

# Garry Seo & Associates

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ABN 95 784 257 868

5 July 2010

Committee Secretary

Senate Legal and Constitutional Committee

P O Box 6100,

Parliament House

Canberra ACT 2600

via email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Sir/Madam,

**Re:** *Migration Amendment (Visa Capping) Bill 2010*

**Subject:** *Submission*

## **Background to Making a Submission**

I am a solicitor predominantly practicing within the Korean Community and I deal with many Koreans who wishes to immigrate to Australia. Whilst I do immigration work in my practice, the general skilled migration work represents only small percentage of my overall immigration income. I have decided to make a submission because I clearly understand the impact of the new BILL will have if it was exercised by the Honourable Minister for Immigration and Citizenship.

## **The Main Aim of the Bill**

As rightly pointed out by The Hon. Laurie Ferguson in his second reading speech to the Parliament, the Government has grave concerns about the continuing inflow of visa applications under the Skilled Migration Program which are not sponsored and nominating occupations that are not in high demand. The Hon. Laurie Ferguson is particularly concerned about the visa applications nominating the occupation of cooks and hairdressers. He specifically mentions that out of 41,000 general skilled migration visa granted in 2007-2008 program, there were more than 5,000 cooks and hairdressers.

The government is clearly aware that out of 147,000 (including primary and secondary applicants) general skilled migration visa applicants waiting in the pipeline for a visa decision,

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large chunk of them are cooks and hairdressers.

It is clear that the passing of the Bill will open the door for the Minister Chris Evans to apply the law for onshore independent skilled migrations and grant visas to those who have studied high demand occupations and refuse all other outstanding applications not yet processed. The Minister has failed to point out that majority of people amongst 147,000 applications are already in Australia and have adopted to Australian way of life and many will face huge difficulties should they be forced to return to their own countries.

### **Recent Changes Addressing Similar Issues**

(1) On the 8<sup>th</sup> February 2010, the Hon. Minister Mr Chris Evans exercised his powers under Section 39 of the Migration Act and capped and terminated all unprocessed offshore general skilled migration visa made prior to 1<sup>st</sup> September 2007.

(2) The Minister has also introduced NEW SOL to be operational from the 1<sup>st</sup> July 2010 and it has significantly reduced the occupations eligible for skilled migration program compared to the old SOL.

(3) The Minister has also limited transitional arrangements for NEW SOL which will eliminate many cook and hairdresser graduates from applying for permanent resident visa under the general skilled migration program.

### **Are above changes, fair and just for overseas students?**

Recently, there has been number of peace rallies in various States addressing the issue of fair and just immigration policies for overseas students. This limited transitional arrangement will significantly disadvantage those students because some of them had to sell their houses and seek huge assistance from their parents to establish new life in Australia. I believe it is the view of all overseas students and stakeholders that those who held subclass 572, 573 and 574 as at 8<sup>th</sup> Feb 2010 be able to apply for permanent resident visa as well.

Most of us do not understand the lives as overseas students who come to Australia for study. Many of them spend tens and thousands of dollars and by the time they finish study and apply for permanent resident visa through general skilled migration program, they are often left with nothing. They go through the enormous stress of learning English, adjusting to the Australian customs and culture, studying at TAFE or Universities in English (Second Language) provides enormous stress and difficulties, some study as well as work in part-time jobs, some families end up in divorce not being able to cope with the hardness of life they have not fully comprehended. But most of overseas' students survive difficult times and many are happy to become part of Australia and enjoy fullness of the life this beautiful country provides.

This so called 'flawed' system of Permanent Resident Factory, was created by the Howard-Costello government. During this period, we have enjoyed economic growth and the overseas' students market had significant contribution to the boom we have enjoyed over the last 10 years. Overseas students created jobs and many Australian became rich and especially the Universities have enjoyed significant growth in infrastructure over the last 20 years which would not have been possible if it was not for income from the overseas students.

I believe it is not fair one government to allow flawed system to continue for long time and another to reject the system and people by introducing unfair legislation.

The government has already safeguarded Australia from influx of overseas students seeking to benefit from the Permanent Resident Factory system (although it does not exist anymore) by introducing NEW SOL and that NEW SOL will be reviewed annually to reflect market demand. It has already sent clear message to those seeking to study in Australia that they may have to return to their own countries after completing the course.

I believe our Government is entitled to introduce new laws, regulations and policies but when the new Act effects significant number of people in such a huge way, the government must not apply the changes retrospectively. And I believe many of Australians will accept that whilst they agree with current governments' policy of controlling the population to sustainable level and cutting the immigration intake is the most effective way, they will agree that the subject **Migration Amendment (Visa Capping) Bill 2010** before the Parliament is not a fair one.

There are many heartbreaking stories of overseas students that will touch people's heart. And I think it is important for you to hear about some of the stories to understand the impact it will have on students.

