

# Submission to

## Joint Standing Committee on Migration

### Inquiry into Multiculturalism in Australia

Friday April 8, 2011

#### ***A. Introduction***

I welcome the opportunity to contribute to a renewed discussion on our public policy concerning cultural diversity in the Australian community.

Australians have, and always have had, culturally diverse backgrounds. Differences have existed between different indigenous countries and peoples, between the British and Irish convicts and pastoralists, and between workers on the gold fields, in the mines and on farms, and in today's multi-national corporations.

Since there is unlikely to be any disagreement on this factual point, this inquiry should not be focussed on whether or not cultural diversity exists. Rather, the question for public discussion is how to respond to this cultural diversity. Multiculturalism is just one of many possible policy responses to the social reality of cultural diversity.

To evaluate any policy of multiculturalism, the principles of multiculturalism need to be clearly identified. This clarification is all the more important because some policies claim to be 'multicultural' when they are not. The ambiguity and misunderstanding about multiculturalism has caused the debate in Australia to be confused and superficial. The principles that distinguish a policy of multiculturalism can be clearly identified by comparing and contrasting multiculturalism with other policies responses to cultural diversity. Part C of this submission will begin by briefly outlining the historical background of Australia's approaches to cultural diversity in order to clearly identify the principles of 'multiculturalism'.

Following an analysis of the principles of 'multiculturalism', Part D of this submission will evaluate whether Australia needs a 'new policy' of multiculturalism, and if so, what a new policy might include. Australia has had a number of different versions of multicultural policy. It is important to identify them, so that the advantages and disadvantages of previous policies can be evaluated. Learning from the past will assist in determining an appropriate focus for the future.

In part E, this submission will address the first two specific terms of reference in detail. The responses will draw upon the principles of multiculturalism identified in the beginning of the submission.

## **B. Summary of recommendations:**

### ***Recommendation 1***

For this reason, this submission urges the committee to clearly identify which response to cultural diversity it is seeking to support.

### ***Recommendation 2***

This submission argues that ‘multiculturalism’ means a policy about cultural diversity that positively accepts continuing cultural diversity in the Australian community.

### ***Recommendation 3***

In order to reduce racial intolerance and conflict, a policy on multiculturalism that promotes the ongoing cultural diversity of Australian society is essential.

### ***Recommendation 4***

*A policy of multiculturalism should not be linked with ‘nation’ building language as it risks eroding the ability of the policy to positively recognise minority cultures.*

### ***Recommendation 5***

*That any future policy of multiculturalism be committed to the positive recognition of diverse cultural identities. To this end, revisiting a rights based understanding of multiculturalism for minority groups is productive, with aspects including a right to cultural autonomy and a right to social equity. This rights- based model is compatible with Australia’s liberal democratic framework.*

### ***Recommendation 6***

*The government should explore how to make the Race Discrimination Act more user friendly and effective.*

### ***Recommendation 7***

*The following reform should be engaged in to recognise the unique political contribution of the Australian diaspora.*

- (a) That the diaspora should be able to enrol overseas regardless of how long they have been overseas.*
- (b) Removal of any bureaucratic hurdles to being enrolled, and maintaining that enrolment.*
- (c) The diaspora should be able to enrol for any election with the same cut off date as other citizens, that is, the closure of the electoral rolls.*
- (d) That the diaspora should not be struck off the roll permanently if they are enrolled and do not vote.*
- (e) The diaspora should not be required to enrol annually after 6 years abroad. Their enrolment should stay active unless they take action to remove themselves from the roll, or they cease to become citizens.*
- (f) The disqualifications for voting should be the same as between the diaspora and those in Australia.*

### ***Recommendation 8***

*That Parliament should explore the feasibility of creating a new seat in the House of Representatives to be directly elected by the diaspora.*

## ***C. Background to Australia's policies on addressing cultural diversity***

Historically, Australia has responded to the presence of cultural diversity in its population in different ways. It is helpful to briefly consider multiculturalism in the context of these different policies responses, to highlight the unique aspects of the response labelled 'multiculturalism'. In this historical review, it is important to remain objective about the key features of the Australia's historical responses. Not all responses are as welcoming and benign as popular descriptions convey and contemporary morals might permit. Yet if we deceive ourselves about the purpose of previous policies because it is no longer acceptable, the departure point that multiculturalism represents loses its significance.

