

**SUBMISSION OF THE FEDERATION OF COMMUNITY  
LEGAL CENTRES (VIC) INC**

**TO THE CITIZENSHIP TASK FORCE, DEPARTMENT OF  
IMMIGRATION AND MULTICULTURAL AFFAIRS**

**CONSIDERATION OF THE MERITS OF INTRODUCING A  
FORMAL CITIZENSHIP TEST**

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**This submission was prepared by Marika Dias, Convenor of the Refugee and Immigration Laws Working Group, on behalf of the Federation of Community Legal Centres (Vic).**

## **About the Federation of Community Legal Centres Victoria**

The Federation of Community Legal Centres Vic. Inc ('the Federation') is the peak body for fifty-two Community Legal Centres across Victoria, including both generalist and specialist centres. Community Legal Centres ('CLC's') assist in excess of 60,000 people throughout Victoria each year by providing provide free legal advice, information, assistance, representation, and community legal education.

Overwhelmingly, the people who use CLC's are on low incomes, with most receiving some form of pension or benefit. CLC's assist a considerable number of people from culturally and linguistically diverse communities.

The Refugee and Immigration Laws Working Group is one of a number of issue-specific working groups within the Federation comprising workers from member centres. This Working Group works to improve human rights protections and access to justice for all refugees, asylum seekers and CALD communities.

## **Introduction**

Based on our experience of working with migrant and refugee communities, the Federation does not support the introduction of formal citizenship testing in Australia. We believe it is unnecessary and potentially discriminatory against people from particular backgrounds, amongst other concerns. In this submission we have not addressed all of the questions raised in the discussion paper *Australian Citizenship: Much more than a Ceremony* ('the Discussion Paper') but instead focus on our key areas of concern regarding the citizenship testing proposal.

### **Lack of Justification for Introducing Citizenship Testing**

The Discussion Paper does not clearly demonstrate to the Federation any existing social malfunction or systemic problem that would require a change such as the introduction of a citizenship test.

Part 2 of the Discussion Paper suggests that there are two key reasons for introducing a formal citizenship test. The first of these is to provide applicants with an incentive to learn English and the second, to provide applicants with an incentive to understand the Australian way of life. One of the implications of these arguments is that at present applicants for citizenship do not have sufficient incentives to learn English or to understand the Australian way of life. Based on our experience with migrant and refugee communities, there are many social and economic benefits that migrants derive from learning English and learning about Australian practices, customs, laws etc. There is nothing in the Discussion Paper to demonstrate that these benefits are not incentive enough.

The Discussion Paper implies that applicants for citizenship may be disinclined to learn English or to learn about the Australian way of life. The Discussion Paper does not, however, provide any evidence to support these suggestions and or to justify the introduction of a formal citizenship test.

The implication of these arguments is also that a failure to learn English or about 'the Australian way of life' somehow impedes a person's ability to contribute to society. On the contrary, it is commonly accepted that Australia's migrant population has a long history of successful and harmonious participation as members of Australian society. This history includes many migrants who speak English most of the time and others who have continued to predominantly speak a language other than English. This history of successful community participation, illustrates that more stringent citizenship testing is unnecessary.

Paragraph 1 of the discussion paper states that 'The Australian Government considers that Australian citizenship is the single most unifying force in our culturally diverse nation. It lies at the heart of our national identity – giving us a strong sense of who we are and our place in the world.' The Federation supports this assertion. However given our experience working with migrant communities, we are concerned that the introduction of citizenship testing will discourage people from applying for citizenship or impede people getting citizenship by creating a further obstacle to obtaining citizenship. This would be a counterproductive measure. If citizenship is in fact a 'unifying force' as the indicated, presumably residents of Australia should be encouraged to become citizens rather than unnecessarily deterred from doing so.

### **Knowledge of Australia**

One aspect of the proposed citizenship test is testing of an applicant's knowledge of Australia. Paragraphs 45 and 47 of the Discussion Paper outline a number of possible areas of knowledge that might be examinable. Based on our experiences working with migrant communities, the Federation does not accept that the introduction of a citizenship test would be a necessary or effective means to enhance migrants' knowledge of Australian systems and customs. As noted above, the Discussion Paper fails to demonstrate that at present migrants lack knowledge of 'the Australian way of life'. In any event, any identified lack of knowledge should be an impetus for investing in more extensive educational programs and resources. Improvements will not be achieved solely by the introduction of tests.

