



Australian  
Human Rights  
Commission

# Migration Amendment (Strengthening the Character Test) Bill 2018

Australian Human Rights Commission Submission to the Senate  
Legal and Constitutional Affairs Legislation Committee

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# 1 Executive Summary

1. The Australian Human Rights Commission makes this submission to the Senate Legal and Constitutional Affairs Legislation Committee, in response to its review of the Migration Amendment (Strengthening the Character Test) Bill 2018 (Cth) (Bill) introduced by the Australian Government.
2. The Bill proposes to amend the *Migration Act 1958* (Cth) (Migration Act) to provide additional grounds for the Minister or his or her delegate to consider refusing to grant, or cancelling, the visas of non-citizens who commit certain serious offences. In his second reading speech, the Minister for Immigration, Citizenship and Multicultural Affairs stated that the Bill ‘strengthens the current legislative framework in relation to visa refusals and cancellations on character grounds’.
3. Currently, s 501 of the Migration Act provides for the refusal or cancellation of a visa by the Minister if a person does not pass the *character test*. The character test provisions are set out in s 501(6). In most cases, failure to pass the character test gives the Minister the discretion to refuse or cancel a visa. In some cases, failure to pass the character test results in a mandatory cancellation, with provision for the person to seek revocation of that cancellation.
4. One existing discretionary ground is that the person is not of good character, having regard to their past and present criminal conduct (s 501(6)(c)(i)).
5. The Bill adds a new discretionary ground to s 501(6) allowing the Minister or his or her delegate to refuse or cancel a visa if a person is convicted of a *designated offence*. Broadly speaking, *designated offences* are offences involving: violence against a person, the use or possession of weapons, breaching an apprehended violence order (or similar), or non-consensual sexual acts. The offence must be punishable by imprisonment for a maximum term of not less than two years. However, a person will fail the character test if convicted of one of these offences, regardless of the length of any sentence imposed.
6. The Commission acknowledges that the Australian Government is entitled to place conditions on the grant of visas—including that visa holders abide by Australia’s criminal laws. Some visa cancellations on criminal grounds are

proportionate to legitimate public objects and are consistent with Australia's international human rights obligations.

7. The decision to refuse or cancel a visa can, however, have a serious impact on the affected person and members of their family. In some cases, there can also be an impact on the broader community. This is especially the case for those persons who have been present in Australia for a long period of time, but who are not citizens. Removing these people from Australia will have significant personal impacts. It may result in people spending significant time in immigration detention, being removed from the only country they have known, and it may result in families being split up.
8. Given the potential impact on individual rights, it is important that any decision to refuse or cancel a visa is properly made, takes into account all relevant circumstances, and is a proportionate restriction of the human rights of people negatively affected by the decision.
9. The Commission queries whether the Bill is necessary and justified, particularly in light of the grounds already available for visa refusal and cancellation under the Migration Act. Further, the Commission is concerned that the introduction of another broad discretionary power, without due regard to the particular circumstances of each case, may result in arbitrary and disproportionately harsh visa refusal and cancellation decisions.

## **2 Recommendations**

10. The Commission makes the following recommendations:

### **Recommendation 1**

The Commission recommends that the Bill not be passed.

### **Recommendation 2**

The Commission recommends that any consideration of amendments to s 501 of the Migration Act should take place after the Joint Standing Committee on Migration has concluded its inquiry into review processes associated with visa cancellations made on criminal grounds, and issued its report.

### **Recommendation 3**

The Commission recommends that a 'sliding scale' model be considered for visa refusals and cancellations on the basis of criminal convictions.

