

Citizenship, Migration and the Production of the Australian Community

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Our talk...

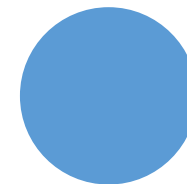
What is social cohesion?

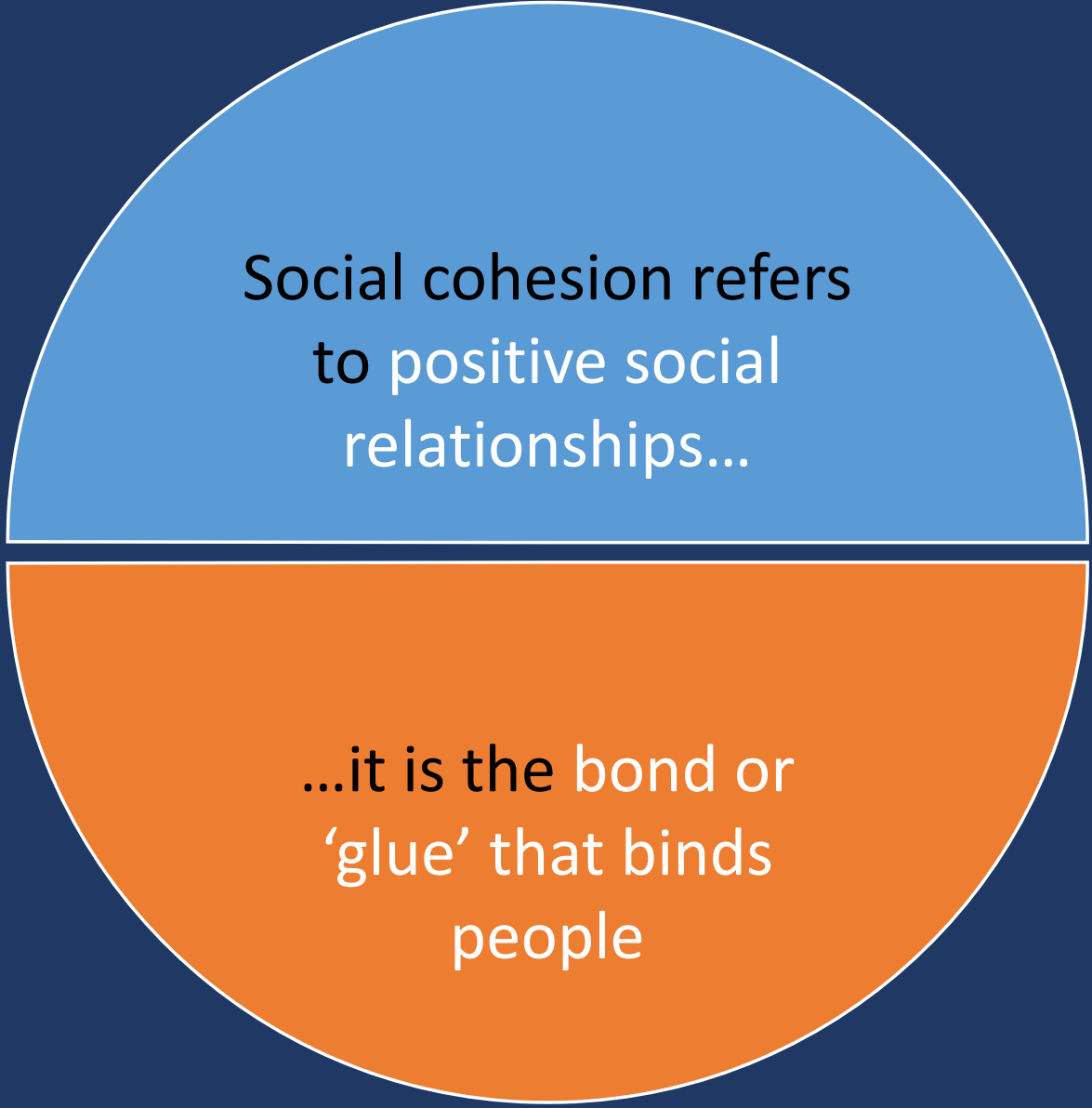
What is the relationship between migration and citizenship law and policy and social cohesion in Australia?

