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Senate Legal and Constitutional Affairs Committee  
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Dear Committee Secretary

Thankyou for the opportunity to make a submission into the *Senate Inquiry into the Framework and operation of subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements*. The Community Relations Commission supports efforts by the Australian Government to reform the framework and operation of subclass visas as, Enterprise Migration Agreements and Regional Migration Agreements to ensure the program is flexible in meeting the needs of Australian employers, while respecting the rights and dignity of employer sponsored migrants and ensuring transparency, accountability and integrity in the administration of the program.

The Commission strongly believes that employer sponsored temporary migration programs should form part of a wider strategy to address Australia's skills needs.

The benefits of temporary skilled migration in addressing skilled shortages in rural areas and in industries such as health, is acknowledged. However temporary migration programs should be used in conjunction with a longer-term skills training and development strategy that includes apprenticeship programs for Australian citizens and

permanent residents, together with a permanent skilled migration program that addresses genuine skill shortages.

This should be addressed in a comprehensive manner that includes the creation of accessible and affordable pathways to technical and university education, and the introduction of bridging courses and workplace experience programs for those whose overseas qualifications are not recognized in Australia.

While Enterprise Migration Agreements can enable major infrastructure and mining projects to proceed more expeditiously, the experience of the mining industry in rural and remote areas has shown that it can also result in negative unintended consequences. The Commission has received representations through our Regional Advisory Councils (RACs) that evidence of this is seen through the affordability and availability of rental accommodation in towns in close proximity to mines. This has resulted in the displacement of those less able, and often newly arrived humanitarian program entrants, to find accommodation that is further away from services and with limited access by public transport.

While guidelines for the introduction of Regional Migration Agreements begin to ensure that migration is planned and the social impact of migration is considered, the Commission is unaware of any agreements that have yet been entered into.

It is the Commission's opinion that unplanned migration, together with an inadequate national training effort, will exacerbate divisions within and between communities, and will have a detrimental impact on community harmony.

The Commission supports the need for workers from outside Australia to demonstrate English language proficiency, meet health and character requirements and have the skills and experience necessary to perform the occupation in Australia. The Commission also supports the application of the Health Waiver for secondary applicants.

However, the Commission is also investigating the impact of IELTS testing on migrants, after receiving numerous representations through the RACs, the Ministerial roundtable on

Workplace diversity and correspondence from community leaders that IELTS testing is frequently unpredictable, expensive, overly stringent and requiring a disproportionate standard of English competence to the demands of the education or occupation.

The Commission supports the existing criteria under which applications are assessed and the obligations incumbent on employers of sub class 457 Visa holders. However, the Commission is concerned over the lack of protection for an employee under the Migration Agents Regulations whereby an employer can assist an employee to make a visa application. In such instances the Department of Immigration and Citizenship should be required to ensure that the employees are aware of their rights and the conditions of their visa.

The Department of Immigration and Citizenship (DIAC) should continue to require evidence that confirms sufficient effort was made to find and employ suitably qualified Australian citizens or permanent residents for the position in the six months immediately before lodging the application.

Employers should demonstrate they have not made any workers redundant during the past 12 months in the occupations where employer sponsored visas are sought and, if they have, that any affected workers have been offered back their jobs on no less than their original terms and conditions of employment;

Employers should also demonstrate a commitment to creating training and employment opportunities for Australian workers in the areas of skills need for which visa sponsorship has been sought; and can effectively use any 'skills transfer' opportunities that skilled migrants can bring to the workplace.

The Commission holds the view that employment agencies should be responsible for monitoring the contractual obligations placed on subclass 457 visa holders and their sponsors, and be accountable to DIAC. In the event that any breach is identified, a clear referral pathway that identifies the agencies responsible at each step of the monitoring and investigation process should be established.

The Australian government has constitutional authority for migration, and accordingly the Department of Immigration and Citizenship should be held accountable for the oversight of migration programs and their consequential impact on Australian society.

The Commission strongly believes there is significant economic, cultural and social value in the temporary migrants working in Australia. Local economic growth is facilitated, the potential for cross-cultural understanding is increased, international ties and relationships are developed and different social norms can be challenged and embraced.

Conversely, when access to government services is not available there can be substantial negative impacts including family breakdown, domestic violence and un-treated medical conditions. A lack of information within the 'host' community about new arrivals can also lead to misconceptions and conflict which threaten community harmony and social cohesion. These issues can be more evident in regional areas where populations are smaller.

Considering the vulnerability of employer sponsored temporary migrants who are inadequately supported under the current program, the Australian government is urged to consider extending settlement services to these visa holders, particularly to partners and dependants living in regional areas of Australia.

The Commission is seriously concerned that employer sponsored migrants are vulnerable to exploitation and unsafe workplace practices due to a limited understanding of their rights under Australian workplace law. To address these issues in part, visa holders should be provided with sufficient information about industrial obligations, rights and entitlements, occupational health and safety requirements and background on Fair Work Australia in their first language (if required).

Employers who do not comply with workplace obligations should be subject to sanctions such as a bar on sponsoring further workers from outside Australia or termination of the labour agreement.

Furthermore, the Commission is gravely concerned about the portrayal of employer sponsored temporary migration by the media. Sensationalized arguments that discredit 457 visa holders can cause major conflict within and between communities. In the interests of community harmony and cohesion, the Commission supports open and informed discussions about the purpose and context of Australia's temporary migration programs.

I welcome the opportunity to support the commission's position at a hearing. Please contact Ms Beverley Bell on [redacted] should you wish to discuss any aspect of this submission.

Yours sincerely

Stepan Kerkyasharian AO

Chairperson