

**HSMP Forum's submission to the Joint Committee on Human Rights for its scrutiny of the DRAFT (PARTIAL) IMMIGRATION AND CITIZENSHIP BILL**

**Introduction:**

"HSMP Forum" is a 'not for profit' organisation. It was formed after the 2006 decision by Government to apply new qualifying criteria for Highly Skilled Migrant Programme (HSMP) for permanent residency (ILR) and for visa extensions of existing resident Highly Skilled Migrants. "HSMP Forum" has been lobbying the Government and courts by challenging unfair policies, so to allow existing legal Skilled Migrants to settle in UK. The organisation's aim is to support and assist migrants under the world-renowned British principles of fair-play, equality and justice and believes in challenging any unfair policies which undermines migrants' interests.

We have few serious concerns about this bill which will unfairly affect a large number of migrants. Being a migrant support organisation we directly receive complaints / concerns from our members as well as other migrants and therefore believe that our submission will give the committee a clear idea on how the bill would affect migrants under some categories.

**Part 3 - retrospective application of laws**

We believe the journey to settlement and citizenship starts when migrants enters Great Britain under any government approved scheme and hence changing the rules applicable to gain permanent residency / citizenship for such migrants is unfair and undermines the basic notion of fair play and justice.

The new citizenship rules should not be applied to the existing migrants who came under a different set of rules and planned their lives as per the rules in place when they decided to come to the U.K.

In the recent past in April 2006 the Government made changes to the indefinite leave to remain qualifying criteria from 4 to 5 years. This in itself caused hardships for migrants<sup>1</sup> when it was applied retrospectively to existing migrants. In our recent judicial review judgment dated 8<sup>th</sup> April 2008<sup>2</sup> the high court ruled that application of such retrospective changes as unlawful.

The past changes in qualifying criteria for indefinite leave to remain (ILR) in 2006 from 4 to 5 years has caused various forms of hardships for migrants and their families. Some of the hardships caused include Migrants' children not being able to attend universities due to exorbitant international student fees resulting in some to take gap year, some to abandon their studies while some to change their career plans. Professionals like Doctors, Accountants and others who intended to do advance courses are unable to do so.

In addition to the travel restrictions to be followed in order to abide by the rules to obtain ILR, many migrants have been facing difficulties in getting permanent employment and senior level positions due to employers' reservations in recruiting those with limited leave to remain. A year more involves a year more of employment limitations and lost opportunities. Migrants are unable to obtain mortgages to buy a house due to their limited visas as Banks and financial institutions hesitate to issue the required mortgages. Needless to say all their plans have been jeopardised and it has led to an insecure and unpredictable future. Any further delay in permanent residency would cause similar or further problems to existing migrants.

The term temporary residence / permission (or probationary citizenship) will further complicate employment for migrants. Migrants already encounter very many issues when applying for job opportunities wherein employers tend to refuse job offers to migrants with limited leave to remain. The term will further create obstacles among migrants, wherein employers will tend to refuse candidature for the jobs on the basis that the migrant in Great Britain is on a temporary basis and would not want to make investments in the migrants training nor will be interested to consider the migrant for managerial or

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<sup>1</sup> <http://www.hsmpforumltd.com/hsmpilrstatements.html>

<sup>2</sup> <http://www.bailii.org/ew/cases/EWHC/Admin/2008/664.html>

senior level roles. This will hamper the migrant's employability prospects and growth. Hence, make them subject to exploitation and would create inequalities in the work place.

Any immigration law should take into account the ground realities. Once people have managed to satisfy the required thresholds and have made a legal entry in the country, they should be treated on a level playing field.

Existing highly skilled migrants have already encountered various problems due to the retrospective nature of rule changes. In the past, the government back-tracked from the promises they made to migrants to entice them to come to the U.K. Our recent judicial review judgment of April 2008 on HSMP changes clearly emphasized on the unfairness of retrospective nature of rules changes which took place in 2006. The judgment also criticized the government for abusing its powers.

**Part 3, clause 34 – Voluntary work to fasten the process for permanent residency**

We believe expectation from migrants to undergo voluntary work to speed up the process of being permanent residents will lead to exploitation of migrants by organizations providing this voluntary work. It would discriminate ethnic minority in obtaining the permanent residency earlier comparatively their white counterparts.

Migrants will feel being forced to do voluntary work and hence will not contribute whole heartedly. It also undermines the true essence of philanthropic aim of the voluntary work. It would make voluntary work look like a barter system and would reflect it rather in a commercial sense.

Certain voluntary groups might treat migrants as slave labourers and would exploit migrants and demean them since the migrant would be dependent on the recommendation letter from the voluntary organization to obtain his citizenship. It is also wrong to use the voluntary work as a means to integration and would be considered as an insult by certain categories of migrants. Highly skilled migrants have already shown commitment and

integrity by making sacrifices, when they decided to come to Great Britain they gave up their well established careers back home, sold properties, winded up investments and uprooted families. Migrants like teachers, doctors, engineers have already been making enormous contribution in Britain.

How much the migrants are integrated in the society may depend on the route through which they have entered the UK. The measures put in place to facilitate their integration should probably depend on it too.

Highly qualified professionals will consider voluntary or community work as a sort of humiliation since it is usually meant for offenders to reduce their sentence.

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*We thank the Joint Committee for conducting this scrutiny and providing us an opportunity to submit evidence. Please get in touch with the undersigned for any further information or assistance required.*

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