How are migration and citizenship law and policy being constructed to deal with contemporary challenges (in particular national security)

What does this mean for social cohesion?

What is “social cohesion”



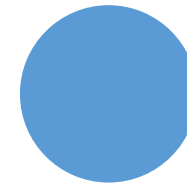


Social cohesion refers
to positive social
relationships...

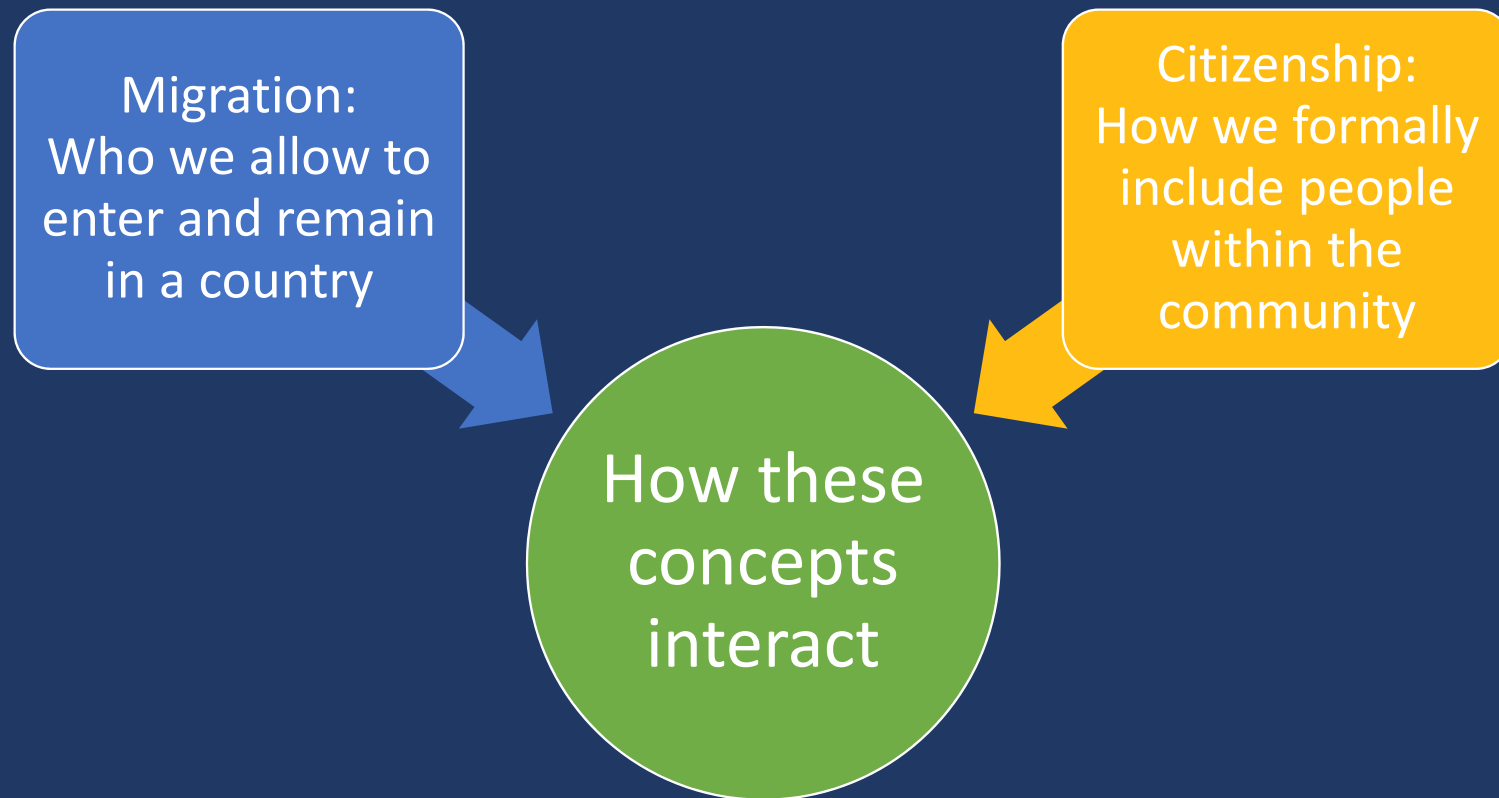
...it is the bond or
'glue' that binds
people



