

Professor Kim Rubenstein cited in *The Australian – Higher Education*
Article by Bernard Lane
September 20, 2006

Citizenship test 'could face court'

A MIGRANT who fails the new citizenship test may be able to succeed in a court challenge.

"A lot of legal issues would flow from introducing the test," said Kim Rubenstein, director of the Centre for International and Public Law at the Australian National University.

Depending on how the federal Government drew up its legislation, the courts might be able to rule on whether failure in the test was enough to deny a migrant citizenship or whether the test went beyond the Citizenship Act, Professor Rubenstein said.

Andrew Robb, federal parliamentary secretary for immigration, has floated changes that would make it more difficult for migrants to gain citizenship, a key change being a test requiring a good grasp of English and the values of an open and liberal society.

But Professor Rubenstein challenged the statement in Mr Robb's discussion paper that citizenship was "the single most unifying force in our culturally diverse nation".

"That is very contestable. Citizenship as a legal notion has been much more of an exclusive notion," she said.

She gave as an example the past denial to Aborigines of rights associated with citizenship.

Sociologist Katharine Betts, an associate professor at Swinburne University of Technology, said it might be hard to devise a credible citizenship test but in principle it was a good idea.

"If any liberal democracy is going to endure and survive, it's got to have much more of a sense of social cohesion than just being a bunch of people who happen to be passing through," she said.

Dr Betts said it was "absolutely silly" to suggest that Australian values had to be home-grown and exclusive to Australia; shared values such as democracy and the rule of law were vital.

"The one unique value that only Australians have is their commitment to the Australian national community and the land that we need to nurture and look after for our descendants," she said.

Without a shared sense of history and collective memory of those who had served the nation, people today could not be expected to make sacrifices for a common future. "The greatest enemy of altruism is not selfishness, it's fear of exploitation," Dr Betts said.

University of Sydney anthropologist Ghassan Hage said one should aspire to values, not glibly claim possession of them. "When we say we have values and try to test others to see if they have them too, it makes values appear as trite, facile things that anyone can get," he said. In *New Matilda* magazine, he drew on his experience as a 19-year-old migrant from Lebanon to lampoon those he called the "ugly Australian assimilationists".

<http://www.theaustralian.news.com.au/story/0,20867,20441703-12332,00.html>