### **Story of \_\_\_\_\_ – An overseas student family**

Let me introduce the story of \_\_\_\_\_ who came to Australia in 2005. She first came to Australia briefly in 2004 to visit her sister and she fell in love with Australia straight away. Upon returning to Korea, she researched about immigrating to Australia and decided to come as an overseas student and apply for permanent resident visa afterwards upon completion of a course in cookery and diploma of Hospitality. Her husband was working for a Bank and it is considered to be stable occupation.

She attended language school in Aug 2005 and she studied Diploma of Hospitality in 2006 and 2007 and graduated with good grades. She worked for little while to obtain skills assessment through Trade Recognition Australia and received good marks in IELTS English tests. Whilst she was busy satisfying conditions of the immigration guidelines, her son attended pre-school

and kindergarten without the supervision.

In Dec 2007, she applied for permanent resident visa under skilled migration program and has been waiting for decision ever since. It has been more than 2 years and when she heard about the subject Bill, she wanted her stories to be known to the Senate Committee preparing the report for the government. Her son who was 4 years old when they first arrived in Australia is now 9 and have difficulty expressing himself in Korean language.

They have become fully integrated into Australian society and she cannot imagine how they can settle back into Korea if the visa capping bill is passed and they became victim of such government policies.

### **Petitions**

I was a member of unregistered organization called the “Fairness and Justice for Overseas Students (FJFOS)” and FJFOS started meeting together about 5 months ago to address issues concerning overseas students. With the assistance of its founding members, we sent people out to major Korean Community Centres in Sydney (Strathfield, Eastwood, Chatswood & City) for Petitions and FJFOS has allowed me to submit the Petitions with my submission.

### **Recommendation**

Now that the Minister has implemented NEW SOL from the 1<sup>st</sup> July 2010 and plans to review the SOL as often as yearly basis, the subject BILL should not be passed to disadvantage those visa applications already in the pipeline awaiting decisions. Many people who may become subject of proposed Bill have come from very competitive countries such as Korea, China, India etc where it would be extremely difficult for those students to return and adjust back into the society.

The government should address the issue by updating the NEW SOL for future applications but should not apply capping to onshore skilled migration applications.

Yours faithfully,

Garry Woon Hak Seo

**Solicitor**

# Fair Go for Overseas Students

To: Senate Committee – Legal and Constitutional Affairs Committee  
Migration Amendment (Visa Capping) Bill 2010 [Provision]

We, the undersigned, petition you to show fairness and benevolence to overseas students. The proposed Amendment to Migration Act will give the Honourable Minister for Immigration and Citizenship unprecedented power to cap and terminate those overseas students who have already lodged and are awaiting visa application outcome. It will affect tens and thousands of overseas students and their families who have already become part of Australia.

Name
Mihyun-Noh
Kyounghak Oh
Hye Kyung Park
Dhiraj Kc
Prasant Sharma
Dipankar Sharma
Minbok Park
Lee Hyun A
Yeonmi sung
noh byeonghwan
Kim taehang
Son JEONGRAN
Jud Simon
Mi-OK
Heather
Aman Cheema
Karan
Neel Bhattarai
Rabi
Mick

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Name

Junmi Jung

Youjin Kim

MOON S.P

LeeKeun Sub

Song Su Ryn

EUN JIM Kim

G. H Lee

H. W Jung

Kyung-mishin

DongWoo Kim

yeon sun, Jang

David Bae

Andrew. Song

CHO/Myongji

SOONK MIN

Kunyoung Lee

Jungheon Sul

Mark Sauray

Chloe ~~Lee~~ Sun

Terry Kim

Please return to: Fairness & Justice for Overseas Students, 6/14-16 Russell St, Strathfield NSW 2135

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Name

Byung Jo Kang

Myeung Lee

John Lee

Youngsoo Choi

Yojeong Kim

Kaprao On

Tae weak Song

Hyeuk Jun Son

JASON LEE

KWANG SOK

Daekeun Kim

philip oh

YOUNG MC

YOUNG IK KIM

Junsang Lee

Sukwoo Eun

Kyungso Song

JHC Ju

chilemann/oh

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Name

S. Kavitha

Jung Kuhl Sun

M. Kato

D Anandse

L Price

S Ygun

Sathish . S

Gung Hong

KEE YAN W

MOON JUNG HEA

Vivian pak

Jung Lee

CHOI

Sejeon CHO

JungHwan Hwang

Jung WanTae

Hong, Joseph.

Jay Kou

M. HWANG

KOO HO LEE



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Name
Joshua Min
Ken Lim
Jun Yoo
Ki Suk
Brian
Jung Nwan
Elva Lee
Won Kim
James Chung
Jane Lee
Joe Tap Kim
C. Park
S. Kim
J. Youngs
H. Maden
Jack Lim
Danny Choi
Thirumala Reddy
Diesook Lee
Y S KIM

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Name
Diane
Kang
SHIM DAMI
Lydia Han
Daniel Lee
Jun Kim
Jongsu You
BRADAM
J.S. HONG
K Park
Wah Su Kim
Min Teong Ju
Tommy Kim
Dianna Lee
Donguk Kim
Joseph Park
Seangwoong Lee
Elin Seon
Martin Ha
Amy Nam

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Name

KI CHOUNG DU

Joe Jun Lee

WKE SMITH

Soon LEE

Jong LEE

YUN JENG K

Steven Kellne

Jenny Song

Taegyeong Youn

Li Song Pau

Steve Kim

Pradeep P. Shah

W. V. V. V.

G. Kellner

Kyrn Oh.

