



## The Multicultural Council of the Northern Territory

### Submission for the National Human Rights Consultation

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PO Box 299  
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#### Introduction - the Multicultural Council of the Northern Territory

Established in 1977, the Multicultural Council of the Northern Territory (MCNT), based in Malak in Darwin's northern suburbs, is the peak local community-based organisation dedicated to advocacy for the interests, concerns and aspirations of people from culturally and linguistically diverse (CALD) backgrounds, particularly recently arrived migrants and refugees. The MCNT receives operational funding from the Northern Territory Government through the Office of Multicultural Affairs.

The MCNT is funded by the Federal Government with two major projects: a Settlements Grants Program project from the Department of Immigration and Citizenship (DIAC) which provides funding to organisations to help new arrivals settle and achieve self-reliance, and the Local Answers Program of the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) which combats economic and social disadvantage and ensures to ensure the building of socially inclusive communities.

#### Newly arrived migrants and refugees and the Human Rights framework

*"Human rights is the missing dimension of multiculturalism as it has been recently articulated in Australian policy. For example the economic participation of skilled immigrants, and the recognition of their qualifications, language retention, and inclusion in government decision-making- these are issues where there is clear intersection of social inclusion, of human and cultural rights and of multicultural principles."*

Tom Calma National Race Discrimination Commissioner 2008

It is the aim of the MCNT *"to achieve a truly inclusive multicultural society where diversity is celebrated and where there is no discrimination and disadvantage based on race, gender, sexual orientation, disability, religion, culture and language."* The MCNT welcomes the opportunity to provide this submission to the National Human Rights Consultation. For this submission the MCNT is focusing on three interrelated and interdependent basic human rights of concern and interest to our clients and stakeholders and which should be protected and promoted: employment, housing and citizenship.

## **Background to this submission**

The MCNT is a Darwin-based peak advocacy and consultative body representing the ethnic and multicultural communities of the Top End of the Northern Territory. For more than 30 years, the MCNT has acted as a liaison agency at the interface between migrant and refugee communities, the government and the wider community. The MCNT is a key player locally in promoting multiculturalism and building harmonious community relationships.

The MCNT encouraged its members and clients to attend the community roundtable discussions in Darwin on Monday 1<sup>st</sup> June 2009 for the National Human Rights Consultation. The MCNT's submission is based on the feedback collected from these two community roundtable discussions in addition to the expression of certain policy positions of the MCNT consistent with the stated roles of this organisation. This submission discusses issues relevant to protection and promotion of the basic human rights of employment, housing and citizenship as defined in the Universal Declaration of Human Rights (UDHR).

The MCNT advocates for an increased awareness and a sense of ownership of the UDHR and a discourse on human rights in the community as the foundation of peace, security and social justice. The UDHR, adopted by the General Assembly of the United Nations in 1948 in the aftermath of World War II with Australia's support, was the first international recognition that all human beings have fundamental rights and freedoms.

The UDHR is a statement of the basic rights and fundamental freedoms owed to all human beings. As a declaration, it does not have binding force, but it is internationally recognised as a cornerstone of human rights protection as a "moral compass". Australia is a signatory to the two main binding multilateral treaties relating to international human rights law: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

## **Employment as a Human Right in Australia**

### **Article 23 of the Universal Declaration of Human Rights:**

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.*
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.*
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.*
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.*

In Australia, people from CALD backgrounds, particularly refugee communities, face high levels of unemployment and underemployment and lower participation rates than for the mainstream community. The MCNT recognises the importance of creating sustainable employment opportunities for CALD communities within Australia.

The MCNT believes that meaningful employment and career development should not be separated from the settlement experience but in fact are essential to social inclusion, successful integration and effective participation of migrants and refugees in the mainstream Australian society and economy.

For migrant and refugee communities meaningful employment is linked to a positive self identity and facilitates financial independence and self-sufficiency. Moreover paid employment is a prerequisite to adequate housing and a satisfying lifestyle and is integral to enjoyment of all economic, social, civic and cultural rights.

The MCNT recognises that one of the major challenges for new arrived refugees in the Northern Territory is finding meaningful and sustainable employment. There are a number of well documented structural and cultural barriers to employment including unfamiliarity with the labour market and workplace culture, lack of local work experience, and inadequate recognition of overseas qualifications.

