

Refugee Legal:

15 July 2020

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

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

Dear Committee Secretary

**Re: Supplementary Submission to the Senate Legal and Constitutional Affairs
Legislation Committee on the Migration Amendment (Prohibiting Items in
Immigration Detention Facilities) Bill 2020**

We thank the Committee for the opportunity to provide oral evidence at the public hearing on 3 July ("the hearing") and refer to the Committee's email later that day noting the "abrupt ending" due to technological issues, and that the evidence taken from the panel was shortened due to timing issues. We therefore appreciate the opportunity to provide the following brief supplementary submission (in addition to our submission of 12 June 2020 and evidence given at the hearing).

1. Inadequacy of current communication facilities in immigration detention

- 1.1. We reiterate that current communication facilities provided in immigration detention are, in our experience, not sufficient or appropriate for people detained to access timely legal advice or to ensure contact between detainees and support networks such as family, despite the assertions of the Department of Home Affairs. Such circumstances mean the ability of clients to possess and use a mobile phone is crucial to their access to legal advice, and other significant support networks.
- 1.2. Further, in our view, minimum standards required for the provision of acceptable and adequate communication facilities to people held in detention must include:
 - i) Ready and flexible access to telephone, video and internet communication facilities, which is available 24 hours a day and without strict time limitations.
 - ii) Facilities are located in confidential settings, including appropriate for the obtaining and giving of legal advice.
 - iii) Consistency in the facilities available across detention facilities, including APODs.
- 1.3. The above minimum standards are manifestly not met by current communication facilities provided in immigration detention. In practice, access to mobile phones for people detained has enabled far greater capacity to meet these critical standards.

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2. Basis of Serco's assessment of risk

- 2.1. Throughout the hearing, reference was made to a claim that 74% of the detainee population has been "categorised as high or extreme-risk individuals" by Serco, purportedly as a justification for the measures proposed by the Bill. Noting that Serco gave evidence in camera, no information or explanation as to the risk assessments employed or basis for this percentage has been provided. In our submission, clarity and transparency regarding the basis of this statistic must be provided, and an opportunity for proper public scrutiny and response, before such an assertion can be considered relevant or probative evidence in support of justifications for the serious measures proposed by the Bill.
- 2.2. In this regard, we agree with the supplementary submissions of the Visa Cancellations Working Group and the Andrew & Renata Kaldor Centre. Further to these submissions, we note that in our experience, there are a range of factors which can result in people detained being considered "high" or "extreme" risk, including due to a history of self-harm or suicidal ideation.

For the reasons provided in our previous submissions, in evidence at the hearing and above, we submit that the Bill should not be passed.

Sincerely

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Defending the rights of refugees

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