

MEDIA RELEASE

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Politically motivated Bill is unnecessary & will punish refugees, victims of domestic violence

The Morrison Government is attempting to push the Strengthening the Character Test Bill through parliament for the fourth time; and it is resorting to political attacks in the attempt to do so. The Bill is unnecessary and will do harm. Despite what the Government is saying, the Bill has nothing whatsoever to do with serious offences.

Two earlier versions of the Bill have been rejected by the Senate on excellent grounds. Its reintroduction is supported by reasoning that many organisations (including the NSW Council for Civil Liberties, the Law Council of Australia, The Australian Human Rights Commission, the Federation of Ethnic Communities Councils of Australia and other prestigious organisations) have repeatedly demonstrated is fallacious. The Parliamentary Joint Committee on Human Rights and the Senate's Scrutiny of Bills Committee both pointed to serious problems with the last two versions. Minor changes have dealt with two of those problems, but by no means all of them.

The Bill would insert into the Migration Act sections mandating that a person fails the so-called character test for a range of offences, allowing the cancellation of their visa, even if they are a permanent resident. This automatic fail applies to people who have received criminal penalties of less than twelve months for offences involving:

- violence against a person,
- non-consensual conduct of a sexual nature,
- breaching a protection order, or
- possession of a weapon

These are all offences where the maximum possible sentence is more than twenty-four months, but the *actual* sentence is less than twelve months, and may be no more than a good behaviour bond, or no sentence at all.

Despite what the Prime Minister says, **the Bill is aimed at minor offenders**. It is faulty for several reasons.

It is totally unnecessary.

The minister already has extensive powers granted by the Migration Act to cancel visas:

- under section 116 where the visa holder's presence in Australia is (or may be, would be, or might be!) a risk to the health, safety or good order of the Australian community (or a segment of the Australian community); and
- under section 501, on the grounds of the person's past and present criminal conduct, or even the person's past and present general conduct; and
- of a person sentenced to a prison term of twelve months or more, meaning they automatically fail the character test.

The Minister can cancel any kind of visa: permanent, temporary, refugee or family. A minister has cancelled a visa even where the person was acquitted.

The Bill will subject people who are of no danger to society to the rigours of indefinite detention, or to being deported.

There are no exceptions for children.

This change will discourage people from reporting family violence, when they are financially dependent on the perpetrator. (Because reporting the violence might well lead to the perpetrator being deported and unable to provide further support).

Battered wives who take action against their tormentors, and people who assist their close relatives to commit suicide, will be caught. Automatically. A person, subject to a domestic violence order, who answers an email, or who politely contacts his spouse about the suitability of Christmas presents for their children would fail the test. Automatically.

Further, for each of the kinds of offence, it is possible for a person to be convicted for very minor infringements. A man might contact his wife by telephone or text, contrary to a domestic violence order, purely in order to ascertain the appropriateness of a birthday present for a child.

Instead of prosecuting this bill, the Government should focus on ensuring that the process of visa cancellation is made more fair.

Pauline Wright (President)

Dr. Martin Bibby (Asylum Seeker Action Group Convenor)

For further information please contact Rebecca Payne on 0405 154069