### ***1. Policies of exclusion and segregation***

The earliest response to cultural diversity in Australia was to eliminate cultural and more specifically racial, diversity. This response was based on the assumption that Australian was a white, homogenous community<sup>1</sup>. To achieve this, individuals that appeared to belong to non-British races were excluded from the Australian population, or if that was not possible through policies of separation/ segregation. This policy was implemented through the restriction of immigration from non-British countries, assisted migration from British countries, the setting up of reserves for indigenous peoples, restrictions on the free movement of indigenous peoples on those reserves, and the deportation of Pacific Islanders from the Queensland cane fields. These policies of exclusion/ separation/ segregation assumed that racial diversity was a 'problem' that would be best 'managed' by eliminating it. These policies existed for a long time under the name the 'White Australia Policy'.<sup>2</sup>

The policy of exclusion/ separation/ segregation seeks to eliminate the continuing cultural diversity of Australian society.

### ***2. Policies of assimilation***

By the 1940's, policies of racial exclusion and segregation were rejected in Australia as they were elsewhere in the world. The need for migrant labour and the changing patterns of global movements made such policies practically impossible. The rise and

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<sup>1</sup> Richard White, *Inventing Australia: Images and Identity 1688-1980* (1981).

<sup>2</sup> DIAC fact sheet 8 "Abolition of the White Australia Policy" <http://www.immi.gov.au/media/fact-sheets/08abolition.htm>. Viewed 8/4/2011

fall of the Nazi regime in Germany made policies of racial purity morally reprehensible. In its place, the Australian government developed a focus on policies of assimilation. The focus was on new migrants changing their cultural practices and adopting the “Australian Way of Life”.<sup>3</sup> Policies of the day included the removal of indigenous peoples from their families and placed in institutions where they would receive training to live in a ‘white’ society.<sup>4</sup> Policies also included the restriction of immigration to Australia from countries that were determined to be less able to adopt the ‘Australian Way of Life’, affecting particularly immigration from Asian countries.

In one aspect, assimilation was a more open policy to cultural diversity in that it did not explicitly prevent those with different biological features from being accepted in the community. However, assimilation did continue to exclude difference on the basis of cultural and social behaviours. In this way, many of the signs that mark people out as different were still rejected in the Australian community. Thus the policy of assimilation continued to reinforce the homogeneity of the national identity, as well as the cultural superiority of that national identity. As with the policy of exclusion, a policy of assimilation treats cultural diversity is a social ‘problem’ to be eliminated. Assimilation ‘managed’ racial diversity in Australia by focussing on policies that assisted those from different ‘races’ to adopt the culture of the majority, the still largely ‘British’ Australian nation. The policy of assimilation was still largely consistent with the aims of the ‘White Australia Policy’, just that ‘whiteness’ was interpreted slightly differently.

The policy of assimilation seeks to eliminate the continuing cultural diversity of Australian society.

### *3. Policies of integration*

In the 1960’s and 70’s, a policy of integration emerged in Australia. The policy of integration was outlined in the 1999 Report into Multiculturalism as follows;

*‘Integration, in the broad sense, does not imply minority cultures giving way totally to a dominant culture. Instead, they influence the dominant culture which is modified to some extent by the newer cultures. Integration, however, does not encourage ongoing cultural diversity- everyone is expected to adopt the integrated culture.’<sup>5</sup>*

Despite the changes in language, the policy of integration is only superficially different from a policy of assimilation. Both policies share the same principles of one homogenous national identity and the superiority of the existing Australian national culture. . A homogenous national identity is still emphasised because migrants are still expected to ‘integrate’ at some point. Their ongoing cultural diversity is rejected. The

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<sup>3</sup> Richard White, *Inventing Australia: Images and Identity 1688-1980* (1981).

<sup>4</sup> Human Rights and Equal Opportunity Commission ” Bringing the Home Report: report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families” April 1997. Accessible from [http://www.humanrights.gov.au/social\\_justice/bth\\_report/report/](http://www.humanrights.gov.au/social_justice/bth_report/report/)

<sup>5</sup> National Multicultural Advisory Council ‘Australian Multiculturalism for a New Century: Towards Inclusiveness’ 1999, p9

difference with assimilation is that migrants and others are given time and perhaps some support to adapt to the 'host' culture.. The minister responsible for this policy at the time, Billy Sneddon, described the policy of integration in this way:

*“We ask particularly of migrants that they be substantially Australian in the first generation and completely Australians in the second generation.”* <sup>6</sup>

A policy of integration also emphasises cultural superiority of the existing culture. This is because the starting point is the acceptance of the adoption of the pre-existing culture. The difference is that it allows for the possibility that other cultural identities could contribute to and improve the pre-existing national culture. That is, the pre-existing national could be positively influenced by the process of absorption of individuals with different cultures, creating an improved and even superior 'hybrid' culture. This is sometimes inaccurately described as 'melting pot' multiculturalism. However the contributions made by culturally diverse individuals are filtered by the systems and structures of pre-existing culture, and which changes are considered contributions are determined by the pre-existing society. In other words, the pre-existing culture provides the value framework which 'decides' whether or not a change will be accepted or rejected.

