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AUSTRALIA

Inquiry into the Australian Citizenship and Other Legislation Amendment Bill 2014

Submission to the Senate Legal and Constitutional Affairs
Legislation Committee



Andrew & Renata Kaldor
Centre for International
Refugee Law

Never Stand Still

Law

4 November 2014

Dear Committee Secretary,

Inquiry into the Australian Citizenship and Other Legislation Amendment Bill 2014

I welcome the opportunity to provide a submission to this inquiry, and would like to make two brief overarching points about the Bill.

First, any decision relating to the approval/rejection of an application for citizenship, or revocation of citizenship, must be subject to legislative safeguards ensuring that the decision will not render a person stateless. Without such safeguards, there is a risk that Australia will act contrary to its obligations under the 1961 Convention on the Reduction of Statelessness, the 1989 Convention on the Rights of the Child and the 1966 International Covenant on Civil and Political Rights.

Secondly, proposed section 52A of the Bill grants the Minister sweeping discretionary powers to overturn decisions made by an independent statutory body, the Administrative Appeals Tribunal, based solely on whether the Minister 'is satisfied that it is in the public interest to do so'. The effect of this provision is to enable the Minister to overturn the Tribunal's decision and (in effect) restore the decision of the Minister's delegate. This makes a mockery of the merits review process by undermining procedural fairness and the independent powers of the Tribunal, and interfering in due process and the rule of law.

Please do not hesitate to contact me should you require further information.

Yours sincerely,

Professor Jane McAdam

Director of the Andrew & Renata Kaldor Centre for International Refugee Law