## **3 Background**

### **3.1 The genesis of the Bill**

11. In 2017, the Joint Standing Committee on Migration released its report on migrant settlement outcomes, *No one teaches you to become an Australian*.<sup>1</sup> The focus of the inquiry was migrant settlement outcomes; however, the Committee was also requested to give 'consideration to social engagement of youth migrants, including involvement of youth migrants in anti-social behaviour such as gang activity, and the adequacy of the character test provisions in the Migration Act as a means to address issues arising from this behaviour'.<sup>2</sup>
12. The Committee made two recommendations regarding the character test provisions under s 501 of the Migration Act:

#### **Recommendation 15**

The Committee recommends that the Australian Government amend the *Migration Act 1958* requiring the mandatory cancellation of visas for offenders aged between 16 and 18 years who have been convicted of a serious violent offence, such as car jackings or serious assaults. If legislation is amended, this should be accompanied by a caveat that no retrospective liability is thereby created.

#### **Recommendation 16**

The Committee is also recommending that anyone over 18 years of age, who has been convicted of a serious violent offence which is prescribed, such as serious assaults, aggravated burglary, sexual offences and possession of child pornography, have their visa cancelled under section 501 of the Migration Act 1958.<sup>3</sup>

13. The Bill responds to Recommendation 16.

### 3.2 The current character test

14. Under s 501 of the Migration Act the Minister or his or her delegate may (and in some cases must) cancel, or refuse to grant a visa to a person if the person does not pass the character test. Section 501(6) of the Migration Act sets out the grounds on which a person will be considered not to pass the character test. Relevantly, s 501(6) provides:

For the purposes of this section, a person does not pass the ***character test*** if:

- (a) the person has a *substantial criminal record* (as defined by subsection (7)); or
- ...
- (b) the Minister reasonably suspects:
  - (i) that the person has been or is a member of a group or organisation, or has had or has an association with a group, organisation or person; and
  - (ii) that the group, organisation or person has been or is involved in criminal conduct; or
- ...
- (c) having regard to either or both of the following:
  - (i) the person's past and present criminal conduct;
  - (ii) the person's past and present general conduct;the person is not of good character; or
- (d) in the event the person were allowed to enter or to remain in Australia, there is a risk that the person would:
  - (i) engage in criminal conduct in Australia; or
  - (ii) harass, molest, intimidate or stalk another person in Australia; or
  - (iii) vilify a segment of the Australian community; or
  - (iv) incite discord in the Australian community or in a segment of that community; or

- (v) represent a danger to the Australian community or to a segment of that community, whether by way of being liable to become involved in activities that are disruptive to, or in violence threatening harm to, that community or segment, or in any other way; or
  - (e) a court in Australia or a foreign country has:
    - (i) convicted the person of one or more sexually based offences involving a child; or
    - (ii) found the person guilty of such an offence, or found a charge against the person proved for such an offence, even if the person was discharged without a conviction.
15. The Minister must cancel a visa that has been granted to a person if the Minister is satisfied that the person does not pass the character test because the person has a substantial criminal record on the basis of being sentenced to a term of imprisonment of 12 months or more (s 501(6)(a) and (7)(a)–(c)), or because the person has been found guilty of a sexually-based offence involving a child (s 501(6)(e)).<sup>4</sup> In other cases, refusal or cancellation is discretionary.
16. The Commission has raised concerns about the regime for mandatory cancellation of visas in its submission to the Joint Committee on Migration as part of its current inquiry into review processes associated with visa cancellations made on criminal grounds. Among other things, the Commission highlighted the inefficiency of this process, pursuant to which up to 50% of all mandatory visa cancellations are ultimately revoked. The Commission recommended in that inquiry that the mandatory visa cancellation provisions be repealed.<sup>5</sup>
17. Representatives from the Department of Immigration and Border Protection provided a submission to the migrant settlement outcomes inquiry, appeared at a public hearing before the Committee in February 2017, and provided two supplementary submissions with information responding to questions taken on notice at the hearing. As part of the Department’s submissions, it was stated that the character and cancellation provisions were ‘significantly strengthened’ in 2014 through the introduction of new character requirements and a mandatory cancellation provision for non-citizens serving prison sentences.<sup>6</sup>

