



Australian  
Human Rights  
Commission

# Call for Submissions – Discussion Paper – “Australian Citizenship – your right, your responsibility”

**AUSTRALIAN HUMAN RIGHTS COMMISSION SUBMISSION TO THE  
DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION**

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## 1 Introduction

1. The Australian Human Rights Commission makes this submission to the Department of Immigration and Border Protection in response to the call for submissions contained in its discussion paper entitled “Australian Citizenship – your right, your responsibility.”<sup>1</sup>
2. This submission is primarily directed to the following question contained in the discussion paper:

Should the powers of revocation [of Australian citizenship] apply to citizens when the Minister has reasonable grounds to believe that the person is able to become a national of another country or territory under their laws and where it would not leave that person stateless?
3. This question is posed in relation to a discussion of Australian citizens alleged to have engaged in terrorism.
4. The Commission acknowledges the seriousness of the threat posed by terrorism, and the critical importance of protecting the Australian community from that threat. The Commission submits that the most appropriate avenue for dealing with persons accused of committing terrorist acts is criminal prosecution.
5. The Commission considers it is unlikely circumstances would exist in which the proposed revocation power could be exercised without rendering a person stateless. The Commission further submits that the proposal would be contrary to Australia’s obligations under a number of international conventions, including the *Convention on the Reduction of Statelessness*<sup>2</sup> (Statelessness Convention), the *International Covenant on Civil and Political Rights*<sup>3</sup> (ICCPR), and the *Convention of the Rights of the Child*<sup>4</sup> (CRC).
6. This submission does not specifically address the topic of the revocation of the Australian citizenship of persons holding dual citizenship. The Commission understands that that issue lies outside the scope of the current discussion paper. The government introduced a Bill dealing with that issue on 24 June 2015.<sup>5</sup>

## 2 Recommendations

**Recommendation 1: The Commission recommends that no power should be introduced that would permit the Minister to revoke the citizenship of Australians who are not currently dual citizens.**

**Recommendation 2: In the event that Recommendation 1 is not accepted, the Commission urges that all appropriate measures be taken to ensure that the risk of statelessness, and other human rights violations, is minimised by ensuring that any mechanism to revoke citizenship:**

- a. applies in only the most exceptional circumstances;
- b. only be enlivened by a criminal conviction for a terrorist act;

- c. **applies only where the acquisition of an alternative nationality would occur as of right, automatically and without delay;**
- d. **is never applied to children;**
- e. **is transparent, and based on clearly articulated criteria;**
- f. **takes into account all relevant criteria including the effect on family, and makes the rights of any affected child a primary consideration;**
- g. **is prospective, applying only to future conduct;**
- h. **ensures that any decision to revoke citizenship is made by an independent and non-political decision maker;**
- i. **affords an affected citizen natural justice;**
- j. **is subject to full merits review; and**
- k. **is reversed pending review in the event that a person does not in fact obtain alternative citizenship within a short fixed period (of, say, no more than six months).**

### **3 The Value of Australian Citizenship and the Citizenship Pledge**

- 7. The discussion paper states that ‘citizenship is a cornerstone of Australia’s inclusive and pluralist democracy.’ Australian citizenship may be obtained in a number of ways, including through descent and naturalization. As the discussion paper notes, ‘[t]oday, almost half our population were born overseas or has at least one parent.’
- 8. Persons who obtain Australian citizenship by conferral generally take a pledge of commitment, which includes the following:<sup>6</sup>

I pledge my loyalty to Australia and its people,  
whose democratic beliefs I share,  
whose rights and liberties I respect, and  
whose laws I will uphold and obey.<sup>7</sup>
- 9. The Commission considers that this pledge contains an appropriate statement of the rights and responsibilities of Australian citizenship.

## **4 Revocation of Citizenship**

### **4.1 The Right to Nationality**

- 10. The right to nationality is a human right protected in international law.<sup>8</sup>
- 11. Article 15 of the *Universal Declaration of Human Rights*<sup>9</sup> (UDHR) provides:
  - (1) Everyone has the right to a nationality
  - (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

12. In its *Guidelines on Statelessness No. 1*,<sup>10</sup> the United Nations High Commissioner for Refugees stated:

[w]here States grant a legal status to certain groups of people over whom they consider to have jurisdiction on the basis of a nationality link rather than a form of residence, then a person belonging to this category will be a “national” for the purposes of the 1954 Convention.
13. While the concept of nationality is not exactly coincident with that of citizenship, it is clear that the proposal in the discussion paper to deprive Australians of citizenship would deprive them of their nationality.
14. The right to nationality is, like other human rights, inalienable.<sup>11</sup> It is therefore not appropriate to talk of ‘forfeiture’ of the right.<sup>12</sup> Indeed, under the Statelessness Convention, even a renunciation of nationality must not result in the loss of nationality, unless the person making the renunciation acquires another nationality.<sup>13</sup>

