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**SUMMARY:** This submission argues that, as Australia has become a culturally diverse nation as a result of the government's large intakes of migrants and refugees since 1947, it is essential to maintain the social cohesion attained during the 20<sup>th</sup> century by promoting an understanding of Australian national identity as a multicultural nation, clarifying the rights and responsibilities of citizenship in the *Constitution* and through legislation, and affirming the special status of Australia's First Nations as recommended in the *Uluru Statement from the Heart*.

**Introduction:** I am a consultant historian and do not represent the views of any organisation in this submission. My two books *Redefining Australians. Immigration, Citizenship and National Identity*, (Hale and Iremonger, 1995) and *Alien to Citizen. Settling migrants in Australia, 1945-75* (Allen and Unwin with Australian Archives, 1997), analyse the major shifts in Australia's understanding of Australian national identity and citizenship. They are based on the archives of the Department of Immigration– the Commonwealth department most confronted by the challenges of settling large numbers of culturally diverse migrants and refugees during the second half of the 20<sup>th</sup> century. My research was conducted while I held a Research Fellowship in the Administration Compliance and Governability Program, Urban Research Program, Research School of Social Science, Australian National University, on leave from the Department of Immigration's Ethnic Affairs Policy and Projects Section. I am also the author of a chapter entitled 'The legal and non-legal aspects of immigration and citizenship', published in *individual community nation. Fifty years of Australian Citizenship* (Australian Scholarly Publishing, 2000), edited by Kim Rubenstein.

**(A) The Nation State and national identity:** Ideally, the imagined community of the nation fostered by a nation state reflects all groups living within it. Until the Whitlam government's redefining Australia's national identity in 1973 as a multicultural nation, conceptions of Australian national identity marginalised and rendered invisible large sections of Australia's population. The Australia-born descendants of 19<sup>th</sup> century British colonists strove to distinguish themselves from their forebears by creating an image of the ideal Australian that was a white, male rural worker, despite Australia being at that time one of the most highly urbanised countries in the world. This stereotype, perpetuated in the literature, art and music of the period was extensively popularised, particularly by the widely read journal *The Bulletin*. It excluded women, Indigenous Australians and non-British immigrants such as the Chinese, Afghans and Jews who immigrated to Australia during this century. The racism underlying this conception of Australian national identity was expressed in law at Federation in the *Constitution* and the *Immigration Restriction Act*. Discriminatory entry restrictions between 1923-29 extended this exclusion to southern Europeans.

In his series of articles on the wool industry published in the *Sydney Morning Herald* during 1909, the early 20<sup>th</sup> century journalist C.E.W Bean described workers in this industry as 'outstanding national types'. As official war historian of the 1914-18 war, he transformed this ideal Australian into the heroic ANZAC soldier, skilfully marketing this image through *The Anzac Book* (London, 1916)- a carefully selected collection of writings and drawings by Australian soldiers at the front that became a monumental best seller during the war and much more widely read than his subsequent official history. Bean's vision was embodied nationally in 1941 through the Australian War Memorial, which he conceived and promoted.

Since 1975, the Australian government has directed resources into promoting the re-conceptualisation of Australian national identity as a multicultural nation, based on principles of national cohesion, recognition of cultural identity and promotion of social equality. In 1978 the Australian Institute of Multicultural Affairs was established as a statutory body under the *Australian Institute of Multicultural Affairs Act*. The final move away from the conception of Australians as being British came in 1984 three years after Britain had removed the concept of British subject from its legislation. This term was finally removed from Australian citizenship legislation in 1987. In 1987 the Australian Institute of Multicultural Affairs was replaced by the Office of Multicultural Affairs in the Department of Prime Minister and Cabinet to coordinate and implement activities relating to the Government's policies on multiculturalism. The following year it published *The National Agenda for a Multicultural Society* in which it defined multiculturalism and presented eight goals the Commonwealth government should pursue. Since the election of John Howard in 1996 there has been a move away from the concept of multiculturalism as an ideology and a public policy at the Commonwealth level, but State and Territory governments continue their multicultural programs unchanged.

