

9 June 2020

Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Parliament House
Canberra ACT 2600

By email:

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Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020

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 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 welcomes the opportunity to provide input into the Legal & Constitutional Affairs Legislation Committee's inquiry into the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020.

FECCA is highly concerned that these amendments may cause harm and undue damage to the wellbeing of already vulnerable people in detention. FECCA first raised these concerns in its submission to the Legal & Constitutional Affairs Legislation Committee's inquiry in relation to the same proposal in 2017.¹

¹ FECCA (2017), 'Submission regarding the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017' found at <http://fecca.org.au/wp-content/uploads/2017/10/FECCA-SCOA-joint-submission-regarding-the-Migration-Amendment.pdf>

Permitting officers and assistants to search immigration detention facilities without a warrant and strengthening their seizure and screening powers, including strip searches,² will give authorised officers disproportionate power over detainees. Refugees face significant trauma as they flee their countries, often leaving behind family members, they do not need to be needlessly harassed and have their wellbeing further compromised by authorised officers. The significant power imbalance in the relationship between a detainee and authorised officer and the detrimental impact this has on the mental health of detainees is a matter that has been researched thoroughly.³ As a signatory of the United Nation's 1951 Refugee Convention, Australia has a responsibility to all who enter the country as a refugee. In particular, Articles 12 and 14 call for the "respect a refugee's personal status and the rights that come with it" and "the respect and protection of artistic rights and industrial property".⁴

FECCA is also concerned with the specific reference to mobile phones and SIM cards in Section 2 of the Bill. The freedom to communicate with family members at a regular interval is a minimum requirement of the United Nations Standard Minimum Rules for the Treatment of Prisoners, of which Australia is also a signatory.⁵ Mobile phones are a valuable means of contacting family, legal representation, and media. The removal of mobile phones can lead to further emotional detriment and damaging feelings of isolation. In addition, this suppresses the opportunity for detainees to speak against any violations of their rights and freedoms.

Finally, FECCA would like to reiterate its strong opposition to the practice of detention related to immigration and seeking asylum. It is legal to seek asylum under international law and Australia must respect and uphold its international legal obligations.

FECCA welcomes the opportunity to expand on this submission to the Committee if required. For enquiries please contact FECCA CEO, Mr Mohammad Al-Khafaji at ceo@fecca.org.au or on (02) 6282 5755.

² As proposed in section 252 and 252BA of the Bill.

³ Mares, P. (2002), *Borderline: Australia's response to refugees and asylum seekers in the wake of the Tampa*. UNSW Press.

⁴ United Nations (1951), 'Convention Relating to the Status of Refugees', found at <https://www.unhcr.org/4ca34be29.pdf>

⁵ United Nation (1955), 'United Nations Standard Minimum Rules for the Treatment of Prisoners', found at https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf