

Kelvin Thomson MP
Federal Labor Member for Wills

***Decoupling the Link Between Education Services for
Overseas Students and Permanent Residence***

*Submission Responding to the Australian Government's
Issues Paper on the Review of the Education Services for
Overseas Students (ESOS) Act 2000*

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1. Introduction

The review of the *Education Services for Overseas Students Act 2000* and its associated legislation and regulations is necessary as the current regulatory framework is inadequate to deal with the problems we have in the provision of international education. The international education industry has grown rapidly with enrolments by full-fee international students in Australia on student visas having doubled in just seven years from over 204,000 in June 2002 to over 467,000 in June 2009. This expansion can be explained by the change implemented in 2001 by the Howard Government that allowed overseas students who had completed post-school credentials at an Australian university or vocational education and training college to apply for skilled permanent residence from within Australia, in designated skilled occupations, as long as they did so within six months of completing their courses. Unlike prospective skilled migrants applying from overseas, those applying on-shore did not have to have relevant job experience in their nominated occupations. They also received extra points on account of their Australian credentials.

The international education industry has since expanded rapidly. It has been driven by the lure of permanent residence based on these changes. Agents overseas have capitalised on these changes by telling students that all they have to do is to sign up for these courses in Australia, pay the big fees, and they will be guaranteed permanent residence here in Australia. A Senate report on the *Education Services for Overseas Students Amendment (Re-registration of providers and Other Measures) Bill 2009* acknowledged “It is clear that the chance of permanent residency has been a driver of the growth in international student enrolments. The committee understands that some students intend to migrate when choosing to study in Australia” (Senate Education, Employment and Workplace Relations Legislation Committee, 2009: p5).

The Senate Committee has also identified that the opportunity for permanent residency “has been exploited by some agents and providers which have used the lure of permanent residency to recruit students and provide them with inadequate education or training. In most cases, this exploitation starts overseas with expectations fuelled by unscrupulous education agents advertising courses solely as a means to permanent residency” (Ibid: p5-6). I believe we should remove the capacity of international students to apply, on-shore, for permanent residence. I believe we should require them to return to their country of origin before they can apply for permanent residence. The Review should examine whether there should be a cooling-off period—for example, for two years—before overseas students can apply for permanent residence once they have completed their courses. It is my view that the present regulatory arrangements have not protected overseas students and that a cooling-off period would mitigate these issues in the industry.

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2. Qualifications Linked to Migration Outcomes

The lure of permanent residence has over the last decade been the major driver of growth in international student enrolments. Until 2005, most of the growth occurred at the university level but it has since been more rapid in the VET sector. Nearly half of the total growth in the VET sector since 2005 has occurred in courses such as cooking, hairdressing, hospitality and hospitality management fields of education. "According to informants in the cooking training field, the cooking skills of a student completing a one year full-time course in these fields are roughly equivalent to those achieved by a second-year domestic apprentice in cooking, or around the level of a semi-skilled kitchen hand. This is well short of the trade standard expected for domestic apprentices on completion of their apprenticeship. The value added to a student's earning potential on returning to India with a VET cooking credential is minimal. The purpose of the investment in Australian education is to obtain access to the Australian labour market, preferably as a permanent resident" (Birrell and Perry, 2009: p67).

"The outcome of the surge in enrolments over the past few years is that there is now a huge overhang of former overseas students looking for permanent residence-just at a time when their chances of achieving it have diminished" (Ibid: p79). As identified by analysis undertaken by Bob Birrell and Bronwen Perry in their article *Immigration Policy and the International Student Industry* "well over 40,000 former overseas students applied for a temporary or permanent residence visa during 2008-09. The great majority are in permanent residency limbo, either on a temporary resident 485 visa or on a bridging visa pending the eventual processing of their application for a General Skilled Migration visa" (Ibid).

The ramifications of this situation are that these former students will be reluctant to leave and with the full work rights they have obtained under their temporary visa status they will be adding to the low- to semi skilled labour markets of Melbourne, Sydney and Brisbane where they are concentrated. This will intensify the employment pressures in these markets which are already strained from the global financial crisis. "Local job-seekers are confronting competition from thousands of overseas students looking for opportunities to gain the 900 hours of work experience required by Trade Recognition Australia as a condition of their accreditation for immigration purposes, and from those looking for employment in the hospitality industry as a prelude to a permanent residence employer sponsorship" (Ibid).

