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21 August 2006

Senate Legal and Constitutional Legislation Committee  
Parliament House  
Canberra ACT 2600

Dear Secretary

**Migration Amendment (Visa Integrity) Bill 2006**

Thank you for the opportunity to comment on the Migration Amendment (Visa Integrity) Bill 2006. Unfortunately we are unable to provide a detailed submission given the timeframe for the inquiry than this letter. We do, however, rely on the submissions we made to the earlier inquiry mentioned in your letter with respect to the Migration Legislation Amendment Bill (No. 1) 2002.

We have read the Parliamentary Library's Bill Digest on this Bill and commend the Committee to it as alerting it to many of the deficiencies in the Bill.

Our concerns about the Bill are as follows:

1. The status of children is now subject to new legislation, specifically the *Migration Amendment (Detention Arrangements) Act 2005*.
2. Anomalies in the previous legislation identified by the Committee itself and a number of witnesses in evidence to the Committee (e.g. International Commission of Jurists, Law Institute of Victoria) have not been addressed by the current incarnation of the Bill.
3. Recommendations of the Committee have not been adequately addressed by the new Bill.
4. Concerns about the characterisation of certain smuggling offences as 'strict liability' or 'absolute liability' raised in previous consideration of the predecessor Bill have not been addressed.
5. Some countries (e.g. Switzerland) include humanitarian defences in keeping with a long tradition of assisting people in need to safety.

6. New uncertainties seem to have been created by the Bill, namely the creation of powers relating to a 'prescribed class of persons', specified as creating a flexible power to prescribe such classes by subordinate legislation, which is not subject to the same level of scrutiny as primary legislation.
7. Concerns about the power of the MRT to take securities in respect of a decision under review;
8. Concern of treatment of evidentiary burdens in relation to strict liability and absolute liability offences

If we can be of any further assistance please do not hesitate to contact me on 0412 008 039 or Eve Lester, Victorian Convenor on (03) 5797 0280

Yours sincerely,

*by email*

Simeon Beckett  
President