

Inquiry into the Australian Citizenship Amendment (Citizenship Testing) Bill 2007**Submission from the Castan Centre for Human Rights Law**

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1 Introduction

The Castan Centre for Human Rights Law welcomes the opportunity to make a submission as part of the inquiry into the Australian Citizenship Amendment (Citizenship Testing) Bill 2007. We understand and fully appreciate the government’s policy of encouraging migrants to integrate into the Australian community through the conferment of citizenship. We understand the importance and consequences of this formal act in our legal system. We also understand and fully appreciate the government’s objective that such persons demonstrate that they will be “good citizens”. However, whilst we are not opposed to the introduction of a test which clarifies or supplements the requirements of the Australian Citizenship Act 2007,¹ we are concerned about the nature of the particular test that is proposed in this Bill.

Citizenship is, or should be, an act and a means of inclusion. We are concerned that as presently proposed, this test could be used as a non-transparent instrument of exclusion. We are not convinced of the necessity or safeguards for this proposal, particularly in light of the way that the new Act remedies some gaps in the old legislation, and strengthens the requirements that applicants need to satisfy.

¹ For example, the requirement in section 22 that an applicant has ‘adequate knowledge of the responsibilities and privileges of Australian Citizenship at the time of the Minister’s decision’.

The explanatory memorandum of the Bill states that “the introduction of a citizenship test is a key part of the Government’s ongoing commitment to help migrants successfully integrate into the Australian community.” Upon introducing the Bill to Parliament, Minister Kevin Andrews suggested that “the material which will form the basis of the citizenship test will highlight the common values we share.” The notion of testing a person on “common values” is alarming. It suggests that there is a clearly defined set of values which all Australians believe in and which we expect citizens of the country to adopt as their own. Whilst we accept that there are universal values which are common to humanity, we do not understand what is meant by “Australian values”. It seems that “values” are subjective unless defined. In that case, the idea that there is a “common” set of Australian values is a fundamentally flawed premise given the diverse nature of the Australian community.

2 Concerns

Our specific concerns are as follows:

1. The content of the test itself is of concern to the Centre. It is difficult to comment, as has been noted by parliamentarians themselves, on the validity of the test when very little is actually known about the content of the test itself. This lack of specific information clouds the ability of the community and Parliament to properly assess and debate this new proposal.
2. Further the absolute power given to the Minister to determine the content and nature of the test as well as selecting the mandatory questions raises serious questions as to how fair and transparent this testing process will be. As highlighted by the Senate Scrutiny of Bills Committee, the exclusion of review by relevant appellant bodies only exacerbates this issue.
3. In asking immigrants to identify and affirm these “Australian values” we may be asking them to demonstrate a higher standard of “Australian-ness” than that asked

of Australian born citizens. The test is problematic in that it runs the risk of discriminating and excluding certain applicants. Australia must be aware of its obligations under international law, particularly under the International Covenant on Civil and Political Rights to avoid discriminating against groups within their jurisdiction.

4. There is nothing to suggest that the values and beliefs which are determined by the Minister as being “Australian” will or can reflect the diversity and varying values held by the community. As Australians we pride ourselves on our diversity and multiculturalism. By prescribing a particular set of values the test implies that there is only “one kind” of Australian citizen. This approach undermines Australia’s rich multicultural community which has been fostered and developed over time.
5. The citizenship test may be interpreted as imposing certain values upon applicants and as an assertion of the supremacy of certain cultures, practices and beliefs. This is inconsistent with multiculturalism, as stated above.

3 Efficacy

It is difficult to understand how a formal test, which focuses on an applicant’s knowledge of Australian history and undefined aspects of Australian culture and values, will assist migrants to integrate into the Australian community or generate a desire in them to be “good citizens.” Such a test merely requires a person to do the required reading and then tick the correct boxes based on what they have prepared. It does nothing to encourage them to participate or connect with the wider community. The test merely reflects a person’s ability of rote learning.

Further, it is possible that the introduction of such a test will spawn a new industry of “coachers” who may exploit a vulnerable group of persons.

Importantly, it appears that the test will not involve knowledge of objective criteria, or practical knowledge and language skills which might assist a person to integrate into a new community. The Centre is not convinced that the test will actually improve the process or quality of persons applying for citizenship in this country.

In our view there are more practical, inclusive and effective ways of using the funds which would be allocated to this test. Examples include expenditure on education and support services for migrants, which would genuinely encourage a stable and united community in which culture and values are shared and enjoyed.

The practical implications of placing further obstacles in the path to gaining citizenship are also serious. The conferral of citizenship is not only a significant symbolic step for many immigrants, but it also gives important rights to the individual. Any measure which will prevent people from acquiring citizenship and thereby place them in a disadvantaged position must be carefully considered from a human rights perspective. Non citizens do not have access to many of the basic rights which are afforded to citizens. These rights include the right to apply for an Australian passport, the right to vote, to have access to the full range of financial assistance from the government for higher education, the right to access all jobs available to citizens and freedom from deportation on 'character grounds.' The citizenship test creates a further barrier for those who have indicated their desire to become members of our community. This risk of discrimination must be measured in proportion to the benefit to be gained from the test. The Centre suggests that benefits of the test are difficult to deduce and the risk of alienating and excluding members of the community is significant.

The Centre further contends that measures which potentially alienate or exclude individuals are damaging in the current political and social climate in which notions of belonging, citizenship, and acceptance have arguably become increasingly important.

National pride and a sense of belonging is something that must evolve through shared experiences and through community participation, fostered by our leaders. It is one thing

to test objective facts, another to require knowledge of “values”. The building of a sense of “community”, and the process of integration cannot be achieved through a formal test. Measures to educate the wider community on issues of racism, anti discrimination and equal opportunity would ensure that the Australian community is reminded of their responsibility to create a strong, vibrant and cohesive community in which each person is valued and has the opportunity to make their unique contribution. This kind of education and expectation of the community is essential in forging a stable and unified community.

4 Conclusion

In conclusion, the Castan Centre for Human Rights Law wishes to acknowledge the role and importance of the conferral of citizenship for many immigrants, both in what it represents and the rights it confers. The Centre suggests that the process of becoming a citizen will be meaningful for those who feel a sense of connection, place and affection for Australia. It is these people who will wish to serve the Australian community and will be proud citizens of this country. This kind of connection and affection is fostered through positive experiences, through interaction with the Australian community and through a gradual understanding of what it means to live and enjoy life in Australia. Now that the requirement for the period of permanent residence has been increased to 4 years, there are more opportunities for this transition to occur, and arguably less need for a formal test. Integration cannot be imposed through rote learning or tested through formal procedures. These measures do nothing to further integration but could do much to foster division and disunity.

For all the reasons described above the Castan Centre for Human Rights Law cannot support this Bill.