The policy of integration still seeks to eliminate the continuing cultural diversity of Australian society.

#### *4. Policies of multiculturalism*

The term 'multiculturalism' was first officially used by the Australian government in 1973. While initially referring to the factual reality of the diverse range of ethnic groups present in the Australian population it also became the term used to denote a government policy. It was the first government policy that sought to offer an alternative to the policy of assimilation. <sup>7</sup> The uniqueness of response of a policy of multiculturalism is that it was the first Australian government response that accepted cultural diversity as a continuing feature of Australian society<sup>8</sup>.

#### *5. What is Australia's current response to cultural diversity?*

While the above analysis has outlined the different policies separately, it should be noted that governments and public commentators often appeal to more than one policy at the same time. In order to have a productive debate about multiculturalism in Australia, we must be clear about what we understand to be the principles of multiculturalism. Many policies claim to be 'multicultural' but then use other language to suggest the influence of other inconsistent policies. This blurring occurs in debate about multiculturalism all over the world.

For example, the German chancellor Angela Merkel recent said that multiculturalism is a failure because Germany had not devoted enough time to the integration of

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<sup>6</sup> Quoted in Castles, Kalantzis, Cope, Morrissey "Mistaken Identity' Pluto Press, 1990 Sydney, p 52

<sup>7</sup> Op cit at p60

<sup>8</sup> Op cit p13

immigrants. As outlined earlier, the integration of migrants is not the focus of a policy of multiculturalism. Moreover, although the chancellor named the German response to diversity as ‘multiculturalism’, the German experience treatment of migrant guest workers was more similar to a policy of exclusion, of living ‘side by side’ but not together. For instance, she is quoted as also saying “*They live side by side with us. For a while, we lied to ourselves, saying they will disappear again one day. But that is not the reality.*”<sup>9</sup> This is not a policy approach that accepts continuing cultural diversity.

The recent statements of French president Sarkozy also blur the distinctions between policies. In saying that that multiculturalism has failed in France, Sarkozy has been quoted as explaining the reason for this failure as ‘*If you come to France, you accept to melt into a single community, which is the national community, and if you do not want to accept that, you cannot be welcome in France.*’<sup>10</sup> In this quote, Sarkozy labels as ‘multicultural’ the principles of a largely assimilationist policy.

Overseas leaders are not the only politicians to use the language of multiculturalism in a confusing way. In the press release that accompanied the calls for submissions to this inquiry, suggesting that ‘*a new policy on multiculturalism*’... will ‘*play an important role in assisting new migrants integrate*’<sup>11</sup>. This way of describing and linking multiculturalism with integration is confusing and unhelpful. And there are yet more examples.

#### ***Recommendation 1***

For this reason, this submission urges the committee to clearly identify which response to cultural diversity it is seeking to support.

#### ***Recommendation 2***

This submission argues that ‘multiculturalism’ means a policy about cultural diversity that positively accepts continuing cultural diversity in the Australian community.

### ***D. A ‘new’ policy on multiculturalism?***

One question that has been posed in the lead up to this inquiry is whether a new policy on multiculturalism is needed. There are a number of aspects to this question which are worth clarifying before this submission turns to address the specific terms of reference. These points relate to evaluating which features of a multicultural policy would be most effective in an Australian society.

#### ***6. Do we need ‘a’ policy on multiculturalism?***

If we are talking about multi-culturalism as the ‘fact’ or a social reality of cultural diversity, then it doesn’t make sense to say that we need a policy about it. This is because ‘cultural diversity’ has already happened. This has been the basis upon which some members of the community have denied the need to have such a policy.

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<sup>9</sup> Quoted in SBS news, 17 October 2010 “Multiculturalism in Germany has failed: Merkel”

<sup>10</sup> <http://www.nationalpost.com> Feb 10,2011

<sup>11</sup> Maria Vamvanikou MP, media release “Inquiry into multiculturalism in Australia” 17/2/2011

However, as outlined above, 'multiculturalism' is also a policy response to cultural diversity. It indicates an approach or orientation towards that diversity.

While some may argue that government shouldn't interfere with an individual's choice of cultural identity, be it British or otherwise. This approach fails to see that identity allegiances do not occur in a social vacuum. The meanings of various cultural identities in Australia come with historical and nationalistic baggage. The historical baggage in Australia is that a "British" or 'Anglo-Celtic' national identity is predominantly privileged. Having no policy will support this presumption, which operates to give tacit support to responses that eliminate or reject cultural diversity. Given the fact of cultural diversity in Australia, the encouragement of racial and cultural intolerance could lead to racial conflict and disharmony. Moreover, the government has an obligation to govern for all Australians, in the most inclusive way possible. This includes a responsibility to govern for cultural minorities. A government policy response that fosters cultural diversity as a continuing feature of Australian society is the most inclusive approach.