Even for newly arrived migrants and refugees who find suitable employment, there are issues with cultural norms and expectations, adjusting to Australian workplace culture and business practice, and differences in behaviour and communication. As well a lot of employment for newly arrived migrants and refugees does not meet the aspirations and reasonable expectations of these jobseekers.

Recruitment discrimination and active prejudice exists, particularly towards Muslim refugees and migrants, because of employer perceptions. There is a demonstrated aversion by many employers to consider employing people with Arabic or Islamic names and a fear of negative reactions of other employees and clients. These uninformed and unreasonable attitudes limit the earning potential of Muslim migrants and refugees in the community, further impacting adversely on social inclusion and integration.

Concerns are often expressed by the MCNT's clients about the cultural competence of Job Network agencies and the capacity or willingness of Job Network staff to support migrants and refugees with sourcing meaningful and sustainable employment. To date mainstream and generalist Job Network employment service providers have been under-resourced and poorly trained to work with newly arrived refugees and address their complex needs.

The MCNT welcomes the commitment to a social inclusion agenda and increased targeted assistance for disadvantaged and long-term unemployed clients including migrants and refugees in Job Services Australia which will replace the Job Network from 1<sup>st</sup> July 2009. It is the MCNT's view that there is the potential for Job Services Australia to work towards the protection and promotion of the human right of employment in Australia.

The MCNT takes the view that refugees in general are a highly resourceful and resilient group of people with a strong desire to succeed and a lot to offer the nation in terms of skills, adaptability, motivation and loyalty. In the context of the global economic crisis the MCNT believes that there needs to a greater focus on community-driven and holistic employment programs that provide real work experience, address structural and cultural barriers, and achieve measurable outcomes for CALD community jobseekers, particularly recently arrived migrants and refugees.

It is self-evident that highly skilled migrants working in low and medium skilled jobs represent inadequate use of skills and lost productivity to the Australian economy. Policy responses that address barriers to employment for immigrant and refugee communities will be important for the sustained economic development of the nation. The MCNT believes that while the right to employment is not considered to be a basic human right, a significant proportion of the community will be permanently excluded from effective economic participation in Australian society.

## Housing as a Human Right in Australia

### Article 25 of the Universal Declaration of Human Rights:

*(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*

Creating a new home is an essential step in the successful settlement of people from a refugee background. The Northern Territory takes a proportionate number of off-shore refugees for permanent settlement through the Humanitarian Program managed by the Department of Immigration and Citizenship (DIAC). Affordable, appropriate, safe and long term housing is a basic need which most people from refugee backgrounds have been denied for many years and is essential to provide stability and security and to facilitate development of social networks in their local community.

Despite initial on arrival subsidised assistance with public housing, recently arrived refugees are at extreme risk of homelessness when exposed to the private rental market because of low incomes, the shortage of suitable rental accommodation, short term leases, an absence of rental history and limited understanding of Australian tenancy rights and obligations. In addition to the social and economic isolation experienced by newly arrived refugees, many of these people arrive in Australia having survived conflict and trauma, with feelings of grief and guilt for the loss of family, community and country.

The right to adequate and appropriate housing is more than simply a right to shelter; it is the right to a home and to live in peace, security and dignity. The adequacy of housing depends on a range of factors including affordability, privacy, the security of tenure, availability of and proximity to services and social infrastructure, safety and habitability. Adequate housing is also essential for human dignity and overall quality of life.

The availability of adequate housing to a large extent determines whether or not refugees live in poverty. It impacts on the ability to participate in employment, education and training as well as the social life of the community and has considerable impact on health and well-being. It is clear that if the human right to housing isn't met, then it is highly likely that many other basic human rights are also not able to be met.

Australia is currently experiencing a national housing crisis. In recent times rents have sharply risen in the private rental market causing housing stress and a lack of available affordable rental properties. There is evidence that recently arrived migrants and refugees are disproportionately affected by inadequate housing. Inadequate housing causes and perpetuates poverty and social isolation. The difficulties with paying exorbitant rents and/or bonds on low incomes is compounded by the common requirement to send remittances overseas to families in countries of origin.

Support services, including housing support, must be designed and adequately resourced by governments to meet and manage these needs. All Australian residents and citizens have the right to housing which provides shelter, safety and privacy, is affordable and properly maintained, accessible to transport, employment and community services, and provides reasonable security of tenure and protection from homelessness. For people of refugee background with experience of protracted displacement, meeting these criteria is essential to being able to rebuild their shattered lives.