Social cohesion, citizenship
and migration

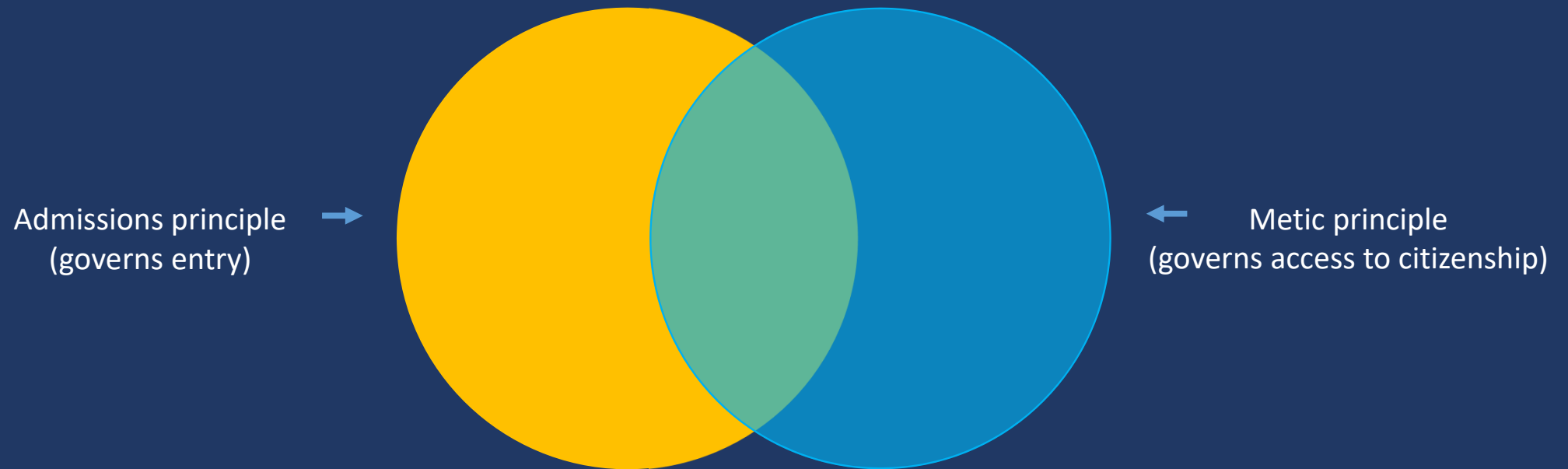


Social cohesion is influenced by...



Some theory...

Political theorist Michael Walzer argues that social cohesion is governed by two interconnected principles...



Admissions principle...



Metic principle...

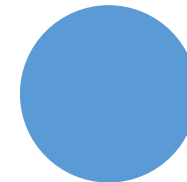
Defined by equality and
shared obligation

"No democratic state can
tolerate the establishment
of a fixed status between
citizen and foreigner"





Historical relationship between citizenship and migration in Australia



*Multiculturalism
reflected in
policy, not law*

49% of
citizens born
overseas or
have a parent
who was

Identify
with 300
ancestries

85% agree
multiculturalism
has been good
for Australia

More
than 7.5
million
migrants
since
1945

More than
150
Indigenous
languages

*Multicultural
Australia:
United, Strong
and Successful*

Mandarin

Spanish

Hindi

Tagalog

Greek

Italian

Many
languages
besides
English
commonly
spoken

Punjabi

Arabic


Cantonese

Vietnamese



Federal legislative power

S 51 of the Australian Constitution says that the federal Parliament has the power to make laws with respect to...



