

Question on Notice for Ms Michaela Rost

Senator Ludwig

- Q.1 Are you aware of any monitoring by DEST or DIMIA of the tertiary education providers? If not, do you think that there should be independent monitoring of ESOS requirements and the public reporting of any findings? P. 3
- Q.2 Do you think that educational providers and/or DIMA should advise students prior to or when they apply for student visas of the consequences of a breach of a student visa condition? P.10
- Q.3 Do you think there is a targeting by DIMIA of workplaces where student visa holders may be working? P.11
- Q.4 Do you think student visa holders should be treated similarly to other visa over stayers? If not, why not? P. 13
- Q.5 Migration agents are required to be registered with the Migration Agents Registration Authority (MARA). Do you think that there are sufficient checks and balances and /or controls operating for educational providers or persons who facilitate the entry of student visa holders into universities? P.14

Reply to Questions on Notice from Senator Ludwig

Thank you for the opportunity to discuss further questions about the Detention of International Students.

Firstly, I would like to summarize the main points in my submission (220 and 220a) for the Senate Inquiry into the Administration and Operation of the Migration Act 1958:

1. Overseas students have been detained without charge or trial, in contravention of international law, for short-term periods and also up to 2 years in immigration detention facilities such as Maribyrnong, Villawood and Baxter. Over 2,300 students have been detained between mid 2001 and mid 2005.
2. Current Migration Act laws defining visa conditions are too stringent, complex and unrealistic in relation to student reality. Neither DIMIA nor education providers can exercise any discretion in assessing whether students have breached visas.
3. Study visa conditions need to be amended. (A) Condition 8105 - 'working more than 20 hours' - has draconian repercussions of possible detention followed by removal / deportation. (B) Condition 8202- 'inadequate results, attendance' – needs thorough monitoring of education providers viz ESOS Act requirements of adequate counselling, warnings grievance processes. Loss of visa for breaching this condition can also result in detention prior to removal, or if a student appeals against mandatory visa cancellation, but cannot afford the cost of a bond for a Bridging Visa.
4. DIMIA's application of current laws, its systems and processes on all immigration matters have all been shown to be flawed – inconsistent, intimidatory, unaccountable, and even illegal, such as apprehension of students without a warrant.
5. It is extremely difficult for students to get cancelled visas reinstated via their only means of administrative review, the Migration Review Tribunal, which also cannot exercise discretion in making decisions. There is a 4-6 month in-limbo waiting period for an MRT hearing while the appellant is on a Bridging Visa E, which prohibits work or study. This waiting period deters bono fide students with legitimate cause for appeal to contest the visa cancellation. The cost of a bond of up to \$10,000 or more is likely to be prohibitive. Instead, they must return to their home in shame and debt if theirs is a second or third world country.
6. There is little consumer protection for students, whose parents' financial sacrifices to pay high education fees subsidize Australia's sixth largest \$7.5 billion export industry. Some unscrupulous education providers have not been held accountable.
7. **The Australian Government should abolish its current harsh and punitive practice of detaining international students.**
8. **Students should have access to an independent review body, which has discretionary powers to assess whether their visa should be revoked.**
9. The detailed recommendations of the ESOS Act review, February 2005, should be implemented throughout Australia's education providers as soon as possible.

The following replies provide additional information to this submission.

- Q.1 A. Are you aware of any monitoring by DEST or DIMIA of the tertiary education providers?**
B. If not, do you think that there should be independent monitoring of ESOS requirements and the public reporting of any findings?

A. Cooperation and monitoring between DIMIA and DEST:

(1) Some cooperation and monitoring does exist between DIMIA and DEST. Please refer to Submission 220a, containing DIMIA's reply to Senator Kim Carr's QON 28, May 2005 Question 9 (attached pdf doc), which describes how DEST and DIMIA work together. His questions were based on my article in the South Asia Times', Feb. 2005, "Indian student billed \$97,000 for detention in Baxter" www.southasiatimes.com.au - click left on 'community'

In Question 9, he asked:

"Do you have a system of jointly with DEST investigating these cases, and for information flow in both directions? What is your role in assisting DEST and assuring that DEST is informed about the students involved, and particularly about the providers for which they held visas?"

