

## THE BURDEN OF DISCRIMINATION

11/11/2009 – Francesca Sidoti

***I have the clearest memory of visiting the Immigration Museum in Melbourne. One of the activities is a migrant application exam. You enter a darkened room and chose a scenario from the screen. We decided to be a Greek family fleeing post-war Europe. The object of the game is to try and get a visa to Australia. We failed because the daughter of the family was blind.***

It was a powerful experience, simulated though it was, and it's been on my mind this week. The *Inquiry into immigration treatment of disability* is about to have a round of public consultations as it deliberates whether the health requirement in migration processes is fair.

Simply put, when you apply for a visa to Australia as a migrant or a refugee, you undergo a health test where your 'cost' to the Australian economy is assessed. If your 'cost' is decided to be too much, your visa application can be rejected. In 2007-2008, 244 people were refused a visa on the basis of a health condition. Additionally, 442 people were refused a visa because of the health condition of a family member. Under immigration law, all family members must satisfy the health requirement for the family to migrate.

Of the 244 visa applications that were refused, 71 were refused because of some form of disability.

The *Disability Discrimination Act* is suspended when it comes to migration. Call me old-fashioned but the suspension of disability protection makes me uncomfortable. Mostly it's because that's usually when discrimination is occurring.

The implications of this legislation are significant. A quick glance through the submissions to government will confirm that the health requirement is a major factor in families being split up, and the disabled person being left behind. Even if you do manage to get a visa, if you have a health requirement of disability, there is a wait of ten years before you can access government services as opposed to the two-year wait or other migrants.

At the absolute minimum, the legislation has to be changed to exonerate children from the health requirement. The break-up of families or the refusal of a visa based on a child's disability goes against the *Conventions of the Rights of the Child*. It goes against a few self-evident truths as well.

The health requirement has a fairly uncomfortable relationship with a couple of international human rights agreements, namely the *Convention on the Rights of Persons With Disabilities* and the *Convention Relating to the Status of Refugees*. It would make sense to me that legislation should acknowledge that disability is a further impediment for refugees, and perhaps should be considered further reason to provide asylum.



There are public meetings on the issue happening in capital cities over the coming month. The submissions and dates for public meetings can be found here, <http://www.aph.gov.au/house/committee/mig/disability/subs.htm>.

I think the health requirement points to a deeper aspect of Australia's perception of people with disabilities. Nowhere in the health requirement is it mentioned that people with disabilities make a positive contribution to Australian society, both economically and socially. They are regarded solely in light of their 'cost' to society. It is an inhumane way to describe of a person. It's also totally inaccurate. Legislation that degrades people to a cost has no place in a country that apparently adheres to human rights.

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