

18 June 2010

Submission to the Senate Committee Inquiry

Migration Amendment (Visa Capping) Bill 2010

Introduction

I wish to contribute to the Senate Committee Inquiry in relation to the Migration Amendment (Visa Capping) Bill 2010

I am an Indian citizen, currently on a bridging visa, who holds a decent job with alignment to the course and occupation completed in Australia, as an International student. I have been working in Australia for the last 5 years and can suggest that I have honestly and compassionately contributed towards the Australian economy.

As an individual, law abiding resident for taxation purposes, I have paid my due share; my tax's and costs to be in Australia. Australia has been, both promising and an accepting country in all terms. During my stay, I've known people, cultures, diversity and employment opportunities and honestly Australia has been welcoming.

Further to my submission concerning the proposed bill to amend the Migration Act, my aim is to outline the unfair possibilities, the proposed bill may implement on pending visa applications. This document (the proposed bill) not only carries the potential to damage the image of the Australian society but also sends an incorrect, immoral and unjust signal to the people who are in, currently waiting in the "pipeline" and/or are planning to apply for a Permanent Residency visa. In general, before I may discuss specifics, this bill has already posed a high level of anxiety and stress on people, who directly and/or indirectly are effected by its proposals.

Summary

The proposed amendment gives the Immigration minister/s exceptional powers to change and amend policies as they will, leaving room for loop holes that may effect the Australian economy today, in the near future and in long terms. The bill not only gives the minister to make decisions that will have grave effects on people waiting in the "pipeline" but will also impose a rather discriminatory angle to the free Australian society.

The bill also rejects the very basis a law stands for, equal opportunities and a fair go. This will give the Department of Immigration & Citizenship (DIAC) a great range of flexibility which will have a negative effect on various groups of people. Namely; applicants, directly impacted family, indirectly impacted family, partners, **employers** and most importantly the Australian economy in general.

This will not only impact the 140,000 or so applications in the "pipeline" but far more

people, most of them Australian and the first hit will be noticed by the employers who directly employ these applicants.

For all applications made, DIAC has been promising and confirming applicants that new changes and/or regulations that may implement in the future will not effect applications received before any updates are carried out. The bill not only has the potential to nullify existing applications, who in good faith have followed the law, but will also make people loose trust in any new changes that the DIAC may implement. Since, regardless of what changes are brought and implemented, the proposed amendment can be applied at any given point of time in a financial year and outbid any existing changes.

Besides being unjust and unfair, the amendment has no attributes on how the migration system will be streamlined. The amendment mostly concerns pending applications and the prospect of receiving applications for a “characteristic” that has more supply and less demand. However, the amendment does not the outline the ongoing issue of the mess the DIAC is currently in.

As an Australian resident for taxation purposes, I have the following questions that have been asked by people directly being affected with the proposed amendment:

- Why has the DIAC not outlined a quota for a “characteristic” before accepting applications, beginning of a financial year?
- Why is DIAC proposing to bring the changes in the year, a few months before general elections?
- Was DIAC asleep when minor colleges were mushrooming around the major cities of Australia, promising an Australian future and enabling agents and brand ambassadors to promote Australian education with a hope of an entry to the welcoming multi-cultural society we call Australia?

The proposed amendment does not answer the migration difficulties being faced by DIAC (in regards to supply being greater than demand) nor does it outlines a boundary of law. This will nullify or carries the potential to nullify any existing law; laws that have been followed by people and have been followed in good faith.

Clearly, besides being inhumane towards the 147,000 applicants or so, the proposed amendment will have a retrospective effect on the people in the long term as well. Since any changes, legislation amendments and lists the DIAC may plan to implement in the future can be “capped” or “ceased” at any given time.

The amendment will adversely affect people who have been waiting, in good faith, for years (some of them 4-7) on their application outcome. With the average life expectancy of, lets say, 65 years for a male, the DIAC proposes to waste these precious years of young people who want to work and contribute towards the ever booming Australian economy, the Australian economy that has successfully seen and survived the GFC. People will not only loose hope and would hardly care about the average AUD \$6,000 spent, out of which only AUD \$2,000 will be refunded, but will see their time and years

of anxiety going down the drain.

All thanks to a last minute amendment that poses a constant threat to their wait, patience and hope they have invested in Australia.

Retrospective legislation destroys the certainty of law, is arbitrary and is vindictive, (being invariably directed against identifiable persons or groups). Such laws undermine many characteristics of the rule of law.

Laws should apply *prospectively* and not *retrospectively*. A person should never be made to suffer in retrospect, especially in law which affects their futures and where there is nothing to suggest that any crime is committed.

People have altered their life style and sometimes resigned from good jobs or sold their properties to come to Australia. Applicants in Australia invest months and years of their lives here and follow rules and lodge a valid application and the government accepts the relevant application fee, unless the validity of the application is in question due to fraud and other reasons a reasonable right-thinking person would expect the application to be processed and if successful the visa to be granted.

Conclusion

Australia's reputation as a "fair go" country would suffer and will badly damage the reputation overseas and call into question the moral values. Any reasonable right minded person would consider such a law to be simply unfair.

I hope the Australian Parliament and the Australian leaders will understand the responsibility they carry towards the very icon the country is and reject this bill or implement it without effecting existing applicants. This will at least be notified and will be advised to new applicants that their application will be decided with a year's timeframe and the remaining applications will be ceased and will not apply to those people who have been waiting for years on their application outcome and loose it to a bill that was never thought of or outlined when applying for an effected visa.

Yours Faithfully