



Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
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FECCA submission regarding the Australian Citizenship Amendment (Citizenship Cessation) Bill 2019

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations.

FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA strives to ensure that the needs and aspirations of Australians from diverse cultural and linguistic backgrounds are given proper recognition in public policy.

FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

FECCA would welcome the opportunity to expand on this submission as required. For enquiries please contact FECCA Acting CEO Mohammad Al-Khafaji [REDACTED]

Recommendations

1. To reduce the risk of people becoming stateless, the Australian Citizenship Amendment (Citizenship Cessation) Bill 2019 is not passed in its current form.
2. The Bill must require the Minister to ensure that the person is, in fact and in law, a national or citizen of a country other than Australia at the time when of the determination - not merely be "satisfied" of this fact.
3. Ensure access for all to appropriate and transparent reviews of citizenship cessation decisions addressing the facts.
4. Access to merits reviews is an essential addition to this amendment given the devastating and long lasting impact on a person, their family and community.
5. Consideration that the removal of a person from Australia – including some who have spent their whole lives in this country – can have a devastating impact on the person, their family and community.

Discussion

For Australians, the right to nationality is a basic human right shared by all. FECCA welcomes measures to repeal automatic citizenship cessation processes in consideration of the serious consequences of such determinations. This change must be appropriately safeguarded to ensure no person becomes stateless as a consequence. FECCA believes that whether a person would, if their Australian citizenship was ceased, become a person who is not a national or citizen of any country is not a subjective matter. As citizenship is an objective fact, and the potential for devastating and long lasting impact on a person, their family and community, FECCA believes the threshold for this determination of cessation of citizenship should not be changed from fact to the Minister's satisfaction. The decision to cease Neil Prakash's Australian citizenship highlights the difficulty in determining the dual national/citizen status of a person and the requirement for a more rigorous process to ensure no Australian becomes stateless. FECCA understands that a person may seek review of a determination in the High Court of Australia. Awaiting decision or without access to the courts and left without citizenship of any country, the person would be indefinitely detained despite potentially carrying a 3 year sentence.

FECCA is concerned that this amendment will restrict the availability for review where, despite the Minister being 'satisfied' that the person would not become a person who is not a national or citizen of any country, the cessation of their Australian citizenship would result in the person becoming stateless. FECCA is concerned that the review process for determinations made by the Minister are limited to asking the Minister to reconsider or seeking review by the High Court of Australia. This process is characterised by difficulty in accessing legal representation and relies on the person understanding the complexities of this review process. The fact that a person has become stateless based on a citizenship cessation decision is no longer subject to review under this amendment. The court can only review the reasonableness of the Ministers decision based on their 'satisfaction'. Due to the devastating impact this decision may have on a person and the person would only be notified post-decision, FECCA strongly believes that the availability of a merits review should be included and the facts, not the Minister's satisfaction, be under review.

FECCA endorses and urges the committee to refer to the submission from the Law Council of Australia and the Australian Human Rights Commission for further information on the technicalities of the proposed amendments.