3 DECEMBER 2018

MIGRATION AMENDMENT (STRENGTHENING THE CHARACTER TEST) BILL 2018

Submission to the Inquiry by the Joint Standing Committee

VISA
CANCELLATIONS
WORKING GROUP

ABOUT THE VISA CANCELLATIONS WORKING GROUP

The Visa Cancellations Working Group (the Working Group) is a national group with significant expertise in the area of visa cancellations and migration more generally.

Its membership is comprised of individuals from private law firms, not-for-profit organisations, community legal centres, and tertiary institutions, including:

- Victoria Legal Aid;
- The Refugee Council of Australia;
- The Law Institute of Victoria;
- AUM Lawyers;
- Clothier Anderson Immigration Lawyers;
- Erskine Rodan & Associates;
- NSW Council for Civil Liberties;
- Amnesty International;
- Refugee Advice & Casework Service;
- Justice Connect;
- Salvos Legal;
- Kah Lawyers;
- Monash University;
- MYAN Australia;
- Asylum Seeker Resource Centre;
- Russell Kennedy;
- Foundation House;
- Flemington Kensington Community Legal Centre;
- Jesuit Refugee Service (JRS) Australia;
- The Australian Human Rights Commission;
- Brigidine Asylum Seekers Project;
- The Settlement Council of Australia;
- Multicultural Development Australia;
- Carina Ford Immigration Lawyers;
- Welcome Lawyers;
- Abode Migration;
- Darebin Community Legal Centre;
- Slater & Gordon, and
- The Kaldor Centre.

The views in this submission do not purport to be endorsed in their entirety by all members of the Working Group.

INTRODUCTION

1. The Visa Cancellations Working Group (**the Working Group**) welcomes the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the recently tabled Migration Amendment (Strengthening Character Test) Bill (**the Bill**).

2. The Working Group notes the circumscribed timeframe in which submissions have been required. Given more time, more comprehensive submissions could be provided.

3. The Working Group recognises that it is both necessary and appropriate to regulate people seeking to enter and remain in Australia by reference to questions of character and risk. There are undoubtedly cases where a person should forfeit their right to remain in, or ability to enter, Australia.

4. The Working Group has made submissions regarding the regime in the past, and it refers to and repeats those submissions.[1] In particular, it repeats its observations about inappropriate outcomes and divisive rhetoric, and urges the Committee to increase protections for the rule of law in the cancellations regime. The Working Group considers that consistent, informed, apolitical, and proportionate decision-making is critical in this area.

5. For the reasons set out herein, however, the Working Group **recommends that the Bill be rejected**. This Bill, in its current form, will damage the integrity and appropriateness of decision-making in this most serious of areas. The Bill replaces what is already a powerful and permissive tool with an inferior, blunt tool.

6. The Working Group considers that the Bill does not and cannot achieve its intended purpose. The powers to effect cancellations the Bill purports to enable are already available under the existing cancellation regime. The justifications contained in the Explanatory Memorandum are not borne out in the legislation as drafted, and do not sufficiently make the case for the legislation. Given the severity of the consequences of visa cancellation, any amendments to the regime must be manifestly justified, and must proceed with great caution.

7. Rather than supporting the protection of the Australian community, the Bill will cause many thousands more individuals to *automatically* fail the character test, where the law already provides for assessment of a person's character, including with reference to past and present criminal and *general* conduct, to determine such individuals fail the character test. The mandate of failure of the character test in the circumstances proposed will often be plainly disproportionate, at times absurd, and it will have the unintended consequences set out in these submissions, including increased costs to the community, increased burden on administrative decision-makers of the Department of Home Affairs, increased merits review, pressures on detention, and increased pressure on the courts. Moreover, the reduced threshold

[1] Visa Cancellations Working Group, Submission No. 33 to the Joint Standing Committee on Migration, *Inquiry into Review Processes Associated with Visa Cancellations made on criminal grounds*, 15 May 2018.

for automatic failure will reframe the cancellation space and make it more likely that delegates will make disproportionate decisions, by removing one step of assessment, and by articulating an excessively low baseline for what is considered 'serious'.

8. Essentially, the new legislation removes the existing assessment of a person's character in determining whether someone fails the character test in numerous cases, making failure of the character test mandatory for 'designated offences'.