DIMIA replied: "DEST and DIMIA are parties to a memorandum of understanding, MoU, developed in recognition of the government's intention to strengthen engagement in international education and training. Under the MoU DIMIA, DEST and other stakeholders have identified and agreed roles and responsibilities, shared priorities and cooperative arrangements.

"DIMIA has an effective working relationship with DEST. Central office attends regular interdepartmental meetings to discuss and progress issues relating to international education. Our States offices also conduct regular meetings with DEST and State authorities and participate with DEST in joint educational and monitoring visits to providers.

"Where DIMIA obtains evidence that an education provider is not complying, or has not complied with the ESOS Act requirements, or the National Code of Practice Registration Authorities and Providers of Education and Training to Overseas Students (The National Code), that information is referred to DEST and/or State authorities for investigation. Should DIMIA receive an allegation from a student regarding a particular a course, DIMIA would refer the student to DEST. DIMIA has no jurisdiction or responsibility for courses.

" DIMIA does not routinely pass on to DEST information about the detention of former student visa holders. However, cancellation of a student visa on DIMIA systems flows through to DEST's Provider Registration and Internal Students Management System (PRISMS) The PRISM system contains details of overseas student, including their names, education providers and course details. The cancellation notice

updates the student's visa status and enrolments in PRISMS causing the student's certificate of enrolment to be cancelled."

(2) The Commonwealth and States investigate different types of complaints. Dust's 'Industry Regulation Compliance and Unit', federally based in Canberra, investigates complaints about education providers who have not fulfilled certain requirements of the ESOS Act pertaining, for example, to visa cancellation and fee refunds. However, the 'National Code of Practice' relates to legislation requiring the States to look after other issues such as the provision of adequate grievance handling procedures. This means that two different units within DEST, federal and state, investigate different issues arising from the same student complaint. These investigations may not necessarily be coordinated.

(3) OTTE, Office of Training and Tertiary Education, is the Victorian Education Department's investigatory arm of the Victorian Division of DEST. It typically investigates new education providers within their first year operation regarding their implementation of ESOS requirements. OTTE revisits providers to determine whether any necessary changes have been made.

However, an independent researcher who sent OTTE a list of concerns about a Victorian education provider, MIT, regarding concerns about the quality of its provision of education and welfare services for international students, received a thoroughly inadequate reply from OTTE, in which half the concerns were not addressed.

Thus, although DEST does investigate some complaints about education providers, complaints also need to be monitored independently.

(4) An association which negotiates with DIMIA on behalf of students, is ISANA, International Education Association Incorporated, is an independent association of professionals working in international education in Australia and New Zealand. It is a very diverse branch with over 130 members from across all sectors, and comprises people working in the education industry and includes students, psychologists, student advisors, counsellors, accommodation and homestay providers, as well as cooperation with NLC, the National Liaison Council which represents international students. It attracts substantial sponsorship from major stakeholders and organizations in the industry. ISANA's Annual Conference was held on 27 October.

ISANA operates an 'ISANA/DIMIA Liaison Group' – *"DIMIA/student visa issues remain a permanent part of our agenda."* However, an ISANA member I contacted was not aware of student detention.

"Government officers and senior managers regularly consult with ISANA through conferences, meetings and professional development programs."

ISANA members have been invited to join reference groups established by DIMIA, and contribute to ongoing discussions about students visa issues.”

This liaison group engages in frank and constructive discussions with DIMIA directors concerning the welfare of international students. It believes in the importance of understanding students' needs, and also to respect students' different socio, economic and cultural backgrounds.

In recent discussions with the Victorian Education Department, its proposal that international students be eligible for public transport student concessions was rejected.

Some of its mission statements and aims are:

“Liaise with government and other agencies on policy matters in relation to international students in Australia and New Zealand.”

