



Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

**Re: FECCA SUBMISSION TO THE SENATE INQUIRY INTO AUSTRALIAN
CITIZENSHIP AMENDMENT (CITIZENSHIP TESTING) BILL 2007**

Introduction

FECCA is the national peak body that promotes multiculturalism, community harmony and social justice. Our goal is to enrich and enhance Australian society through the fullest participation of all members of our community. We regard citizenship as a key and integral component to achieving this. We have a strong commitment to the eradication of racism and bigotry and all forms of prejudice and discrimination.

FECCA believes that a socially cohesive, inclusive community must be nurtured for the best interests of the whole society. This takes integrated policy approaches and a commitment to equity, fairness and social justice for all Australians. In the current global climate, once social cohesion is undermined, it is difficult to rebuild. FECCA therefore advocates strongly for a continuing commitment to Australian multiculturalism and its myriad benefits as a cornerstone in Australian social policy and regards citizenship as an important part of our multicultural policy framework.

FECCA welcomes the Government's long term focus on the importance of Australian Citizenship and also agrees that there is merit in debating any issues associated with citizenship in a constructive and positive way. However, while acknowledging that, we believe that any legislation should not in any way be used, now or in the future, to deny or to un-necessarily intentionally discriminate against any communities over others. An English language test has the potential to create barriers to citizenship to people from non English speaking backgrounds.

Underpinning Principles

Given that one of the concerns on the introduction of the citizenship test is the onset of unintended unfairness, it therefore follows that the bill should have frameworks in place to ensure this does not occur. These frameworks should be guided by the various conventions that Australia is a signatory to, including the:

- a) Universal Declaration of Human Rights (UNDHR 1948);
- b) United Nations Convention relating to the status of refugees (CSR 1951) and its 1967 protocol; and
- c) The International covenant on Civil and Political Rights (ICCPR 1966).

It's important also that the legislation be non-discriminatory, should be fair, and make all effort to ensure no unreasonable barriers are placed to individuals securing citizenship.

We believe that the following statement should be part of the bill itself:

"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". (Article 26 of the International covenant on Civil and Political Rights (ICCPR 1966)).

Given that Australia is a signatory to the ICCPR and domestic legislation under the Racial Discrimination act which is consistent with this article, we believe this would communicate a very positive message that all people will be treated fairly under the legislation, consistent with our human rights obligations.

We believe this is a necessary safeguard because of the potential of the citizenship test to create barriers to full participation in the life of the community including the right to vote, to work in the public service and to be able to take advantage of the opportunities that Australian citizenship offers.

1 Section 2A

This section of the proposed amendment states that:-

"...you may need to successfully complete a citizenship test". And goes on to say that, "There are some less common circumstances in which you can apply for citizenship by conferral".

FECCA and its members appreciate and support the flexibility that has been retained in the bill. Retaining this flexibility indicates that there will be considerations for reasonable exemptions for some individuals who may experience barriers to being able to successfully complete a citizenship test, but who otherwise meet the criteria for citizenship.

While FECCA appreciates the flexibility in this legislation, we strongly feel that it may be vulnerable to detractors of Australia's commitment to cultural diversity, and has the potential to introduce bias. The legislation as it is raises questions like:-

1. What are the circumstances that an applicant might or might not have to sit the test?
2. What are the possible examples of exemptions that have or are being considered?
3. What is the process by which these exemptions will be dealt with? And
4. How will this information be communicated to the communities?

Because as we outlined earlier that the introduction of the citizenship test should not in any way have the potential to bring in any form of bias, we recommend that the legislation have effective safeguards in place to protect those who will be affected by it from experiencing any form of discrimination. We further recommend that these safeguards be well defined and be set out under the principles of social justice to address these concerns. It's by striking a balance between the flexibilities and the safeguards that the process can be fair and transparent.

4 Subsection 21(2)

Parts (e) Possesses a basic knowledge of the English language;

FECCA acknowledges that a working knowledge of English is important to being able to participate fully in Australian life. However, we would also like to state that there are countless examples of people who have, despite their limited English language skills, made important economic and social contributions to Australia.

It's with this in mind that FECCA argues that the current proposal which links citizenship and English languages skills has the potential to disadvantage, discriminate and exclude some individuals, especially those from CLDB, and who may have much to offer the Australian society.

