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## **Feedback on Proposals in *Strengthening the Test for Australian Citizenship***

The Centre for Human Rights Education welcomes the opportunity to comment on the proposals set out in the paper *Strengthening the Test for Australian Citizenship*<sup>1</sup> (the “Discussion Paper”).

### **Importance of citizenship for people from a refugee background**

People who arrived in Australia through the Refugee and Humanitarian Program or obtained a permanent protection visa after arrival in Australia have permanent residence. The next step to citizenship is crucial for this group of people. Australian citizens have the right to live in Australia. A permanent resident on the other hand has permission to live here indefinitely provided they remain of good character. Citizenship is also linked to obtaining certain kinds of employment in the Australian public service.

### **Important benefits of citizenship and associated rights**

For people from a refugee background, one of the most important tangible benefits of citizenship is the right to apply for a passport. Due to their status as refugees, by definition they are generally no longer able to enjoy citizenship rights of their former country of citizenship.

The nature of refugee movement is one of displacement and separation from family and community. People from a refugee background in Australia invariably have family members overseas living in refugee camps or living in neighbouring countries to the one they fled in difficult and perilous situations (for example, many Afghans live in Pakistan or Iran; many Iraqis live in Iran; and there are many Syrians in Jordan).

A refugee who has permanent residence has the ability to apply for a travel document in order to travel and visit family. However, some of the countries they may need to travel through may not provide admittance to people unless they hold a passport. In cases where admittance is possible, a travel document does not provide the same security as a passport. People who come from a background of trauma and conflict are also often desperate for reunification with family members who may be in fraught situations themselves. The lack of access to a passport means that they may again be placing themselves in a position of unnecessary risk or at the very least mean that they are the subject of scrutiny and suspicion. This kind of re-traumatisation would be lessened if they were citizens and had the security of an Australian passport.

For people from a refugee background, the most important benefit of citizenship is the sense of inclusion and acceptance into their adopted community. It is our belief that the introduction of the proposed citizenship test would act as a significant barrier to many refugees attaining citizenship and thus fully participating in the Australian community. Instead of promoting Australian values, the

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<sup>1</sup> <http://www.border.gov.au/ReportsandPublications/Documents/discussion-papers/citizenship-paper.pdf>

proposed citizenship test fosters exclusion. It is not about including migrants into the community, but rather determining who the Federal Government wants and who the Federal Government does not want to be part of the Australian community.

This runs contrary to Australia's international obligations that state that Australia should "facilitate" rather than obstruct the acquisition of citizenship by refugees and stateless persons.<sup>2</sup>

Australia is a nation which respects and values human rights. It is a signatory to the International Convention on Civil and Political Rights and the International Convention on Economic, Social and Cultural Rights, along with the optional protocols. The United Nations has devolved responsibility for the protection and promotion of human rights in Australia to Australia. Some human rights such as the right to vote are available to citizens only, while other rights such as the right to equality before the law are afforded to all people in Australia regardless of citizenship. The Federal Government is increasingly making citizenship a pre-requisite for access to basic human rights, such as access to federally funded education places. **Citizenship in Australia is an important feature in determining the level of both protection and provision of human rights that a person will enjoy. By making citizenship a privilege rather than a right, the government erodes the foundation of human rights.**

### **Concerns regarding proposed English language testing**

The current general eligibility requirements for English require that a person has a "basic knowledge" of the English language (s 21(2)(h) *Australian Citizenship Act 2007*). This is currently satisfied when a person successfully completes the Australian Citizenship test.

The Discussion Paper refers to the *National Consultation on Citizenship – Your Right, Your Responsibility*<sup>3</sup> (Fierravanti-Wells/Ruddock Report) as being the basis for a number of the recommendations in the Discussion paper. The Fierravanti-Wells/Ruddock Report recommended in relation to English language:

*In view of the strong emphasis the community places on English language, the Government should improve the Adult Migration English Program (AMEP) and ensure new citizens have adequate not just basic language ability, taking into account particular circumstances.*<sup>4</sup>

Thus there appears to be no recommendation made in this Report to change the current procedure for testing English language (via the citizenship test), rather the emphasis was on ensuring that the AMEP is strengthened.