18. The Department explained that a person will, for example, fail the character test under:

- section 501(6)(a) if they have a substantial criminal record and they have been sentenced to at least 12 months imprisonment (cumulative).
- section 501(6)(b) if they have been, or are, a member or associate of a group, organisation or person that has been involved in criminal conduct.
- ...
- section 501(6)(c) if they are not of good character due to their past and present criminal and general conduct.
- section 501(6)(d) if they present a risk that they would engage in criminal conduct or represent a danger to the Australian community.
- section 501(6)(e) if they have been convicted by a court of a sexually based offence involving a child or found guilty of such an offence (or charge proven) even if the person was discharged with[out] conviction.<sup>7</sup>

19. The Department also explained that:

The Department has a strong relationship with state, territory and federal law enforcement partners who support the exercise of the cancellation powers through referral of non-citizens with relevant criminal histories and providing criminal conviction information for consideration in character and cancellation decisions. In circumstances where a non-citizen is engaged in anti-social and criminal behaviour, they will generally be referred to the Department for visa cancellation consideration.<sup>8</sup>

[I]n relation to discretionary cancellation we would take into account the person's entire history in terms of criminal activity or behaviour in the community.<sup>9</sup>

20. As the Committee observed, the majority of the 115 submitters to the inquiry 'largely held the view that the current character and cancellation provisions in the Act were an adequate way of addressing non-citizens who have been involved in criminal activities'.<sup>10</sup>



## 4 The Bill

### 4.1 The justification for the Bill

21. In its migrant settlement outcomes report, the Committee noted community concerns about the escalation of violent crimes, and expressed the view that serious criminal offences committed by visa holders must have appropriate consequences. The Commission has previously submitted to the Joint Standing Committee on Migration that:

the Australian Government is entitled to place conditions on the grant of visas—including that visa holders abide by Australia’s criminal laws. It is reasonable for the community to expect that people temporarily in Australia who commit serious crimes may lose the right to remain in Australia. Some visa cancellations on criminal grounds are proportionate to legitimate public objects and are consistent with Australia’s international human rights obligations.<sup>11</sup>

22. The Commission notes, however, that Recommendation 16 was only supported by the Government Members of the Committee. The other members of the Committee, in their respective dissenting reports, said that there was a lack of an evidential basis for the underlying conclusions in the majority report and that the character test was already sufficient to address community concerns about criminal conduct by visa holders.
23. In a dissenting report, Labor members of the Committee stated:

On recommendations 15–18 where Labor dissents, this report does not objectively reflect the evidence presented during the course of the inquiry. It ignores crucial contextual details and places an undue emphasis on others. There is minimal or no evidence to justify some recommendations made by the Committee. ...

The Labor members are concerned, however, that some of the conclusions and subsequent recommendations that the Committee reaches in the report are based on minimal or no evidence. ...

Labor Members dissent from Recommendation 16.

Provisions already exist that require all non-citizens, irrespective of age, who wish to enter and remain in Australia to satisfy a character test, or risk cancellation of their visa. ...

The report's recommendation for changes to the Character Test Provisions (section 501) of the Act is contrary to the evidence presented to the Committee. The inquiry received overwhelming evidence, as noted in the report, opposing any measures that would extend the character test provisions of the Act.<sup>12</sup>

24. A dissenting report by the Australian Greens also opposed Recommendation 16.<sup>13</sup>

25. In the Commission's view, the following statement from the Chair of the Committee, included in the Foreword to the report, highlights the problematic rationale for Recommendation 16:

More Australians will feel safer knowing there are consequences for migrants who commit criminal offences. Strengthening the Character test provisions under section 501 of the *Migration Act 1958* to remove repeat offenders will make Australia safer for everyone. Visa cancellation and deportation is an effective way of disrupting and preventing organised crime. The mandatory cancellation of visas ... —for those over 18 years convicted of a serious offence such as sexual assault, serious assault, home invasion and car jackings—will stop crime and keep communities secure.<sup>14</sup>

26. The Commission is not aware of evidence demonstrating that the refusal or cancellation of a visa after a person has been convicted of a criminal offence will have the effect of stopping crime. The Committee itself acknowledged that '[t]here are always going to be those who undertake criminal behaviour and the Committee is aware that they do this for a wide range of reasons'.<sup>15</sup> Similarly, the evidence presented to the Committee did not demonstrate that there was an additional benefit of including another discretionary ground for visa refusal and cancellation. Such an amendment was not favoured by the majority of submitters.