While refugees experience the same challenges in finding appropriate housing that are faced by many other Australian residents and citizens, there are a number of specific factors impacting on refugee families including the general inaccessibility of public housing, overcrowding amongst households often comprised of unrelated adults, discrimination and harassment from landlords, and social isolation in hostile and threatening neighbourhoods. There is an inability of larger refugee families to afford suitably sized homes. Some of the families arriving are very large families with 10 to 12 members and requiring adequate housing for an extended family.

The MCNT would contend that in relation to housing and homelessness, human rights are not sufficiently protected and promoted in Australia. The MCNT believes that adequate housing is a fundamental human right. All citizens and residents have a right to expect their Governments to be concerned about their shelter needs, and to accept a fundamental obligation to protect and improve neighbourhoods. All Australian residents and citizens are entitled to live in safe, secure and affordable accommodation. Housing needs to be acknowledged by governments as a basic human right and affordable housing should be made available for people on low incomes.

The MCNT supports the development of an affordable private rental market in the Top End of the Northern Territory, possibly attained by including a minimum 15% of affordable social housing for low income families mandated for new developments, tax incentives for building affordable housing or by the provision of low interest loans for building affordable rental properties.

## Citizenship as a Human Right in Australia

### Article 15 of the Universal Declaration of Human Rights:

*(1) Everyone has the right to a nationality.*

*(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.*

The MCNT, as does the national peak body the Federation of Ethnic Communities' Councils (FECCA), in its submission to the National Human Rights Consultation "*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 believes that access to a non-discriminatory pathway to citizenship is a human rights issue rather than a privilege.

The MCNT also agrees also with the national peak body 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 Citizenship Test was introduced in Australia in October 2007 by the Howard Government. There was evidence that candidates from countries of origin of a non-English speaking background had a higher failure rate than other aspiring citizens. Preliminary results demonstrated that the Citizenship Test appeared to discriminate against candidates from non-English speaking backgrounds and/or humanitarian entrants. In general refugees performed poorly compared to skilled migrants.

In the wake of these results in April 2008 the incoming Rudd Government appointed an independent committee to conduct a review of the Citizenship Test. The resultant Report on the Australian Citizenship Test Review "*Moving forward ... Improving Pathways to Citizenship*" was released in November 2008. The new revamped Citizenship Test will be released in August 2009, with special provisions for humanitarian entrants.

The key findings of this Report are "*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*".

Many human rights in civil, political, social and cultural spheres cannot be expressed and enjoyed, unless secured by citizenship. Citizenship allows us to belong to a community and officially be afforded the Government's protection. Citizenship gives us the capacity to exercise the right to vote and to fully participate in public affairs, to apply for a passport or visa and to have access to full consular assistance when travelling overseas.

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 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.

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 facilitated a community consultative meeting to discuss the proposed changes canvassed in this discussion paper in September 2006. The MCNT also provides 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. These displaced populations most often have more complex resettlement needs for life in Australia than those who have not experienced such prolonged displacement. This has particular impacts on children and young people who often have known no other life or community environment that is not a refugee camp.

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 would contend that in relation to citizenship, human rights are not sufficiently protected and promoted in Australia. It has been the MCNT’s long held view that a formal citizenship test should not be introduced and that the arrangements in place prior to October 2007 should have been maintained. However it is evident that the Citizenship Test in some form is here to stay. The MCNT looks forward to the introduction of the revamped Citizenship Test in August 2009 and trusts that it will be much fairer than before.

## **Conclusion**

Millions of people around the world have no choice but to flee their homeland to escape persecution and conflict or to seek a more secure future. The notion of a “fair go” for all and national identity has always been fundamental to Australia’s success as a multicultural immigrant society and is at the very heart of Australia’s successful immigration and settlement policies.

Australia has a commendable history and reputation in effectively meeting international humanitarian and human rights obligations in terms of refugee resettlement in terms of the size of its program as well as in quality of many of the resettlement services provided. On a per capita basis, Australia in fact settles more off-shore refugees and spends more on the settlement needs of these refugees than any other country.

Australia is regarded internationally as a successful model for social harmony and cultural inclusiveness. It is MCNT’s view that the vast majority of new settlers over many years have successfully integrated into, and contributed to, the mainstream Australian society and economy. Australia has an obligation to protect the human rights of all migrants and refugees who arrive in Australia.