These individuals include:

1. New migrants working long hours to support their families, and cannot access English classes during working hours, and who also are ineligible for social welfare payments.
2. Parents with young children or carers of other family members, who cannot access classes unless others can pick up their caring responsibilities, especially women.
3. Refugees who have experienced torture, trauma and/or long periods of displacement due to war or civil unrest who may be experiencing post traumatic stress which makes learning another language very challenging and may require an extended time period and flexible delivery of English language programs.
4. People who have experienced a disrupted education in their country of origin and are illiterate in their own language, or who speak a language which is an oral language only.
5. People living with disabilities that make learning a challenging task.
6. People coming from countries of origin where English is not spoken or taught.
7. People who have never had any formal education before.

These examples show that individuals from CLDB may be placed in a disadvantaged position in comparison to their peers from English speaking backgrounds who already possess strong English language proficiency. FECCA would like to see continued flexibility in the legislation that addresses the disadvantaged position that individuals from CLDB may be faced with so as to ensure social justice.

FECCA would also like to recommend that clear, fair and just boundaries are set to define the term "...Basic knowledge...", and that people sitting a citizenship test are aware of what these boundaries are.

We also believe that it is important that the format in which any test is administered be able to meet community needs. For example, if unfamiliarity with computers creates a barrier to passing a citizenship test, we would like to see the possibility of oral tests being introduced.

We advocate for consistent monitoring of the consequences of the introduction of a citizenship test, to ensure that there are no unintended consequences, bias or lack of fairness. Specifically a rigorous process to be adopted ensuring that data is kept re any clusters or groups of the community failing the citizenship test.

Part (f) has an adequate knowledge of Australia and of the responsibilities and privileges of Australian citizenship.

FECCA recognizes the importance of migrants having knowledge of Australia. We would like to also acknowledge the effort being made by the government through various programs to inform migrants on the responsibilities and privileges of Australian citizenship. We however would like to point out again that the inclusion of this clause in the legislation has the potential to disadvantage some applicants over others, especially those from CLDB. We believe that the introduction of clause (f) into this legislation should not place barriers or act as a disincentive to individuals applying for Australian citizenship.

Research has shown that migrants especially those from CLDB have a difficult time settling in their newly adopted society. They find it hard to find good satisfying jobs and many struggle on low incomes. Apart from this, they also find it hard to find good housing, and all this and other factors often result in individuals suffering from high levels of psychological distress and may affect the time it takes for them to gain knowledge of new things. It's clear that the most disadvantaged groups will be those mentioned while addressing clause (e) above.

FECCA therefore recommends that flexibility also be retained in this clause, and that it be exercised in such a way that each individual case is considered on its merits rather than the clause being applied across the board on all applicants irrespective of their circumstances. We further believe that well defined frameworks that are in line with the earlier stated underpinning principles should be formulated and put in place to ensure that any form of bias does not come into play.

As we have stated earlier, there are those who would potentially be good and productive citizens that may be discriminated against if flexibility is not exercised.

4 Subsection 21(2A), 5 Subsection 23(A), 1, 2, 3, & 7

FECCA would like to address the above mentioned subsections and related parts together because they all have to do with the "determination" by the minister.

We acknowledge that the above mentioned subsections have continued to show some form of flexibility. We however hold the view that this flexibility may be open to bias, and raise many questions, e.g.:-

1. Are there clear guidelines or well defined frameworks that make a “determination” fair and transparent?
2. What nature of tests will be administered? I.e. Computer based, Oral, Written, or a combination of all?
3. How many different tests will there be?
4. If more than one, how is it going to be determined as to who sits for which test?
5. Are there any exemptions?
6. If there are, what might they be?
7. What constitutes a pass? I.e. 60% or more?
8. Are there circumstances where a lower pass rate might be considered?

FECCA has highlighted throughout this submission the need for flexibility and well defined frameworks and safeguards to be included in this legislation to remove any form of discrimination that may be unintentionally introduced.

We have on more than one occasion stated that a citizenship test has the potential to discriminate against CLDB refugees and migrants, and have recommended that exemptions be made for these groups. We have also affirmed that these exemptions be spelt out explicitly in the Act and also be made known to the applicants prior to them sitting the test.

We are concerned that if such flexibility is not granted, Australia could be placed in a position where human rights are continually being breached, and risk having a permanent class of non-citizens predominantly from CLDB backgrounds, which would have negative effects on social harmony and inclusion in Australia.

