



15 May 2020

AMNESTY INTERNATIONAL AUSTRALIA

Postal address:
Locked bag 23
Broadway
NSW 2007

Senator Amanda Stoker
Legal & Constitutional Affairs Legislation
Committee
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Legal and Constitutional Affairs Legislation Committee,

Re: Submission to the inquiry into the *Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020*

Amnesty International Australia welcomes the opportunity to provide input into the Legal & Constitutional Affairs Legislation Committee's inquiry into the *Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020* (the Bill).

Amnesty International Australia is concerned that the Bill as it stands violates international rules and will be detrimental to the wellbeing of people under the care of the Australian Government in immigration detention.

Section 2 of the Bill states that mobiles phones, SIM cards, and computers and other electronic devices designed to be capable of being connected to the internet, may be determined to be 'prohibited things', if they are 'a risk to the health, safety or security of persons in the facility, or to the order of the facility'. Section 5 of the Bill allows for the seizure and forfeiture of 'prohibited things'. Section 8 allows for a 'screening procedure', and Section 11 allows for a strip-search to be conducted in search of 'prohibited things'.

Mobile phones, SIM cards, and other communication devices are incredibly important to people detained in immigration detention. Seizure of such items will lead to isolation from family and outside supports. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) stress the need for people in detention to:

- communicate with family and friends at regular intervals (Rule 37),
- stay connected with their community (Rule 61), and
- foster an improved relationship with family (Rule 79).
- Access legal representation (Rules 30; 35, para. 1; 37; and 93)

Amnesty International Australia has visited a number of detention centres across Australia over the last 20 years and have found the availability of fixed phones and computers to be woefully inadequate. The ability to contact and have private conversations with legal representatives and family members (often highly distressing calls) is virtually impossible. There is usually a queue of people behind them demanding it is their turn to speak. Variable costs for international calls also means some groups are able to speak with family longer, increasing tensions between groups in the centres. These issues were never able to be resolved and it has only been through access to mobile phones that Australia has been able to come close to meeting its commitments under the Mandela Rules.

The criteria set-out in the Bill to seize and/or search detainees for 'prohibited things' is inappropriately broad. The wording, 'a risk to health, safety or security of persons in the facility, or to the order of the facility', will give officers disproportionate power over detainees and lead to a breach of the above articles of the Mandela Rules.

Amnesty International Australia also finds it extraordinary that during the COVID-19 crisis, when external oversight bodies, such as the Ombudsman, the Australian Human Rights Commission and the Red Cross are not visiting the centres, the government is proposing to further remove transparency regarding the treatment of those administratively detained. This is coupled with the fact that there are currently no visitors allowed at the centres. This poses a serious risk, compounded for those in remote centres such as Yongah Hill and Christmas Island.

The Bill is designed to 'fix' an issue that does not exist - it warrants power to officers over detainees that is not needed. **Amnesty International Australia recommends that the Bill is not passed in its current form.** If the Bill progresses through parliament, it should be amended so that the threshold for officers to seize 'prohibited things' or search detainees is much higher than it currently stipulates.

Thank you for the opportunity to participate in this inquiry.

Yours sincerely,

Samantha Klintworth
National Director
Amnesty International Australia