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Introduction and background

- The Centre for International and Public law (the Centre) in the ANU College of Law appreciates the opportunity to make a submission to the Joint Standing Committee on Migration's Inquiry into Multiculturalism in Australia.
- During my term as the Director of the Centre and indeed over the past decade I have published on the subject of Australian citizenship law[1] and on the relationship between citizenship and multiculturalism.[2] I was also a member of the Independent Committee that reviewed the Australian Citizenship Test in 2008. It is from that perspective that I make this submission.
- I would also like to acknowledge Alice Rumble's assistance in preparing this submission. Alice has been working as an intern at the Centre as part of her undergraduate degree in the ANU College of Law in semester one, 2011.

Overview of the Centre

The Centre is part of the ANU College of Law at the Australian National University. The work of the Centre is largely based on researching and advising on legal and policy issues arising from interactions between governments and citizens.
(See http://law.anu.edu.au/cipl/)

Outline of submission

- Recommendations:
  - A list of recommendations for
    - the Committee in carrying out the inquiry and
    - the federal government in relation to Australia's Multicultural Policy (AMP), released in February, 2011.
- The terms of reference will be addressed as follows:
  - "Social inclusion and multiculturalism" will discuss Term 1

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[1] Kim Rubenstein, *Australian Citizenship Law in Context* (Pyrmont: Lawbook, 2002).
[2] See e.g. Appendix A: Kim Rubenstein, 'Loyalty and Membership: Globalization and Its Impact on Citizenship, Multiculturalism, and the Australian Community,' in Geoffrey Brahm Levey *Political theory and Australian multiculturalism* (New York: Berghahn Books, 2008)
Appendix B: Kim Rubenstein and Mark Nolan, Citizenship and Identity in Diverse Societies,' *Humanities Research* (Vol XV, No. 1. 2009).

- The role of multiculturalism in the Federal Governments Social Inclusion Agenda and
- Principle 1 of the AMP.
  - "Contribution of migrants" will consider
    - The approach of the Committee in asking for recommendations to maximise the positive effects of migration and
    - Terms 2, 5, 6 and 7.

Recommendations

- That the federal government and the Committee:
  - Consider multiculturalism as a set of rights and
  - Be sensitive in its emphasis on national unity over cultural diversity to
    - Ensure that these core values be confined to liberal democratic principles of non-discrimination and social cohesion.
- That the federal government and the Committee:
  - Ensure that any initiatives in relation to multiculturalism include the wider Australian community: citizens, permanent residents, temporary residents and the Australian diaspora.
- That the Committee:
  - Be sensitive in its current emphasis on an economic approach to the inquiry and terms of reference.
    - For example, the Committee could ask for recommendations on how to increase community understanding of the benefits and goals of multiculturalism, cultural diversity and social inclusion.
- That the federal government:
  - Commence discussions with representatives from Aboriginal and Torres Strait Islander groups about multiculturalism and how this will impact the different indigenous groups in Australia.[3]
- That the federal government:
  - Conduct a review of the adequacy of existing anti-discrimination and anti-racism frameworks[4] when implementing AMP.

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[3] Australia's Multicultural Policy (accessed at: <http://www.immi.gov.au/media/publications/multicultural/pdf_doc/people-of-australia-multicultural-policy-booklet.pdf>) p. 2.
[4] See e.g.: Beth Gaze, Rosemary Hunter, *Enforcing the human rights in Australia: an evaluation of the new regime,* (Annandale: Themis Press, 2010).

Social inclusion and multiculturalism

What is the role of multiculturalism in the Federal Governments Social Inclusion Agenda?

Multiculturalism plays a central role in realising the Governments Social Inclusion Agenda (GSIA) and is an important aspect of any western democratic country in a period of globalisation where individuals live and traverse the globe in unprecedented numbers.

It is clear that there are several issues for the Committee and the government to address to ensure AMP and the GSIA result in meaningful membership and social inclusion in the Australian community.

GSIA initiatives

The GSIA is directed towards achieving a socially inclusive society allowing all Australians to have resources, opportunities and capability to learn, work, engage and have a voice.[5] These are all aspects of active citizenship, enabling all individuals to live out their lives to the fullest potential.
- The GSIA has also commenced initiatives designed to promote cultural diversity through fostering community participation, inclusiveness, respect and a sense of belonging through cultural diversity initiatives.