Another related criticism against any policy about multiculturalism is that it fails because Australians will resist having their identity 'imposed' on them by government, or being the object of 'social engineering'.<sup>12</sup> However, this criticism is largely spurious and designed to whip up fear and resentment. Australia has a long history of governments actively participating in the construction of national identity, from Australia as a democratic experiment, to Australia as a "white" nation, to Australians embodying the ANZAC spirit. The difference between these images of national identity and multiculturalism is that the critics don't agree with multiculturalism. Therefore, the strategy is to fuel resentment against multiculturalism by arguing that it has been 'imposed' and 'forced' on the people. Furthermore, while national identity should, by and large, be broadly supported, there are some principles of society that governments legitimately force on people. For example, basic minimum rules about how individuals in society should relate to each other, including no racial intolerance and no interpersonal violence and taxation. If multiculturalism is perceived as part of the basic rights of human behaviour and mutual respect, then governments not only already do regulate these areas in relation between people, but should do so as a guarantee of basic freedoms.

### ***Recommendation 3***

In order to reduce racial intolerance and conflict, a policy on multiculturalism that promotes the ongoing cultural diversity of Australian society is essential.

## ***7. Do we need a 'new' policy on multiculturalism?***

Australian academics have recognised that there have been a number of different policies that have attempted to implement the principles of multiculturalism, all of which have endeavoured to accept the continuing diversity of the Australian population. These different policies can be roughly divided into two phases. There is the 'original' phase of multiculturalism, and the more recent 'nationalist flavoured' phase. This submission will analyse each of these phases, and will argue that we do

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<sup>12</sup> Hugh Mackay, quoted in "Weighed down by the M word". The Australian, 23/2/211

need a 'new' and different policy on multiculturalism to either of these two. However consideration of the previous phases of multiculturalism productive ground for reconsidering the future direction of a multicultural policy, including proactively circumventing lingering criticisms.

### ***The original multicultural policy***

There are a number of different forms of the original phase of multiculturalism.<sup>13</sup> One form of 'original' multiculturalism developed under the Whitlam government recognised the disadvantage experienced by the migrant community, and set up specialised government welfare services to ensure the participation and access of individuals in those groups to the benefits of Australian society. Another form developed under the Fraser government focussed on the celebration of diversity by providing funds to support cultural groups to maintain their culture within Australia, including support for different languages and cultural ceremonies and festivals. Another form focussed changes on ensuring that 'mainstream' government services could be appropriately accessed by those with different cultural needs.

These various forms of multiculturalism were brought together in the 1989 policy document National Agenda for a Multicultural Australia. This document supported multiculturalism in a number of ways. It focussed on promoting cultural identity. It also recognised that promotion of cultural identity would be ineffective if the attitude to cultural differences remained discriminatory. To this end, the Agenda sought to address other important features of multiculturalism including social justice and rights. The principles, the rights and the benefits of multiculturalism were primarily for those who experienced disadvantage because of discrimination based on either their language or their culture or their religion.

*"The National Agenda there is an attempt to redress historic failings and, just as importantly, to facilitate the processes of continuing adjustment in the future. Australia's population will continue to change and we need to create an attitudinal and institutional environment that can accommodate those changes- so that the rights of the individual are recognised and the interests of the community advanced. In this sense multiculturalism affects and serves the interests of all Australians."*<sup>14</sup>

The focus on the rights based policy being able to achieve social justice for those from diverse cultural backgrounds, improved the quality of community in Australia as a whole. This means that it affected all Australians in the sense that Australians were all responsible for a society that was racially discriminatory, and therefore all Australians had a responsibility to do all they could to change this situation.

This policy of multiculturalism, while not without problems or criticisms, did attempt to positively accept continuing cultural diversity in Australia. It achieved this by using a social justice and rights-based model. But it wasn't long before a series of events generated strong criticism of this 'original multiculturalism' led to significant modifications to the original multicultural policy.

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<sup>13</sup> The forms outlined in this phase of multiculturalism are drawn largely from the historical work of Castles above n5

<sup>14</sup> 'National Agenda for Multicultural Australia: Sharing Our Future' 1989



### ***Criticisms of the 'original' policy of multiculturalism***

The 1990's were characterised by a series of important events and movements. Globalism, created in part by changes in patterns of travel and communication as well as trade, emerged as an important political issue in Australia and overseas. Globalisation as well as a series of other historical events fuelled a renewed drive to articulate ideas of national identity. In the face of these anxieties, unknowns and insecurities, the policy of multiculturalism was challenged criticised.