(xix)
Naturalization
and aliens



(xxvii)
Immigration and
emigration

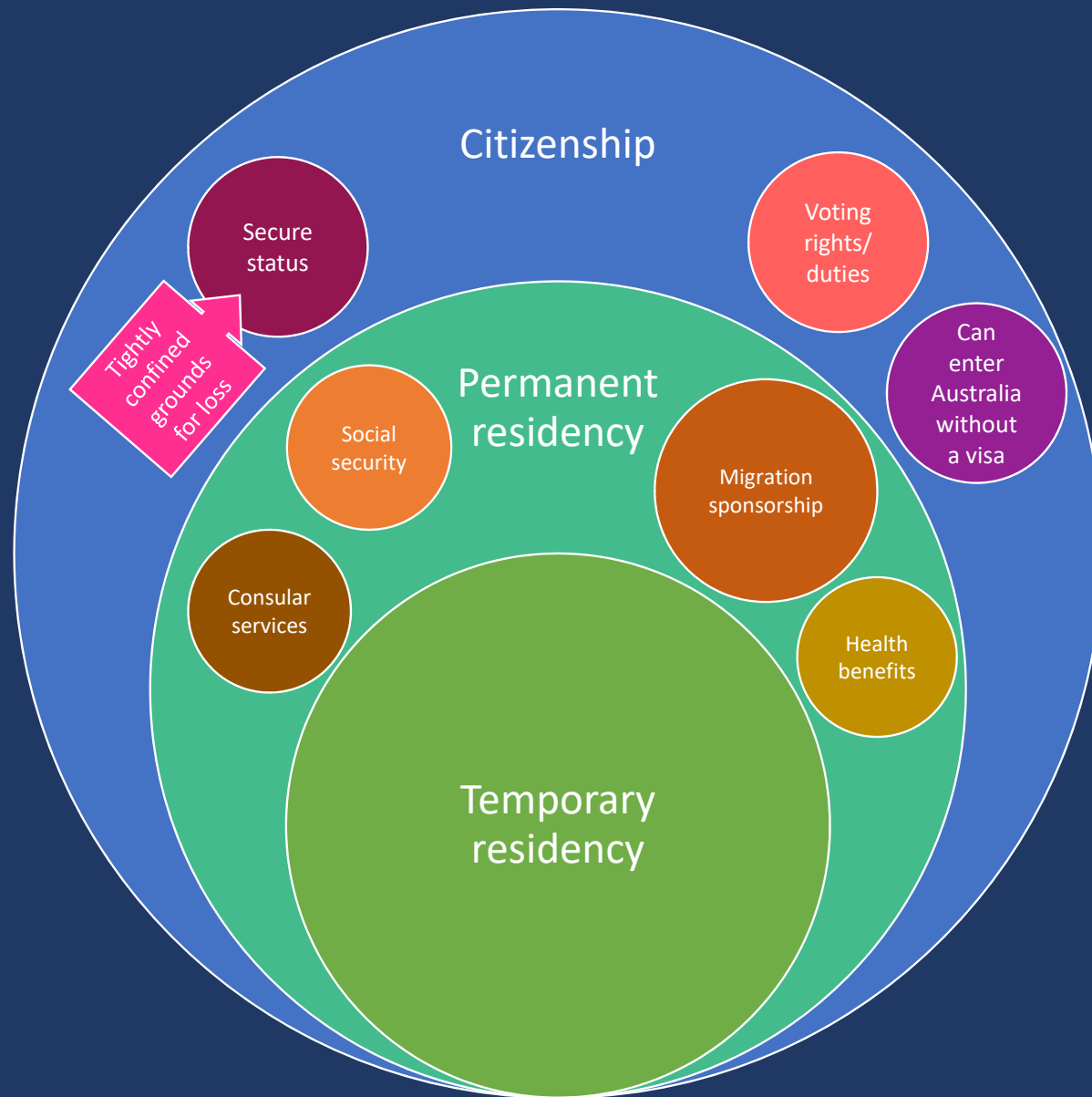
Migration Act 1958
s 4

The object of the *Migration Act* is to...

