

**FECCA Submission to the
Attorney-General's Department on the
Exposure draft legislative
amendments to Australia's people
trafficking and slavery offences
January 2012**

About FECCA

FECCA is the national peak body representing Australians from culturally and linguistically diverse (CALD) backgrounds. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to government and the broader community. 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 designed around the concepts of empowerment and inclusion, and are formulated with the common good of all Australians in mind.

Preliminary

The Federation of Ethnic Communities' Councils of Australia (FECCA) welcomes the opportunity to give feedback on the proposed amendments to the legislative framework criminalising people trafficking, slavery, slavery-like practices, and forced marriage. We commend the Minister for Justice, the Hon Brendan O'Connor MP, and the Australian Government for pursuing these issues through a rigorous consultation process and providing avenues for comment.

FECCA considers trafficking, slavery, slavery-like practices, and forced marriage as a violation of human rights. Such practices inhibit a person's freedom, have grave implications for health and wellbeing and, among other ramifications, negatively affect family and community relations.

In 2011 FECCA outlined through our contribution to AIRWA's [submission to the Attorney General's Office on Forced and Servile Marriage](http://www.fecca.org.au/images/stories/documents/Submissions/2011/submissions_2011028.pdf)¹ our stance on forced marriage. Many of the issues and recommendations raised in this document, particularly in regards to service provision and education, also apply to trafficking and slavery practices in Australia. As such, much of this previous document, as well as our continuous consultations with CALD communities through our Access and Equity reporting, informs our stance on and approach to these issues, particularly in regards to legislative measures.

¹ AIRWA 2011, *Submission to the Attorney General's Office Forced and Servile Marriage Discussion Paper*, AIRWA, <http://www.fecca.org.au/images/stories/documents/Submissions/2011/submissions_2011028.pdf>.

Response to the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012 Exposure Draft

FECCA supports in principle the introduction of the new and more expansive Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012. In particular we highlight the importance of introducing the more expansive and explicit definitions, particularly of forced marriage, and value that the amendment recognizes coercive behaviours, threats and the existence of power imbalances as entrenched and foundational to the sustainment of trafficking, slavery, slavery-like practices, and forced marriage.

We also support the inclusion of provisions which recognise practices particularly associated with the trafficking, slavery and forced marriage of some people from a CALD background. This includes deportation threats made by offenders, barriers including the 'ability to speak, write and understand English'² and the involvement of a third party to the arrangement of a forced marriage.

However, whilst we agree with the implementation of legislation, we advocate for a holistic approach to prevention, detection and victim support that expands beyond legislation and policy into strong community based grassroots initiatives.³ We believe this is crucial to creating substantive attitudinal and behavioural change whilst ensuring support programs foster culturally, linguistically and religiously sensitive practices.

FECCA Recommends:

1. The introduction of the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012.

² The Parliament of the Commonwealth of Australia 2011, Exposure Draft: *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012: No. ,2012*, Subdivision D – General provisions: 270.10 Relevant evidence: C. ii, House of Representatives/ The Senate, The Parliament of the Commonwealth of Australia.

³ FECCA for AIRWA 2011, op. cit, p. 4.

A Holistic Approach

Changing attitudes and behaviours around trafficking, slavery and forced marriage lie not only in legislative and policy reform, but are also dependant on, among other influences, community engagement, poverty reduction, culturally and linguistically sensitive education and information provision and the level of accessibility and equitability of services.

FECCA Recommends:

2. The development of holistic approach to the support of victims of trafficking, slavery, slavery-like practices, and forced marriage which spans across legislation, policy and community based support initiatives.

Cultural and Linguistic Diversity and Trafficking, Slavery, Slavery-like Practices, and Forced Marriage in Australia

Whilst little is known about the extent of trafficking, slavery, slavery-like practices, and forced marriage in Australia, with cases only starting to come to light in recent years, the current research has established that victims are predominantly from a culturally and linguistically diverse background and are largely transported from countries such as Malaysia, Thailand and South Korea to work in such industries as prostitution, construction and hospitality.⁴ Given this, FECCA advocates for a focus on and dedication to the provision of culturally and linguistically sensitive and competent measures across all preventative, detection and victim support initiatives.

Currently the Support for Victims of People Trafficking Program is administered federally and provides critical support for victims. It assists in rebuilding lives, empowerment, and works through the complex migration and visa issues commonly associated with such circumstances. However, FECCA is mindful of the complexity of such care, acknowledging not only the multitude of challenges involved but also the cultural, linguistic and religious needs of clients. As such, FECCA emphasizes the need for support services to be culturally competent and mindful of the needs of victims and their families.

⁴ Dr Andreas Schloenhardt 2009, *Support Schemes for Victims of Trafficking in Persons: Australia*, Human Trafficking Working Group, TC Beirne School of Law, The University of Queensland, p. 4, accessed 23/01/2011: <<http://www.law.uq.edu.au/documents/humantraffic/victimsupport/Australia-Support-for-Trafficking-Victims.pdf>>.

FECCA Recommends:

3. The implementation of recommendations outlined by FECCA in AIRWA's [submission to the Attorney General's Office on Forced and Servile Marriage](#). Many of these recommendations are applicable to the prevention, detection and support for victims of slavery and trafficking.
4. The expansion of research on trafficking, slavery, slavery-like practices, and forced marriage in Australia which utilises both qualitative and quantitative methods, and is disaggregated and values the importance of cultural, linguistic and religious implications of such practices.
5. That such research values and respects the diversity of CALD communities and actively seeks out their participation and contribution to such initiatives.
6. That established service providers administering support to victims of trafficking, slavery, slavery-like practices, and forced marriage, particularly the Support for Victims of People Trafficking Program, be required to undertake cultural competency training. This should not only be implemented in front line services but also at a systematic level.
7. The recruitment of bicultural and bilingual staff in prevention and detection activities, as well as support services. This recruitment should reflect the needs of victims and their cultural, linguistic and religious needs.

A 'Critical Mass'

FECCA is aware of the implication of trafficking, slavery, slavery-like practices, and forced marriage on family and community ties. We acknowledge the stigma, shame and trauma which can cause social, cultural and religious isolation and detachment. However, we understand that familiar cultural and religious support is often integral to healing and settlement. As such FECCA recognises the importance of fostering a 'critical mass', a concept we have discussed previously in relation to settlement support.⁵ This means developing support mechanisms inside communities affected by such practices which assist them in becoming involved with local services in order to shape them to be culturally, linguistically and religiously sensitive and appropriate in their approach to prevention, detection and victim support. This may be

⁵ FECCA 2011, FECCA Submission: *Australia's Humanitarian Program- 2011–12 and Beyond*, FECCA Canberra, p. 12, <http://www.fecca.org.au/images/stories/documents/Submissions/2011/submissions_2011012.pdf>.

particularly relevant to minors and also assist in breaking down the rhetoric of vulnerability associated with CALD communities and individuals. It may also build a more realistic and multifaceted approach to service delivery which acknowledges the heterogeneity of CALD communities and approaches to healing, health and community.

FECCA Recommends:

8. The fostering of greater CALD community involvement in prevention, detection and service delivery through the establishment of support networks and reference groups. This also includes the active recruitment of community members and bicultural and bilingual workers into services.