“The needs and experiences of international students are a key to our mission’...including Student welfare; appropriate and accurate information for those working with those students; quality and ethics in marketing and recruiting.”

http://www.isana.org.au/_Upload/Files/2005913214132_2005ISANAprofile.pdf

ISANA's Victorian Branch web-page displays the following information:

Regional Project
ISANA/DIMIA Liaison Group
Victoria Branch Executive
Branch Meetings and State Conference

B. Need for independent monitoring of education providers :

(1) There is no national register of education providers' academic results, their records on breaching the ESOS Act, the number of student visa cancellations as a percentage of total enrolment, or the number of students detained. This fundamental information is necessary for consumer protection

(2) Example of Mr. A, detained for 2 years:

(For details of Mr. A's case please refer to the additional written material I presented at the Senate Hearing on 27 September 2005).

In September 2004, DEST apparently visited his former education provider, the 'St George Institute of Professionals' in Melbourne, in response to a complaint I lodged to DEST on his behalf. However, the thoroughness of this investigation was questionable:

1. Mr. A did not know this investigation occurred, as he was never contacted by DEST while in detention.
2. DEST did not contact me either about the former lecturer of that College whom I had referred to, and who could validate his allegations.
3. I only knew about the investigation through an article on 3 August 2005, 'Detention for visa offences' by reporter Dorothy Illing, in The Australian's Higher Education Section (below). She wrote:
4. *"A joint monitoring visit to the provider was conducted in September 2004 by DEST and DIMIA. No breaches of the ESOS Act were*

identified during the visit." However this investigation occurred 2.6 years after that college had reported Mr. A to DIMIA, during which time college practices may have been changed.

5. Even in Mr. A's MRT decision, June 2002, the Tribunal member wrote, he *"notes the allegations about the methods and practices of the college in question, which are serious allegations. However these are beyond the scope of this Tribunal to consider"*.
6. Neither the MRT Tribunal nor the DEST/DIMIA inquiry seem to have found any irregularity in the fact that Mr. A was supposed to have completed 65 subjects in 18 months, even though he had been given written permission to visit his sick father in India during the second semester, and after his return, the college required him to repeat that entire semester.
7. Mr. A's MRT case (V02/00638) is not listed in the MRT website, and neither is that of Mr. B, both of whom I had written about to the Minister.

Subject: Detention for visa offences (<http://theaustralian.com.au> report)

Detention for visa offences

Dorothy Illing
03 August 2005

FOREIGN students who breach their visa conditions while studying in Australia risk being placed in one of the national detention centres.

They are more likely to have their visas cancelled and to have to pay a \$10,000 bond, but a small number are landed in national detention centres.

Last week the Federal Court warned that the "heavy-handed enforcement" of student visa conditions could undermine Australia's valuable overseas student program.

Justices Murray Wilcox, Margaret Stone and James Allsop were highly critical of the way the Department of Immigration, Multicultural and Indigenous Affairs had handled a case that landed a Bangladeshi student in the Villawood detention centre in Sydney. The court found that the former Central Queensland University information technology student's visa was cancelled after DIMIA officers searched his home.

The student, Mahabub Alam, was accused of working 2 1/4 hours more than the maximum 20 hours a week permitted by visa regulations after his boss asked him to work overtime.

"[Visa] control should be firm, but it should be exercised in a fair and courteous manner," the judgment said. "Inappropriate regulatory provisions and heavy-handed enforcement are likely adversely to affect our international reputation and undermine the overseas student program itself."

In a separate incident, a full-fee-paying Indian student was detained for much longer.

In February the Melbourne-based South Asia Times reported the student had spent two years in detention.

The report by Michaela Rost said the federal Government presented the student, who had since returned to India, with a \$97,000 bill for his detention before he left.

Last week, responding to questions on notice from Labor senator Kim Carr, the Department of Education, Science and Training said it knew about the case of the Indian student.

"The department ... received advice regarding the student in Baxter detention centre from an advocate of the student in 2004," DEST said. "The student attended St George Enterprises Pty Ltd, trading as St George Institute of Professional Education, located in Melbourne."

"A joint monitoring visit to the provider was conducted in September 2004 by DEST and DIMIA. No breaches of the conditions were identified during the visit."

IDP Education Australia chief executive Tony Pollock said he knew that from time to time students who breached the conditions were detained. He said DIMIA had been working to ensure that its procedures in this respect were "open".

