

In Defence of an Inclusive Citizenship

A Speech on the Changes
to Australia's Citizenship Laws

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Thank you for the opportunity to address the FECCA Congress today on the issue of Australian citizenship.

Today I wanted to focus on the politics of citizenship and look at the current debates around citizenship in Australia.

Australian immigration and Australian citizenship policies are of course closely linked.

It is common knowledge that at Australia's Federation in 1901, one of the first Acts of the new federal parliament was the Immigration Restriction Act which entrenched Australia's then White Australia policy.

Flowing from the Act was a dictation test which allowed immigration officers to conduct a test on potential migrants in any European language.

The purpose of the test was of course to screen out non-British migrants by insisting they write a passage of fifty words in any European language until they failed. The test was specifically designed to enforce Australia's then White Australia Policy.

It is somewhat ironic that a century later the barriers are again going up. Again today we are facing the introduction of a higher level citizenship test which could potentially be used as a discriminatory mechanism to deny citizenship to certain groups of people.

Since the Second World War and the population drive that followed it Australia has absorbed over 6 million migrants, or around one million migrants per decade.

This has been one of the most successful, well managed migration programs in the world. It has literally changed the face of our nation.

Australia has gone from being an overwhelmingly mono-cultural nation (with the exception of course of our indigenous peoples) to an overwhelmingly multicultural one in a few short decades.

Around one quarter of Australians are born overseas and our latest 2006 Census statistics again reveal a significant and growing level of cultural diversity within our population.

Australia's post-war migration program has been an undeniable, indeed an irresistible, social, economic and cultural success story.

Just this month a new academic report from the University of New England on *The Social Costs and Benefits of Migration to Australia* found that quote, "the main conclusion to be drawn from this study is that the social benefits of migration far outweigh the costs, especially in the longer term".

Further the report found that, "the evidence that is available overwhelmingly supports the view that migrants to Australia have

made and continue to make substantial contributions to Australia's stock of human and social capital".¹

It is clear that with Australia's ageing population and low birth rates a carefully managed migration program will continue to be critical in maintaining our overall economic prosperity and future growth.

But now let me get back to the dictation test I mentioned earlier. The laws which supported this discriminatory test were finally abolished in 1958.

Following increasing domestic and international pressure Australia also began to scrap our other racially discriminatory laws. This included further liberalisation of our immigration policies under the Holt Liberal administration in 1966.

Indigenous Australians were also finally granted full citizenship, thirty years ago in 1967.

The last vestiges of the White Australia policy, including any remaining racially discriminatory measures in our immigration processes, were finally abolished in 1973 by the Whitlam Labor Government.

Following that administration, Malcolm Fraser's Liberal Government entrenched multiculturalism and allowed large numbers of Vietnamese refugees into Australia.

¹ Carrington, McIntosh & Walmsley, *The Social Costs and Benefits of Migration to Australia*, Commonwealth of Australia, 2007.

The Hawke-Keating Labor Governments promoted policies of inclusion, reconciliation and an increased recognition of Australia's critical role in the Asian region.

Now fast forward to 2007 and after around four decades of non-discriminatory immigration and citizenship policies we again find that the barriers are going up.

Australia's previously bipartisan acceptance of the universal values of human rights and cultural diversity again appear to be slowly retreating towards a more exclusivist Australian nationalism.

Former Prime Minister Paul Keating recently described this as a return to the 'old monoculture of older style nationalism', which rejects 'cultural diversity and all that enlivens it', and which 'calls into the question the motive or attacks the attitudes of other members of the national family'.²

The new citizenship laws are just one example of this subtle and gradual change in our nation's psyche which we are presently witnessing.

Having discussed some of the historical and political context around Australian citizenship I now want to turn specifically to the new citizenship legislation and consider the impact of the current legislative changes on migrant and particularly refugee communities in Australia.

² Paul Keating, *PM's Arid Nationalism*, The Australian, July 14, 2007.

It is important to remember these laws have two elements. The first is an extension of the citizenship waiting period that went through the Parliament in February and is now law.