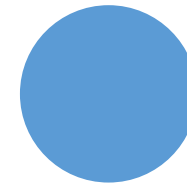
regulate, in the national interest, the coming into, and presence in, Australia of non-citizens'

Australian Citizenship Act 2007,
Preamble

Australian citizenship represents full and formal membership of the community of the Commonwealth of Australia, and Australian citizenship is a common bond, involving reciprocal rights and obligations, uniting all Australians, while respecting their diversity



Contemporary challenges and
their impact on citizenship and
migration policy



“Terrorism poses a direct and ongoing threat to the safety and wellbeing of Australians both in Australia and abroad.”

“The current terrorism threat to Australia and Australian interests is unprecedented in our history.”

Established impact on contemporary migration law and policy

Emerging impact on citizenship law

The current terrorism threat to Australia and Australian interests is unprecedented in our history.

View that migration law should be focused on national security and protection of borders

Shift towards longer periods of temporary/permanent residency before access to citizenship + greater powers for removal

These factors shaped contemporary Australian migration law in ways that allow the executive shape and enforce the exclusionary nature of migration law with significant implications for social cohesion

Migration law responses to national security since 2014

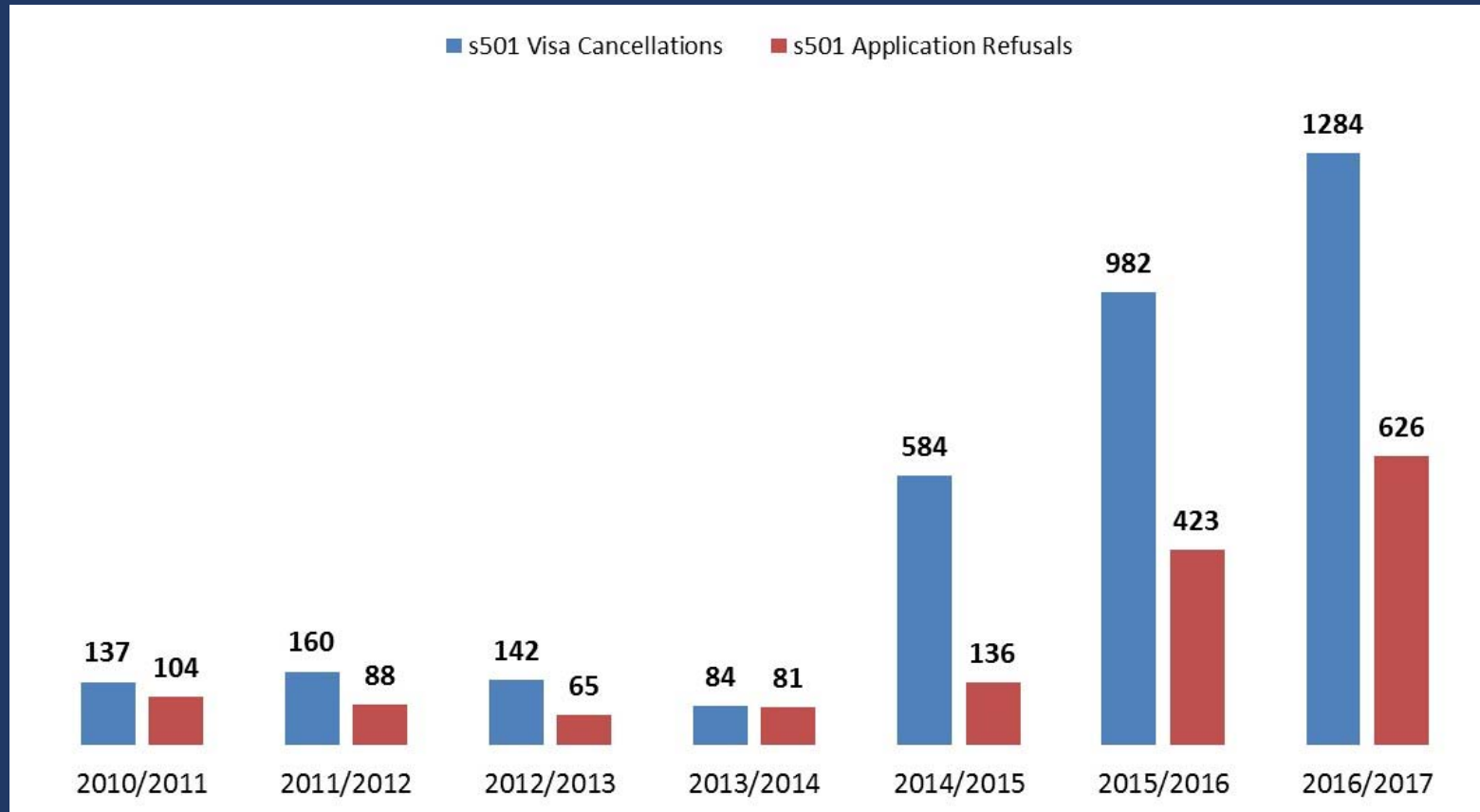
Introduction of the
Australian Border
Force (ABF)

