



# Catholic Women's League Australia Inc.

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**'Open our ears to hear God's word by entrusting ourselves  
fully to Him and to believe in His love'**

**Submission from the Catholic Women's League Australia Inc.**

**(The endorsement given by Catholic Women's League Australia do not reflect the views of  
either the Catholic Women's League of Victoria and Wagga Wagga nor of the Public  
Relations and Community Engagement Officer Brigid Meney)**

**to the**

**Senate Legal and Constitutional Affairs Committee**

**Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015**

April 2015

## **1. Introduction**

Catholic Women's League Australia Inc. (CWLA) is the national peak body representing the League's seven member organisations located throughout Australia. We are a Non-Government Organisation and have consultative (roster) status with the Economic and Social Council of the United Nations. We are also a member of the World Union of Catholic Women's Organisations. One of CWLA's four principle aims is to influence legislative and administrative bodies at all levels of government in order to preserve the dignity of the human person.

We are writing to express our deep concern relating to the proposed bill. Our concerns can be summarised as follows:

a. The Explanatory Memorandum states that detention centres contain high-risk asylum seekers, such as people who have had their visas cancelled as a result of failing the 'character test', are a high security risk; are subject to adverse security assessments; or are unlawful non-citizens and thus an increase in force by authorised officers is justified. While it is true that detention centres do contain people as described above, it has been found that the majority of asylum seekers are found to be refugees<sup>1</sup>. Thus, only a small percentage of people detained in detention centres fall within the "high risk" category and thus the increase in the use of force against detainees is unjustified;

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<sup>1</sup> 1 Department of Immigration and Citizenship (2009). *Annual Report 2008-09*, <http://www.immi.gov.au/about/reports/annual/2008-09/html/>; see Section 1.2.2.



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b. The principle source of disturbance within detention centres, as reported in the media, appears to be related to protests instigated by people in detention against their inhumane living conditions in detention. The right to peaceful assembly is a fundamental human right,<sup>2</sup> which should not be curtailed. Freedom of expression is imperative in any just and democratic society such as the one which presides in Australia. The increase in authorised force would only serve to jeopardise this right;

c. The bill proposes that the test of "reasonable force" should be changed from an objective test to a subjective one. It is submitted that officers who use force against people in detention should be subjected to an objective test that most people would view as reasonable force. A subjective test is far too variable and unfairly broadens the parameters within which force can be used; and

d. We are concerned that it is proposed that authorised officers will have protection from criminal and civil action in all courts except the High Court if the powers are exercised in good faith. The powers of the courts to investigate any use of force should never be curtailed. Such a restriction, whether or not the power were to be exercised in good faith, would constitute a limitation on the right to access justice for people in detention who become victims of an unreasonable use of force. The right to seek a judgment from a court is a protection that ensures that any force use falls within the parameters of the law; and

e. It is submitted that if the overall physical conditions of the asylum seekers were to be improved and if people were to be detained in detention centres for only brief periods of time, this would in itself remove the need for the introduction of the proposed bill.

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<sup>2</sup> Article 20 of the Universal Declaration of Human Rights states that "everyone has the right to freedom of peaceful assembly and association".



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For the reasons articulated below we believe that the bill should be defeated. The treatment of asylum seekers in detention in Australia has been found to be an infringement of the human rights of all people detained within them<sup>3</sup>. Increasing the use of force against people in detention would constitute an even greater violation of their human rights.

Thank you for the opportunity to contribute to this inquiry. CWLA wishes the Committee well in its deliberations.

Carolyn Metcalfe  
National President, CWLA Inc.

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<sup>3</sup> <http://hrlc.org.au/un-finds-australias-treatment-of-asylum-seekers-violates-the-convention-against-torture/> as at 9 April 2015.