In contrast, the Discussion Paper seeks to require an applicant to 'demonstrate competent English language listening, speaking, reading and writing skills before being able to sit the citizenship test.' It is understood that this means that applicants would have to demonstrate that they had the equivalent of a score of 6 in the International English Language Testing (IELTS) across the tests domains of writing, reading, speaking and listening. In giving evidence to the Senate Legal and Constitutional Committee, the Secretary of the Department of Immigration and Border Protection indicated that this level was chosen because it equates to the level required for those seeking to enter Australia as permanent residents through the General Skilled Migration programme.<sup>5</sup>

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<sup>2</sup> Article 34 of the 1951 Convention Relating to the Status of Refugees; Article 32 of the 1954 Convention relating to the Status of Stateless Persons

<sup>3</sup> <https://www.border.gov.au/Citizenship/Documents/australian-citizenship-report.PDF>

<sup>4</sup> p. 22

<sup>5</sup> Evidence provided by DIBP Secretary Michael Pezzullo to the Budgets Estimates Hearing, Senate Legal and Constitutional Committee, Hansard 31 May 2017 p. 31

Migrants coming through the general skilled migration scheme are tested for English proficiency even before they are admitted into Australia. Those who are not required to do so include people who migrate to Australia under the family migration program or under the Refugee and Humanitarian program. Others not required to be tested for English proficiency are those who arrive in Australia on a temporary visa and convert their status to a permanent visa, such as people granted a Partner Visa or a Protection Visa.

**The Centre acknowledges the official status of English in Australia and the fact that such a requirement for citizenship currently exists. However we believe that the Government has failed to make any argument linking English language proficiency with good citizenship.** Many migrants arriving after World War II were given little or no assistance with learning the new language; many still have limited proficiency in English, yet have made significant contributions to Australia's development over the decades and are an integral part of Australia's demographic landscape. The Centre certainly supports efforts to assist new immigrants to learn English and to maximise their participation; that appears to be the recommendation from the Fierravanti-Wells/Ruddock Report. However, the proposal in the Discussion Paper requiring an additional English test which requires a person to demonstrate "competent English" is punitive rather than supportive in nature and we cannot see that it will enhance participation or citizenship in any demonstrable way.

Research demonstrates that Refugee and Humanitarian entrants are committed to learning English and have positive experiences with the AMEP programme.<sup>6</sup> An independent review of the AMEP noted that Refugee and Humanitarian migrants had the greatest level of engagement with English language tuition offered through AMEP classes. However, while the AMEP Services Contract highlights that 'there has been an expectation in the past that the programme should be able to equip AMEP clients with Functional English in 510 hours of tuition', an internal AMEP review in 2008 found that this "expectation is unattainable and unrealistic" considering the low level of English language skills of many AMEP clients.<sup>7</sup>

Drawing on the AMEP Services Contract, the review stated that those 510 hours instead should focus on:

*"Preliminary English skills in a specifically settlement context" through English language tuition "while introducing newly arrived clients to Australian social norms and practices, services, and the rule of law".<sup>8</sup>*

The review recommended there be an individualised assessment after 510 hours of classes to determine individual needs in terms of additional language tuition.<sup>9</sup> This is consistent with the recommendation of the Fierravanti-Wells/Ruddock Report.

Further, linguistic experts in Australia also raise concerns about the suitability of the International English Language Testing System (IELTS) general exam for the purposes of determining potential Australian citizens.<sup>10</sup> The IELTS general test involves a number of time-pressured tasks that have very demanding linguistic and cognitive loads. These factors have been found to place a significant psychological burden on test takers.<sup>11</sup> If used for the purposes of determining a person's

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<sup>6</sup> [http://www.acilallen.com.au/cms\\_files/ACILAllen\\_AMEPEvaluation\\_2015.pdf](http://www.acilallen.com.au/cms_files/ACILAllen_AMEPEvaluation_2015.pdf), p 102

<sup>7</sup> Ibid at 102

<sup>8</sup> Ibid at 102

<sup>9</sup> Ibid 104, Recommendation 11.

