

Justice Migration & Visas Services

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19 February 2003

Committee Secretariat
Joint Standing Committee on Migration
Parliament of Australia
Email: jscm@aph.gov.au

Dear Sir/Madam

Re: Submission on Review of Migration Regulation 4.31B

- 1) Current Regulation provides that one has to pay A\$1,000 for fee if failed the refugee assessment.
- 2) Apparently, this payment arrangement has been designed to help those genuine refugee claimants up-front and to deter those who just want to abuse the system.
- 3) However, reality shows that many have still been using this venue as the last resort to try to hang on with their stay in Australia.
- 4) Apart from the ill-will of these 'economic' refugees as in most cases, the soaring number of refugee claims is also due to certain unprofessional migration law practitioners in the trade. It is well-known in Sydney Chinatown, for example, one can pay A\$200 for a Form 866 to be filled out and submitted. Even some solicitors from mainstream backgrounds have been assisting customers of this kind in pursuing the claim. Perhaps these lawyers really believe in the principle of presumed innocent until proven guilty. Therefore, when clients claim as refugees, file an application anyway.
- 5) When the application fails, they will go on for appeal owing the Commonwealth debt if they cannot pay for the \$1,000 fee. The appeal system allows them to keep staying in Australia legally with Work Right. A few years later, even if their cases fail at the High Court, by the time they should have made at least a small fortune before heading back home.
- 6) So the deterrent effect of the \$1,000 has diminished. Therefore it should be paid up-front and the amount should be increased to \$2,000. For those genuine refugees, the system should allow this \$1,000 or \$2,000 fee to be refunded when their cases are approved by the Immigration Department, like the MRT system.
- 7) If they have not had the money up-front to file their applications, the existing IAAAS funding, for example, should be able to help.
- 8) But, one way or another, in the long run, Government should regulate and insert more positive controls over the migration industry. In this case, to file a refugee claim without prima facie evidence should be punished severely, both the applicant and the migration agent, whether lawyer or not. Otherwise, no one is going to fear the law as it cannot do much to offenders anyway as in this case.

Yours sincerely

Bob Fung (signature)

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