

10 October 2008

Media release

For comment, please contact (02) 6162 4140

Character tests make bad law

The Australia Institute, a Canberra-based think-tank, has highlighted how the Australian Government has increasingly been making judgments about the character of individuals in migration and other areas over the last decade.

The Discussion Paper, *The Dangers of Character Tests: Dr Haneef and other cautionary tales*, by Susan Harris Rimmer, charts the rise of character provisions in Commonwealth laws. The use of character testing has increased in traditional areas like migration and citizenship, and has moved into new areas of law, such as the employment of persons in critical industries and criminal law.

“Falling afoul of a character test could lead to detention and deportation like Dr Haneef, an inability to gain citizenship, being permanently locked out of a profession as an aviation or maritime worker, or put on trial for a terrorist offence. In this way, someone else’s assessment of your character can now define your destiny as never before,” said Ms Harris Rimmer.

Section 501 of the *Migration Act 1958* (Cth) provides that the Minister may refuse or cancel a visa if the Minister considers that the person represents a ‘future risk to Australian citizens’ or associates with suspected criminals, as was the case for Dr Haneef.

“This phenomenon has been incremental, which is why it is important to pause and reflect on the changes over the last decade,” concluded Ms Harris Rimmer.

The report makes several recommendations including that section 501 of the Migration Act be repealed or amended to provide for clarity and natural justice; and that a Parliamentary inquiry into character testing be held.

The paper can be read on the Institute’s website — www.tai.org.au.