9. The removal of this assessment is unjustified and problematic.

10. There is no reason advanced in the Explanatory Memorandum why delegates are not currently able to appropriately assess a person's character under the existing powers vested in them. There are already effective mechanisms by which the Department becomes aware that people are engaged with the criminal system, including through the Australian Federal Police and state police bodies.

11. The law as it is now provides for a determination that any person having committed any of the offences included in the proposed legislation fails the character test.

12. Any future modifications to the present regime, it is submitted, must:

    - Protect proportionate, reasonable, and informed decision-making;
    - Protect public resources;
    - Ensure that any expansion of the existing cancellation or refusal powers are accompanied by additional resourcing for downstream services that will likely be impacted, in particular the legal assistance sector, courts, and tribunals;
    - Provide for consideration of the judicial sentence as opposed to the potential sentence;
    - Remove accessory offences as triggers for mandatory failure of the character test;
    - Introduce clear protections for children.

RECOMMENDATIONS

The Working Group recommends the Bill be rejected.

CONTEXT

13. Any consideration of the visa cancellation regime must have regard to the context in which these cancellations occur.

14. A determination that a person fails the character test means either that their visa must or may be cancelled or refused. In some cases, that person has the right to merits review. In other cases, they have no such right.

15. Generally, visa cancellees will be subject to immigration detention and possible forcible removal. Their detention may be for many years in poor conditions. Often, people subject to cancellation have lived in Australia for most of their lives and have extensive family ties here. Often, they are vulnerable due to age, health, or education. Often, there is an enormous impact on their families and communities.

16. These concerns exist in particular for recognised refugees, including those who have been resettled to Australia, who face indefinite detention (due to the combination of Australia's mandatory detention laws and Australia's non-refoulement obligations) if their visas are cancelled.

17. The Working Group adopts the submissions of the Law Council of Australia in respect of the adverse social impacts of visa cancellations.

THE EFFECT OF THE BILL

18. It is crucial to comprehend the distinction between a person *necessarily* failing the character test and *being assessed as* failing the character test. This is at the heart of the proposed legislation.

19. The Bill categorically does not enable the cancellation of the visas of any person for whom cancellation is not already available. It merely removes a decision maker's power to assess whether or not certain individuals meet or fail the character test, making failure mandatory in prescribed circumstances. This will make disproportionate and ill-informed decision-making that is out of step with community standards immensely more likely.

20. It is not only the explicit impacts of a change of legislation that must be considered. The removal of a step of assessment is likely to impact a decision-maker significantly. If, for that decision-maker, the person necessarily fails the character test, a decision to cancel is significantly more likely to follow. A determination which is permitted, or 'endorsed', even where that permission is not directive, has a psychological and practical effect on those who are responsible for application of the law: being squarely told, in effect, that particular offending is 'serious' no matter the context will make decision-makers significantly more likely to exercise the discretion to cancel or refuse a visa.

21. The Bill is also poorly drafted, in that it is not sufficiently clear that a designated offence must meet the requirements in the proposed s.501(7AA)(a) *and* (b) or (c).

The current law

22. The current law envisages numerous circumstances where a person will fail the character test. If a person does not *necessarily* fail the character test by virtue of their criminal or other history, an assessment by a delegate or the Minister of their enduring moral qualities can lead to a determination that they do not pass the character test.

23. At present, a person will *necessarily* fail the character test if:

- They have, over any interval, been sentenced to a total of twelve months' imprisonment or more, including where sentences were suspended, and regardless of whether they have spent any time in prison
- They have:
  - been acquitted of an offence on the grounds of unsoundness of mind, or
  - a court considered them not fit to plead
  - and, as a result, they have been detained in a facility or institution
- They committed an offence relating to immigration detention, including escape from immigration detention
- A court, Australian or foreign, has convicted or found them guilty of one or more sexually based offence involving a child
- They have been charged with or indicted for crimes of serious international concern
- ASIO have asked them as, directly or indirectly, a risk to security
- There is an Interpol notice relating to the person, from which it is reasonable to infer the person would be a risk to the community.

24. A person fails the character test if a decision-maker assesses that:

- Having regard to *any* past and present criminal or general conduct, they are not of good character.
- There is a risk that, in Australia, they would:
  - Engage in criminal conduct
  - Harass, molest, intimidate or stalk another person
  - Vilify a segment of the community
  - Incite discord
  - Represent a danger to the community or a segment of the community in any way
- There is a reasonable suspicion that:
  - they are or have been associated with a group, organisation or person who the Minister reasonably suspects has been or is involved in criminal conduct
  - they have been or are involved in serious international offending, regardless of whether there has been a conviction, including people smuggling

25. For completeness, it is important to note that s.116 also provides for the cancellation of temporary visas on the basis of offending, and on the basis of charges alone.