"There are conditions with all visas and international students [who breach these] are no different," Mr Pollock said.

He said although he did not know how many ended up in detention, the number "must be very small".

However, a DIMIA spokesman said he was not aware of any international students under detention. If they breached the conditions, their visa was cancelled and they were no longer international students, he said.

Neither DIMIA nor DEST would tell the HES how many people on student visas had been detained in the past five years.

(3) A further example of the need for independent monitoring - Mr. Q:

Mr. Q is the 19-year-old former student, referred to in my Senate submission and at the Hearing, who suffered from severe depression. His case should be monitored independently and the findings publicly reported.

- In early 2005, his father in India father suffered a heart attack. In late March, the international office at the Moorabbin campus of Holmesglen Institute of TAFE refused his request for permission for leave of absence from his course to visit his father and to help his mother, who was under great pressure to maintain his business while he was sick.
- Mr. Q was very worried about his father's health, and became distressed because he could not be with his father, nor help his mother with the family business. He had trouble with motivation for his studies, even though he had excellent results in the previous semester in 2004. As a result his attendance became irregular. He withdrew from any social life, but did not realize then that he had depression.
- After receiving a third warning notice about his attendance, he reported to the International Centre in April and was told that unless he improved his attendance, the College would have to report him to DIMIA. He was asked to present medical evidence.
- He sought help from his Immigration Consultant, who counselled him regularly for some weeks, and eventually referred him to a Social Worker with the Indian Welfare Resource Centre. He immediately referred Mr. Q to a doctor and a consultant psychiatrist, who diagnosed him as suffering from "Adjustment Disorder and Anxiety-Depressive mood and behaviour, as a part of reaction to moving to a new country and culture". He was prescribed anti-depressant medication.
- After improvement in his condition, the social worker told the Institute's international student compliance officer behalf, stating that he believed Mr. Q would be able to now continue with his studies.
- In June he presented a medical certificate and other documentation to the Institute. He no longer thought his visa would be cancelled.
- During the semester break the same officer told him that he had to pay his fees before the semester started, otherwise he could not be

enrolled for second semester, therefore not technically be a student, thus be in breach of visa conditions and liable for visa cancellation.

- Assuming he would be able to continue study, he immediately paid in advance his second semester fees of \$ 4,250 during the semester break - 8 times the amount paid by local students.
- A few days later, on the first day of second semester, he received a notice from the Institute that he had been reported to DIMIA. He attended an interview with a compliance officer at Casseldon Place, Melbourne, but his visa was immediately subject to mandatory cancellation under S116 of the Act.
- The officer issued a bridging visa E, without requiring payment of a bond, because Mr. Q agreed to present an airline ticket with an imminent departure date.
- The DIMIA officer had also advised him to apply for a refund for the paid fees, but when Mr. Q asked the international office at Moorabbin campus of the Institute for a fee refund, he was told that this was not possible.
- On his behalf, I spoke to the director of the Institute, who eventually said he would consider a refund if Mr. Q wrote to him, which he did with the assistance of the social worker and myself.
- Fortunately when the student showed a copy of his letter to the director, Mr. Q's DIMIA officer granted an extension of his Bridging Visa E to give him more time to apply for a refund.
- The social worker believes that, as the Institute was aware that his visa would be cancelled by DIMIA, it should never have accepted his fees, and that he should not have been advised to pay them
- Since then, he has found out from the main campus office that the institute actually does have a refund application form and refund policy.
- He received a reply on 19 Oct. from the director of the international centre, saying that he could only apply for a refund on an official form, which he must send from offshore, together with a photocopy of stamp his passport showing his arrival in India. Yet neither the director, his secretary, the deputy director's secretary, nor reception staff had mentioned this refund form or policy when I made inquiries on Mr. Q's behalf.

Mr. Q was a genuine student who suffered unexpected difficulties and was forced to return home without finishing his studies. His depression seemed a direct result of not receiving permission to visit his sick father in India. He was disappointed that although paying such high fees, he did not receive any advice or assistance after lodging his medical certificates in June. He did not receive one hour of tuition after paying these second semester fees. He was also frustrated by the conflicting information different Institute officials gave me regarding refunds, which caused him anxiety and distress.