Multiculturalism

Can mean:
- A government policy:
  - o Designed to recognise, manage and maximise the benefits of diversity as well as absorbing or integrating migrants into a culturally diverse society around liberal democratic values[6]
- However, it should also be conceptualised as:
  - o A set of rights:
    - ▪ Enabling individuals to retain, express and enjoy their culture. This includes the right to have access to social, cultural, economic and political life of Australia.[7]

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[5] Agenda listed on GSIA website: <http://www.socialinclusion.gov.au/SIAgenda/Pages/Overview.aspx>
[6] Tom Calma (Acting Race Discrimination Commissioner) *Multiculturalism: a position paper*, (Sydney: Human Rights and Equal Opportunity Commission, 2007) p.4.
[7] Ibid p.4

Multiculturalism as a government policy

If multiculturalism is considered to be a government policy, or here the AMP, then multiculturalism largely supports the GSIA. The AMP seeks to promote cultural diversity, increased access to services, social cohesion and a tougher stance on racism, consistent with the objectives of the GSIA.

A multicultural policy which raises awareness of the challenges faced by culturally diverse groups, attempts to eliminate discrimination and improve access has an integral role in the achievement of GSIA. However, for reasons outlined below, the AMP should be sensitive to aspects that may undermine social inclusion initiatives.

Multiculturalism as a set of rights

The potential tensions of AMP in advancing cultural diversity and inclusion are highlighted when multiculturalism is approached as a set of individual rights. AMP promotes unity over diversity, which may limit the acceptance and inclusion of individuals with culturally divergent values and practices. For example, Principle 1 of the AMP states:

The Australian Government celebrates and values the benefits of cultural diversity for all Australians, within the broader aims of national unity, community harmony and maintenance of our democratic values.

An emphasis on understanding multiculturalism as operating within a framework of 'national unity' needs to beware of suggesting that the policy is directed towards the absorption of all individuals into one singular system of values. Whilst it is necessary for members of the community to agree on basic principles of social cohesion and respect for others, there are concerns if:
- It only recognises cultural diversity which does not interfere with 'national unity'
    - To avoid undermining the rights of individuals to retain their culture, the requirements for 'national unity' would have to be focussed on liberal democratic values including social inclusion and non discrimination) as discussed above and in my article in Appendix A.
    - We also need to be conscious of and affirm that the *Australian Citizenship Act 1948* (Cth) allows Australian citizens to hold dual citizenship. This demonstrates an acknowledgement that citizens can be members of other national communities without detracting from their loyalty to Australia. (Appendix A).

Multiculturalism for all Australians?
- It is unclear whether the government seeks to apply AMP to Australian citizens or all members of the Australian community. AMP refers to 'Australians' and 'migrants.'

- I would urge the Committee to consider this issue, as the policy is relevant to all individuals: citizens, permanent residents, visitors and potentially the Australian diaspora.
- To affirm the principle of multiculturalism for all Australians it would need to ensure that all people have access to influencing those decisions.[8]

Contribution of migrants

Recommendations to maximise the positive effects of migration

While I appreciate the value in acknowledging the "benefits" of multiculturalism, as a way of ensuring the whole community is supportive of it, we need to ensure that by focusing on migrants as a resource for our economic growth and international relations, we are not implying that they must provide a service to Australia in order to be welcomed into the community.[9] These considerations are undoubtedly significant in broader immigration policy, but we must be careful that multiculturalism affirms cultural diversity and inclusion of all living within our society. The details of Australia's skills migration policies may vary with the business cycle, but the importance of multiculturalism will not.

I recognise and affirm the importance of educating the broader community about the benefits of a new multicultural policy to underpin initiatives. However, for social inclusion to be effectively supported, I would recommend that any such process should have at its core an understanding of the broader social, political and cultural benefits to the wider community of migration and multiculturalism, as a source of the richness of Australian citizenship.

Professor Kim Rubenstein

Appendices:

Appendix A:

Kim Rubenstein, 'Loyalty and Membership: Globalization and Its Impact on Citizenship, Multiculturalism, and the Australian Community,' in Geoffrey Brahm Levey *Political theory and Australian multiculturalism* (New York: Berghahn Books, 2008).

Appendix B:
Kim Rubenstein and Mark Nolan, Citizenship and Identity in Diverse Societies,' *Humanities Research* (Vol XV, No. 1. 2009).

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[8] See The GSIA at: <http://www.socialinclusion.gov.au/SIAgenda/Pages/Overview.aspx>
[9] Appendix A, p. 182.