The proposed law

26. The Bill proposes that a person should fail the character test *necessarily* if:

- They have been convicted of any offence involving:
  - Violence, including threat, robbery, and low-level assaults;
  - Non-consensual conduct of a sexual nature, including the sharing of an intimate image;
  - Breach of a court or tribunal order made to protect a person, including inadvertent breaches, regardless of the nature of the breach;
  - Use or possession of a weapon (any thing where a person intends or threatens to use that thing to inflict bodily injury).
- They aided, abetted, counselled, procured, conspired to commit or induced the violent, sexual, breach, or weapon offending.

27. In addition, either of the following qualifications must be met:
    a. If the offence is against an Australian law, a *possible* sentence of not less than two years was available to the court, and
    b. If the offence was against a foreign law, had the act constituting the offence been in Australia, a sentence of two or more years might have been available to the court.

28. Plainly, the Bill does not widen the scope for cancellations whatsoever. It merely, and without justification, removes scope for assessment.

THE PURPOSE OF THE BILL

29. The Explanatory Memorandum states that the insertion of new subparagraphs 501(7AA)(a)(v)(viii):

> *intends to capture those non-citizens with links to those activities that pose a risk to the Australian community, such as (but not limited to) organised crime, outlaw motor cycle gangs or those who, without committing the physical offence… have a level of involvement in the commission of a designated offence that gives rise to an offence in and of itself*.

30. It further states that the amendments:

> *will ensure the character test aligns directly with community expectations, that non-citizens who commit offences such as murder, assault, sexual assault or aggravated burglary will not be permitted to remain in the Australian community*.

31. It is misleading to suggest that such individuals do not already fall within the visa cancellations scheme. As set out above, they do.

32. It is *not* the case that only individuals sentenced to twelve months' or more imprisonment fail the character test at present. The proposed Bill seems to proceed on that assumption.

33. Statistics published by the Department of Home Affairs show that there has been a 1400% increase in s.501 visa cancellations since the introduction of new laws in 2014: from 84 to 1,284. There has been a 770% increase in s.501 visa refusals over the same period.[2]

34. The same statistics show that the offences for which visas were cancelled in the 2016/2017 year include assault, murder, sexual offences, and burglary and robbery offences, each in high numbers. It is incorrect and misleading to suggest that such cancellations are not occurring, or are not empowered.

35. The Working Group is concerned by the mismatch between the stated intention of the proposed legislation and its potential to achieve that intention.

36. The Working Group also notes the notorious difficulty in defining 'character'.

AN INAPPROPRIATELY LOW THRESHOLD

37. The proposed legislation is, simply put, too broad, and with too low a threshold.

38. Any attempt to create a one-size-fits-all approach without discretion built in is likely to fall dangerously short.

39. In the context where a person's general conduct alone can lead to a visa cancellation, the Bill introduces an unacceptable and arbitrary standard of criminality that takes no account of context, and goes so far to disavow any relevance of context. It limits the scope for consideration of a person's 'enduring moral qualities'[3] by imposing a rigid set of circumstances where a person must fail the character test.

40. It will capture a significant number of individuals whose offences could not fall under the commonly accepted definition of 'serious offences'. This is primarily due to the inclusion of certain offences with a potential sentence of not less than two years, regardless of the judicial sentence given.[4] For example, some offences which would fall under this category include:
    - verbal threats,[5]
    - any form of contravention of an intervention order,[6] including where the offender approached by the protected person, and
    - a child sharing an intimate image of their girlfriend or boyfriend.[7]
    - Any *attempted* offence of the nature stipulated, being an offence not carried out.

[2] See <www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/visa-cancellation>.
[3] *Godley v Minister for Immigration and Multicultural and Indigenous Affairs* (2004) 83 ALD 411, per Lee J at [34].
[4] *Migration Act 1958* (Cth), s.501(7AA)(b)(ii), (iii)
[5] *Crimes Act 1986* (Vic), s 21.
[6] *Crimes (Family Violence) Act 1987*, s.22(1)
[7] *Summary Offences Act 1966*, s.41DA.