The second is the *Australian Citizenship (Citizenship Testing) Bill 2007* which is currently being considered by the Senate having passed the House of Representatives.

Let me begin with the first element of the new citizenship laws.

In February this year, with very little fanfare or media attention, new laws passed the Australian parliament that doubled the waiting period for Australian citizenship for some migrants from two to four years. Federal Labor also supported this legislation in its final form.

This change in our law means that an African refugee, without adequate travel papers, will have to wait four rather than two years to obtain a valid passport and thus be able to visit a parent, or a sick or dying relative overseas.

To many in the African refugee community, who are often effectively stateless before they receive Australian citizenship, this fundamental change in our laws has had a devastating effect on their daily lives and on their basic human rights.

In my research for this paper I found that some African refugees, and particularly younger refugees with English skills, felt that the citizenship waiting period extension was an even more serious concern for them than the proposed new citizenship test.

The extension to a four year citizenship waiting period is unjust and unnecessary. It infringes on peoples basic human rights to citizenship and it should be scrapped.

I now turn to the second element of the citizenship changes which is the citizenship test legislation currently before the Parliament.

May I add that much of my commentary on this legislation is derived from the Ethnic Communities' Council of Victoria's submission to the Senate Inquiry into the Bill which was completed following extensive consultation within our organisation.

ECCV concluded in its submission that the new legislation may well introduce further discriminatory barriers to the attainment of citizenship through the introduction of a higher level citizenship test.

Up until now people wishing to become Australian citizens had to have two year's residency, pass a Basic English test, pass a character test, and make a public pledge to our country, our laws and our democracy.

The new legislation currently before the Parliament envisages a higher level computerised test that will also require people to answer questions around Australian history, civics and culture.

Firstly may I begin by pointing out that no one from the migrant sector is saying English language is not important. English language acquisition is hugely important: important for jobs, important for training, and important for successful integration.

Migrants themselves want to learn English. No one enjoys sitting in queues or shopping and not being able to communicate with other people. Sometimes however, age, family commitments, inflexible English language program arrangements, long work hours or existing learning difficulties may prevent the quick acquisition of English for some people. For some people learning English can take a lifetime. Some may never get there!

Under a higher level citizenship test, some migrants (and particularly refugees from non-English speaking backgrounds) will suffer the indignity of being denied citizenship due to inadequate English skills.

That is they will be denied citizenship despite already having been accepted as a permanent resident under our carefully controlled humanitarian migration program. For them these laws will effectively create a situation of double jeopardy.

A computerised test is of course different to the current verbal basic English test. This is because applicants will require the further skills of reading and responding to a computerised test on top of the existing requirement for basic spoken English.

Refugees from war torn areas like Sudan and the Horn of Africa may well fail such a test. Many of these refugees are illiterate in their own language let alone English.

Many such refugees will have little understanding or experience of computers, formal education or testing. They may have spent long periods in refugee camps or detention and may not have the skills

required to sit and pass formal tests, particularly in a language they are yet to master.

My interviews for this paper with Melbourne's African refugee communities showed that older African refugees and female refugees with children would also be particularly vulnerable to failing such a test.

At the other end of the spectrum, the skilled migrants who today make up the bulk of Australia's immigration program will have few problems with the test.

For them the test may well even assist in improving their understanding of Australian society, leaving aside for now the inevitable debate about what is Australian society—and what exactly are our values and what is our history?

However, while skilled migrant principal applicants would have little trouble with a higher level citizenship test, the partners of skilled migrants from non-English speaking backgrounds could well fail such a test.

Presenting higher barriers to citizenship for the partners of skilled migrants could ultimately act as a disincentive for skilled migrants to come to Australia.

Such a policy could have counterproductive, unintended and negative consequences for Australia's economic aspirations by inadvertently undermining our recruitment of skilled migrants.

The new citizenship test legislation is also very vague on the actual detail of the test. It leaves an extraordinary amount of discretion to the Commonwealth Minister for Immigration in determining the test.

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 will not be a disallowable instrument or reviewable by Parliament. The Government is effectively saying take us on trust and leave the detail to us.

