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Government going too far prohibiting items in detention facilities

A blanket ban on mobile phones appears to be the primary aim behind the current Bill before the Senate Legal and Constitutional Affairs Legislation Committee according to the Law Council of Australia.

Appearing at today's hearing into the Migration Amendment (Prohibiting Items in Immigration Facilities) Bill 2020, Law Council President, Pauline Wright, said that a ban on mobile phones would unreasonably restrict immigration detainees' access to timely legal advice.

"Mobile phones are critical tools for people attempting to navigate an extremely complex and time-sensitive legal area," Ms Wright said.

"Banning the use of mobile phones means that people detained in immigration facilities are denied the ability to access their lawyer at time critical moments, and in a private setting."

While the Law Council supports effective management of safety in immigration detention facilities, it is imperative that this occurs in accordance with the rule of law. The Law Council is concerned that the extraordinarily wide definition of 'prohibited thing' within the Bill reaches far beyond what is reasonable and acceptable.

"The lack of a prescribed definition of what is prohibited gives the Minister latitude to declare virtually any item a risk," Ms Wright said.

"A pen and paper, art supplies, musical instruments and any number of everyday items could be considered prohibited."

"Prohibiting the access to items must be justified and subject to appropriate oversight and safeguards," Ms Wright said.

"The Law Council believes that the Bill should not be passed as the case has not been made that the amendments to the legislation are necessary, reasonable or proportionate."

The Bill also expands existing search and seizure powers, including the widening of the purposes of a strip search, while not providing sufficient safeguards or oversight.

"These amendments water down the existing safeguards and increase the risk of potential misuse and arbitrary decision-making," Ms Wright said.

"It must be remembered that many people held in detention are genuine refugees, not criminals".

"The government asserts that these laws are necessary to deal with the rise in the number of criminals in immigration detention. However, standard criminal law processes are already available and if criminal activity is found to be taking place, then the police can and should be called."

"This is the normal process across Australian jurisdictions," Ms Wright said.

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