

Federation of Ethnic Communities' Councils of Australia's Submission to the Joint Select Committee on Australia's Immigration Detention Network

August 2011

1. The Federation of Ethnic Communities' Councils of Australia (FECCA) welcomes the opportunity to submit to the Joint Select Committee on Australia's Immigration Detention Network.
2. FECCA is the national peak body representing the interests of Culturally and Linguistically Diverse (CALD) communities in Australia. FECCA supports multiculturalism and social justice and rejects all forms of discrimination and racism.
3. FECCA's work has a focus on ensuring that all migrant, refugee and humanitarian entrants settling in Australia are able to fully participate in Australian society, and do not face undue barriers to settlement and inclusion.
4. In the first instance we call on all sides of politics to avoid stigmatisation of people seeking protection, and a safer life for themselves and their children. FECCA calls for a bipartisan approach to refugee policy and denounces scaremongering and stereotyping about asylum seekers, for example through the use of factually incorrect terms such as 'illegal immigrants'.
5. We strongly assert that it must be acknowledged, across politics, media and society at large, that refugee and humanitarian entrants, who in time become Australian permanent residents or citizens, go on to make highly valuable contributions to Australian society. These persons are often in possession of useful skills and ideas that enhance and enrich Australia.
6. If we fail to treat asylum seekers with dignity and respect while their claims are being processed, we will not only be acting contrary to our international human rights obligations, **but we will also be facilitating a difficult settlement process for those asylum seekers ultimately granted permanent protection in Australia.** A traumatic immigration detention and refugee assessment period can have lasting negative repercussions, and can form a dark shadow over the lives of those seeking to build lives for themselves and their families in Australia.

RESPONSE TO THE TERMS OF REFERENCE

6. FECCA addresses here a number of the terms of reference, in particular as these terms relate to length of immigration detention, offshore processing and possible alternatives to detention.

Term of Reference (a) any reforms needed to the current Immigration Detention Network in Australia.

Reform Needed: Length of Detention

7. Despite the government's key immigration detention values that "detention that is indefinite or otherwise arbitrary is not acceptable and the length and conditions of detention, including the appropriateness of both the accommodation and the services provided, would be subject to regular review" and that "detention in immigration detention centres is only to be used as a last resort and for the shortest practicable time,"^[i] and the government's stated position that detention is to be used for health, identity and security checks (that is for non-deterrent reasons),^[ii] we see at present an extraordinarily high number of asylum seekers detained for lengthy periods of time (around 4,000 asylum seekers currently in detention have been there for over 6 months^[iii]) and this is simply unacceptable. Asylum seekers are not criminals to be locked up indefinitely – it is not illegal to seek refuge.

8. FECCA contends that **a policy of indefinite mandatory detention is unduly harsh and inappropriate and that immigration detention of over 30 days should only be in complex or exceptional cases, and that children should not be held in detention facilities.** We know that detaining asylum seekers indefinitely in immigration detention can have huge, negative long-lasting effects.^[iv]

10. To this effect FECCA strongly supports the Refugee Council of Australia in asserting that detention must be for less than 30 days, and must be subject to regular judicial review beyond that point.^[v] FECCA calls for the *Migration Act 1958* to reflect this process.

Reform Needed: Offshore Processing/Excision Zones

11. Despite the Government's recent announcement in the 2011-2012 federal budget that offshore and onshore processes would be aligned and that those detained in excised offshore zones would have greater access to rights of review, FECCA still calls for the removal of the 'excision zone' language and policy from the *Migration Act 1958*. FECCA believes that all asylum seekers should be processed onshore. To this effect FECCA is particularly concerned about the recent announcement around the re-opening of the Manus Island assessment centre. Offshore processing reduces people's access to their human rights both through unduly discretionary excision procedures and lack of transparency in review processes, and in practice due to isolation, where services for those held offshore are limited.

12. FECCA also takes this opportunity to express great concern with the possibility of asylum seekers being sent to Malaysia as part of the government's '**Malaysia Plan**'. FECCA in no way supports sending those seeking refuge in Australia to countries with poor human rights records, who are not signatories to international conventions on refugees and torture.

13. While we must aspire to keep Australia's borders safe we must never forget our fundamental human rights obligations, as outlined in the *Refugee Convention*, *Convention on the Elimination of All Forms of Racial Discrimination (CERD)* and the *International Covenant on Civil and Political Rights (ICCPR)*, amongst others, to treat with dignity, and protect the human rights of, those seeking safety on our shores.

Term of Reference: (e) impact of detention on children and families, and viable alternatives

14. As discussed above, FECCA contends that conditions in immigration detention facilities can have serious implications on the human rights of asylum seekers and can have a detrimental impact on their mental and physical health and wellbeing.

15. To this effect FECCA supports the Universal Periodic Review NGO committee's position that the Australian Government should implement community-based alternatives to detention whenever possible, particularly for families, children and other vulnerable groups. Community based alternatives may include:

- Open accommodation centres for asylum seekers
- Release on own recognizance or with registration and documentation
- Release to nominated address
- Release to case worker support (case management)
- Release to community group / religious group / family
- Release to a return preparation program
- Release with reporting requirements
- Release with bail, bond, surety or guaranteeⁱ

CONCLUSION

16. Australia's new multicultural policy is titled "*The People of Australia*". We need to think of people as our greatest resource and ensure that we support everything that creates a context for refugee and humanitarian entrants to engage with their new home and to contribute to our growth. FECCA urges the Committee to show leadership on this issue by asserting that we not only adhere to our human rights obligations, but also to our Australian sense of a fair go for those fleeing war and violence.

17. FECCA thanks the Committee for the opportunity to submit to this review.

FECCA Submission to the Joint Select Committee on Australia's Immigration Detention Network
August 2011

^[i] *Fact Sheet 82, Immigration Detention*, DIAC (as at 21 August 2011) <http://www.immi.gov.au/media/fact-sheets/82detention.htm>

^[ii] *No Vacancy, The Age*, 10 February 2011 <http://www.theage.com.au/national/no-vacancy-20110209-1an3m.html>

^[iii] *Immigration Detention Statistics Summary*, Detention Operations Division, DIAC (As at 20 May 2011) <http://www.immi.gov.au/managing-australias-borders/detention/pdf/immigration-detention-statistics-20110520.pdf>

^[iv] *2011 Immigration Detention at Villawood*, Australian Human Rights Commission (2011), http://www.hreoc.gov.au/human_rights/immigration/idc2011_villawood.pdf

^[v] *A Better Way: A Risk-Based Approach to Immigration Detention*, Refugee Council of Australia (24 June 2011) http://www.refugeecouncil.org.au/resources/statements/110624_RW_detention.pdf

ⁱ *Alternatives to Immigration Detention*, International Detention Coalition, 'International Examples' page 3 (June 2010) as cited in *Consultation on UPR Recommendations*, Universal Periodic Review NGO Coalition <http://www.hrlrc.org.au/files/NGO-Coalition-Submission-Consultation-on-UPR-recommendations.pdf>