

**FECCA submission to the
Inquiry into Migration
Amendment (Strengthening
the Character Test and Other
Provisions) Bill 2011**

FECCA HOUSE DEAKIN ACT

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1. About FECCA

FECCA is the national peak body representing and advocating for Australians from culturally and linguistically diverse backgrounds. Our role is to advise, advocate, and promote issues on behalf of our constituency to government, business and the broader community. FECCA promotes Australian multiculturalism, community harmony, social justice, community participation and the rejection of discrimination, to build a productive, culturally rich Australian society.

2. Concerns about the proposed amendments

The government bill introduced by The Hon Chris Bowen MP, Minister for Immigration and Citizenship, seeks to amend the *Migration Act 1958* to: enable the minister to refuse to grant, or to cancel, a visa or temporary safe haven visa when a person has been convicted of a criminal offence while in immigration detention; and increase the penalty for the manufacture, possession, use or distribution of weapons by immigration detainees from three to five years imprisonment.

Since 1945 Australia has accepted seven million migrants including about 800 000 seeking refugee in Australia. As a proportion of our migrant population the number of refugee and humanitarian entrants remains relatively small and proportionally has been steadily decreasing over time.

While offenders must be punished, FECCA's concern about the proposed changes is that it addresses the symptoms rather than the causes of unrest in detention centres. The causes we believe are the mandatory system and long delays in processing protection applications. Harsher penalties only punish people already driven to extreme measures by a harsh and inhumane detention system.

FECCA reiterates its call on the government to honour in full its commitments for faster processing of asylum seeker claims and to detain asylum seekers only as a last resort for identity, security and health checking.¹ The current arrangements which result in long term detention are unnecessary and damaging Australia's reputation. As recently reported, the UN High Commissioner for Human Rights, Navi Pillay, stated that the long-standing policies of locking up asylum seekers had 'cast a shadow over Australia's human rights record', and appeared to be completely arbitrary.²

FECCA supports the recent statement by the Refugee Council of Australia (RCOA) chief executive officer Paul Power on this issue which referred to the repeated warnings to government by its advisory bodies, mental health

¹ FECCA submission <http://fecca.org.au/Policies/1/policies_2007031.pdf>

² *The Sydney Morning Herald* <<http://www.smh.com.au/world/un-rights-chief-slams-racist-australia-20110526-1f4yy.html#ixzz1NR7chf8o>>

specialists and refugee organisations that an increase in long term detention would result in more incidents of self-harm and increased unrest in detention centres.³

As stated by RCOA, presently, and even in his own words, the Minister for Immigration has ‘very extensive’ powers to deal with people in detention convicted of a crime, including criminal damage. There is no need to bolster these powers with legislation that could see them widened to include refugees who commit more minor offences while in the pressure cooker environment of long-term detention. A refugee who commits one misdemeanour could be denied protection and unity with their family for life. FECCA has always strongly supported family reunion as the most important way of creating sustainable migrant communities in Australia.

The consequences of increased punitive measures would include:

- exacerbation of mental health and other issues due to an extension of detention;
- familial distress when people are unable to reunite with their families and close relatives in Australia; and
- the possibility of being ‘returned’ to situations which have been unsafe and from which people have sought to escape in the first place

FECCA also notes that the measures outlined in the proposed changes are not commensurate with similar level of offences in other jurisdictions. This creates a discriminatory approach by targeting people who are already some of the most vulnerable sections of our society.

Given that there are inquiries underway into the recent incidents at the detention centres FECCA recommends that the government not act in a preemptive way in introducing this bill. It is better that any change is informed by the outcomes of the inquiries.

FECCA urges the government for a more considered approach to the issue. We ask that resources are focused on addressing the current issues of long term detention and its impacts on people rather than on resourcing increased punitive processes which will create more burden for government services in the long run.

Thank you for the opportunity to provide feedback.

³ RCOA Media Release ‘Increase in Longterm Detention At Hear of Unrest’
27 April 2011