



# **The Multicultural Council of the Northern Territory**

## **Submission for the Inquiry into the Australian Citizenship Amendment (Citizenship Test Review and other Measures) Bill 2009**

The Multicultural Council of the Northern Territory Inc  
PO Box 299  
SANDERSON NT 0813  
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Committee Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
Department of the Senate  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

### **Introduction - The Multicultural Council of the Northern Territory (MCNT)**

First established in 1977, the Multicultural Council of the Northern Territory (MCNT) based at Malak in Darwin's northern suburbs, is a community-based non-profit organisation managed by a board of dedicated volunteers. The MCNT receives operational funding from the Northern Territory Government's Office of Multicultural Affairs and project funding from various Commonwealth Government agencies.

As the peak multicultural community organisation in the Top End of the Northern Territory, the MCNT represents and advocates for the interests, concerns and aspirations of migrants and refugees - many from non-English speaking backgrounds. It is the aim of service providers such as the MCNT to identify and address barriers to social and economic participation. The MCNT supports cultural diversity and promotes social cohesion.

### **The MCNT and its expressed concerns about the Citizenship Test**

The MCNT welcomes this opportunity to provide this submission to the Senate Standing Committee on Legal and Constitutional Affairs for the Inquiry into the *Australian Citizenship Amendment (Citizenship Test Review and other Measures) Bill 2009*.

The MCNT previously provided a response in November 2006 to the Citizenship Discussion Paper "*Australian Citizenship: Much More than a Ceremony*" distributed to stakeholders by the Department of Immigration and Citizenship (DIAC) and provided a submission for the Inquiry into *Australian Citizenship Amendment (Citizenship Testing) Bill* in July 2007.

The MCNT remains concerned about the impact of the Citizenship Test, locally and nationally, on its clients. The experience of protracted displacement in insecure, unsafe

and unsustainable camps in countries of first asylum and with limited support from the international community has serious social consequences for refugees.

The MCNT supports the requirement for non-English speaking background migrants to learn the English language, to know more of its history and to commit to a minimum set of universal values such as the respect for the law, democracy and equality. The MCNT remains unconvinced however that a formal citizenship test indicates the ability of the potential citizen to make a positive contribution to Australia and feel 'Australian'.

The MCNT, as does the national peak body the Federation of Ethnic Communities' Councils (FECCA), "*believes in the importance of citizenship as a basic human right, for citizenship confers upon an individual the right to participate in political processes, and the peace of mind that one will not be deported and can travel freely*".

The MCNT also agrees also with FECCA in the belief that "*permanent residents and humanitarian entrants who have been lawfully accepted as Australian permanent residents should have a clearly enshrined 'right to Australian nationality', once they have spent the requisite time in Australia following their permanent residency—usually a few years. This right would override the current high-level citizenship test which discriminates against immigrants—and particularly refugees—with low level English language skills and/or low level comprehension skills*".

## **The Australian Citizenship Test Review and Legislative Amendments**

The MCNT welcomed the Federal Government's decision in 2008 to establish the Citizenship Testing Review Committee and commitment to fully supporting 23 of the 34 recommendations of the Committee. The *Australian Citizenship Amendment (Citizenship Test Review and Other Measures) Bill 2009* seeks to amend the *Australian Citizenship Act 2007* and to implement those recommendations of the Review Committee as expressed in the "*Moving forward ... Improving Pathways to Citizenship*" Report and which have been agreed to by Federal Government.

The MCNT notes that the Bill intends to:

- *provide that certain applicants may be eligible for citizenship without sitting the citizenship test if, at the time of application, they have a physical or mental incapacity that is as a result of suffering torture or trauma outside Australia;*
- *provide that the citizenship test must be successfully completed within a period specified by the Minister in a written determination; and*
- *provide that to be eligible for citizenship by conferral, applicants who are under 18 years of age must be permanent residents at both the time of application and the time of decision.*

## **The MCNT's comments relevant to these specific provisions in the Bill**

- The MCNT supports the intention in the Australian Citizenship Amendment Bill to provide exemptions for certain applicants with demonstrated physical or mental incapacity as a result of suffering torture or trauma outside Australia.
- However the MCNT is concerned about how physical or mental incapacity will be assessed professionally and whether the exemption criteria will take into account other associated effects such as extreme anxiety and learning difficulties from torture and trauma experiences which can compromise satisfactory performance in

the Citizenship Test.

