banned from bringing in fresh fruit, home cooked food, board games, permission forms to seek professional help on a detainee's behalf and any paper or pens. Visitors must now face significantly enhanced security measures and are only allowed to see one person at a time per day.

Previously visitors could inject some humanity for those facing indefinite detention, by sharing fruit and food, playing games and celebrating birthdays during their visits. These new measures mean none of this important contribution to the mental health and well being of detainees is now possible. Visitors cannot even take in a birthday cake or a piece of paper to record someone's birthday or phone number. Those affected tell visitors that they "feel punished", though they have not committed any criminal offences. The cumulative effect of these measures is already palpable in terms of the low morale of those in detention and a marked withdrawal from visits and engagement.

4. There is no provision in the Bill for the Minister's determination that a particular thing is a "prohibited thing" to be reviewed or appealed to any Court. The Minister determines what detainees can access and what their visitors can bring in. Democracy, as we usually understand it, demands checks and balances. No politician should be able to operate without scrutiny or be above the rule of law. We pride ourselves on the separation of powers in a constitutional democracy. The judiciary must have the power to hear an appeal against the Minister's actions.

5. There must be provision for the publication in the public domain of what the Minister has determined to be "a prohibited thing", and a notice period given to visitors and detainees. The consequence, as the Bill stands, is that the Minister will have the right of random and indiscriminate power over the lives of others.

6. It is essential that people seeking asylum have a mobile phone to stay in touch with their families who are in dangerous places and cannot manage to ring through a public phone. Banning all mobile phones because one was used in a drug deal (the reason given by the Minister) ignores the fact that the purported deal could just as easily have been done over the detention centre's public phone. Removing mobile phones because they have been used in protests is denying the right to protest against uncongenial conditions, an important right in a free society.

In short we say this Bill amounts to legalising institutionalised brutality and it should be voted down.

Yours sincerely,

Dr Hal Ginges
Chair, BMRSG