27. Migrants who commit criminal offences already face judicial and administrative consequences. The existing provisions in the Migration Act allow for mandatory and discretionary refusal and cancellation of visas for a broad range of circumstances, covering organised crime, repeat offenders, and past and present criminal (as well as general) conduct.

28. The Commission is also concerned with the justification for the Bill provided by the Minister for Immigration, Citizenship and Multicultural Affairs. In his second reading speech, the Minister stated:

Following 115 public submissions, the Joint Standing Committee on Migration's report on migrant settlement outcomes ... noted that strengthening the character provisions will make Australians feel safe and be safer. Currently, a non-citizen would need to be sentenced to a minimum of 12 months in order for mandatory cancellation or refusal of their visa. However, this threshold is not capturing all those found guilty of serious criminality, including those who may not serve any custodial sentence and who may pose a continued risk to the safety of the community.<sup>16</sup>

29. As mentioned above, however, most of the submissions considered the current provisions to be adequate, and opposed an expansion of the refusal and cancellation circumstances. The weight of the evidence presented during the inquiry did not support the conclusion that 'strengthening the character provisions will make Australians feel safe and be safer'.
30. Further, while it is correct for the Minister to say that the threshold for *mandatory* refusal or cancellation does not capture 'all those found guilty of serious criminality', this overlooks that the existing discretionary provisions are capable of doing so and that what is proposed in the Bill is an alternative discretionary ground. As noted by the Standing Committee for the Scrutiny of Bills:

in light of the already extremely broad discretionary powers available for the minister to refuse to issue or cancel the visa of a non-citizen, the explanatory materials have given limited justification for the expansion of these powers by this bill.<sup>17</sup>

31. The Statement of Compatibility with Human Rights for the Bill also appears to misconstrue the full scope of the character test in the Migration Act when it is stated that:

The amendments expand the framework beyond a primarily sentence-based approach and instead allow the Minister or delegate to look at the individual circumstances of the offending and the severity of the conduct.<sup>18</sup>

32. In fact, most of the existing grounds in s 501(6) of the Migration Act are not sentence-based, and the discretionary power under s 501(6)(c) in particular

already contemplates an individualised assessment of a person's past and present criminal conduct.

33. Finally, the Commission also notes that, in March 2018, the Minister for Home Affairs asked the Joint Standing Committee on Migration to inquire into and report on the review processes associated with visa cancellations made on criminal grounds. The Committee has received 41 submissions and held eight public hearings.<sup>19</sup> Although focused on process, that review may well also generate findings and recommendations on more substantive issues, such as the grounds for visa refusal and cancellation. In the absence of compelling reasons, especially in regard to urgency, the Commission recommends that any consideration of amendments to s 501 of the Migration Act should wait for the Joint Standing Committee on Migration to conclude its report.

## **4.2 Key human rights concerns of the Bill**

34. The Statement of Compatibility with Human Rights for the Bill states that:

The practical effect of the Bill will be greater numbers of people being liable for consideration of refusal or cancellation of a visa as they would not, or no longer meet, character requirements set out in section 501 of the Migration Act.

Where a person's visa is cancelled or refused in Australia, they will be liable for detention under section 189 of the Act, may be removed from Australia, and/or may be separated from the family unit.<sup>20</sup>

35. To the extent that the Bill does have the result of increasing the number of people liable for visa refusal or cancellation, it raises a number of human rights concerns. In the Commission's submission to the Joint Committee on Migration in its inquiry into migrant settlement outcomes, it identified the following international human rights obligations relevant to persons who have their visa refused or cancelled under s 501 of the Migration Act:

- The risk that Australia could breach its *non-refoulement* obligations through refusing or cancelling visas of individuals towards whom Australia has protection obligations.
- The risk that people subject to visa refusal or cancellation under s 501 may be subject to arbitrary immigration detention, potentially for long periods of time.