Legislative changes that
have increased
executive power to
cancel visas of non-
citizens on character
grounds

“Continuing to secure our borders, while enabling seamless legitimate movement of people and goods, will be essential to ensuring Australia remains a prosperous society” – ABF Blueprint for Integration (2014).

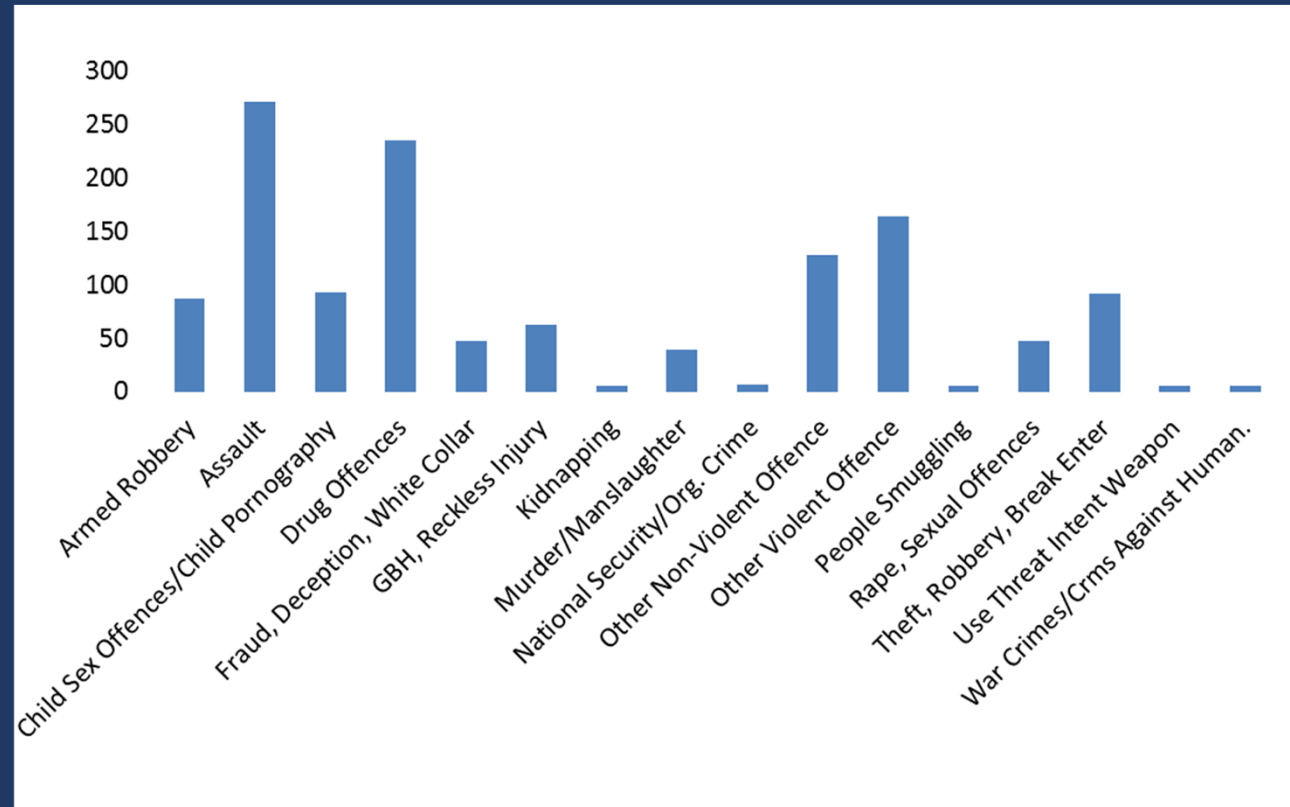
The Blueprint for Integration refers to the Department’s role to achieve “a prosperous and cohesive society” but very little information on how cohesion is to be achieved