Pauline Hanson was just one of many to criticise the policy of multiculturalism. In her maiden speech to Parliament,<sup>15</sup> she stated that multiculturalism should be abolished because it was unfair. Multiculturalism criticised as a policy that created favourable benefits and services for a 'minority' and 'special interest' groups. This was unfair because 'mainstream society' could not access these privileges. Another criticism of multiculturalism was the celebration and maintenance of diverse cultures permitted different cultural groups to be sustained within the society. The celebration of diversity was undesirable because it weakened the unified, homogenous national identity. This would lead to split loyalties.

### ***The new nationalist version of multiculturalism***

In response to these and other criticisms, multicultural policy in Australia took a new direction. Policy focussed on finding a new rhetoric that would make multiculturalism attractive to conservative voters who were 'traditional' white Australians, or the 'mainstream' appealed to by individuals such as Pauline Hanson. The strategy chosen was to explore how multiculturalism could become one pillar of a nation building rhetoric. That is, multiculturalism was soon given the role of becoming 'a unifying force' within Australia. This was managed by creating a broader multicultural policy that promoted all cultures, the dominant culture and minority cultures. Seeking to enhance all cultures addressed the criticism that multiculturalism detracted from the majority culture. The multicultural policy also sought to steer its language away from rights and welfare for the ethnic minority. The structural programs designed to address disadvantage were largely dropped. Moreover, the scope of multiculturalism was expressly limited, in that the rights and benefits would only be delivered within an 'overriding and unifying commitment to Australia, to its interests and future first and foremost'. This partially addressed the criticism that multiculturalism fragmented society. Multiculturalism was contained within a view of one unified nation state.

However it appears that this nationalist flavoured phase of multiculturalism failed to take root in the popular imagination. Indeed, the language of multiculturalism was largely dropped from public debate soon afterwards.

It was dropped for perhaps two interrelated reasons. Firstly, the terrorism issues of 9/11 and the London bombings brought the possibility of 'home grown terrorism' hugely apparent. That is, that a person who grows up in Australia may have different religious beliefs which may end up being a threat to the security of Australia and Australians. Promoting cultural diversity in this political climate was perceived as a

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<sup>15</sup> Pauline Hanson's maiden speech in Federal Parliament, Tuesday 10<sup>th</sup> September 1996

threat to national security and unity<sup>16</sup>. Moreover, it seemed as if the concept of Australian citizenship that was circulating was able to convey the new message of nation building in a much more effective way.

Tony Abbott, Opposition spokesperson for multiculturalism and Opposition Leader *“I think that it’s important that we recognise the diversity of Australian society but these days on both sides of politics we tend to talk more in terms of citizenship and I’m happy to keep doing that. I think it’s important that we acknowledge the diversity of Australia but I think it’s also important to focus on the unity of Australia and that’s what I want to do.”*<sup>17</sup>

The concept and language of citizenship became the ‘unifying force’ for an Australian nationalism, without the risk of being seen to support radical Islamic fundamentalists.

Multiculturalism had limited support. Multiculturalism was ‘mushy and misguided’<sup>18</sup>, ‘redundant’<sup>19</sup> and ‘dead’<sup>20</sup>. Multiculturalism was removed from the title of the government portfolio. The National Council on Multiculturalism was not reconvened in 2006. The media headlines recently drew an association between multiculturalism and swear words, referring to multiculturalism as ‘the M word’.<sup>21</sup>

### ***Future directions for a multicultural policy?***

This submission argues that the most recent nationalist phase of multiculturalism should not be adopted in any future government policy on multiculturalism. This is because the language of nationalism is not the most appropriate or effective language through which to communicate a policy of multiculturalism. A national multiculturalism reaffirms cultural diversity only within a framework of a commitment to a pre-existing national identity, which is more similar to a policy of integration.

The rhetoric of overriding national commitment within which multiculturalism occurs narrows the national culture to just one homogenous expression.. The national

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<sup>16</sup> Waleed Aly, “Multiculturalism, Assimilation and Terrorism” Speech given at Parliament House on 1 April 2011.

<sup>17</sup> Tony Abbott (Leader of the Opposition), Transcript of joint press conference: Sydney 14 September 2010: Announcement of Coalition Shadow Ministry; parliamentary reforms; speaker’s role, media release Sydney 14 September 2010. Quoted in Elsa Koleth “Multiculturalism: a review of Australian policy statements and recent debates in Australia and overseas” Parliamentary Library, research paper no 6, 2010-2011 8 October 2010, at p19.

