



Mr Jonathan Curtis
Committee Secretary
The Senate Legal and Constitutional Legislation Committee

Email: legcon.sen@aph.gov.au

RE: FECCA submission to the parliamentary inquiry into the Migration Amendment (Employer Sanctions) Bill 2006

Dear Mr Curtis,

FECCA welcomes the opportunity to provide comment on the parliamentary inquiry into the Migration Amendment (Employer Sanctions) Bill 2006.

FECCA is the national peak body representing Australians from diverse cultural and linguistic backgrounds. Our role is to advocate, lobby and promote issues on behalf of our constituency to government, business and the broader community. Our charter includes promoting full access and equity, advocating community harmony and the celebration of diversity, championing human rights and arguing that Multiculturalism is central to the social, economic and cultural health of Australia.

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

Yours sincerely,

Voula Messimeri

FECCA Chairperson
18 April 2006

FECCA appreciates the opportunity to provide a submission to this Inquiry. We recognise the need to provide a legislative response regarding people who are illegally working in Australia and employers and labour suppliers who knowingly or recklessly engage illegal workers. FECCA acknowledges that people who seek to work illegally in Australia take job opportunities away from Australian citizens and lawful migrants. Given the high level of unemployment among people from culturally and linguistically diverse backgrounds (CLDB), this is surely a matter of concern, which deserves close scrutiny. What makes the issue even more pressing is the fact that some illegal work involves organised crime, in which women are trafficked into Australia to work under conditions of forced labour or slavery, particularly in the sex industry. Therefore, in principle, FECCA supports the Australian Government's initiative to introduce new offences for employers, labour suppliers and other persons who allow non-citizens to work in Australia illegally.

However, FECCA expects that in any legislative response the Australian Government must ensure that basic human rights are respected. Our national and international Human Rights and Social Justice obligations are identified in international conventions to which Australia is a signatory.

For example, according to the International Covenant on Civil and Political Rights (ICCPR) all persons in Australia, whether they are illegal workers or not, are entitled without any discrimination to the equal protection of the law. It is, therefore, essential that amendments to Migration Act are enacted in such a way that guarantees the principle of equality before the courts, hence abides by ICCPR. Illegal workers must be informed of their rights and treated with respect throughout any interactions with the legal system, including both Departmental Officers, police or the courts.

In this sense, FECCA is extremely concerned about current evidence which suggests that there are many barriers to people from CLDB having equality before courts. For example, issues such as time pressures, lack of appropriate and up-to-date multilingual resources, including lack of interpreters, to support both the client and the legal staff have a strong impact on achieving real equality for people from CLDB in the Australian court system. FECCA firmly believes that the amendments to Migration Act should address these discrepancies in the application of the law, and ensure that the human rights of illegal workers are respected at all times.

Another area of great concern to FECCA is the exploitation of women in illegal work schemes. FECCA shares the Federal Government's sensitivity on this issue and commends the Federal Government for recently introduced counter trafficking measures designed to protect women trafficked into Australia for sexual slavery and prostitution. We also acknowledge the Government's

commitment to offering protection to trafficked women under the Victim Support Program.

We argue however, that the requirement that women must, after 30 days, decide whether to assist police or to return to their country of origin, places a great deal of stress on women who have been traumatised. We support calls for visas for women who fear returning to their home country, or who feel unable to make a decision to help bring traffickers to justice within the current 30 day period.

FECCA also urges Federal Government to negotiate with State and Territory Governments to ensure consistency between Federal and State legislation offering protection to women trafficked into Australia for sexual slavery and prostitution.

We also would like to point out that the recognition of overseas qualifications should be considered as a related issue. This issue might seem slightly outside the scope of your inquiry; yet the lack of appropriate measures to assess overseas qualifications undoubtedly causes skill shortages, which might force some employers to fill the vacancies through illegal means. Many FECCA constituents, particularly new migrants, are unable to secure rewarding and purposeful employment. Their qualifications and experience gained overseas are not recognised in Australia by regulated and self-regulating professional and trade bodies. This not only constitutes a structural impediment to full participation in civil society but also creates gaps in the workforce allowing illegal workers to fill in.

FECCA, therefore, argues that the fair and prompt recognition of, or access to bridging training, to professional, trade or other qualifications of skilled migrants who are educated overseas is corollary to the success of preventing illegal work practises in Australia.

In conclusion, FECCA acknowledges the need for a review of the Migration Act. However, equally important is the commitment to uphold the principles of human rights as outlined in international conventions such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It is essential that changes to the Migration Act ensure that illegal workers are treated with respect for their dignity.