Visa character cancellation and refusals under s 501 (character grounds)



<https://www.border.gov.au/about/reports-publications/research-statistics/statistics/key-cancellation-statistics>

Crime types for character cancellation over the last 12 months



<https://www.border.gov.au/about/reports-publications/research-statistics/statistics/key-cancellation-statistics>

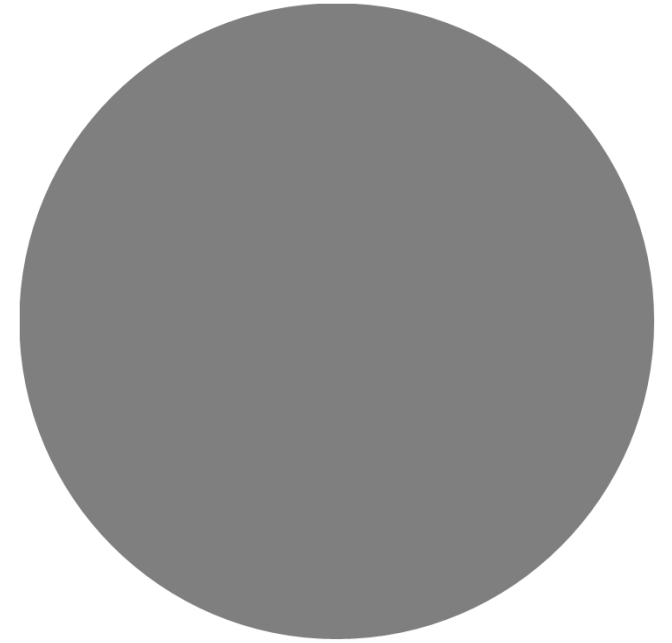
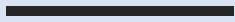
Does an increase in character cancellation and removal add to social cohesion?

Increase numbers of permanent and temporary visa holders liable for visa cancellation and removal despite living and contributing to Australian society

What are the impacts on Australian family members that are left behind?

What are the broader impacts on society's view of migrants? Add to 'othering' of migrants?

Case study 1:
Australian Citizenship
Amendment (Allegiance to
Australia) Act 2015





“It’s clear to me that for too long we have given those who might be a threat to our country the benefit of the doubt. There’s been the benefit of the doubt at our borders, the benefit of the doubt for residency, the benefit of the doubt for citizenship and the benefit of the doubt at Centrelink ...We are a free and fair nation. But that doesn’t mean we should let bad people play us for mugs, and all too often they have.”