<sup>18</sup> Peter Costello “Worth Promoting, worth defending: Australian citizenship, what it means and how to nurture it.” Thursday 23 February 2006, address to the Sydney Institute. Accessed <http://www.treasurer.gov.au/DisplayDocs.aspx?pageID=&doc=speeches/2006/004.htm&min=phc>

<sup>19</sup> Theresa Gambaro

<sup>20</sup> Julie Szwego “The Death of Multiculturalism’ The Age 11 Nov 2006

<sup>21</sup> Hugh Mackay “Weighed down by the M word” The Australian, February 21, 2011

Australian identity becomes the most important identity, and the existence of other cultural identities are permitted only to the extent that they are consistent with the overriding national identity. Setting up a policy that invites individuals to see their cultural and national identities as potentially in conflict, is undesirable in the same way that integration is undesirable. It is a policy that reinforces a message that one culture is to be preferred over another. This will only increase racial intolerance and conflict in a community.

Another consequence of a 'nationalist' multiculturalism is that it pushes the recognition of 'cultural diversity' into the private and personal sphere. This trivialises the extent to which cultural identity has a public, political, social and economic dimension. It most certainly inhibits the acceptance of continuing cultural diversity in that it places limits on the free exercise of cultural autonomy which is critical to the maintenance and development of cultural identity.

Moreover, requiring an 'overriding' commitment to the Australian nation is no longer consistent with other Australian citizenship policy. For example, Australia has demonstrated a more complex understanding of cultural identities through its laws on dual citizenship. The laws on dual citizenship which enable Australians to hold multiple loyalties, without being any less Australia, suggest that Australians understand the reality of multiple, consistent identities that are capable of existing at the same time. Since we do not require citizens generally to divest themselves of their previous citizenship and allegiances, it is inconsistent that the government has a policy of multiculturalism that requires them to do so.

#### ***Recommendation 4***

*A policy of multiculturalism should not be linked with 'nation' building language as it risks eroding the ability of the policy to positively recognise minority cultures.*

In order to find a future direction of a multicultural policy in Australia, this submission argues that revisiting the multicultural policy captured in the 1989 National Agenda for a Multicultural Australia reinvigorates the present debate. It provides a productive basis to think through how to respond to the criticisms of the 1990's without falling back on a rhetoric of nationalism.

Returning to the 'original' policy of multiculturalism brings back into focus the purpose of a policy of multiculturalism. That is, that multiculturalism is a policy that accepts the continuing cultural diversity of Australian society. A multicultural policy should be based in a rights base model with at least two critical ingredients.

#### ***Cultural identity***

Firstly, it should support and permit the continuity of cultural identities. But more importantly, it should permit the continuity of **minority** cultural identities. This is because the culture of the dominant group is, and always has been, supported in public policy and government decision making. The dominant cultural identity does not need protecting or validating in the same way as minority cultures do. The dominant culture is supported through national holidays, national literature, national flags and other symbols. Therefore in answering the what multiculturalism protects the cultural identity of minority groups only, the response is that this is in fact the case. Multiculturalism does support the cultural identity of the minority groups because it is the cultural identity of the minority groups that are at risk.

There is sometimes a criticism of the maintenance of the cultural identities in Australia as unrealistic in that it is a policy that supports static or rigid versions of ethnic cultures in Australia. That is, a policy that maintains the ethnic practices of The cultural practices of minority groups in Australia may well be defined ‘inauthentically’ by ethnic groups in Australia as compared to the cultural practices from the place of origin. However, all cultural practices are arbitrary, and all practices develop. The objective of a policy of multiculturalism in supporting the maintenance of a culture should not to prescribe the form that minority cultures should take. In whatever form they occur, support of the maintenance of culturally diverse identities should focus on developing the capacities of individuals and communities to exercise their cultural autonomy, however they should define and develop this identity.

#### *Addressing structural disadvantage and racial intolerance*

Secondly, returning to the ‘original’ policy places emphasis on the ways that the different cultural minorities experience discrimination and structural disadvantage. The removal of these barriers should be a second ingredient of any multi-cultural policy. That is, it places the purpose of a policy of multiculturalism in a rights-based framework, ensuring social equity for all individuals in the community. This should not be a policy focussed on what migrants need to do or change to be more effective in Australia. Rather, it is about changing the structural barriers in contemporary Australian society that create or perpetuate conditions of social injustice. Without the commitment to changing the structural disadvantages, a policy of supporting culturally diverse identities is tokenistic. It removes and trivialises the differences and the challenges that those with diverse cultural backgrounds face. This could, and should be done within the liberal democratic framework of Australian society.