Mr. Q left Australia on 24 October, intending to lodge his fee refund application again from India, as instructed by the director of the Institute's International Centre. A DEST complaints officer told me this procedure 'was a bit unusual', but that the ESOS Act did not specify from where refund applications should be made.

(4) Increase in the number of student appeals:

The number of appeals in the MRT and higher courts against student visa cancellation is increasing. According to DIMIA's latest replies, the number of applications increased from 88 in 2003-04 to 149 in 2004-05, an increase of 59%. This suggests that students may be experiencing more problems with education providers.

Summary:

(i) Independent monitoring is necessary because the legally required ESOS Act requirements have clearly not all been fully implemented by education providers, even in prestigious universities.

(ii) Any findings of unscrupulous or careless practices by education providers should be subject to public reporting to protect consumers/students, especially because of their high financial investment in Australian education.

(iii) Although government monitoring exists via DEST, DIMIA and OTTE, governmental policies regarding fiscal necessity for international education to fund the provision of tertiary education in Australia, as well as current political trends, may prejudice the possibility of completely impartial government reviews of education providers, and the implementation of any recommendations. This is particularly so given the current general and acknowledged trend of international students being regarded as commodities.

(iv) As an example, a theme of concern at ISANA's national conference was the notion of "mainstreaming" of student services – this refers to the non-distinction of services between local and international students. This has obviously arisen as a result of the discontinuation of compulsory VSU fees, which is forcing education providers to either pay for or reduce these services.

(v) However, this trend is in direct contrast to main recommendations on page 1 of the ESOS Act review, such as –

“ To protect the interests of international students by

(a) Ensuring that student receive the tuition for they have paid

(b) Ensuring that student welfare and support services for international students meet nationally consistent standards

(c) Providing nationally consistent arrangements for dealing with student grievances and dispute resolution.“

(vi) The February 2005 Recommendations of the Evaluation of the ESOS Act 2000 should be urgently implemented in a nationally coordinated effort to shift the culture of unaccountability, protect students interest, and safeguard Australia's reputation and integrity.

NOTE:

THE ESOS REVIEW MAKES NO OF MENTION STUDENT DETENTION.

Evaluation of the ESOS Act 2000

The Evaluation Report; Conclusions made by the Report (31.0 KB)

Recommendations made by the Report (141.5 KB)

Q.2 Do you think that educational providers and/or DIMIA should advise students prior to or when they apply for student visas of the consequences of a breach of a student visa condition?

(1)

Educational providers and/or DIMIA should most definitely advise students Both prior to and when they apply for student visas of the consequences of a breach of a student visa condition

However, whether or not students know about the consequences of breaching the present study visa conditions, they still remain subject to the possibility of detention as long as Australian laws, which permit the detaining of students for visa breaches that are actually only minor infringements, remain unchanged.

There are conflicting reports from DIMIA in relation to acknowledging that students are detained. The DIMIA spokesman who said in The Australian article that he “was not aware of any international students under detention. If they breached their visa conditions, their visa was cancelled and they were no longer international students,” demonstrated obvious obfuscation.

It is astonishing that in August 2005, “*neither DEST or DIMIA would tell the HES how many people on student visas had been detained in the past five year*”, as Ms. Illing reported. It is also extraordinary that the chief executive of the universities’ main recruitment body IDP Education Australia, Tony Pollock, does not know how many international students have ended up in detention, and believes “the number must be very small.”

Under parliamentary scrutiny, however, DIMIA gives a different answer. As already listed in my supplementary information in Submission 220a, Senator Carr received the following reply from DIMIA to his QON 28 May 2005, in which DIMIA admits that students can be detained for achieving unsatisfactory results - unquestionably an extremely draconian punishment, which could not possibly be upheld under international law.

Even if detained for only one day, let alone weeks or months, detention without charge or conviction is an unjustifiable and outrageous outcome for full fee paying international students, who form the backbone of Australia’s mega export industry. To add further insult, they are liable for their detention costs, whether or not their visa cancellation was valid.