- The deportation of long-term residents of Australia who may have little or no connection to their country of citizenship.
- Separation of families resulting from deportation of individuals who have had visas refused or cancelled on character grounds and have relatives (including children) who remain in Australia.<sup>21</sup>

36. As noted above, the Migration Act already provides for the mandatory refusal or cancellation of a person's visa if they receive a term of imprisonment of 12 months or more (or smaller terms totalling more than 12 months). In the second reading speech for the Bill, the Minister for Immigration, Citizenship and Multicultural Affairs stated:

This bill proposes that noncitizens who have been convicted of certain designated crimes be considered for discretionary cancellation or refusal *regardless of the custodial sentence imposed*.<sup>22</sup>

37. The Commission accepts that it may be appropriate in some circumstances for the Minister or his or her delegate to refuse to grant, or cancel, a person's visa if the person commits a crime but receives a custodial sentence of less than 12 months. In many instances, however, where a lesser custodial, or other type of sentence is imposed, this would be a disproportionately harsh consequence for the person, and their family. Unlike the current s 501(6)(c), the proposed new provision does not contain any requirement that the person not be of good character as a result of their criminal conduct. The Commission considers that conviction of one of the designated offences, in circumstances where the person has received a sentence of less than two years, has received a non-custodial sentence or has not received any sentence at all, does not provide an appropriately objective indication of whether or not the person poses a risk to the safety of the Australian community.

38. As noted by the Standing Committee for the Scrutiny of Bills in its review of the Bill on 14 November 2018:

the proposed amendments would allow the Minister to cancel or refuse a visa to a person who has been convicted of a designated offence but who may have received a very short sentence or no sentence at all. For example, a person carrying pepper spray may be convicted of possession of a weapon, and although the person may only be given a minor fine, this conviction would empower the minister to cancel their visa, leading to their detention and removal from Australia.<sup>23</sup>

39. In deciding whether to exercise this discretionary power, delegates of the Minister are required to take into account a range of considerations, set out in a direction from the Minister made under s 499 of the Migration Act called Direction No 65.<sup>24</sup> The Minister is not bound to follow the Direction.
40. Given the potential impact on individual rights, any decision to refuse or cancel a visa should be made properly and take into account all of the relevant circumstances. The Commission is concerned at the potential for this broad discretionary power to be exercised without due regard to the severity of the relevant individual's conduct, the particular circumstances of the individual and others affected, or specifically the human rights impact of a decision to remove. In extreme cases, this can amount to arbitrary decision making under international human rights law. As observed by the Standing Committee for the Scrutiny of Bills:

[The Bill] leaves a broad discretion to the minister or his or her delegate, unconstrained by any legislative requirement to consider individual circumstances and without appropriate procedural safeguards.<sup>25</sup>

### **4.3 The utility of the Bill**

41. In their dissenting report, the Australian Labor Party Members of the Joint Standing Committee on Migration noted that:

Provisions already exist that require all non-citizens who wish to enter and remain in Australia to satisfy a character test, or risk cancellation of their visa. Before a decision to cancel a visa is made under section 501, the decision-maker 'will consider and weigh up adverse information, together with any mitigating information'. Therefore, there is already sufficient scope to cancel visas of non-citizens.<sup>26</sup>

42. As outlined above, s 501(6) already provides a number of grounds on which a person will not pass the character test. If any of these provisions are enlivened, the Minister or his or her delegate may (or, in some cases, must) refuse or cancel a person's visa. Section 501(6)(c) is particularly broad and, as the Department explained, allows the decision maker to consider 'the person's entire history in terms of criminal activity or behaviour in the community'. It is difficult to conceive of circumstances where this provision would not be relevant and applicable to a person convicted of a *designated offence*.

