

Committee Secretary  
Senate Legal and Constitutional Committee  
Department of the Senate  
Parliament House  
Canberra ACT 2600

29 July 2005

Dear Sir/Mdm

I am writing on behalf of the Chinese Australian Union regarding the inquiry into the administration and operation of the Migration Act 1958.

Refugees who arrive illegally by boat:

- (a) The current "Stopping people smuggling" policy is damaging Australia's international reputation as a caring nation. The Tampa incident (and other boat incidents), subsequent placement of refugees in Nauru and other off-shore island, do not reflect well on Australia.
- (b) Mandatory detention is at best a "make-shift" policy. It incarcerates people and their families who have committed no criminal offence in Australia but the only "offence" they commit is a desire to live in Australia. Of particular cruelty is the detection of children.
- (c) Prolonged detection of families creates hardship and mental stress.
- (d) Denial of legal access for refugee claims creates more hardship and stress.
- (e) Granting a TPV prolongs the agony of the refugee and it is only another make-shift policy.

Detention and Deportation:

- (a) The Cornelius Rau & Alvarez cases and subsequent Palmer report does not give comfort to any Australians. If someone had a car accident resulting in temporary amnesia, and if he/she cannot remember his/her name and has no way of giving documentary proof of their status, and with the current compliance culture, they may be arrested, detained and deported. The community's confidence in DIMIA must be restored and the only way would be the launching a new judicial inquiry with a broader term of reference. A royal commission would be a good thing.
- (b) People who wish to depart from Australia who were "unlawful" should be allowed to depart promptly from Australia without hindrance or detained. Why waste good money on people who really want to go. It cost taxpayers at least \$150 per day to lock them up.
- (c) Detention should be the last resort. It should not be used to hold people in "abeyance" because it is convenient.

(d) Management of the detention center should revert back to public hands. We feel that private company does not have to answer to anyone.

Other issues pertaining to the Migration Act 1958, regulations and guidelines:

(a) Aged Parent Visas

There are still some concerns with the Aged Parents visas. Firstly, the cap of 1,200 visas (non-paying) been recently reduced to 1,000 without consultation with the community. This action increases the waiting period significantly for the non-paying visas. Secondly, for that applicant who satisfy the regulations for a grant of a visa but was not granted one because of the cap (quota of 1,000), has to be reassessed at the next decision. This includes the medical examination. Who can guarantee that the applicant will pass the next medical examination when the waiting period could be 1-5 years? Consequently, this process increases stress and anxiety of the applicant and his/her family.

(b) Temporary Business Visas

There are many business applicants from the PRC (China) who have a good record of compliance with immigration law, who has genuine business activities, and who have no desire to acquire permanent residency in the foreseeable future, in Australia. The government should consider a change in policy for PRC applicants for the subclass 456 visas with at least a 5 year multiple entry visa to Australia. There are examples of Hong Kong residence getting a multiple entry 10 year subclass 456 visas. Finally, consideration should also be given to any applicant, irregardless of the country of origin, who has a good compliance history.

(c) In Australia, there are about 35,000 PRC "overseas" students and I estimated their average expenses should be at least \$20,000 (total \$700 million per annum). Some of the regulations governing the students are fairly harsh particularly in the attendance regulation (80% attendance) and academic performance. Many issues including cultural shock, homesickness, emotional relations failure, language problems, parental pressure to do an unsuitable course, and other temptations in a vibrant city, can contribute to mental and physical illness. Hence, the stress causes illness which prevents the student from attending courses as well as failing in their courses. However, students who have no desire to study should go home and not waste their parent's money. This is a growing problem and need to be fixed.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Anthony Pun", written in a cursive style.

Dr Anthony Pun, OAM

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The Author:

- (a) Current Chair of the Chinese Australian Union
- (b) Current Convener for Immigration & Settlement Committee, Federation of Ethnic Communities' Council of Australia
- (c) Former Chair of the Ethnic Communities Council of NSW (1997/98, 2001/2003)
- (d) Former Member of the Immigration Review Tribunal (1994/99)