Given our area of expertise, we are able to comment on education about our legal system by way of example. Community legal centres conduct a large number of community legal education sessions each year, including sessions for migrant community groups. In light of our experiences, we take the view that simply testing applicants on the Australian legal system will not achieve any

substantive change in migrants' understanding of the legal system without an investment in accessible, targeted and comprehensive legal education programs.

The Discussion Paper also fails to examine the extent to which this area of knowledge is actually a prerequisite for meaningful participation as a citizen. In our experiences of dealing with communities, Australian citizens have different levels of knowledge of Australian systems and customs depending on their individual lifestyles and the particular systems and customs they come in contact with. As noted above, Community Legal Centres conduct an array of legal education activities with migrant and non-migrant community groups on a regular basis. In our experience, it would not be appropriate to presume that migrant groups have a lesser understanding of the Australian legal system, for example, than non-migrant groups. A more realistic appraisal takes into account that residents tend to have a greater knowledge of those aspects of the legal system that they have come into contact with and may have lesser knowledge of those areas they have not experienced first hand.

### **Commitment to Australian Values**

The Discussion Paper raises the possibility that prospective citizens will also be required to demonstrate a commitment to 'Australian values' by signing a 'Commitment to Australia' or a variation on the existing citizenship pledge. Paragraph 26 of the Discussion Paper suggests a number of 'common values' that might form the basis for such a commitment. Based on our experience of working with migrant communities, the Federation does not support a compulsory commitment to Australian values.

Firstly, we are of the view that forcing applicants to commit to a fixed set of values has no place in a contemporary, pluralistic society. This kind of requirement is overly intrusive and would be an excess of governmental power. In a multicultural and open society individuals should be free to hold views of their own choosing and it is entirely inappropriate to require conformity with a

particular set of mores for the purpose of obtaining citizenship. In this regard it is perhaps telling that an examination of the various citizenship tests described in Annexure A of the Discussion Paper does not reveal a similar such requirement in other nations.

We also contend that it is fallacious to purport that a set of commonly 'Australian' values can be identified at all. While those values suggested at paragraph 26 may be accepted by many, the interpretation of each specific value may vary considerably. For example, in our work with culturally and linguistically diverse communities, we encounter many variations on the concept of 'equality for men and women'. These variations can also be seen throughout Australian society by looking at the division of labour, comparing men and women's rates of pay, looking at the number of women in positions of political power or in top executive positions as compared to men, looking at the role of women in mainstream religions etc. The values stated in paragraph 26 of the Discussion Paper are all open to interpretation in this way and although their framers may perceive them as commonly understood, surveying a broad cross-section of Australian society would probably reflect something quite different. If a particular value cannot be said to be commonly held and understood amongst current Australian citizens, it would seem to be unreasonable to expect prospective citizens to express a commitment to it. Furthermore, the breadth of possible 'Australian values' is such that any commitment made would be relatively meaningless. In this regard it does not seem that there is anything to be gained from the proposal that applicants commit to a set of so-called 'Australian values'.

The Federation does not concur with the suggestion at paragraph 27 of the Discussion Paper that requiring a commitment to these values will 'assist social cohesion and successful integration'. The Discussion Paper does not provide any evidence to support this assertion. As noted above, the values in the suggested list are extremely broad. In any event, despite frequent media and political scare-mongering, our experience of culturally

and linguistically diverse communities is that there actually is a relatively high level of social cohesion and integration. In our experience, social difficulties are more likely to arise due to issues of racism, inadequate access to resources and other difficulties facing migrant communities. They do not arise as a result of a failure of 'values' on the part of migrants themselves.

### **English Language Testing**

Current citizenship testing already imposes an English language test of sorts, in the sense that applicants are required to conduct the citizenship interview in English. In light of our experiences with culturally and linguistically diverse communities, it is our view that formal English language testing should not be imposed as a prerequisite to obtaining citizenship.

When considering the introduction of English language testing it is imperative to bear in mind the discriminatory impact of such tests. Applicants for citizenship who are from non-English speaking backgrounds will clearly face much more difficulty passing such a test than applicants from English speaking backgrounds. As noted in paragraphs 6 and 7 of the Discussion Paper, citizenship confers a number of rights and benefits. If English language testing is a component of a citizenship test, non-English speakers will be systematically obstructed in their endeavours to access these rights and benefits. If indeed citizenship is a 'privilege', as stated by Andrew Robb in his Forward to the Discussion Paper, then it would clearly be discriminatory to make it more difficult for one class of people to obtain this privilege than others. The Federation is fundamentally opposed to this kind of systemic discrimination insofar as it will disadvantage certain sectors of our communities.

