



20 July 2018

Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Canberra ACT 2600

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Submission regarding the *Modern Slavery Bill 2018*

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA strives to ensure that the needs and aspirations of Australians from diverse cultural and linguistic backgrounds are given proper recognition in public policy.

FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

FECCA would welcome the opportunity to expand on this submission to the Committee as required. For enquiries please contact FECCA CEO Dr Emma Campbell at
or on

FECCA welcomes the government's introduction of the *Modern Slavery Bill 2018* and offers some recommendations to strengthen the legislation.

Recommendations

FECCA recommends:

- that the legislation should provide for the appointment and resourcing of an Independent Anti-Slavery Commissioner.
- that forced marriage be removed from the legislation and addressed as part of strategies to reduce domestic and family violence
- that provisions be made in the legislation for redress so that victim/survivors of modern slavery can access appropriate compensation
- that the legislation detail penalties for failure to comply with the requirements of the *Modern Slavery Bill 2018*

Discussion

Independent Anti-Slavery Commissioner

FECCA believes that legislation should establish an office of the Australian Independent Anti-Slavery Commissioner which is similar in design to that of the United Kingdom, “to encourage best practice in the fight against slavery and provide independent assessments on the effectiveness (or not) of actions taken by the Government and other actors to fight slavery.”¹ Evidence shows that in the first year after the UK established, via legislation, an Independent Anti-Slavery Commissioner, more victims were identified, more proactive and reactive police investigations were undertaken, more prosecutions and convictions were achieved, judicial awareness was notably increasing and more training was put in place.²

The independence of the Commissioner has been vital in ensuring cooperation from business in addressing labour exploitation in creative and proactive ways. This has increased reporting of breaches of the Act, victim identification, and ultimately, successful prosecutions (71% increase in just one year).

FECCA argues that the creation of an Australian Independent Anti-Slavery Commissioner will be vital in securing the cooperation of key stakeholders and increasing successful outcomes. This is particularly important in light of evidence presented throughout the Modern Slavery Act inquiry process that Australia is a world leader in anti-slavery laws but that awareness of the laws is low, enforcement is weak and there are gaps in communication between civil society and criminal frameworks despite efforts to reduce these.

It is FECCA’s recommendation that the legislation include the creation of an Independent Anti-Slavery Commissioner Office with a role not restricted to an ombudsman-like function which would relegate the role to a reactive, complaints-based mechanism.

Forced Marriage

FECCA argues that forced marriage is one manifestation of domestic and family violence (DFV) and should be best addressed by strategies to reduce DFV rather than in the *Modern Slavery Bill 2018*. Forced marriage is not universally understood as falling within a definition of modern slavery and is generally only defined as such when it is characterised by some other pre-conditions (for instance, a marriage where a woman is liable to be inherited by another person after the death of her husband)³.

In Australia, forced marriage most often involves coercion, threats, deception and violence to ensure victims enter a marriage against their will. Combating forced marriage is best undertaken via family violence and gender based violence frameworks which are specifically developed to be culturally and linguistically appropriate and based on international best practice. We encourage the government to expand legal and cultural definitions of DFV to include forced marriage, but also to ensure that there are appropriate support networks and services available for victim/survivors who wish to exit situations of forced marriage.

Including forced marriage in the *Modern Slavery Bill 2018* could result in unintended consequences for victim/survivors of forced marriage. FECCA does not consider the *Modern Slavery Bill 2018* the appropriate mechanism to reduce or prevent incidents of forced marriage, or to provide the necessary culturally and linguistically appropriate support services

¹ UK Home Office.

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/542047/2016_07_31_Haughey_Review_of_Modern_Slavery_Act_-_final_1.0.pdf

³ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/SupplementaryConventionAbolitionOfSlavery.aspx>

for victim/survivors. FECCA argues that any support provided to victim/survivors of forced marriage should be de-linked from any engagement with, or participation in, law enforcement procedures.

Redress

FECCA encourages the government to include in the *Modern Slavery Bill* provisions for a compensation scheme which provides redress to any victim/survivor of modern slavery. This would be consistent with international examples.

A national legislative provision for redress would ensure consistency across all Australian jurisdictions. Currently the provisions for compensation for victims of crime vary across states and territories and would not adequately cover victim/survivors of Commonwealth offences like modern slavery.

A redress scheme is vital in the restorative justice process for victim/survivors and would go some way to mitigating the effects of their experiences of modern slavery. The inclusion of redress in the legislation also serves strongly as a reminder to businesses complying with the reporting requirements of the purpose of the legislation – to ensure that *nobody* becomes a victim of modern slavery.

Penalties

FECCA would encourage the inclusion of reasonable penalties for failing to comply with the requirements of the *Modern Slavery Bill 2018*. FECCA would encourage a phased-in approach, providing an introductory grace period of one year; however, the government should consider ways to reward companies which meet requirements within the first year of reporting. It is FECCA's view that the legislation should include provisions to publish a public list of companies who are compliant and those who are non-compliant as a way to encourage companies to comply with the legislation.