The Shadow Minister for Immigration, Integration and Citizenship, Tony Burke, described the legislation as ‘entirely shell legislation’ because of this lack of detail.

But Federal Labor was still happy to support the Bill through the House of Representatives despite this lack of detail.

Even the bipartisan Senate Committee for the Scrutiny of Bills found that the legislative power given to the Minister in the Bill may be considered to be subject to insufficient parliamentary scrutiny.³

The Ethnic Communities’ Council of Victoria has stated that there should be exemptions to the test for refugees and migrants from non-English speaking backgrounds and that these exemptions should be spelt out clearly in the legislation.

Our submission to the Inquiry also called for alternative arrangements to testing for refugees and migrants with low English language

³ Senate Committee for the Scrutiny of Bills’ Alert Digest no 6 of 2007. Available at www.aph.gov.au .

proficiency. For instance, such applicants could attend classes on citizenship and at the successful completion of those classes they could be considered as eligible for Australian citizenship. This would be one way of ameliorating the potentially discriminatory aspects of the Bill.

While the Bill allows for the 'possibility' for exemptions for people from the test, or for alternative tests, these are again not spelt out or guaranteed in the Bill.

While 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. Such exemptions need to be clearly defined in the Bill.

It is our hope that the Commonwealth Senate Inquiry into the Bill which is due to be released today recommends such amendments.

But it is not just through our own national conscience that we should be concerned about the new citizenship laws. We should also look to our international obligations.

Denial of citizenship is a severe breach of an individual's core human rights as laid out internationally by the United Nations.

Article 15 of the *Universal Declaration of Human Rights* which Australia is a signatory to states that everyone has a right to a nationality.

Preventing people who have been lawfully accepted as Australian permanent residents from acquiring citizenship could well be seen as breaching this important right.

This is the case even more so if the denial of citizenship is on the basis of language given that Article 27 of the *International Covenant on Civil and Political Rights* also provides for the rights of minority groups to practice their language free from discrimination.

ECCV's general and considered view is that our citizenship process should be inclusive rather than exclusive—that we should be teaching rather than testing.

Australian citizenship policies over the last four decades have been democratic, egalitarian and non-discriminatory. This has helped foster and nourish the successful multicultural society we have in Australia today which I alluded to earlier.

As the prominent Victorian federal Liberal MP, Petro Georgio, has stated the government has failed to justify the case for these substantial changes to our citizenship laws.

Now I wanted to consider how one of the most vulnerable and marginalised new and emerging communities in Australia feels about the new citizenship laws: that is the Australian African refugees from war-torn areas like Sudan and the Horn of African.

I think it is important we hear their words in full because they are words that rarely get a hearing in the various media and public debates around these issues.

Perspectives of African migrants about changes to citizenship laws are particularly acute and heartfelt.

My interviews showed that African migrants do perceive these laws as targeted against their communities. They do feel deeply concerned about laws that they consider to be unfair and discriminatory.

Fartun Farah, President of the United Somali Women's Association and an African community health worker at North Yarra Community Health, stated that the new citizenship test was 'confusing for Somali women and older people and they think that they will never get citizenship and will not be able to get a passport to visit home. Many older women cannot read or write English and are illiterate in their own language. It's really hard for them to learn English. Women are often too busy and their experience of war makes learning English very difficult.'

Ms Farah said that, 'the citizenship law changes are making things harder. The extension of the waiting period from two to four years has affected people and made them unhappy. People cannot get citizenship which means they cannot get full protection.

'When I got citizenship in 2001 in Tasmania I was really happy because I feel I am not stateless anymore, I have somewhere to call home and I am proud to be Australian. Muslim women fear that

without citizenship they might not be able to visit Mecca as part of the Muslim pilgrimage—the Haj—that is required once in every Muslim’s lifetime.’ Ms Farah said that if there was any new test, ‘it should not be made hard.’⁴

Sainab Shiek, President of the Somali Women’s Development Association, said that African migrants perceived the new test as very difficult and may mean people will not become citizens because of language barriers. Ms Shiek felt the new four year waiting period was making migrants and refugees unhappy because it takes too long to visit families overseas. She said she was very happy and excited when she became an Australian citizen because Australia became her home.⁵

Ahmed Dini, a young African-Australian and Chairperson of SAYGO, said the mood in the African community is that the new citizenship laws could be a move by the Australian Government to restrict the conferral of citizenship to migrants from African backgrounds.