<sup>10</sup> <https://theconversation.com/english-language-bar-for-citizenship-likely-to-further-disadvantage-refugees-76520>

<sup>11</sup> Hoang, N. & Hamid, M. (2016): 'A fair go for all?' Australia's language-in-migration policy, *Discourse: Studies in the Cultural Politics of Education*, DOI:10.1080/01596306.2016.1199527

applicability for citizenship, this is likely to increase this psychological burden. In this regard, a **prescriptive English test will disproportionality impact already marginalised groups who have much to offer Australian society, particularly people from a refugee background.**

People who arrive to Australia as refugees or humanitarian entrants are not like voluntary migrants who chose to come to Australia. A refugee is a person who is forced to leave their country because of persecution. This is not to say that they do not want to be involved in the Australian community - they do, but their background and experiences are fundamentally different from other migrant groups. **People from a refugee background face particular barriers that distinguish them from other migrants and make it extremely difficult for them to achieve the “competent” level of English required and may be prohibitive to ever gaining citizenship.** These barriers include:

- a limited or interrupted educational background due to armed conflict, forced displacement, the experience of flight and many years in refugee camps and countries of asylum;
- illiteracy in their own language; and
- learning difficulties resulting from prior torture and/or trauma.<sup>12</sup>

This is supported by a 2006 summary report collating the responses to a Public Consultation on the Merits of Introducing a Formal Citizenship Test that noted:

*Exemptions for humanitarian entrants was a recurring theme, focussing on the learning difficulties caused by, for example experiences of torture or trauma, and on the sense of belonging that citizenship gives these vulnerable people (particularly as many would otherwise be stateless.*<sup>13</sup>

**Refugee women would be particularly disadvantaged by the proposed changes to the English testing requirement for citizenship.** Many women arrive in Australia on “Woman at Risk” visas. This means that they have no male relatives and generally will have children to care for. The combination of family responsibilities, lack of support from a partner and previous experiences of trauma will mean that such women will find it difficult to attend English classes and engage in the community through working or studying which would assist in reinforcing English skills. Lack of childcare is a significant barrier for women’s participation in English classes. Some women arriving with a partner and children may similarly be affected by the proposed changes as they may take care of household responsibilities while their male partner works, seeks work or attends English classes.

**In addition, non-English speaking migrants in rural areas could also be discriminated against as there is not sufficient access to English language classes.**

Lessons from other countries:

- New Zealand requires “sufficient English”<sup>14</sup>, however this can be waived if “because of the applicant’s age or standard of education, or for any other reason personal to the applicant, the applicant would suffer undue hardship if compliance with the requirement of that provision were insisted upon.”<sup>15</sup>

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<sup>12</sup> [http://www.acilallen.com.au/cms\\_files/ACILAllen\\_AMEPEvaluation\\_2015.pdf](http://www.acilallen.com.au/cms_files/ACILAllen_AMEPEvaluation_2015.pdf)

<sup>13</sup> Australian Government, *Summary Report on the Outcomes of the Public Consultation on the Merits of Introducing a Formal Citizenship Test (Summary Report)*, September 2006

<sup>14</sup> Citizenship Act 1977 s 8(2)(e)

<sup>15</sup> Citizenship Act 1977 (NZ) s 8(8)

- United Kingdom requires “sufficient knowledge of the English language”<sup>16</sup> but there are exemptions for certain categories of people including refugees/those owed humanitarian protection, victims of domestic violence who are the spouse of a British citizen.<sup>17</sup>

### Concerns regarding proposed requirement to demonstrate Australian values

The Centre for Human Rights Education is also concerned about the proposals to test a migrant’s knowledge of Australia and Australian values. The notion of ‘Australian values’ and how these relate to the idea of a nation, is highly subjective.