43. In light of the existing framework for visa refusal and cancellation in the Migration Act, and the potential for arbitrary and disproportionately harsh decisions, the Commission considers the amendments introduced by the Bill to be unwarranted.

## 5 Comparable jurisdictions

44. As part of the Joint Standing Committee on Migration's current inquiry into review processes associated with visa cancellations made on criminal grounds, the New Zealand High Commission provided a submission and gave evidence regarding the model for visa cancellation operating in New Zealand.<sup>27</sup> Described by the High Commissioner as operating on a 'sliding scale', New Zealand's deportation law takes into account a non-citizen's connections to New Zealand and accepts a greater level of responsibility for long term residents. The relevant provision, found in s 161 of the *Immigration Act 2009* (NZ), was described by the High Commissioner in the following way:

New Zealand's deportation law applying to non-citizen residents convicted of offenses implicitly accounts for their connections to New Zealand when determining liability for deportation.

If a residence class visa holder (which Australians are granted on arrival, as long as they meet character requirements) has held that visa for:

- up to two years, a conviction for a crime that has a prison sentence of at least 3 months means they are liable for deportation;
- up to five years, a conviction for a crime that has a prison sentence of more than 2 years means they are liable for deportation;
- up to 10 years, a prison sentence of more than 5 years means they are liable for deportation;
- more than 10 years, they will effectively not be deported regardless of their criminality.

...

The underlying principle of these deportation provisions is that New Zealand accepts some responsibility for the behaviour of people who have lived in New Zealand on residence class visas for long periods of time—they've made New Zealand their home.

This recognises that the New Zealand community as a whole has an interest in ensuring that migrants succeed after they arrive in our country and, where

they do not succeed and become criminals, that we have an interest in rehabilitating them.

People who have held residence class visas for over a decade are considered to be New Zealand's responsibility, not the responsibility of the country they came from so many years before. This recognises that the environment people live in, especially for long periods of time, contributes to their behaviour.<sup>28</sup>

45. Where governments seek to limit rights, under international law principles known as the *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, such rights limitation must pursue a legitimate aim and be proportionate to that aim.<sup>29</sup> Assessing whether a limitation is proportionate to the pursuit of a legitimate objective requires an assessment of the nature and extent of each limitation, the urgency of the objective, and the degree to which the rights-limiting measure is likely to achieve the objective.
46. The United Nations Human Rights Committee has provided the following guidance on proportionality:

Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected. The principle of proportionality has to be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law.<sup>30</sup>
47. In the Commission's view, by building in a degree of proportionality, the New Zealand model adopts a more human rights compliant approach. The Commission urges the Committee to consider and, if appropriate, adopt a similar framework.