To quote DIMIA’s reply to Senator Carr’s question 7:

- “2,310 former student visa holders have been detained from 1 January 2001 to 22 July 2005.”
- 440 females, 1870 males
- Most were housed in immigration detention centres; although some were accommodated in alternative arrangements including correctional facilities, police watch houses and hospitals.
- Reasons for detention included: non-attendance, unsatisfactory performance, failure to commence course, overstaying a visa, withdrawal from study and work breaches.

- 83 nationalities are represented - the top 10 are China, India, Vietnam, Indonesia, Thailand, Korea, Bangladesh, Malaysia, Sri Lanka, Kenya.
- There are a wide range of outcomes in these cases including bridging visa grants, cancellation overturned, criminal justice visa grant, departure from Australia, temporary or permanent substantive visa grant.”

Therefore, DIMIA clearly admits that students have been detained for unsatisfactory results, and that most detained students are non-Caucasian. Therefore I recommend, as a first priority, amendment and abolition of the laws which pertain to, and permit international students to be detained.

(2)

However, to fulfil the Australian government’s duty of care to overseas students, who comprise our \$7.5 billion dollar export industry, both DIMIA and DEST should also ensure that:

- Prior to granting of study visas in their home countries, Australian immigration embassy officials should inform students verbally and in writing (eg. brochure) about visa conditions, specific consequences of breaching the visa, and procedures and options available for students to challenge allegations of breach. Stating, as on the DIMIA website, that the student will be required to return home is not enough. (Of course, this information would not create a very desirable impression of Australia.)
- Offshore recruitment agents should also provide this information. However, they are currently not accountable to overseas or Australian regulations.
- At slick offshore education expos, university representatives should talk about visa conditions and breach consequences during presentations. The problem is that many people in the Australian education industry do not even seem to know that students can be subject to detention.
- A compulsory Induction/orientation meeting should be held at start of each semester specifically for new overseas students to clearly explain all details of visa conditions; as well as to outline student support services and personnel, and grievance procedures provided by education provide. There are cultural inhibitions students may have in describing their problems to a stranger, so this is an issue that also needs to be addressed.
- The above material should also be presented in accompanying International Student Handbook

Q.3 Do you think there is a targeting by DIMIA of workplaces where student visa holders may be working?

DIMIA not only targets workplaces where students may be working, but also directs over one quarter of its raids at students. DIMIA’s ‘border protection’ policies and practices to detect illegal workers – anyone breaching their visa condition or living here without a current visa – as well as abundant anecdotal

evidence from migration agents and students, suggest that the Hospitality industry, call centres and taxi drivers are targeted by DIMIA to detect students.

Regular raids occur, both seasonal and based on information received under the DIMIA 'Dob-in Line'. Raids lead to likely detention, followed by definite removal from Australia, plus charge of \$225 per day for detention costs incurred, payable within 28 days.

DIMIA officers in vans may unexpectedly visit students' places of residence very late at night or in the early hours the morning, and forcibly take them into detention without being allowed to collect clothes or valuables. This appears to occur with or without a warrant.

Apparently raids are referred to as "compliance field operations". In the answers to the Committee's questions to DIMIA about student visas, DIMIA gave information that in 2004-05, the department nationally conducted 5110 compliance field operations, or an average of 14 raids per day, specifically to locate student visa breaches and over-stayers. People offering information to DIMIA, known as voluntary approaches contributed to 3092 of these operations.

Targetting of student taxi drivers by DIMIA:

In Melbourne there are 10,000 Indian taxi drivers. Half of these, or 5,000 are students who constitute half of all Indian students in Melbourne.

(Source: "*Indian Voice*", October 2005)

The following information confirms anecdotal evidence given to me by a migration agent. It was provided by a student who has many taxi driver friends. He wishes to remain unidentified.