Theresa Kwong

김종순

J. Jany

Will Kopp

Sirena Joo

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Name
SHANVANA JUBNA
KARUMAK. B
Arvind Kauria
Prakash
YOUNG JA YOUNG
young Kwang heo
Hye yeong Oh
Ram prasad
Rahul
Sunny Kim
HONGYUN NI
Young J. sun
Helen Kennedy
Eloise Fraser
WITE Chang, HHHH
Kim Kyungrak
Kwak Tony
Cheong Ji kw
Jin Sun Park
Eun Yungso UHo

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Name
Park Jaeyoung
Neu Lamu
William Lam
Margareth Peal
Gibbert Singh
CHUNG JA KIM
ANTHONY GORMAN
ALICIA NAM
IAN HENDERSON
B.D. Kim
Kylie Yun
Chris Ahn
Jennie Lee
Soo Kwon
HYUN JUNG LEE
ES SEUN
Kevin Yoo
YooJin Kim
MATHEW MANTRESE
ARUNSHIK FORLINA

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Name

Jecheol Kim

SURESH

Eun Jeong Jeong

Lumi Park

NIX LEE

Charley H. Kim

David Ho

Alex cho

Kang nari

Yim Hye R.

Marie L Kim

SAGAR

Rujani

Bimala

Qabi

G. M. Khadke

Oyun Jee Kwon

JONG WONGKI

Pain Eric

Cae Guk Park



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Name

H.K. CHO

M.K. CHO

H.N. Jung

Y.S. Choi

H. Kim

S. Cha

Charles Hong

CHOI PAK

SUKYOONG PARK

YONG KOOK SHIN

PATRON BORTOLOTTI



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Name

SHIN YU-TAEK

JONGMIN JEON

VICTOR YOON

Sung Hyeon Choi

Yoon Jung Lee

Linda Jung

Soyeon Lee

Seung Hee Park

Choi Moon Yoon

ha neul Byeon

Tony Choi

Yun Gyeong Ho

YUN SEONG LI

Ronald Park

Bong Ha Huang

F / Rome

CHAE UN LEE

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## Name

Carrey CHOI

Brian BAEK

Jake SEO

woonki park

Jung OK park

SU NAM LEE

Na Kwang-cha

Young Song

HAE SUN CHOI

Jinna Jeon

Jay Lee

BONGJIN CHOI

MYOUNG KIM

JACK LEE

YEJI SEONG

Chaunghin Choi

Teresa KIM

Jae yun KIM

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## Name

Chun Wan Lee

Ken Dae-Gun

Jihye Park

Soyung Lee

Golsi Baek

Sol Baek

Yunho Lee

Yeseul Choi

Jackie Tang

Wendy Yoon

Aneum Shin

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## Name

Sherman KIM  
Jane Park  
Joon Shik Shin  
ChaeHyung Ha  
Joon Ji A  
Sun Jung A  
Hangeul - Jin  
Yo seob - park  
Ki Hyun Jin  
HyunHwa Kim  
Young Seot i  
soon ok i  
Mingyu Sang  
SHINKWANG H  
Sukyoung Kwon  
HyeJin Park  
Songi Park  
Jeen misuk  
Chan Hong  
Jin Lee  
Sunglan Jin

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Name

Soban Kang

하남은

최지웅

최남경

박지은

김주혜

Jiwoong cho

IM HAN CHOI

유한준

이민욱

김종호

장애희

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Name

Vincent OH

MIRA BAEK

Matthew

Rick

Lee Sehee

Ji Seong/KC

Nanhee Yoo

Yoon Daehyun

Sung Jun Yoon

MIN JU KIM

CHOI WooHyul

Shin yong hak

Boryung Jang

Kim Hanna

David Kim

Beyonce

Sang Hyun

Choi Ho Chul

SUNG JaonK

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Name

Spike CHE

서 인석

배 수혁

이재백

김준환

유상훈

서건일

박성진

오정혁

김국태

김희정

김동규

최미숙

김애진

오현우

김호아

이광현

김백송

김두성

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Name

Matthew

WICK

김상호

박성우

김민준

고병승

이유석

Arthur Choi

박성우

JUNGSOO KIM

HYOJUNG CHANG

이영준

김동환

곽호성

조동우

송현수

이지두



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Name 정유진  
LUCIA JO

조민서

박성혜연

강인호

김민서

서연규

박원미

김동진

박서영

Amy 김

최서연

황성근

김행혜

이승희

최현준

김세환

정경민

김보배