Prime Minister Tony Abbott, 2015

Grounds for citizenship revocation pre-2015

Convicted of a serious offence in relation to an application for citizenship

Convicted of having obtained citizenship by fraud

Convicted of a 'serious offence' in the window between lodging an application for citizenship and having citizenship conferred

Dual citizen who served in the armed forces of a country at war with Australia

Ministerial discretion to revoke citizenship where this is in the public interest

Automatic citizenship loss

Allegiance to Australia Act 2015

For dual citizens...

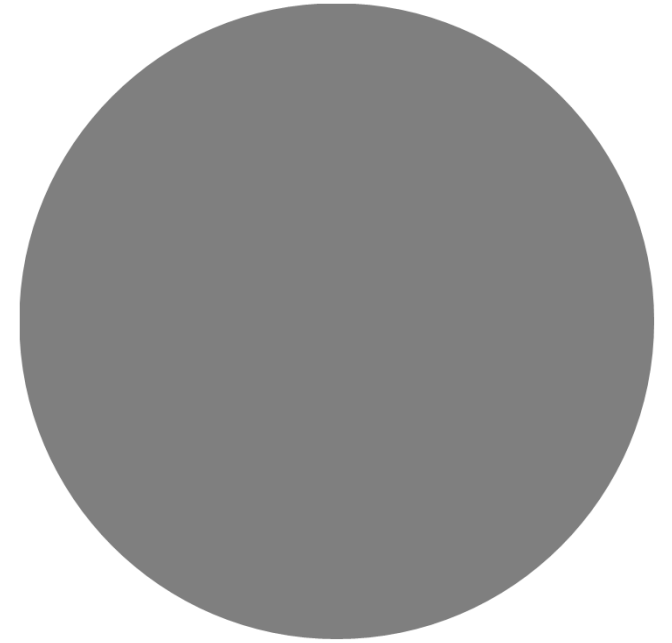
Automatic citizenship loss for committing prescribed conduct (relating to terrorism & foreign incursion offences) with the intention of advancing a political, religious or ideological cause; coercing or influencing a government by intimidation; or intimidating the public

Automatic citizenship loss for fighting for, or in the service of a terrorist organisation

Ministerial discretion to revoke citizenship where a person is convicted of prescribed offences, and sentenced to at least 6 years imprisonment.

The Minister must be satisfied that revocation is in the public interest and that the conviction demonstrates a repudiation of allegiance to Australia

Case study 2:
Australian Citizenship
Amendment (Strengthening
the Test for Australian
Citizenship) Bill 2017



“Changes to citizenship will enable our migration program to contribute still further to our social cohesion while enhancing our security... Australia must continue to attract people who will embrace our values and positively contribute, regardless of nationality or religious belief... Citizenship must be valued and we’re making changes so the practices and principles of those obtaining citizenship are consistent with our cultural values.”

Prime Minister Malcolm Turnbull, 2017

Strengthening the Test for Australian Citizenship Bill 2017

Numerous proposed amendments including...

Wide ministerial discretion to determine key criteria for obtaining citizenship by conferral
(eg standard of English; values applicant must commit to; criteria for determining integration)

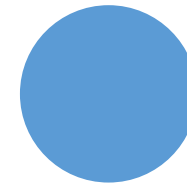
Ministerial power to determine that citizenship has been obtained by fraud or misrepresentation
and to revoke it on this basis

Expanded ministerial discretion to suspend or cancel a person's acquisition of citizenship after their
application has been approved but before conferral

Removal of key safeguards such as requirements for criminal conviction and AAT review



Better responding to
contemporary challenges:
Some suggestions



1

We should aim for clarity about the respective objectives of migration and citizenship laws

2

Changes to migration and citizenship law should be well-integrated with social cohesion and integration policy

3

Inclusive, holistic discussion to unpack the relationship between national security and social cohesion

4

Where proposed changes are underpinned by a social cohesion rationale, we need evidence-based analysis of the likely impact on social cohesion in Australia.

5

International comparators should be used selectively, bearing in mind any relevant differences in immigration models.