Available sentence as a parameter

41. The mere availability of a particular sentence does not and cannot solve the question of the seriousness of an offence.

42. Primarily, this is because different circumstances give rise to different standards of moral culpability. The man who possesses cannabis to provide pain relief to his terminally ill wife is less morally culpable than the man who procures the substance to sell to children. Similarly, a young person who steals chewing gum from a shop is in a different category to the person who steals high-value goods as part of a history of offending. A homeless person with limited cognitive function or mental faculty stealing from a shop is less morally culpable than a person with robust mental health and secure housing situation. A woman who assaults her husband after years of family violence is less culpable than a person who assaults a stranger on the street. A person who breaches an order because they send a text hoping to arrange to send Christmas presents to their children is less morally culpable than a person who stalks and intimidates their former partner despite an order.

43. A maximum sentence provides for aggravating circumstances in the course of offending, where harsher punishment is warranted. In the vast majority of cases limited or no such circumstance exists. Courts, accordingly, rarely impose the maximum penalty.[8] An actual judicial sentence is a more appropriate indication of the seriousness of offending.

44. By way of example, sentencing statistics for the following offences which would result in mandatory failure of the test are as follows:

    a. For the offence of breach of an intervention order, the Magistrates' Court of Victoria imposed a sentence of imprisonment in 7.7% of cases, with no person sentenced to more than 18 months' imprisonment.[9]
    b. For the offence of threatening to cause serious injury, the Magistrates' Court of Victoria imposed a sentence of imprisonment in 30% of cases, with the majority of those sentenced receiving a term of less than 6 months.[10]
    c. For the offence of assault, the Magistrates' Court of Victoria imposed a sentence of imprisonment in 36.2% of cases, with just 5% of those sentenced receiving a term in excess of two years.[11]
    d. For the offence of robbery, the Victorian higher courts imposed a sentence of imprisonment in approximately 50% of cases between 2010 and 2015, and the terms of imprisonment ranged from 2 months to 5 years.[12]
    e. For the offence of causing injury recklessly (where injury includes any pain), the Victorian higher courts imposed sentences of imprisonment in just 14% of cases, and fewer than 25% of those who were imprisoned received a sentence of over two years.[13]

[8] Sentencing Advisory Council, 'How Courts Sentence Adult Offenders, 1 June 2018.
[9] SACStat Magistrates' Court, 'Breach intervention order', 1 August 2017.
[10] SACStat Magistrates' Court, 'Make threat to inflict serious injury', 1 August 2017.
[11] SACStat Magistrates' Court, 'Assault', 1 August 2017.
[12] Sentencing Advisory Council, 'Sentencing Trends for Robbery in the Higher Courts of Victoria 2010-2011 to 2014-2015 – Sentencing Snapshot 185, 28 June 2016.
[13] Sentencing Advisory Council, 'Sentencing Trends for Causing Injury Recklessly in the Higher Courts of Victoria 2010-11 to 2014-2015 – Sentencing Snapshot 191, 28 June 2016.

f. For the offence of affray (any unlawful fighting or a display of force that might frighten a person if they were present, regardless of whether anyone was present), the Victorian higher courts imposed sentences of imprisonment in just 11% of cases. *No one* received a sentence in excess of two years.[14]

45. The Working Group also notes the following examples, which, while they may not cause mandatory failure of the character test under the proposed law, underscore that sentences available to a court are not a proper basis for determining seriousness of offending, and the concept of moral culpability:

    a. A person who has an article of disguise in their custody or possession may be subject to two years' imprisonment.[15]
    b. Any theft, no matter the circumstances, and including minor shop theft, has an available penalty in excess of two years.
    c. A person who begs may be subject to 12 months' imprisonment.
    d. A person who leaves a fire in the open air that they are in charge of, without leaving another person in charge (as distinct from arson), may be subject to 12 months' imprisonment.

46. Accordingly, it is Australia's criminal courts that are appropriately placed to determine the seriousness of offending. This is their area of expertise and their express function. The discretion vested in them is so vested in express recognition of the fact that there are different standards of culpability, and different levels of seriousness within any set of offending.[16] To fail to recognise this wastes and denigrates a valuable resource and affects the integrity of decision-making.