The Federation is also of the view that English language skills are not necessarily indicative of an ability or inability to participate as a citizen. Through our experiences working with communities which are of non-English speaking

backgrounds, we are able to confirm that it is certainly possible to be a contributing member of society whilst speaking very little English. English language skills required by citizens in order to participate in society will vary depending on factors such as the type of work they engage in, their social networks etc. A person with fluent English may have limited civic and social participation whereas a person with almost no English may have a very high level of participation in their community. In considering this issue, the Discussion Paper focuses only on employment as a measure of citizens' participation. We believe that there are many ways of participating as a citizen, which should all be considered. Non-English speaking citizens may have a myriad ways of participating as citizens and these should not be undervalued. It should also not be forgotten that in years gone by many migrants have become Australian citizens and strongly participated in Australian society even with minimal English language skills. It would be a significant and unwarranted loss if people in similar situations were now precluded from gaining citizenship. In this regard we refer the Task Force to the comments of Petro Georgiou in a recent address to the Murray Hill Society of the University of Adelaide:

*Throughout our history, very many people have become citizens despite having little fluency in English. But that did not prevent them from making substantial contributions to our society – people who worked hard in jobs that many English-speakers were loathed to take; people who obeyed the law, were good parents and fine neighbours. Aren't such personal qualities the essence of good citizenship?<sup>1</sup>*

The Discussion Paper focuses largely on economic benefits to be derived from making English language testing a component of citizenship testing. It is argued that increasing English language skills amongst migrants will increase their capacity for employment. In our view, this outcome will not be readily achieved by English language testing for prospective citizens. In our experience of working

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<sup>1</sup> Petro Georgiou, Address given to the Murray Hill Society of the University of Adelaide, 4 October 2006, available at <http://theaustralian.news.com.au/story/0,20876,20523992-17281,00.html>

with migrant communities, we view this as an argument for the creation of well-resourced and accessible English language programs. It is an argument for better resourcing migrants so as to remove impediments to their meaningful participation in English language learning. In our view, an English language test will not increase the number of Australian citizens who speak English. Rather, it is likely that there will simply be fewer non-English speakers applying for and obtaining citizenship.

### **Permanent Residents**

At page 15 the Discussion paper poses a number of questions around whether the proposals relating to citizenship testing should also apply to applicants seeking permanent residency or long term temporary residency. The Federation works with communities which include migrants who hold various classes of visa, including students, permanent residents, etc. Based on our work with these communities we do not support the suggestion that permanent and long term resident visa holders should be subject to testing. Broadly speaking, the Discussion Paper does not evidence any reasons for applying testing to all migrant groups and it is unclear how widespread testing would be of benefit. We are also concerned that migrants from a non-English speaking background would be disadvantaged in any such process.

### **Exemptions**

The Federation has significant concerns about the introduction of citizenship testing as detailed above. However, if such testing were to be introduced we would advocate that there be certain exemptions. Generally speaking, such a process would be fairer and less discriminatory if particular categories of applicant who would have difficulty completing a test were exempted from formal testing. For example, elderly applicants, applicants with a cognitive impairment or applicants suffering from mental illness should all be eligible for exemption.

We are also of the view that applicants for citizenship who have been granted asylum in Australia because of their refugee status should be exempt from citizenship testing. As a result of our work with refugee communities, we are able to indicate that the particular experiences of refugee applicants may make it difficult for them to comply with testing requirements even where they meet all other criteria for citizenship eligibility. In our view it would be extremely unjust to deny or impede this group of immigrants' access to citizenship simply because they are unable to comply with testing requirements.

### **Conclusion**

In light of the above concerns and as an advocate for the culturally and linguistically diverse communities that we work with, the Federation strongly urges the Task Force to recommend against the introduction of formal citizenship testing. The need for citizenship testing has not been demonstrated and the benefits to be derived from introducing it are unclear. Furthermore, we are concerned that a system of citizenship testing will be inherently discriminatory and may actually have the undesirable effect of diminishing social harmony.