The nation was historically conceived as a collective of individuals ‘belonging’ together on the basis of a shared language, culture, traditions and history<sup>18</sup>, underpinned by a connection between citizens sharing ethno/cultural values. However, it is increasingly argued that civic nationalism, that is, a commitment to a common destiny and government through shared civic institutions, can just as adequately serve as the foundation of cohesive nations, and may be a more appropriate model in a globalised world.<sup>19</sup>

Consistent with this, a poll conducted by the ANU on Australian Attitudes towards National Identity asked 1,200 people what it means to be “Australian” and found that the ability to speak English and respect Australian political institutions or laws were the most important factors in ‘being Australian’.<sup>20</sup> This finding maps onto “civic” understandings of the Australian identity, and highlights that shared ethno/cultural values were not perceived as important. While it is not clear whether a test would seek to capture civic and/or ethno/cultural orientated values, this poll raises concerns about the validity of a proposed test that seeks to quantify “Australian values”. It also raises concerns about whether the “values” proposed by the Government would reflect what members of the Australian society conceive of itself. Further, we also query how such knowledge would be tested. How do we formulate questions that would adequately test and assess a person’s “values”? In this regard, **the Centre is very concerned that a test on “values” is playing into the politics of fear and undermines the core values shared across all cultures in Australian society, such as civic forms of nationalism.**

### Concerns regarding the proposed requirement to demonstrate integration

It is difficult to also to understand what a test for “integration” would look like. In our view such a requirement has the potential to operate as a device of exclusion rather than inclusion. In addition, the Fierravanti-Wells/Ruddock Report does not appear to make a recommendation that those who are applying for citizenship should demonstrate that they have integrated into Australia.

The Discussion Paper represents a shift from an emphasis on multiculturalism and diversity to one of integration and the adoption of a “common set of core values”. Multiculturalism and rights that recognise diversity are not anathema to values of Western liberal democracies.

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<sup>16</sup> British Nationalist Act 1981 (UK)

<sup>17</sup> <https://www.gov.uk/english-language/exemptions>

<sup>18</sup> Gellner, E. (1996) ‘The coming of nationalism and its interpretation: The myths of nation and class’. In G. Balakrishnan (Ed.) *Mapping the Nation*. New York: New Left Books, pp.98-145.

<sup>19</sup> Brown, D. (1999) ‘Are there any good and bad nationalisms?’. *Nations and Nationalism*. 5(2): pp.281-302; Kaufmann, E. and Zimmer, O. (2004) ‘Dominant ethnicity’ and the ‘ethnic-civic’ dichotomy in the work of A.D. Smith’. *Nations and Nationalism*. 10(1/2): pp.63–78.

<sup>20</sup> Jill Sheppard, Australian Attitudes Towards National Identity, Citizenship, Immigration and Tradition (2015) [http://rssh.anu.edu.au/sites/default/files/images/ANU\\_36078\\_APER\\_FA.PDF](http://rssh.anu.edu.au/sites/default/files/images/ANU_36078_APER_FA.PDF). The poll is a national random sample of the adult population, and is conducted by telephone. In this poll, 1,200 people were interviewed between 2 and 15 March 2015 with a response rate of 23.4 per cent. T

Crucially, successful settlement and integration are stated as the key objectives of the Refugee and Humanitarian Program.<sup>21</sup> Research highlights a range of settlement outcomes that governments should focus on enabling to foster integration, including economic participation, social participation (which includes access to citizenship) and physical and mental well-being.<sup>22</sup> Supporting this, research conducted with refugees and humanitarian entrants highlights that access to citizenship is fundamental to integration and developing a sense of belonging in Australia.<sup>23</sup>

By introducing a stringent citizenship test that is very likely to disadvantage a number of marginalised groups, particularly those from refugee and humanitarian backgrounds, the Government will be compromising what is fundamental to “integration” – potential access to citizenship.

To foster successful settlement and integration, the focus should be on supports for migrants to assist them to integrate successfully into Australia, rather than a set of markers asking migrants to demonstrate what they have done. Concerning particularly in the Discussion Paper are factors listed which would demonstrate integration such as employment, education of children, ‘welfare as a safety net, not a way of life’, criminality and national security.

It is unclear as to why the government thinks that these are issues that are particularly problematic for migrants, when research and evidence shows the opposite.

