

**Submission to the Senate Legal and Constitutional Affairs Committee: Australian Citizenship Legislation Amendment (Strengthening the Commitments for Australian Citizenship and Other Measures) Bill 2018**

Professor Helen Irving  
Sydney Law School  
The University of Sydney

10 April 2018

I thank the Committee for the opportunity to make a submission on this Bill.

The 2017 *Australian Citizenship Legislation Amendment (Strengthening the Commitments for Australian Citizenship and Other Measures) Bill*, which Senator Hanson's Private Senator's Bill ('the Amendment Bill') sponsors and seeks to amend, has the core purpose of making Australian citizenship by conferral more onerous than under the current law. The Amendment Bill aims to add a further onerous condition, by extending the qualifying residency period to a minimum of eight years permanent residency. In the Senator's Second Reading Speech on the Bill, 7 February 2018, she stated that such a length of time is needed 'to make sure applicants for citizenship have already proven themselves before they are granted citizenship.'

Senator Hanson's speech suggests that problems the Amendment Bill will address include the 'swamping' of Australia by Muslims, the existence of 'pockets of organised crime and ethnic enclaves' in Australian cities, the difficulty of deporting criminals who enjoy the protection of citizenship, low standards of English among immigrants (particularly relevant, she suggests, to the service sector), poor levels of employment among refugees, and (supposed) lack of support for Australian values among immigrants, among other things.

There are many inconsistencies and questionable assertions in this speech. Senator Hanson implies that lack of mastery of English, non-citizen status, and the Islamic faith are interconnected and associated with criminality, and, further, that criminality is especially associated with Australia's refugee intake. She overlooks that Australian citizens commit crimes, that the percentage of Muslims in Australia is very low, that non-citizens who have a record of serious criminal offences are ineligible to become citizens, and that Australia has international law obligations to admit refugees.

Australians are entitled to hold whatever views they wish on any of these matters. The primary question, however, is whether an eight year qualifying period before applying for citizenship will actually assist in addressing such problems. The proposition that it will is questionable. Social cohesion and a shared commitment to Australian values are more likely to be enhanced by being a citizen than by a long period of exclusion from citizenship. A period of eight years' permanent residency before an individual can even apply for citizenship will leave many immigrants in a 'limbo', excluded, as non-citizens, from full membership and participation. Among them will be many (almost certainly a majority) who are strongly committed to Australia, and who are contributing to

Australia through work and community activities. Such a long period has the potential to encourage detachment or even disaffection, as much as, and probably more than, commitment to Australia.

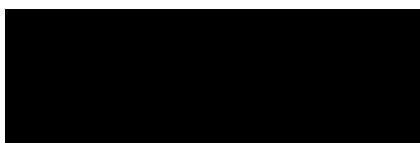
Senator Hanson refers to the Netherlands as an example of a country with particularly onerous tests for citizenship by conferral. She omits to mention that the Netherlands has experienced significant division and conflict in recent times, including over immigration. It is not the 'model' of social cohesion that she implies is the outcome of the country's stringent citizenship conditions. Nor are the other countries that she cites as having lengthy residency periods for qualifying for citizenship.

While it is true that non-English speakers are more likely to acquire fluency in English in eight years than four years, there is little evidence that four years is inadequate for learning English. More importantly, lack of mastery of English does not correlate with inability to contribute to Australia; countless numbers of people who came to Australia in the past with limited English skills have contributed valuably to Australia and have gone on to become exemplary citizens.

The only rationale for an extended residency period is to permit deportation of non-citizens who have committed crimes during such a period, but who under the current law might have acquired citizenship. This scenario can apply to only a tiny number of individuals. It is irrational to amend the law to restrict citizenship opportunities for all immigrants in order to deal with the actions of a handful (if that). The problem (if there is one) could more readily be addressed through legal avenues for revoking citizenship by conferral in cases where a naturalised citizen has committed a serious crime (of the nature that would disqualify him or her from naturalisation in the first place) during a specified period after having acquired citizenship. Revocation in such circumstances would be justified (subject to opportunities for appeal against the revocation order), but would avoid the tarnishing of all potential citizens that would be implied in an extended residency qualifying period.

I urge the Committee to reflect on the negative 'messages' in the both the 2017 Bill and the 2018 Amendment Bill, to investigate more thoroughly than Senator Hanson appears to have done whether the problems she cites are really afflicting Australia, and to contemplate more constructive ways of encouraging social cohesion.

Yours sincerely,

A solid black rectangular box redacting the signature of Helen Irving.

Helen Irving