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28 October 2014

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To the Senate Legal and Constitutional Affairs Committee

Inquiry - Migration Amendment (Character and General Visa Cancellation) Bill 2014

Liberty Victoria is one of Australia's leading human rights and civil liberties organisations. It is concerned with the protection and promotion of civil liberties throughout Australia. As such, Liberty is actively involved in the development and revision of Australia's laws and systems of government. Further information on our activities may be found at www.libertyvictoria.org.au.

Liberty Victoria wishes to endorse the submission made by the New South Wales Council for Civil Liberties to the Inquiry into the Migration Amendment (Character and General Visa Cancellation) Bill 2014.

Of particular concern to Liberty is the increase in the Minister's personal powers under s 501, which have no merits review. We see this as contrary to the rule of law.

In relation to sections 109 and 116, we question why it is necessary to deny people merits review in this non-criminal arena. In this area there is no risk to the Australian community. The capacity to overturn decisions of the Refugee Review Tribunal and the Migration Review Tribunal, which would be in addition to that already available in relation to the Administrative Appeals Tribunal, is a worrying trend. It makes a mockery of merits review, effectively taking decisions away from these specialist bodies.

The new provision, s 501CA, automatic prison cancellation for citizens serving time in prison, raises a question whether this might be perceived as punishment, which is outside the immigration power.

Liberty also is concerned by the introduction of red notice provisions in new section 501(6)(h). Liberty's experience is that Interpol notices are often unreliable and sometimes come from countries with questionable human rights records, where the basis of the alleged charge might be political. Further, the inclusion of this provision as a ground for not passing the character test is inconsistent, in that Australia does not recognise a red notice as a basis for arrest.

Should you wish to discuss any aspect of this submission further please contact Gillian Garner through the Liberty Victoria office

Yours sincerely

Jane Dixon QC
President
Liberty Victoria