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- <sup>1</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) <[https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024098/toc\\_pdf/NooneteachesyoutobecomeanAustralian.pdf;fileType=application/pdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024098/toc_pdf/NooneteachesyoutobecomeanAustralian.pdf;fileType=application/pdf)>.
  - <sup>2</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) xv.
  - <sup>3</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) 175 [7.228]–[7.229].
  - <sup>4</sup> *Migration Act 1958* (Cth) s 501(3A).
  - <sup>5</sup> Australian Human Rights Commission, Submission No 11 to the Joint Standing Committee on Migration, *Review processes associated with visa cancellations made on criminal grounds* (2018) 29–31 <<https://www.aph.gov.au/DocumentStore.ashx?id=92c3250b-7f7f-44a7-be0e-148869775611&subId=565322>>.
  - <sup>6</sup> Department of Immigration and Border Protection, Submission No 73 to the Joint Standing Committee on Migration, *Inquiry into migrant settlement outcomes* (2017) 17 <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Migration/settlementoutcomes/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/settlementoutcomes/Submissions)>; Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) 146 [7.127].
  - <sup>7</sup> Department of Immigration and Border Protection, Supplementary Submission No 73.2 to the Joint Standing Committee on Migration, *Inquiry into migrant settlement outcomes* (2017) 3 <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Migration/settlementoutcomes/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/settlementoutcomes/Submissions)>. See also Department of Immigration and Border Protection, Submission No 73 to the Joint Standing Committee on Migration, *Inquiry into migrant settlement outcomes* (2017) 17; Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) 147 [7.130].
  - <sup>8</sup> Department of Immigration and Border Protection, Submission No 73 to the Joint Standing Committee on Migration, *Inquiry into migrant settlement outcomes* (2017) 18.
  - <sup>9</sup> Evidence to Joint Standing Committee on Migration, Parliament of Australia, Canberra, 23 February 2017, 8 (Ms Kaylene Zakharoff, First Assistant Secretary, Community Protection Division, Department of Immigration and Border Protection) <<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22committees/commjnt/02cdbf46-dab3-48af-b980-5d23fa5758e0/0000%22>>.
  - <sup>10</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) 154 [7.144].
  - <sup>11</sup> Australian Human Rights Commission, Submission No 11 to the Joint Standing Committee on Migration, *Review processes associated with visa cancellations made on criminal grounds* (2018) 29–31 <<https://www.aph.gov.au/DocumentStore.ashx?id=92c3250b-7f7f-44a7-be0e-148869775611&subId=565322>>.
  - <sup>12</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) 246 [1.10]–[1.11], 252 [1.43].
  - <sup>13</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) 241 [1.18].

- <sup>14</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) x-xi.
- <sup>15</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) 174 [7.222].
- <sup>16</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 25 October 2018 (David Coleman).
- <sup>17</sup> Senate Standing Committee for the Scrutiny of Bills, Parliament of Australia, *Scrutiny Digest*, No 13 of 2018, 14 November 2018, 11 [1.30].
- <sup>18</sup> Explanatory Memorandum (Attachment A), Migration Amendment (Strengthening the Character Test) Bill 2018 (Cth) 10.
- <sup>19</sup> See  
<[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Migration/Visacancellationprocess/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/Visacancellationprocess/Submissions)>.
- <sup>20</sup> Explanatory Memorandum (Attachment A), Migration Amendment (Strengthening the Character Test) Bill 2018 (Cth) 10.
- <sup>21</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) 156-157 [7.156]; Australian Human Rights Commission, Supplementary Submission No 38.1 to the Joint Standing Committee on Migration, *Inquiry into migrant settlement outcomes* (2017) 2.
- <sup>22</sup> Commonwealth, *Parliamentary Debates*, House of Representatives, 25 October 2018 (David Coleman) (emphasis added).
- <sup>23</sup> Senate Standing Committee for the Scrutiny of Bills, Parliament of Australia, *Scrutiny Digest*, No 13 of 2018, 14 November 2018, 10 (footnotes omitted)  
<[https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=r6214](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6214)>.
- <sup>24</sup> Minister for Immigration and Border Protection, *Direction No. 65 under section 499 of the Migration Act 1958—Visa refusal and cancellation under s 501 and revocation of a mandatory cancellation of a visa under s 501CA* (22 December 2014).
- <sup>25</sup> Senate Standing Committee for the Scrutiny of Bills, Parliament of Australia, *Scrutiny Digest*, No 13 of 2018, 14 November 2018, 11 [1.30].
- <sup>26</sup> Joint Standing Committee on Migration, Parliament of Australia, *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes* (2017) 254 [1.52] (footnotes omitted).
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- <sup>29</sup> United Nations Economic and Social Council, *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, UN Doc E/CN.4/1985/4, Annex (1985) [10].

<sup>30</sup> United Nations Human Rights Committee, *General Comment No 27: Article 12 (Freedom of Movement)*, 67th sess, UN Doc CCPR/C/21/Rev.1/Add.9 (2 November 1999) 3 [13]–[14].