#### ***Recommendation 5***

*That any future policy of multiculturalism be committed to the positive recognition of diverse cultural identities. To this end, revisiting a rights based model of multiculturalism for minority groups is productive, with aspects including a right to cultural autonomy and a right to social equity. Support for this rights- based model is compatible with Australia’s liberal democratic framework.*

## ***E. Statement Addressing Selected Terms of Reference***

### ***1. The role of multiculturalism in the social inclusion agenda - how and whether multiculturalism meets the needs of migrant communities***

The aspirational principles of the Social Inclusion Agenda (SIA) are as follows

- reducing disadvantage,
- increasing social, civil and economic participation,

- and a greater voice, combined with greater responsibilities. 22

These principles focus generally on ensuring greater equity in the distribution of resources. This seems generally consistent with a policy of multiculturalism in that the principles of the SIA are consistent with acceptance of the ongoing cultural diversity of Australian society. In particular, the SIA principles are consistent with the need for a multicultural policy to ensure the removal of structural barriers that discriminate against those from diverse cultural backgrounds. However, the removal of structural barriers could be enhanced if the anti-discrimination legislation was strengthened. Recent studies have indicated that many individuals in Australia continue to experience race discrimination in Australia, particularly in the fields of employment, study and housing. More detailed studies should be undertaken to understand racial intolerance and its forms in Australia. Author Beth Gaze has conducted an in depth analysis of the Racial Discrimination Act and its effectiveness. She concludes that it has been effective in the regulation of 'race hate speech', it has been less effective in identifying indirect forms of racial discrimination.

### ***Recommendation 6***

*The government should explore how to make the Race Discrimination Act more user friendly and effective.*

However, the SIA principles are less clear on whether it will be consistent with the need for a multicultural policy to promote and support the maintenance of cultural identity. As outlined above, a policy of multi-culturalism ought to value and support the expression of cultural diversity, in particular as a right to cultural autonomy. This right to cultural autonomy, or the right to develop one's cultural identity, without the dominant cultural group controlling what cultural expression is valuable or not. For this reason, the emphasis on 'social inclusion' and the emphasis of the economic benefit of cultural diversity to Australia risks placing an unfair burden on cultural groups to justify the contribution made by their diversity to society. This is not the purpose or role of multiculturalism. Support of continuing diversity of cultures in Australia should not require those cultures to justify themselves to the larger and dominant community as valuable to the economy or otherwise. If so, this risks multiculturalism becoming a version of 'melting pot' social integration.

Moreover, it is unclear from the policy statement "People of Australia" who the rights and responsibilities envisaged under the multicultural policy applies to. The language suggests that the rights and responsibilities attaching to multiculturalism are limited to Australian citizens. It should be pointed out that a policy of multiculturalism affects all individuals living in Australia, regardless of their legal status, whether they are a citizen, a permanent resident, temporary resident, traveller or a refugee. A policy of multiculturalism embodying the right to cultural autonomy and social equity (in terms of the realisation of rights to justice) should apply to all individual irrespective of legal status.

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<sup>22</sup> Beth Gaze see "The Racial Discrimination Act and Social Change: elimination racial discrimination", paper for the Australian Lawyers for Social Change Conference, ANU 2004. Accessed at <http://law.anu.edu.au/alsc/BethGaze.pdf>

## ***2. The contribution of diaspora communities to Australian's relationship with Europe, the UK, Middle East and the immediate Asia-Pacific region***

In 2004, there were between 720,00 and 900,000 Australians overseas.<sup>23</sup> While some of them were temporary travellers and holiday makers, many of them were likely to be living overseas permanently. It is the Australians living overseas that constitute the Australian 'diaspora'. With further internationalisation of many professional jobs, it is a population that appears to be growing. With the removal of the bar to dual citizenship since 2002 and the ability of Australians to remain members of the Australian community, the Australian diaspora numbers are likely to continue to increase.

The contribution of the diasporic communities has been documented in other places.<sup>24</sup> The contribution of the diaspora includes economic, political and diplomatic contributions. This submission seeks to make brief recommendations on how to further recognise and facilitate the political contributions made by the Australian diasporic community.

### *Political contributions*

Australia prides itself on being a democratic country. This pride is expressed partly in the requirement of compulsory voting. The justification for compulsory voting is that engaging in the democratic exercise encourages (although does not guarantee) the involvement of citizens in the political process.<sup>25</sup> It is a feature of the Australian political system that is now so well supported that it could almost be characterised as an underlying norm of the Australian political system.

Historically the entitlement to vote was linked to property ownership.<sup>26</sup> Australia has long since broadened the entitlement to vote to be linked to the idea that all those affected by laws should have a say in choosing their representatives, including broadening the franchise to include women and then indigenous Australians. As soon as the technology for communications and security of identity were sufficiently advanced to facilitate postal voting, Australian law recognised that an Australian's physical location at the time of election should not be a barrier to voting. This did not mean however that everyone overseas did vote. It was never a requirement that those living overseas must vote.<sup>27</sup>

However, there are limitations placed on Australians overseas participation in the Australian elections. These limitations have arisen as a function of two things; practical reasons and a normative issue.

