

Thursday, 14 February 2019

Flawed citizenship-stripping Bill shouldn't be passed

The Law Council of Australia has reiterated its strident opposition to the Federal Government's proposed citizen-stripping laws, which could render people stateless, do not adhere to international obligations and remain under a constitutional cloud.

Today the [Parliamentary Joint Committee on Intelligence and Security has delivered a rare split report](#) on the proposed legislation, which included a minority report from the Federal Opposition recommending the Bill not be passed in its current form.

The minority report outlined significant concerns, which take into account issues the Law Council has consistently raised about this fundamentally flawed legislation.

Law Council President, Arthur Moses SC, said he strongly supported the minority report's recommendation to oppose the passage of the proposed laws.

"This flawed bill is an overreach of ministerial powers with the potential for serious unintended consequences," Mr Moses said.

"From the time this legislation was announced the Law Council has voiced concerns about the validity and appropriateness of these new laws.

"National security and keeping Australians safe from terrorism is always a priority, but such laws must be proportional and not erode the rule of law. Vitally, laws that invoke national security concerns must be valid, effective and not create uncertainty.

"It is also pointless to enact laws that carry such a high risk of constitutional challenge.

"Disappointingly, the majority report released today does not address the Law Council's serious concerns."

The Law Council's concerns include:

- The basis and scope of the Bill's constitutionality is uncertain;
- A person could have their citizenship removed while possessing no other citizenship if the Minister for Home Affairs believes they may not be rendered stateless;
- The removal of the six-year threshold could capture a range of low-level offending as a basis for citizenship removal; and
- Retrospective application of the Bill would contravene fundamental notions of justice, fairness and the rule of law.

"This Bill would create uncertainty as to who is an Australia citizen and could lead to disputes with other countries who disagree with the decision of the Home Affairs Minister," Mr Moses said.

"If the rule of law is compromised, we risk jeopardising many of the freedoms we are looking to defend. We implore the Parliament not to pass this Bill."

You can read the Law Council's [earlier submission here](#).

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The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.