He said elderly African people do not know much English and many African migrants were single parents who could not attend school.

Ahmed said older African migrants often place their emphasis on their children learning English and getting ahead. He said African parents would typically push their kids to become something. He said that, “they stay at home saying that, ‘I’ve raised you, I’ve walked many kilometers to get you to a safe country, now you make something of

⁴ Fartun Farah, Interview by Peter van Vliet, ECCV, Carlton, 25.7.07.

⁵ Sainab Shiek, Interview by Peter van Vliet, ECCV, Carlton, 25.7.07.

yourselves' ". This is not dissimilar to the post-war European migration experience where migrant workers with very little English did menial factory work while their kids got ahead with university degrees.

Ahmed thinks that African young people will pass the test, but that many African adults will most likely fail. Ahmed said that without Australian citizenship African-Australians can't travel overseas and could be unfairly deported, which is a particular fear given the current climate around Australia's anti-terrorism laws.

Ahmed said the recent extension of the citizenship waiting period from two to four years had caused even more angst in sections of his community than the proposed new citizenship test. He said four years to wait for access to a passport to be able to see a sick relative, or father or mother you've left behind, created serious hardship for Australian African communities.⁶

Perhaps the final words should go to Akoch Manheim, Director of the Sudanese Lost Boys Association. Akoch said in a recent article that:

There are no words that truly express how it feels for a stateless person to receive the privilege of Australian citizenship in a country like Australia. An approximation might be the experience of a person who has battled a serious illness, experiencing the borderline of death, only to recover and

⁶ Ahmed Dini, Interview by Peter van Vliet, ECCV, 25.7.07.

resume full health. Citizenship is a gift from God of priceless value.⁷

Akoch is right. Citizenship is a gift. Those of us lucky enough to have been born into a stable citizenship often don't realise how supremely important the gift of citizenship is.

Clearly the perception amongst many members of Australia's African communities is that the new citizenship laws discriminate against them and will cause real and severe hardship in their daily lives.

The danger if we proceed with these laws is that we could be creating a two-tiered society of citizens and non-citizens. This is a scenario that countries such as Germany have had huge difficulties with. The new laws in their worst application could also create real and serious levels of division and disunity within our society.

In conclusion today it is clear that becoming an Australian citizen is a critical step in being welcomed into the Australian family.

Citizenship means sharing the rights and responsibilities that go with being a full member of our national community: exclusive rights and responsibilities like voting, having an Australian passport, serving on juries, having access to some government benefits such as the Higher Education Loan Program, and being able to work in our federal public service or serve in our armed forces.

⁷ NEWS@ECCV, 'Australia's Long Arms Supports Refugees', Summer Edition, 2007, p.6.

For refugees in particular it means being given the stability and confidence necessary to build a new life, to no longer suffer the dire predicament of statelessness, to not live in fear of wrongful deportation, to have a passport and be able to visit loved ones overseas, and to be fully embraced as part of the Australian family and community.

Our previous citizenship laws over the past four decades have fostered an inclusive process that has seen many migrants from non-English speaking backgrounds become citizens.

If a higher level citizenship test is to go ahead we must see explicit exemptions or lessened requirements for refugees, family reunion migrants and partners of skilled migrants from non-English backgrounds so as to ensure that our citizenship laws remain non-discriminatory.

Let me finish today by saying that equal citizenship rights are of paramount importance. An inclusive Australian citizenship is important.

We should avoid retreating into a world of fear and difference despite the significant and real challenges of current world events.

We should stand united around a common citizenship open to all people who have lawfully come to call Australia home and can pass basic requirements. Australian citizenship is a bond that should unite all of us who share in our great nation. Thanks for your time today.