It is my belief that this situation reflects a deficiency in current regulatory arrangements in the international student industry. This is at a time when the long term prospects for adequate resources to be devoted to the regulatory task are under pressure from declining public sector budgets. The Senate report on the *Education Services for Overseas Students Amendment (Re-registration of providers and Other Measures) Bill 2009* has reported "its concern about the capacity of the regulatory system to handle the increased

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workload in this bill given it does not appear to have been able to cope to date” (Senate Education, Employment and Workplace Relations Legislation Committee, 2009: p13). It remains to be seen whether this more national approach to risk management and auditing will deliver better outcomes. It is possible that with changed immigration settings the risk levels would be significantly reduced. What I propose is a cooling-off period of two years before international students can apply for permanent residence. If international students were to return to their country of origin before then applying off-shore this would drive a cleaning up of the industry.

Such a cooling-off period is not without precedent. At present, a student who comes to Australia as the beneficiary of government scholarship—either our government or theirs—is required as a condition of their visa, the subclass 576 visa, to return to their home country when their studies are complete. Once they return to their country, they cannot apply to return to Australia for a period of two years. If we decouple the link with permanent residence, then students themselves will clean up the industry. They will not pay large sums of money for courses of little or dubious value. They will continue to pay for courses that do represent value for money, but not for those which do not. Could this lead to a drop in the number of overseas students coming to Australia? It well might. It depends on how good the courses which universities and VET providers offer actually are.

I know some people will complain if there is a drop in the numbers, but I do not think their concerns are valid. The first concern we are likely to hear is that these student visa holders are a needed part of our workforce to meet the needs of an ageing population. But according to the National Secretary of the Construction, Forestry, Mining and Energy Union, John Sutton, last year 100,000 young Australians aged between 15 and 24 dropped out of the workforce. Surely this is not acceptable. Surely we want those 100,000 young Australians back in the workforce. We also want more of our mature aged workers back in the workforce. There are many people aged between 45 and 65 who are not in the workforce who are capable of working and who would enter the workforce should work become available.

The second concern we are likely to hear is that a reduction in the number of overseas students will adversely affect universities and post-secondary education providers. Again, I do not subscribe to this theory. Eighteen and a half thousand eligible applicants missed out on a university place this year, up from 12,600 last year. Professor Bob Birrell says that the real number of students missing out may be much larger. He says eligible applications amount to 227,000 compared with actual acceptances of 161,000—a difference of more than 66,000. There is the question of funding of universities, TAFE and the vocational education and training sector. The previous government reduced funding for universities and vocational education and training, which basically compelled universities and TAFEs to make up the shortfall by bringing in fee-paying overseas students. This is demonstrated by the fact that the share of overseas student enrolments to all

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university enrolments grew from 18.7 per cent in 2001 to 25 per cent in 2005. Domestic undergraduate enrolments only increased from 520, 221 in 2001 to 528,980 in 2005. We need to lift our funding for universities and VET and enable them to focus on educating and training young Australians.

3. Overseas Students and Disreputable Education Providers

There is widespread concern that unsatisfactory providers focusing on migration outcomes have eroded Australia's reputation for the provision of services for international students. The *Age* writer Sushi Das has uncovered numerous scams surrounding Australia's overseas student industry. She has done this against considerable odds—a climate of fear and silence where she has been “frustrated and stonewalled by all those who don't want such stories to see the light of day” (Das, 2009: p15). In her article of 20 July this year she identifies these hurdles as the following: “the college operators who don't answer my calls; the teachers who fear losing their jobs if they are identified; and the students who remain silent because they are either complicit in scams or terrified they will be deported for blowing the whistle. I have spoken to countless students and teachers who tell me they are reluctant to talk to for fear of retribution from college operators who say they will go to great lengths to protect their visa factories that rake in millions of dollars a year from permanent-residency-seeking students” (Ibid).