- The MCNT agrees with the Federal Government's intention in the Bill to specify Ministerial discretion for time requirements for completion of the citizenship test. This provision will ensure a more responsive and streamlined citizenship testing and application process for clients, and better utilise DIAC's human resources.
- The MCNT agrees with the Federal Government's intention in the Bill to ensure that people under 18 are permanent residents to be conferred citizenship without the need to sit for the Citizenship Test. This provision will ensure equitable treatment for clients and consistency in DIAC's citizenship and migration programs.

### **Other comments relevant to the Review and the amended Citizenship Test**

- The MCNT notes that certain Key Findings of the *Moving forward ... Improving Pathways to Citizenship Report*: "*Citizenship is a valued and important concept and is a key factor in nation building. Its acquisition should be encouraged and facilitated by government*" ... and ... "*The present test is flawed, intimidating to some and discriminatory. It needs substantial reform*" indicated that substantial reform of the Citizenship Test was required.
- The MCNT maintains its long-held view of opposition in principle and practice to a formal Citizenship Test and believes that the arrangements in place prior to October 2007 - i.e. interviews with applicants for citizenship - had satisfactory outcomes with few complaints and should have been maintained.
- While the MCNT remains opposed in principle and in practice to the Citizenship Test, it is conceded that a Citizenship Test in some form from August 2009 is a reality. The MCNT has therefore framed its comments in these terms, rather than as previously on whether or not a Citizenship Test should be introduced.
- The MCNT believes that the former interview process was satisfactory for determining eligibility for being granted citizenship and had very few if any adverse impacts on our clients. An interview process should be available as an alternative to computer based testing for certain categories of applicants.
- The purpose of Australia's Humanitarian Program is to provide protection to refugees and others who are not afforded adequate protection as citizens of their countries of origin and who are in effect "stateless". For "stateless" refugees who have lawfully found sanctuary in Australia, it is imperative that they be afforded access to a new nationality and full protection afforded by citizenship in Australia, their country of refuge.
- Protracted barriers to citizenship, either through the introduction of a citizenship test or an extension in the minimum period for eligibility to four years, can for non-citizens create hardship and a sense of alienation and isolation. The MCNT believes that citizenship should be afforded as expeditiously and equitably as possible to people granted permanent residency, particularly those who are effectively "stateless".
- Arguably, the Citizenship Test, even in its amended form, is contrary to Australia's international Human Rights obligations under the Refugees Convention and other treaties as well as the Universal Declaration of Human Rights. Article 34 of the Refugee Convention states that Australia is required to take steps "*as far as*

*possible, to facilitate the assimilation and naturalization of refugees”.*

- The MCNT considers that fair access to a non-discriminatory and expeditious pathway to citizenship and nationality is a human rights issue rather than a privilege and certainly should not be linked to concerns about national security and a covert means to screen out people not considered worthy of being granted Australian citizenship.
- Citizenship is of profound significance in both symbolic as well as practical terms to refugees. It provides an important pathway to social inclusion and participation for migrants and refugees. Many human rights in civil, political, social and cultural spheres cannot be fully expressed and enjoyed, unless secured by citizenship.
- The MCNT welcomes the removal of mandatory questions and focus in the amended Citizenship Test on civic rights and responsibilities rather than on detailed aspects of Australian society and history. The MCNT does not however support the pass mark being increased from 60% to 75%.
- The MCNT believes that many of its clients will be adversely affected by the Citizenship Test. The MCNT believes that the Citizenship Test, even in its amended form, disadvantages, and is inherently discriminatory and exclusionary to, refugees and humanitarian entrants from non-English speaking backgrounds.
- The MCNT believes that computer-based multiple-choice testing to ascertain the eligibility of candidates for being granted citizenship is inappropriate for many of its clients. Many refugees, particularly those who have lived in protracted displacement situations, have not had experience with computer applications.
- The MCNT believes that the multiple choice format in the Citizenship Test trivialises important and complex concepts about civic rights and responsibilities. This can lead to confusion for applicants, particularly those from non-English speaking backgrounds and/or with limited experience in assessment in multiple choice testing, and will not necessarily achieve a reliable measure of clients' comprehension of these concepts.
- Refugees and humanitarian entrants, the vast majority who are from non-English speaking backgrounds, have traditionally been more likely to seek Australian citizenship and confirm allegiance to their new home at the earliest possible opportunity. Yet paradoxically these aspiring citizens have had disproportionately higher failure rates in the Citizenship Test than for other categories of applicants.
- The MCNT welcomes the Federal Government's commitment in the Australian Citizenship Amendment Bill to *“ensuring people who have a commitment to Australia, and who have a strong desire to become Australian Citizens, have the opportunity to do so”* through a citizenship course to provide an alternative pathway to citizenship for refugees and disadvantaged or vulnerable migrants.