FECCA endorses all the values that are inherently human; values that help create cohesive societies that are able to acknowledge and celebrate diversity and difference. We believe that many values from different cultures have enriched and positively changed our values throughout our history, therefore positively shaping our Australian way of life. Significant values that have driven Australian society over the last four decades have been multiculturalism and equality. We are very concerned that the introduction of a citizenship test may seriously undermine these values and disadvantage the groups of people, as outlined above.

FECCA recommends the development of truly accessible, flexibly delivered community education programs to promote consideration and understanding of Australian citizenship. To effectively meet the needs of our diverse community, these programs need to be aimed at both new arrivals and more established permanent residents who have yet to take up the opportunity to become Australian citizens.

One of the arguments advanced for a formalised citizenship test is that it will help raise the regard people have for citizenship. Our consultations tell us that citizenship is already highly valued amongst immigrant groups and in particular amongst humanitarian refugees. FECCA members advise that overwhelmingly migrants and refugees already aspire to taking Australian citizenship. Groups which have seemed slowest to take up Australian Citizenship, as distinct from Australian residency, are from English speaking countries, including the United Kingdom and New Zealand. It is not clear that there is concern in the community about people from these countries who are resident in Australia but who are not taking up citizenship. What would be the likely effects of a citizenship test on these people? Any language component would be likely to have no effect at all and other cultural and historical aspects of the test would also be unlikely to be a barrier.

It is instead likely that people who have arrived in Australia under difficult circumstances, especially humanitarian entrants, may perceive that they have the most to lose from not passing any proposed citizenship test, and would fear this as a barrier. Unwittingly, the test could act as a disincentive for these people whom we most want to encourage taking up citizenship.

We note that currently, adult temporary protection visa holders are unable to access English language training under the Adult Migrant English Program (AMEP). This has the potential to create many long-term barriers to citizenship if they are eventually accepted as permanent residents, and then wish to consider becoming citizens.

FECCA consultations have returned opinions that any proposed test, if implemented, should be simple and limited to practical aspects of Australian life that will benefit all new citizens encompassing questions that existing Australian citizens would have a reasonable chance of answering correctly

Suggested examples of the above may include:

- a. Procedures for accessing Government services (e.g. How to renew a driver's licence or paying bills)
- b. Recognition of uniforms and vehicles (e.g. Police, fire-fighters, paramedics)
- c. Recognition of Australian road signs, emergency phone numbers and messages, hospitals and police stations
- d. Recognition of Australian currency and other documents (e.g. Medicare card)
- e. Situational scenarios (e.g. What to do if you are involved in a road accident or see a house on fire)
- f. Universal or generic questions or situations that people of CLDB would be in a position to answer

FECCA's consultations also indicated that any proposed tests should exclude questions and scenarios that potential citizens:

1. Would hardly or never encounter
2. Would hardly or never need to know
3. would struggle to answer due to specific cultural or religious considerations
4. lack of formal education

FECCA is particularly concerned about the impact of a citizenship test on CALD women, particularly humanitarian entrants, family reunion and refugee women, given the following:

- women, especially with younger children, cannot access English classes because they have to care for their children,
- in most households, the children become the interpreters for their mothers, especially when the children are going to school. This creates additional barriers to women being able to participate in the community and practice English language skills,
- the need to learn another language does not take priority in a household struggling to cope with changes in life style, another culture, and economic survival.

In conclusion we highlight the following points:

- That under no circumstances should a citizenship test discriminate against groups of people especially non English speaking background migrants , refugees family reunion migrants and humanitarian entrants.
- Any test and new arrangements should be clear and reinforce that Australia is a multicultural, diverse and secular society.
- Accurate data be kept and prompt action is taken, if it is found that certain groups are systematically failing a citizenship test.
- That the legislation clearly defines exemptions for certain groups, recognizing that some groups, due to poor literacy and trauma, may never be able to attain enough knowledge about Australia, its history, nor achieve adequate levels of English, to pass a citizenship test.
- That there is recognition that new and formal arrangements could create serious obstacles and discourage some groups from applying to become Australian citizens, thereby creating a two tiered society.
- That clear definitions and boundaries of any citizenship test be framed in the legislation

We would welcome the opportunity to discuss any of the issues raised in this submission. Please do not hesitate to contact the FECCA Director, Mark Kulasingham on (02) 6282 5755 or director@fecca.org.au or myself, via the FECCA office, if you would like to do so.

Yours sincerely

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Chair