47. Indeed, the nexus between visa cancellation and serious crime has historically been achieved by reference to sentencing by the Court, acknowledging that sentences of imprisonment represent the most serious criminal penalty available and are imposed after the consideration of all other options by a sentencing judge, importantly having heard all matters in mitigation.

48. The provisions introduced by the Bill shifts the consideration of seriousness of an offence from the sentencing Court to the Department – from the judiciary to the administrative. This is an unnecessary and unwarranted subversion of the function performed by sentencing courts.

Conviction as a parameter

49. A conviction in itself is not a satisfactory basis for a conclusion about character.

50. Firstly, it is apparent that many defendants plead guilty to offences because they are so advised by their representatives, or because the cost of defending themselves is too great or too overwhelming.

[14] Sentencing Advisory Council, 'Sentencing Trends for Affray in the Higher Courts of Victoria 2010-2011 to 2014-2015 – Sentencing Snapshot 185, 28 June 2016.
[15] S.49C, Summary Offences Act 1966.
[16] See, for example, *R v Silva [2015] NSWSC 148*, where the defendant received a two-year sentence for manslaughter in circumstances where she had been subjected to ongoing family violence.

51. Secondly, a conviction can be recorded for an offence where the matter is otherwise discharged (per s 7(1)(h), *Sentencing Act 1991*. In some instances, for example, a conviction must be recorded before another non-restrictive sentence is imposed – for instance, a conviction must be recorded before an offender receives a suspended sentence (per s 7(c), Sentencing Act 1991). The court would take these steps in circumstances where it was of the view that the offending was not among the most serious. The Department would, however, impose a view to the contrary, without regard to the material before the sentencing judge.

52. Given that the character test has never previously been framed by reference to conviction (rather than sentence), other than in the case of sexually based offending against a minor, this means that sentencing courts in Australia have constrictively miscarried in considering sentencing options for those who will now be subject to these provisions – by failing to consider the migration consequences of the sentence in mitigation, in the same manner as imprisonment length is duly considered.

53. These are all inappropriate and concerning implications of the Bill in its current form. Plainly, the Bill will capture a significant number of individuals whose conduct may not fall under the commonly accepted definition of a serious offence.

54. Again, we reiterate the context in which this consideration occurs. The consequence is likely to remove a person from home and family, often permanently. It is in addition to the punishments imposed by the criminal system. The threshold is unjustifiably low, and without basis.

THE EFFECT ON THE CRIMINAL PROCESS

55. The Bill is likely to have unintended consequences for the criminal law system.

56. It is recognised that a person pleading guilty assists the justice system. It means a trial is not necessary, and facilitates expedient resolution of matters.

57. The effect of the proposed legislation will be that accused non-citizens do not plead guilty to offences, knowing that *any conviction* will lead to them failing the character test.

58. This will place an inordinate strain on the criminal jurisdiction, who will be forced to resolve matters other than by pleas, including at trials, and on appeals.

59. Moreover, sentencing judges will likely be required to have regard, in mitigation, to the fact that a conviction will lead to the automatic failure of the character test of the defendant.

THE EFFECT ON THE ADMINISTRATIVE PROCESS

60. An unavoidable flow-on effect of the Bill will be to increase the burden at primary stage, at merits review, and at judicial review, placing immense burden on already overburdened bodies, as well as on the legal assistance sector. The Law Council has highlighted the large increase in demand for assistance following the expansion of visa cancellation powers in 2014.[17] The delays in the Federal Circuit Court at present mean an applicant for review is unlikely to even have a directions hearing scheduled within two years of lodgement.

61. It is also likely that, as a consequence of increased cancellations, the burden on the detention system will increase. The average yearly cost of holding one person in onshore detention is $346,178.[18] The effect of a cancellation under s.501 is detention until any review process is complete. Given the likely increase in primary cancellations, the existing burden on the Administrative Appeals Tribunal, and the years-long delay in the courts, the cost of detention to the community can be expected to be significant.

62. Preserving a requirement to make an assessment for the character test is a protection against the prolonged detention of people in appropriate circumstances.

63. There is a lack of justification present in the Bill or the Explanatory Memorandum for setting in train such serious consequences, not only for applicants, but for the resources of the Australian community.

ACCESSORY OFFENCES

64. The extension of the character test to include convictions for accessory offences to a raft of undefined offences by way of 501(7AA)(v)-(vii)) is deeply concerning.