Statistics demonstrate that the unemployment rate for non-citizens is not significantly different from Australian born people. Australian Bureau of Statistics figures show that in 2013 the majority of migrants and temporary residents were employed. Seventy three percent of migrants who obtained Australian citizenship after arrival were employed. The unemployment rate for recent migrants was 7.0%, compared with 5.4% for people born in Australia. Migrants with Australian citizenship had an unemployment rate of 4.3%.<sup>24</sup>

Just over one third of recent migrants experienced difficulty finding their first job, the most common reasons being lack of Australian work experience or references (61 per cent), followed by language difficulties (33 per cent).<sup>25</sup> The late Graeme Hugo, distinguished demographer, found that humanitarian settlers experienced higher levels of unemployment and workforce participation than other migrants in their early years of settlement. However, his research demonstrated that levels of employment and participation converge toward the same rates as Australian citizens the longer they were in Australia. He also noted that the proportion of recent refugee arrivals aged between 15 – 24 attending an education institution was higher than for other migrants and Australian born children.<sup>26</sup> The Building a New Life in Australia study also found that humanitarian entrants had very high rates of engagement in English language classes and other types of study.<sup>27</sup>

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<sup>21</sup> [https://www.border.gov.au/ReportsandPublications/Documents/discussion-papers/discussion-paper-humanitarian-programme\\_2017-18.pdf](https://www.border.gov.au/ReportsandPublications/Documents/discussion-papers/discussion-paper-humanitarian-programme_2017-18.pdf)

<sup>22</sup> Fozdar, F., and L. K. Hartley. 2013. “[Refugee Resettlement in Australia: What we know and need to know.](#)” *Refugee Survey Quarterly* 32 (3): 23-51

<sup>23</sup> Fozdar, F., and L. K. Hartley. 2013. “[Civic and Ethno Belonging among Recent Refugees to Australia.](#)” *Journal of Refugee Studies* 27 (1): 126-144.

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<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/6250.0Main%20Features2Nov%202013?opendocument&tabname=Summary&prodno=6250.0&issue=Nov%202013&num=&view=>

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<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/6250.0Media%20Release1Nov%202013?opendocument&tabname=Summary&prodno=6250.0&issue=Nov%202013&num=&view=>

<sup>26</sup> <http://www.border.gov.au/ReportsandPublications/Documents/research/economic-social-civic-contributions-about-the-research2011.pdf#search=Hugo>

<sup>27</sup> <https://aifs.gov.au/sites/default/files/publication-documents/bnla-fs1-settlement-experiences.pdf>

In addition, a recent Productivity Commission Report on Migrant Intake in Australia outlines that integration involves both economic integration and social inclusion.<sup>28</sup> Research also outlines the powerful role that political commentary can play in producing and reproducing prejudice against migrants within the community.<sup>29</sup> This reinforces the responsibilities that communities and governments have in fostering conditions that enhance positive settlement experiences of migrants.

**In summary, research points to the benefits of providing support to newly arrived migrants in the areas of education, English language and employment training and support.**

**It also highlights that societal attitudes and government policies and programmes that support settlement and remove barriers to integration are essential.**

**In addition, it highlights the crucial importance of access to citizenship to promote integration.**

## **Conclusion**

We support government initiatives that assist new migrants to increase their participation in Australian society such as access to English language classes, higher education or education about Australian legal, economic and social systems. We do not support the exclusionary paradigm that a formal testing system represents; the focus should be on successful settlement rather than passing a test.

The best way to encourage English learning is by providing additional support to all people from a refugee background and other migrants to access English language tuition through the Adult Migrant English Program (AMEP). Rather than testing, the Centre believes that a sustainable and effective way to foster effective learning is through full participation in the minimum hours at the AMEP and providing funding for increasing access and the numbers of hours where necessary.

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<sup>28</sup> <http://www.pc.gov.au/inquiries/completed/migrant-intake/report/migrant-intake-report.pdf>

<sup>29</sup> Pedersen, A., & Hartley, L.K. 2015. 'Can we make a difference? Prejudice towards asylum seekers in Australia and the effectiveness of antiprejudice interventions', *Journal of Pacific Rim Psychology*, 9: 1-14.