



IRELAND-INDIA COUNCIL

**SUBMISSION
TO
OIREACHTAS SELECT
COMMITTEE**

ON

**JUSTICE, EQUALITY, DEFENCE
AND WOMEN'S RIGHTS**

ON

**IMMIGRATION, RESIDENCE AND
PROTECTION BILL-2008**

MARCH 18TH, 2008



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Immigration, Residence and Protection Bill, 2008

Response of the Ireland-India Council (IIC) to the Joint Committee on Justice, Equality, Defence and Women's Rights Chairman and Members of the Committee request for a submission

About Ireland-India Council (IIC):

The Ireland-India Council (IIC) is an organisation based in Dublin but covering the whole Ireland, created to provide a forum for person to person contact, business to business interaction and cultural exchanges between individuals and organisations in Ireland and India. It aims to provide a platform for exchanges of ideas for academics, the media, and public and private organisations in the field of Indian studies, as well as for the development of professional and institutional links and the promotion of public and private events that may foster public awareness about Irish-Indian relations and the integration of Indians living in Ireland. The Council has a wide and flexible remit which extends from political, commercial and business links.

Introduction:

The Chairman and members of the Joint Committee on Justice, Equality, Defence and Women's Rights has invited Ireland-India Council's views as one of the interest group of the Bill. The Ireland-India Council (IIC) welcomes the opportunity to comment on the proposed legislation as it impacts on Indian immigrants

Ireland-India Council firmly believes that proposed, Immigration, Residence and Protection Bill, 2008 is an Ireland's step forward to comprehensively and logically reform Irish Immigration system for the wider interest of the state, immigrants and its inhabitants. The IIC further welcomes the Government's initiatives to review the Immigration, Residence and Protection legislation and improve the co-ordination among the various state departments. In this regard IIC feels the core concerns are the genuine rights and entitlements of the immigrants should form the cornerstone of any such initiative and should be clearly reflected in the legislation and system. We concur with the opinion of the Government that immigration has a valuable role to play in the economic, social, cultural, research and development of the state. However to fully realise this potential, there is urgent need to move from the more traditional



“CONTROL” approach to one that seeks to manage migration in a manner that is not only equitable and transparent but also firm and visionary to control the misuse of the system and policy.

1. Access to Natural Justice:

Ireland-India Council recognises that Government want to stop abuse and misuse of the present immigration system. However to limiting the access for natural justice that the Irish Courts restricted ability to accept application within 14 days to review executive decision (order) is not only impractical for immigrant but also affecting immigrants’ rights for natural justice as it should be equitable with the other citizens of the state.

2. Right to Marry:

IIC understand the problem of the sham marriages, which not only abusing the present system but in some cases creating far more difficult situations to the already existing families as these individuals are hiding their marital status and marrying second, third... time without proper settlements with first family. The Ministerial control on the marriages in our opinion is not a solution for this problem. To address this issue there is a need to establish a mechanism and system with international cooperation about the universal registration of the marriages and their documentation.

3. Right to Family:

Family is an inherent and fundamental unit of any civilisation or culture. Article 41.1 of the Irish Constitution recognises family as an important unit of society and Article 41.2 of the Irish Constitution guarantees the protection of the family by the state....*“The state therefore, guarantees to protect the family in its constitution and authority, as the necessary basis of social order and as indispensable of the welfare of the Nation and the State”*.....

The Government recognises the rights and importance of the ‘family’ and indicates a willingness to re-evaluate current practice in proposed legislation.

Towards this objective, it is opine that the Government should extend this philosophy to the immigrant family unit and promote equality of law by recognising their right to family life. Family reunification of immigrants in general and economic migrants in particular should be made more immigrants friendly and the right of employment of the spouse should be recognised through legislation. The provision of a work permit also



safeguards human rights by minimising the risk of entrapment of an abused spouse in the case of domestic violence.

On the lines of immigration policy adopted by immigrant nations such as the United States, Canada and Australia, Ireland should permit reunification with dependents and parents through extension of the duration of the visitor's visa for such applications.

4. Admission for the Purpose of Work, Self-Employment and Research:

The current work permit system exposes immigrants to the risk of exploitation by employers. Suitable changes should be made to eliminate this risk and also improve clarity on issues such as entry, residency, work, welfare and social rights of immigrants and their families. These rights should be automatic and equitable without discrimination between citizens and immigrants.

5. Admission for the Purpose of Study:

At present, the rights and welfare of non-EU students is overwhelmed by material considerations. By making education more accessible and affordable to immigrants, mainly non- EU students, the country can reap several long-term benefits and can also contribute to human welfare. This is also utmost important to check some educational institutions as they are running courses without proper recognition, infrastructure, and qualified faculty. Non-EU students feel that they are trapped by these institutes. Education programme for non - EU students need to linked with more research, development and training.

6. Fees:

The proposed IRP Bill-2008 is creating a system for taxing immigrants at every stage i.e. .Visa, entry, registration and renewal etc. There is a need that fees or charges should be reasonable to the cost of administration and also charges (Fees) should also be based on the principal of reciprocity between the different nations.

7. Immigration Offences:

We are highly concerned that the proposed Bill, does not provide safeguards in exceptional circumstances for being unlawfully presence of an immigrant in the State. The Bill may ensure that people who are present in the State unlawfully in exceptional situations like illness or procedural



delays in renewing VISA or residence permits cannot be consider offenders of Immigration Laws.