- Taxi drivers are biggest targeted industry in which students work.
- DIMIA conducts regular raids, especially in August, September and October, because 90% of student visas expire in on 31 August.
- Recently there were 6 raids in one month. Students are caught in each raid.
- In one such raid, which occurred at midnight, instead of a usual time of 6 pm, 72 students were caught and deported.
- DIMIA uses 'cunning' methods – the drivers receive messages on the radio dispatcher to return to headquarters for jobs, but instead find DIMIA officers waiting there, together with ATO officers to check tax, and Sheriffs to check for unpaid traffic fines.
- To search for work breaches, DIMIA checks their Taxi Driver's Certificates against the Yellow Cab database for the number of radio hours a driver has been logged on for.
- However this is problematic for students, because a working shift is by definition 12 hours, so if they work 2 shifts per week, this constitutes 24 hours work and therefore more than 20 hours - a breach of visa condition.
- Yet the student driver may only have worked 8 or 10 hours, such as from 4pm to 12 am, but because there is no public transport to go

home if he wants to return the cab to the owner/depot, the student may instead sleep in the cab till early morning and then return the vehicle.

- Therefore a student may have only worked 16 hours, but is officially logged on for 24 hours, and therefore gets his visa cancelled automatically
- Students must pay 17% tax, 11% GST and 1.5% Medicare levy (even though they are supposed to have their own health insurance).
- For takings of \$200, 50% or \$100 goes to the owner and 29.5% leaving only \$70 for about 10 hours' work.
- However, taxi driving is popular because it is a very flexible job, and students can sit in the cab and study in between jobs.

Q.4 Do you think student visa holders should be treated similarly to other visa over stayers? If not, why not?

A visa over-stayer is different to a student who has allegedly breached their visa. However both become "Unlawful Non-Citizens" and are therefore currently subject to the same consequences – requirement to leave the country, after possible detention. Both categories are regularly rounded up prior to detention.

Tourists, business visitors and student are contributing to the Australian economy. In all categories, a few are not bona fide.

However, international students, especially from Asian and other second or third world countries, have not just come to holiday in Australia, but to study, and they should be treated differently to other visa categories. They are children of other parents who have made massive financial sacrifice for them to study here, and therefore should not be treated like suspected criminals, under surveillance, nor like commodity cash cows here to fund a colonial industry.

They should be accorded a respectful treatment, concomitant with the much higher fees they pay. Students' financial investments here underpin Australia's sixth largest, \$7.5 billion export industry. They have come to study after their families have made huge financial sacrifices - including taking out high interest study loans, mortgaging homes, using superannuation funds or a daughter's dowry money, (in India) - to send their children here in the hope of educational advancement and therefore a more prosperous future. The eldest son is required to become the family provider when the father retires, or dies, and therefore great expectations are placed on him. He is under pressure to not only cope in the new country, but also to succeed. He most likely has to gain permanent residency, just to find good employment to repay the family's debts incurred for his study.

DEST and DIMIA need to offer much greater understanding to students from second and third world countries about the difficulties they face in adjusting to study life here – including cultural, socio-economic, emotional factors.

But most importantly, the Australian government's laws permitting detention of

students need to be abolished.

Instead, international students should have access to an Ombudsman, and an independent review body, which has discretionary powers to assess whether their visa should be revoked. A system of fines could replace detention and deportation.

As word spreads offshore about Australia's hostile policy of detaining overseas students, a less than favourable impression is created and more students may well look to other countries to invest in for their educational aspirations.

Australia should look at other countries' overseas student program policies, specifically the Canadian model. Australia needs to let go of the residues of a marrow, outdated, paranoid White Australia Policy mentality.

It can afford to adopt a much more relaxed, user-friendly, generous, compassionate and ethical system of embracing our full fee-paying student business partners.

An important factor to note:

International students from Asian countries are likely to study here because of their desire to obtain PR, permanent residency, enabling them to live in Australia and thus fulfil dreams of a more prosperous life. In India prospective students are told that obtaining PR is easy. However, IDP does not make such claims. Education followed by PR seems to be a form of promoting skilled migration.

Some education providers who have a high proportion of international students such as CQU, which has nearly 50 %, have been referred to as 'PR factories'.

Q.5 Migration agents are required to be registered with the Migration Agents Registration Authority (MARA). Do you think that there are sufficient checks and balances and /or controls operating for educational providers or persons who facilitate the entry of students visa holders into universities?

Education recruitment agents have not been accountable to any Australian or overseas regulatory body, and seem to be subject no checks, balance or control in their facilitation of the entry of students into universities.