65. As the Department of Justice of the State Government of Victoria has observed:

> *The authorities do not state a consistent fault principle for accessories. Sometimes they require a purpose, to bring about a crime; sometimes knowledge; sometimes an intention in a wide sense; sometimes they are satisfied with an intention to play some part in bringing it about; sometimes they use a formula that embraces recklessness. As so often happens, the courts are chiefly concerned to achieve a result that seems right in the particular case, leaving commentators to make what they can of what comes out.*[19]

[17] The Justice Project, *Final Report – Part 1: Recent Arrivals to Australia* (August 2018), 30.
[18] Karp, P., 'Australia's 'border protection' policies cost taxpayers $4bn last year', the Guardian, 5 January 2018.
[19] 'Complicity Reforms', Criminal Law Review, Department of Justice, October 2014 (available at https://assets.justice.vic.gov.au/justice/resources/1157ae80-b668-4b01-92cc-4428973bea62/complicity-reforms.pdf).

66. The Working Group considers that accessory offences should not lead to necessary failure of the character test.

Effect on vulnerable members of the community

67. The inclusion of 'Aiding, abetting'…the commission of such a designated offence (501(7AA)(a)(v))' could have a considerable impact on vulnerable individuals, in particular women involved in a relationship with the offender. This could serve to de-incentivise individuals from cooperating with authorities. Vulnerable individuals already concerned to assist authorities over the repercussions from the offender could risk cancellation of their visa if found guilty of aiding and abetting.

PROTECTIONS FOR CHILDREN

68. At present, children's visas can already be cancelled under s.501. In the Working Group's significant experience, it is **not** only exceptional circumstances in which children face cancellation. The Working Group has seen numerous cases of serious concern in which children have faced cancellation.

69. The expansion of automatic failure of the character test will affect children particularly badly. Children convicted of relatively minor offences will now automatically fail the character test. The Working Group considers that these effects are likely to be disastrous for many Australian families.

70. The cancellation of minor's visas is an immense concern for the LIV. We recommend that a provision be included in the legislation protecting minors from visa cancellation.

EXTRADITION CONSEQUENCES

71. Historically, the possible removal of those who had committed offences overseas were governed by a series of Extraditions Treaties and Extradition Acts, in which there are human rights provisions, limiting, for example, forced return to a place where a person may be tortured and/or executed.

72. The Working Group is concerned that the proposed legislation purports to override such treaties and erode the protections available under the *Extradition Act 1988 (Cth*).

73. For example, if the proposed legislation were to become law, a person who had committed a non-violent drug related crime in Saudi Arabia, for which the penalty is death, could become liable to immediate removal without any assurance that the death penalty would not be imposed upon return. The proposed legislation provides no safeguards for such person. Particularly given the operation of sections 197C and 198 purporting to necessitate the removal of person, as soon as reasonably practicable, regardless of the existence of non-refoulement obligations.

> *The death penalty was imposed or implemented for drug-related crime in 15 countries. In at least four of those countries it was imposed as the mandatory punishment for such offences. Amnesty International recorded executions*

for drug-related offences in only four countries – China (which classifies figures as a state secret), Iran, Saudi Arabia and Singapore – but believed it was possible that Malaysia and Viet Nam also carried out executions for these crimes.[20]

CHAPTER III CONCERNS

74. The Working Group also notes with concern the potential implications if the proposed legislation collides with Chapter III of the Constitution.

CONCLUSION

75. The Bill proposes to replace a powerful and flexible tool with a blunt and unsubtle tool that will increase poor and disproportionate decision-making, burdens on review bodies and the detention system, and community apprehension. Importantly, it will, without justification, wrest from those with expertise – the judiciary – assessment of what is considered 'serious', and replace it with a turgid and inflexible definition, the application of which will in many cases be completely inappropriate.

76. The Australian community will not support an opaque, unfair system, and, as more and more people are affected by visa cancellations, and the public becomes aware of the realities of many cancellations, an abhorrence of this process is likely to increase. If absurd consequences proceed, the Australian community will lose faith in the administrative system and its objects.

77. The Working Group urges the Committee to exercise due caution in its consideration of the Bill.

78. The Working Group welcomes the opportunity to consult further on a confidential basis. If you would like to discuss matters regarding cancellation further, please contact

[20] Amnesty International *"Death Sentences and Executions"* 2017, p.f9, https://www.amnesty.org/download/Documents/ACT5079552018ENGLISH.PDF.