



ECCV SUBMISSION TO THE SENATE INQUIRY INTO THE AUSTRALIAN CITIZENSHIP (CITIZENSHIP TESTING) BILL 2007

1. Ethnic Communities' Council of Victoria (ECCV) welcomes the Senate Inquiry into the *Australian Citizenship (Citizenship Testing) Bill 2007* and is pleased to be invited to comment on the Bill. Few things are as important as a person's citizenship status so we express our sincere appreciation that the Senate has chosen to inquire into this important new legislation.
2. ECCV has already submitted to the Citizenship Taskforce in November last year around the discussion paper, *Citizenship Much More than a Ceremony*. Our previous submission is available at <http://eccv.org.au/doc/ECCVCITSUB.pdf>. In this previous submission we stated our opposition to the previous proposals and stated they would discriminate against lawful migrants from non-English speaking backgrounds and create a two-tiered society with a permanent class of non-citizens.
3. ECCV in its previous submission noted that in recent decades Australia has operated a non-discriminatory citizenship policy where lawful migrants had to display a basic knowledge of English and pledge their allegiance to Australia and its democracy and laws to become Australian citizens. ECCV stated that this was an appropriate system that had served Australia well. We argued, like federal Liberal MP Petro Georgiou, that the Government had failed to justify the case for a higher level, more formalised citizenship test.
4. For new arrivals the settlement process of making a life in Australia presents challenges in the areas of language, housing, employment and accessing services. Requiring migrants and humanitarian entrants to undertake a higher level formal citizenship test in order to become an Australian citizen creates an additional barrier to the process of making Australian society 'home'. As such, for humanitarian migrants and migrants from non-English speaking backgrounds ECCV supports an inclusive citizenship process that is not unnecessarily onerous.
5. ECCV recognises the need for English language training for new migrants to assist in their settlement process through programs like the Adult Migrant Education Program (AMEP). Entry into today's labour force often requires higher levels of English than in previous decades and it is important new migrants receive adequate English language training to participate in the community and economy. Having said that ECCV notes that many migrants to Australia have made substantial contributions to our workforce and nation with low levels of English language proficiency and their contribution should not be denied.
6. Rather than achieving the objective of better English levels for migrants through a potentially punitive and discriminatory higher level citizenship test, ECCV proposes additional funding and more flexible English language training programs for new migrants. ECCV has recently held consultations with a number of new and emerging community representatives in which they expressed concerns that the AMEP's allocation of hours for English language tuition can be



inflexible and these hours may be difficult to access for migrants with family and employment commitments.

7. ECCV notes that the *Australian Citizenship (Citizenship Testing) Bill 2007* is perceived to be less severe than was anticipated given the tone of the previous citizenship discussion paper (*Australian Citizenship Much More than a Ceremony*, September, 2006) and previous comments by government spokespersons. This perception stems from the new Minister's second reading speech and his public statements that the test would not be overly onerous (see for instance, *'Ease up on citizen (sic) test: Minister'*, Hume Leader, 22 May 2007). This perception seems to have caused the Opposition to generally support the Bill as indicated by the second reading speeches of key Opposition spokespersons. However, ECCV remains concerned that this perception is not backed by the reality of the legislation itself.
8. The legislation states that there will be a test involving sections 21 (2) (d), (e) and (f) of the Bill. These sections require that a citizenship applicant understands their application, has a basic knowledge of English and has an adequate knowledge of Australia and Australian citizenship.
9. There is no mention of the content, length, standard or severity of the test in the Bill. This will be left to a written determination by the Minister which we are advised will not be a disallowable instrument or reviewable by Parliament. This leads an extraordinary amount of discretion to the Minister in determining the test and any degree of difficulty around the test.
10. ECCV draws attention to the Senate Committee for the Scrutiny of Bills' Alert Digest no 6 of 2007 which also states that the legislative power given to the Minister in the Bill under section 23A (1) may be considered to be subject to insufficient parliamentary scrutiny. The Bill states that this new power is not a legislative instrument and not subject to parliamentary disallowance. ECCV shares the Senate Committee for the Scrutiny of Bills' concern over this matter and further calls on the legislation to be amended to provide that the Minister's written determination under section 23A (1) is a legislative instrument subject to parliamentary disallowance.
11. ECCV also agrees with the comments of the Shadow Minister for Immigration, Integration and Citizenship Tony Burke, MP, in his second reading speech that the Bill is "entirely shell legislation". As such we call on Opposition parties to amend the Bill to ensure that it is not shell legislation and that the test and any possible exemptions under the Bill are more clearly defined.
12. While we appreciate the more inclusive and less divisive style of the new Minister, Kevin Andrews, MP, and his support for multiculturalism as found in his second reading speech through his statement that, "Australia is a multicultural society. Our diversity is part of the rich tapestry of Australia today", we note that the Bill leaves virtually all of the key detail of any citizenship test to ministerial discretion.
13. The Minister for Immigration and Citizenship, Kevin Andrews, MP, has stated in his second reading speech there will be no separate higher-level English skills test although unfortunately for the removal of any doubt around this issue this statement is not spelt out in the Bill itself.
14. The Minister has also stated that he 'expects' the computer based test will involve 20 multiple choice questions around Australian citizenship, history, culture and values, but again no reference



is made of this in the Bill itself which is deliberately vague.