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<sup>23</sup> Fullilove and Flutter "diaspora: The world wide web of Australians' Lowy Institute Paper 4, Lowy Institute, 2004 p 1

<sup>24</sup> Fullilove and Flutter "diaspora: The world wide web of Australians' Lowy Institute Paper 4, Lowy Institute, 2004

<sup>25</sup> Op cit.

<sup>26</sup> For a history of expatriate voting by Australians, see

<sup>27</sup> Graeme Orr, 'Citizenship, Interests, Community and Expression: Expatriate Voting Rights in Australian Elections'" in S Bronitt and K Rubenstein (eds), *Citizenship in a Post-National World: Australia and Europe Compared* (2008) p 24.

The practical reasons were based on whether the technology was capable of maintaining and updating enrolments to register in a secure and reliable way. Developments in communications technology and overseas diplomatic missions are developed enough now to almost any person who requests a postal vote. There is no longer any practical barrier to the ability to either enrol from overseas or cast a postal vote. The only limitation to the extension of the vote to all expatriates is now a normative issue.

The arguments which are raised to limit the ability for the diaspora to vote are that voting should be restricted to those whose interests are affected by the laws that will later be made. Prior to 1984, those who were usually 'resident' in Australia could demonstrate the necessary connection. However, since 1984 residency in Australia is no longer a necessary qualification on the right to enrol. This correctly reflects changing social reality. Now, more than ever before, modern communication technologies mean that the diaspora is able to maintain connections and relationships in Australia. While the diaspora may leave and live in a country other than Australia, they can and do continue to own property, have family and friends, or even other business interests. This that mean they are likely to have a 'continuing and ongoing interest' that will be affected by Australian politics. And even in the absence of ongoing interests in Australia, the diaspora are still 'affected by ' Australian laws overseas. Aspects of the Australian Commonwealth Criminal Code apply to Australians overseas. As do citizenship and migration laws, extradition and diplomatic protection laws, as well as the operation of social security, superannuation and family law. In these ways and others, the Australian diaspora are still 'affected' by Australian laws even while they living somewhere else.

These are arguments to support the diaspora to be a continuing part of the Australian democratic community, particularly to support their right to vote. Enrolments to voting by expatriate community should be available based on self selection, regardless of how long it has been since one last voted, or whether they voted in the last election or not. Communication procedures are now available to allow the diaspora to enrol to vote after an election is called and before the rolls close, just like those citizens who are in Australia. No more onerous disqualifications or administrative hurdles (such as re-enrolling annual after 6 years absent) from voting should be applied to the diaspora. If they have citizenship, then they have expressed an intention that their symbolic membership of the Australian community is important to them, and therefore they should continue to have the right to vote unless the ex-patriate takes action otherwise.

### ***Recommendation 7***

*The following reform should be engaged in to recognise the unique political contribution of the Australian diaspora.*

- (g) That the diaspora should be able to enrol overseas regardless of how long they have been overseas.*
- (h) Removal of any bureaucratic hurdles to being enrolled, and maintaining that enrolment.*
- (i) The diaspora should be able to enrol for any election with the same cut off date as other citizens, that is, the closure of the electoral rolls.*

- (j) *That the diaspora should not be struck off the roll permanently if they are enrolled and do not vote.*
- (k) *The diaspora should not be required to enrol annually after 6 years abroad. Their enrolment should stay active unless they take action to remove themselves from the roll, or they cease to become citizens.*
- (l) *The disqualifications for voting should be the same as between the diaspora and those in Australia.*

Moreover, there are good reasons to explore the possibility of creating a member of parliament directly elected by overseas electors. This model is being implemented by a growing number of countries, who wish to value the contributions and insights of the diaspora. For example, Italy, France, Portugal and Columbia have implemented such a system<sup>28</sup>. A direct representative would ensure that the particular needs, interests and contributions of the diaspora are taken back to debate in Federal Parliament. Moreover the status and awareness of the contribution of the diaspora would be highlighted. There are certainly adequate numbers to sustain such an electorate. Conservative figures from 2004 of the Australian diaspora of voting age would equate to the population of Tasmania and the ACT together.<sup>29</sup> While some reports have dismissed the idea of a direct representative as inappropriate for Australia, these arguments have not been made fully and do not take into account the increasingly cross border lives of the diaspora and deepening of interests that is possible in multiple countries simultaneously.

### ***Recommendation 8***

*That Parliament should explore the feasibility of creating a new seat in the House of Representatives to be directly elected by the diaspora.*

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<sup>28</sup> For a more detailed description of the Italian system see Simone Battison and Bruno Mascitelli, 'Full Voting Rights for Italian Citizens Overseas: Citizenship Gone Global, Italianness or Italian Party Politics?' in S Bronitt and K Rubenstein (eds), *Citizenship in a Post-National World: Australia and Europe Compared*, (2008) 1.

<sup>29</sup> Above n 24



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