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Parliamentary Joint Committee on Intelligence and Security
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14 October 2019

Submission to the Review into the Australian Citizenship Amendment (Citizenship Cessation) Bill 2019

Thank you for the opportunity to comment on the *Citizenship Cessation Bill 2019*. This submission was prepared by Andrea Leong on behalf of the Science Party. This submission does not need to be kept confidential and may be made public.

1. Summary

1.1 We urge the parliament to fully repeal all citizenship revocation and cessation provisions arising from the 2015 'Allegiance to Australia' bill.

1.2 If revocation provisions are to persist, we most strenuously argue for:

- (A) the repeal of 'self-executing' renunciation 'by conduct' provisions; and
- (B) revocation by the minister to be possible only in where a person's relevant conduct is determined by due process to be fact, and their citizenship of another country confirmed by the other country; and
- (C) greater transparency surrounding the Citizenship Loss Board.

2. Response to Subdivision B—Citizenship renunciation and revocation

We welcome the proposal to repeal sections of the *Australian Citizenship Act 2007* that provide for cessation of citizenship 'by conduct', as recommended by the Independent National Security Monitor¹ (INSLM). It is shocking that such blatant and absurd violations of human rights and common sense were ever passed into Australian legislation.

3. Response to Subdivision C—Citizenship cessation determinations

3.1 *In defence of citizenship*

We believe that it should not be possible to revoke Australian citizenship — whether the person is a sole or dual citizen; and whether citizenship was gained automatically, through

¹ 'Review of the terrorism-related citizenship loss provisions in the Australia Citizenship Act 2007', 3rd INSLM, 7th Report (2019) (<https://www.inslm.gov.au/sites/default/files/files/INSLM%20Citizenship%20Unclassified%20report%20FINAL.pdf>)

application or by conferral. The exception to this rule is if citizenship was found to have been gained fraudulently, in which case it can be taken to have never have been gained.

It is unacceptable in our view to devalue the notion of citizenship by demoting it to a privilege that can be withdrawn.

We do not believe that revocation of citizenship is a proportionate punishment for any crime — it is the modern equivalent of exile, except now it carries with it the risk of statelessness.

3.2 *International obligations*

The aforementioned INSLM report also drew together points made in several submissions regarding Australia's international obligations to combat terrorism, and to not make any person stateless. Cessation of citizenship by ministerial discretion, subject to the minister's satisfaction that the person is a citizen of another country, threatens the right to not be stateless and our ability to meet these obligations.

Under section 36(B)2 of the Citizenship Cessation Bill:

"the Minister must not make a determination [that the person ceases to be an Australian citizen] if the Minister is satisfied that the person would, if the Minister were to make the determination, become a person who is not a national or citizen of any country."

It is patently insufficient that the minister be satisfied that the person holds citizenship of another country. If this power is to be exercised, it must first be established that the person is in fact a citizen of a second country, and that the other country officially recognises the person as a citizen.

We also see it as being the responsibility of the Australian legal system to protect Australians and the global community from Australians who are suspected of having links to terrorism.

3.3 *Transparency of the process*

Despite the existence of the Citizenship Loss Board being public information since at least April 2016², we know very little about it. We can only presume it was created in response to the Parliamentary Joint Committee on Intelligence and Security's report on the 2015 'Allegiance to Australia' bill³. Public confidence in the citizenship loss process might be increased by greater transparency around the board, to the extent that such transparency does not prejudice national security.

We stress, however, that regardless of procedural correctness, we find revocation of citizenship unacceptable on any terms.

² 'What is the Citizenship Loss Board and how will it work?' SBS. (14 April 2016)

(<https://www.sbs.com.au/news/what-is-the-citizenship-loss-board-and-how-will-it-work>)

³ 'Advisory report on the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015', para. 5.6

(https://www.aph.gov.au/parliamentary_business/committees/joint/intelligence_and_security/citizenship_bill/report)