**(B) The rights and obligations of citizenship:** As Kim Rubenstein demonstrated in her 2002 book *Australian Citizenship Law in Context*, Citizenship is not mentioned in the Australian Constitution. As it is not a constitutional concept, the Commonwealth's power to legislate and define citizenship is uncertain. In a legal sense citizenship is a statutory rather than a constitutional concept. The *Australian Citizenship Act 1948* identifies who is a citizen and who can lose their citizenship, but does not explain the legal consequences of citizenship. The rights and responsibilities of Australian citizens are not explained in the Act and are unclear, but its effectiveness as a tool for immigration control and exclusion is not. In her book, Rubenstein comprehensively catalogues all federal legislation that discriminates between citizens and non-citizens to 2001. She argues that amendment of the Australian Constitution 'to acknowledge and define the scope of citizenship would clarify its extent and operation amidst a confusing patchwork of legislation, and would crystallise the all-important questions of national identity'.

In *Defining Australian Citizenship: Select Documents*, John Chesterman and Brian Galligan include the vote, free speech, freedom of religion, freedom of movement, equal protection of the law, free basic health care, a minimum wage, social security, education and indigenous rights as examples of citizenship rights. International law provides a framework for assessing distinctions between the rights of citizens and non-citizens. *The International Convention for the Elimination of all forms of Racial Discrimination* and the *Declaration of the Human Rights of Individuals who are not Nationals of the Country in which they live*, permit discrimination between nationals and non-nationals, but not in relation to fundamental human rights. The *International Covenant on Civil and Political Rights* and the *International Covenant on Social and Cultural rights* apply to citizens and non-citizens equally, therefore working rights, social security rights, the right to enjoy the highest standard of physical and mental health and rights

to education are rights extending to all people. Rubenstein concludes that 'Whether or not citizenship rights are considered in the context of the Australian *Constitution* or in legislative form, it is vital to ensure that the investment of citizenship with legal consequences does not disinvest non-citizens of their rights and status they are entitled to, not as Australian citizens, but as citizens in the common cause of humanity'.

**(C) Social cohesion and cultural identity in the nation state:** Since the initiation of mass migration and the acceptance of large numbers of refugees fleeing persecution in many countries since 1947, Australia has become extraordinarily ethnically diverse. The Commonwealth Government's migrant and refugee settlement policies fostered the harmonious integration of diverse groups throughout the 20<sup>th</sup> century. The social cohesion, so vital to a prosperous and just society, is in danger of being eroded by the weakening of support for multiculturalism at the Commonwealth level since the emergence of the One Nation party in the 1990s.

The focus in the 21<sup>st</sup> century has increasingly shifted to other categories of Australian citizens whose voices have not been heard and whose needs have not been adequately met in the past, particularly Indigenous Australians, the homeless and those living with a disability. There is also a growing awareness of the vulnerability to exploitation of the large numbers of non-citizens living in the community on a wide range of temporary visas. There is clearly a need to recognise the special position Indigenous Australian citizens have in our society and to engage them in government decision-making, particularly on issues relating to their welfare. There is also a pressing need to safeguard the human rights of temporary residents living and working in Australia. Asylum seekers who have arrived without a valid visa living in Australia on temporary visas, and those detained by Australia in Papua New Guinea and Nauru, are being denied fundamental human rights such as working rights, social security rights, the right to enjoy the highest standard of physical and mental health, as defined in international conventions to which Australia is a signatory. There is, therefore, an urgent need to clarify the rights and responsibilities of Australian citizens either through a Bill of Rights or constitutionally, and to guarantee the human rights of non-citizens living in Australia. It is essential that the Australian government again takes leadership in promoting an understanding of Australian society that reflects all members of Australian society and makes explicit the rights and responsibilities of both Australian citizens and non-citizens living in Australia.

This could be achieved by:

- Restating and promoting understanding of Australian national identity as a multicultural society as was done in 1989 through the *National Agenda for a Multicultural Australia*.
- Amending the *Constitution* to acknowledge and define the scope of citizenship, to clarify its extent and operation and the concept of national identity.

- Clarifying the legal consequences of citizenship through legislation that both defines the rights and responsibilities of Australian citizenship and protects the fundamental human rights of non-citizens resident in Australia.
- Complying with the international treaties on human rights to which Australia is a signatory
- Acknowledging the special status of Australia's First Peoples by enshrining a First Nations Voice in the *Constitution* and establishing a Makarrata Commission to supervise a process of agreement making as recommended in the *Uluru Statement from the Heart*.
- Re-establishing civics education programs in schools to enable future generations to understand Australia's democratic processes and our identity as a multicultural nation.