I can confirm this climate because I have also been contacted by students who have been exploited but who have been unwilling to go public or put their name to anything for fear of recrimination. But, notwithstanding these hurdles, Sushi Das has reported on a Pandora's box of serious abuses and scams in the overseas student industry. She has described ‘scams, bogus courses and bribery in the permanent residency driven training sector’. She obtained a report on a Melbourne private college that showed (1) it was providing the equivalent of a three year apprenticeship in commercial cookery in just nine months, (2) course units were being taught back to front, (3) student records were not properly kept, (4) teachers' qualifications had no certification verifying their authenticity, (5) the format of some teachers' resumes was identical, (6) the college operator could not explain why he was using letterheads and copyright information belonging to another college, (7) a student had been charged a \$29,000 fee for accommodation and (8) the college failed 54 of 85 audit criteria.

Then there are the students using bogus documents to support permanent residency applications. In the last financial year, Trades Recognition Australia received over 34,000 applications for skills assessment, about 10,000 of which were from foreign students. The organisation initially accepted the documents as genuine, but the federal government received information to the contrary. The students were suspected of using fake references from employers which purported to show they had the required 900 hours of work experience in a job related to their area of study. Some students pay up to

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\$20,000 to rogue college operators or contentious middlemen, such as unscrupulous migration agents or education agents, to obtain black-market paperwork.

I have been advised the requirement for 900 hours of work experience in a job related to a student's area of study is being rorted by some private training colleges. Their owners set up private companies which offer work experience to their students, but, instead of the normal commercial arrangements where students are paid for their labour, the students pay the college company for the privilege of working for them. This is not genuine work experience in a commercial environment; this is a scam. We do not know whether these companies make or sell anything of any consequence; that is not their reason for being. Their reason for being is to extract more money from students by getting around the requirement to have 900 hours of work experience with an employer.

In 2008 two former staff of one training provider lodged a complaint with the Victorian Registration and Qualifications Authority claiming the standard of English language required for courses in aged care and child care was lowered to pass students who would otherwise have failed. According to the complaint, teachers were told to 'dumb down' the assessment so that students could pass it. According to the complaint, the resulting lack of language skills meant students risked committing potentially fatal errors once they found jobs, particularly in fields that involved caring for sick people, the elderly and children. I fear that this is not an isolated example and typifies that a focus on bringing in the dollars, rather than on ensuring that students have the necessary English language skills, is in fact quite widespread. I believe that in years gone by it was immigration authorities who were responsible for applying English language tests but that in more recent years it has been the universities and colleges who have administered the tests. Given that the universities and private colleges are collecting fees from the students, they have a clear conflict of interest in this matter.

In the last three months, we have seen a number of training colleges go bankrupt, leaving students who paid fees in advance just as disadvantaged as when a travel agency goes broke after taking customers' money for an overseas holiday that is never delivered.

4. Conclusion

There is a pressing requirement for a serious review that will compel businesses in the international students industry to refocus their marketing away from the possibility of permanent residency to selling legitimate skills and credentials that overseas students can utilise in their own country. There is also the need to revisit the steady marketisation of higher education since the mid-1980s. Dr Michael Wesley has recommended a number of reforms, “including greater public funding for tertiary education to remove the need to maximise earnings from foreign students; a substantial upgrade in the oversight of the tertiary sector; an ombudsman for international education; registration of international education agents; and scholarships to attract the best and brightest students” (Das, 2009: p5). It is concerning that all the growth in higher education in this country has been in overseas student places in comparison to domestic students which have flatlined.

There are also legitimate concerns about providers that exist primarily to serve international students as it “raises the important question of why Australia would allow private training providers to operate for the sole purpose of training international students. Where is the quality of the student experience if students arrive in Australia only to find themselves on a campus with people from the same country, with little to no daily exposure to Australian students, and often even managed by their fellow countrymen?” (Mackenzie and Simmons, 2009: p20).

I welcome the review by the Australian Government into the international education industry. This should include consideration of decoupling the link between education and permanent residency, introduction of a cooling-off period whereby students return to their home countries after completing their courses here, and addressing the decline in English language standards.

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