



FECCA Submission to the Senate Legal and Constitutional
Committee Inquiry into the provisions of the Migration
Amendment (Designated Unauthorised Arrivals) Bill 2006.

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Authorised by:

Voula Messimeri
FECCA Chairperson
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Senate Legal and Constitutional Committee
Via email to: LegCon.Sen@aph.gov.au

Re: FECCA submission to the Inquiry into the provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.

The Federation of Ethnic Communities' Councils of Australia (FECCA) is pleased to provide this submission to the Inquiry into the provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.

FECCA is the national peak body representing and advocating for, diverse cultural and linguistic communities. Our role is to advocate, lobby and promote issues on behalf of our constituency to government, business and the broader community. FECCA promotes Australian multiculturalism, community harmony, human rights, social justice, community participation and the rejection of discrimination to build a productive, culturally rich Australian society.

The United Nations High Commissioner for Refugees (UNHCR) defines a refugee as:

A person who is outside his/her country of nationality or habitual residence; has a well-founded fear of persecution because of his/her race, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail himself/herself of the protection of that country, or to return there, for fear of persecution.

Article 1, the 1951 Convention relating to the Status of Refugees.

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Through our signing of the 1951 Refugee Convention, Australia is obliged to offer protection and respect for the human rights of people claiming refugee status.

FECCA has strong concerns about the proposed changes to the Migration Act 1958. We argue that protection for human rights should always be given prime consideration in any amendments to legislation affecting people claiming asylum and protection. In this case we fear that the proposed changes are instead being driven by political and diplomatic concerns. These changes risk undermining both the spirit and the intent of the 1951 Refugee Convention, to which Australia is a signatory.

Australia has a responsibility to enact reasonable, compassionate, flexible and coordinated approaches to the continuing global refugee problem. Human rights violations in West Papua and other parts of our region are well documented. A compassionate approach to protecting the human rights of refugees from our region, as well as outside it, is vital. We argue that the proposed Migration Amendment (Designated Unauthorised Arrivals) Bill is not a compassionate response.

FECCA asserts that Australian Government policy should not focus on punishment, deterrence and denial of our international and domestic responsibilities to address the needs of refugees or asylum seekers. We believe that expanding the offshore processing regime to all persons arriving at mainland Australia unlawfully by sea, will unnecessarily disadvantage people according to their mode of arrival. This jeopardises the rights of people to equal protection under the law, rights guaranteed the International Covenant on the Elimination of All Forms of Racial Discrimination, to which Australia is a signatory.

UNHCR statistics show that Australia received 2424 claims for asylum during the first nine months of 2005. This compares to 23,200 in Britain and 38,000 each in France and the United States. Yet Australia is the only country which detains asylum seekers for extended periods. A number of inquiries, including the Human Rights and Equal Opportunity Commissions *A Last Resort?* and the Palmer inquires, document the damaging impact of Australia's immigration detention policies on asylum seekers and "illegal" immigrants. In some cases, irreparable damage is being done to both the physical and mental health of people in immigration detention. In these cases, we are clearly failing in our duty of care to asylum seekers. FECCA does acknowledge positive recent changes that have lead to children and women being released from immigration detention. However, we argue that alternative policy approaches, such as releasing all asylum seekers into suitable accommodation in the community once basic checks have been completed, would be far less damaging and would still provide protection while refugee claims were processed.

Asylum seekers held in offshore processing centres face additional risks to their human rights, due to limited access to legal representation and advice,

physical isolation, and the lack of effective oversight by both Australian government officials and human rights authorities. This risk is compounded where offshore processing and detention is conducted in countries such as Nauru that are not signatories to the 1951 Refugee Convention.

Australia has a strong record of providing protection and resettlement to refugees through our humanitarian program. Indeed, the decision to grant protection visas to West Papuan refugees who arrived at Cape York in January 2006 illustrates that Australia can respond in a compassionate, and appropriate way when people's futures and lives are at risk. We must not however, allow respect for human rights to take a backseat to other policy considerations. We urge the Australian government to work constructively with relevant United Nations working bodies to ensure that any amendments to current legislation do not contravene human rights obligations, international law and conventions, either in application or intent. We also urge Australia to take a pro-active role in working constructively with governments and the United Nations in areas of crisis to address refugee issues close to their source.

FECCA would welcome the opportunity to discuss any of the issues raised in this submission. Please do not hesitate to contact either myself on 0414 532 529 or Sharon Ride, the FECCA Director on (02)6282 5755, should you wish to do so.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'V. Messimeri'.

Voula Messimeri
FECCA Chairperson

24th May 2006