They can independently recruit students offshore from small offices, in which they may also conduct another small business such as a travel agency or other type of enterprise.

Recruitment agents may be also affiliated with Australian based migration agents, who in turn are affiliated with an education provider. The recruitment agent and migration agent may be the same person. They recruit students through their offshore offices.

Education agents are paid by the recruited student as well as by Australian education providers who employ them. Therefore, this is a lucrative business. However, agents may not clearly understand Australian laws and therefore give inaccurate information, which can be exacerbated by some unscrupulous Australian education providers, such as some small private colleges, who print totally misleading brochure information about their courses and institution.

In the huge offshore university marketing fairs, Australian education providers must compete with global competitors to attract international students.

The MARA list of agents around the world is apparently very limited, and students have to use any agent they can find. Some agents may help students gain entry into Australia by falsifying a document, especially regarding evidence about the required \$10,000 surety fund. This is a huge amount of spare money for an average lower middle class family in India to find.

Apparently some migration agents who hire recruitment agents offshore have a particular liaison person in DIMIA.

Although students are informed in advance by either agents in their home country or Universities about visa conditions, very few Asian students are made aware of the real seriousness of breaching the study visa, or of possible detention. Even if they have been told, they cannot comprehend the dire implications, because in their home country students do not consider failing subjects or working more than 20 hours as offences, just as no Australian student would not expect draconian repercussions for failure or working more than 20 hours.

The implications of detention behind razor wire are incomprehensible to them. It is an utterly draconian punishment.

As an example of good practice, at least one Melbourne migration agent is working in a manner such as to operate in an ethical way, meaning that students are clearly told in their country, India, about realistic education cost estimates, visa conditions and breach consequences, especially about the possibility of detention (as a result of my research). This agent also pre-arranges that students are collected from airports, have affordable accommodation in place, cheap cell phone arrangements, and other assistance.

Because migration agents must intimately deal with the strict complexities of the Migration Act, student hardships and as well as the glorious and inflated possibilities promoted by Australian education providers, such an agent provides a supportive buffer and between the promised dream of abundant success and the actual reality of a hard journey for an Asian student.

Education providers, in contrast, seem to be seduced by the power of their own marketing promotions, because although some do recognize that

students face problems, many working in the education field seem to remain unaware of either the harsh problems faced by students, their visa issues and Permanent Residency application issues, or about the shame, horror and implications of student detention.

A culture of denial seems to prevail. Although in June 2005 I sent emails about student detention to at least 20 Vice Chancellors, including the IDP board, I received not one reply. According to a person who attended the recent annual IDP Conference in October, DIMIA issues such as student visa permanent residency problems, were not addressed. Student detention was definitely not on the agenda.

This is most likely due to convenient ignorance, and because universities have become totally dependent on international student fees and therefore need to present the industry in the most favourable light. Yet education providers are responsible for the accuracy of information they purvey offshore to recruitment agents and prospective students, especially in second and third world countries.

Unfortunately, it is hardly in the interests of universities' marketing strategies to expound the unattractive, un-sellable truth about the strictness of Australia's visa conditions, the Act and its application by DIMIA and education providers.

As an example of good student support practices by a university, RMIT seems to provide considered welfare support. Pre-departure packages for students are detailed, and counsellors try to identify students at risk and help to prevent further difficulties

FOOTNOTES

1. Anti-terrors laws: Unfortunately in the current climate of fear of terrorism, and the more stringent application of existing anti-terror provisos within Australia's current legislation, there have been 'whispers' about students already being questioned regarding why they wear a beard; whether they study engineering; even at a visit to a private home by detectives. There are obvious racist implications in this sort of questioning. Undoubtedly new anti-terror laws will seriously impact on students, especially if a student is wrongly subject to 'preventative detention'.

2. Privacy: Not only students, for obvious reasons, but also most people, who have contributed information used in this submission wish to keep their identity private. This reflects the current culture. For some Indian residents, there is fear that if they speak about harsh visa conditions for students, then DIMIA will respond by refusing further visa amendments which the Indian community is requesting, regarding matters such as visa for bringing parents here, etc.

Michaela Rost, 28.10.2005