15. A computer based test would present serious difficulties for refugees and family reunion and/or partners of skilled migrants from non-English speaking backgrounds. Such migrants may fail a computerised test.
16. Requiring potential Australian citizens to complete a higher level citizenship test, either verbally or in writing, may cause unnecessary stress and mental anguish to refugees and humanitarian entrants, or compound existing stress and anxiety as many persons in these visa categories have past experiences of torture and trauma.
17. Skilled migrants who make up the bulk of Australia's immigration program will probably have few problems with the test. ECCV has no concerns around skilled migrants sitting the test as it may well assist in their understanding of Australian society (leaving aside the inevitable debate about what constitutes Australian values and history which this submission does not consider).
18. However, while skilled migrant principal applicants would generally have little trouble with such a citizenship test as stated above, the partners of skilled migrants from non-English speaking backgrounds are likely to have trouble passing a citizenship test. Therefore some accommodation or exemption from the citizenship test for this group must be considered. Presenting higher barriers to citizenship for the partners of skilled migrants could act as a disincentive for skilled migrants to come to Australia. This could have counterproductive and negative effects on Australia's overall economic aspirations.
19. Therefore ECCV's concerns with the test relate primarily to its application to refugees and family reunion migrants and partners of skilled migrants from non-English speaking backgrounds who will have difficulties with a higher level citizenship test.
20. A computerised test would be harder than the current verbal English language test because people would also have to read and respond to English as opposed to just speak English as is presently the case. Many refugees, some of who are illiterate in their own languages, let alone English, would fail such a test.
21. Many refugees from war-torn countries in areas like the Horn of Africa have little understanding or experience of computers, formal education or testing. Many will have spent long periods in refugee camps or detention and will not have the skills required to sit and pass formal tests, particularly in a language they are yet to master.
22. While the Bill allows for the 'possibility' for exemptions for people from the test, or for alternative tests, these are again not spelt out in the Bill. While it is pleasing that the Minister states in his second reading speech that "there will be some people who do not have or may never have the literacy skills required" and in such cases it is proposed a reading test is done, again this is not spelt out in the Bill. Making these objectives clear in the Bill itself would alleviate much of ECCV's concerns.
23. ECCV is of the strong opinion that refugees with literacy problems from non-English speaking backgrounds should be granted exemptions from the test. This is not to deny the importance of



effective education about Australia and the importance of integration into the wider community for such migrants. Rather it means adoption of a more sophisticated policy response of teaching rather than testing within this cohort of migrants, recognising that many refugees would fail such tests. The learning and adjustment process for such refugees will inevitably be longer than with more highly skilled, English speaking migrants. Again specific provision should be made for this category of applicant in the Bill.

24. An education based citizenship program that is not tested would be an appropriate alternative to the citizenship program for persons ECCV believes should be exempt from the test.
25. Inclusive citizenship policies are important. Having accepted refugees under Australia's humanitarian program it is inconsistent to then deny such refugees Australian citizenship when they have not reached a certain standard of knowledge within a few years.
26. Denial of citizenship is a severe breach of an individual's human rights and in breach of Article 15 of the *Universal Declaration of Human Rights* which states that everyone has a right to a nationality. Preventing people who have been lawfully accepted as permanent residents from acquiring citizenship could be seen as breaching this important right particularly if it is on the basis of language as Article 27 of the *International Covenant on Civil and Political Rights* further provides for the rights of minority groups to practice their language free from discrimination.
27. Denial of citizenship prevents a person from participating in the civic and democratic activities of their new homeland and denies them rights to international travel to visit loved ones, public service employment opportunities and some government benefits (such as the Higher Education Loan Program) which are reserved for citizens.
28. The recent decision of the Parliament to extend the waiting period for citizenship from two to four years for some migrants, through other amendments to the *Australian Citizenship Act 1948* earlier this year, will have serious negative effects. This has caused serious distress among refugees from new and emerging communities, who for instance may have to wait a further two years to visit a sick or dying relative overseas as they do not have adequate travel papers without Australian citizenship and its associated access to an Australian passport. This regressive policy decision should be reversed.
29. ECCV recognises the popular support for a stronger citizenship test as expressed by polling and the imperative that new migrants learn more about Australian society and where achievable learn English to assist in their broader integration into the Australian community. However, this sentiment needs to be balanced against our international obligations and national commitments to equal opportunity and human rights. It also needs to be balanced against the fact that unnecessarily preventing lawful migrants from becoming full citizens will do more damage to community harmony than good.
30. Polls showing strong support for a citizenship test as in the recent Newspoll on the issue in September and December 2006 can be misleading as these polls ask people whether there should be a citizenship test. People responding to the poll will most likely assume one does not already exist. If the question was reframed as "Do you support a higher level citizenship test than the



current requirement for basic English and swearing allegiance to our laws and democracy", the support may not be as great.

31. Granting explicit exemptions or lessened requirements under the Bill for refugees, family reunion migrants and partners of skilled migrants from non-English backgrounds is critical to ensure that the test is non-discriminatory. ECCV recommends such exemptions or lessened requirements are included in the Bill for those types of migrant categories.
32. For instance, rather than testing, an alternative requirement for refugees and migrants from non-English speaking backgrounds with low level English language skills could be to complete a course on Australian Citizenship. Such a course could be conducted with the Adult Multicultural Education Services (AMES) or at an accredited community based organisation. Various modules could cover the key components of citizenship and these could be taken under flexible timeframes depending on the ability of the student. This would ensure that migrants with English language difficulties still had an opportunity to acquire Australian citizenship and learn about the rights and responsibilities of citizenship without going through an onerous test that they may fail.
33. The written determination around the citizenship test should be a disallowable instrument so as to ensure greater accountability and scrutiny around the test by the Australian Parliament. At present too much power and discretion is left in the hands of the Minister.
34. ECCV recommends that the Bill be amended to guarantee that any higher level test does not become a discriminatory and punitive measure against some migrants and particularly refugees and migrants with low levels of English language proficiency. This can be done by spelling out exempt migrant categories and any alternative testing requirements in the Bill and ensuring the Minister's powers under the Bill are subject to parliamentary oversight.