## **4.2 The Statelessness Convention**

15. The Statelessness Convention is the primary international instrument dealing with the means of avoiding statelessness. Australia is a signatory to that Convention. It contains a general prohibition on conduct by States Parties that would deprive a person of nationality if doing so would result in their becoming stateless.<sup>14</sup> A ‘stateless person’ is ‘a person who is not considered as a national by any State under the operation of its law’.<sup>15</sup>
16. Articles 8(2) and 8(3) set out an exhaustive list of exceptions to this basic rule. While States may provide for deprivation of nationality on grounds other than those set out in the Convention, they may not apply such provisions to individuals who would thereby be left stateless.<sup>16</sup>
17. Article 8(2) of the Convention states that a person may be deprived of their nationality where the nationality has been obtained by misrepresentation or fraud;<sup>17</sup> or in certain circumstances where it is permissible that a person should lose his nationality.<sup>18</sup> These circumstances are not applicable in the context of this submission.<sup>19</sup>
18. Article 8(3) of the Convention states that:

...a Contracting State may retain the right to deprive a person of his nationality, if at the time of signature, ratification or accession it specifies its retention of such right on one or more of the following grounds, being grounds existing in its national law at that time:

  - (a) that, inconsistently with his duty of loyalty to the Contracting State, the person
    - (i) has, in disregard of an express prohibition by the Contracting State rendered or continued to render services to, or received or continued to receive emoluments from, another State, or

(ii) has conducted himself in a manner seriously prejudicial to the vital interests of the State;

(b) that the person has taken an oath, or made a formal declaration of allegiance to another State, or given definite evidence of his determination to repudiate his allegiance to the Contracting State.

19. Terrorist acts may be considered to fall within the scope of Article 8(3)(a)(ii).<sup>20</sup> However, the exception only applies to conduct which is seriously prejudicial to the vital interests of the State, rather than those of other States with which it has friendly relations. Prejudice to 'vital interests' involves an existential threat to the State in question. The exception establishes a very high threshold.<sup>21</sup>
20. In any event, the exception in article 8(3) may only be relied on by States that took the necessary steps before entering into the treaty to retain a previously existing right to deprive persons of nationality in accordance with the article. Like the majority of signatories, Australia did not do so.<sup>22</sup>
21. An Expert Meeting convened by the United Nations High Commissioner for Refugees has released a paper entitled *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality*. In that paper, the experts considered that 'where the 1961 Convention requires that a person shall not lose or be deprived of nationality if this would render him or her stateless, States are required to examine whether the person possesses another nationality at the time of loss or deprivation, not whether they could acquire a nationality at some future date'.<sup>23</sup>
22. Stripping an Australian of their citizenship at a time the Minister believes they are 'able to become' a citizen of another country will always, or virtually always, leave that person, at the time of the decision, stateless.
23. The only possible exception would be in circumstances where a person *immediately* obtained nationality of another country when their Australian citizenship is lost (say, by operation of the law of the other State). The Commission is unable to say whether that would ever occur in practice.
24. Even where it is permissible under the Statelessness Convention for a person to lose their nationality, that loss must never be arbitrary. Accordingly, any deprivation of nationality must serve a legitimate purpose and be the least intrusive means of those that might achieve the desired result. Further, the deprivation of nationality must be proportionate to the interest which the State seeks to protect. This requires a balancing of the impact on the rights of the individual and the interests of the State.<sup>24</sup> In assessing the impact on the individual, consideration must be given to the strength of the link of the person with the State, including birth in the territory, length of residence, family ties, economic activity as well as linguistic and cultural integration.<sup>25</sup> That will require the gathering and consideration of all relevant evidence. Given the grave consequences involved for an individual if citizenship is lost, the Commission considers that any allegations of engagement in terrorist activity relied on as the basis for revoking citizenship should be established by way of a criminal conviction for the relevant activity.

25. Loss or deprivation of citizenship must have a ‘firm basis’ in law. It must be predictable. That means it must be based on clear provisions, and must be strictly prospective, not retroactive. Where new laws are introduced, transitional provisions must be included to ensure that past conduct does not lead to loss or deprivation.<sup>26</sup>
26. Loss and deprivation that results in statelessness will generally be arbitrary because the impact on the individual far outweighs the interests the State seeks to protect.<sup>27</sup>
27. Finally, the Expert Meeting convened by the UN High Commissioner for Refugees considered that where it is permissible to deprive an individual of nationality under the 1961 Convention and international human rights law, it may be appropriate to postpone the act of deprivation until the person involved has acquired, re-acquired or confirmed nationality or a permanent residence status elsewhere.<sup>28</sup>

### **4.3 United Kingdom Laws**

28. The discussion paper states that:
 

[i]n the UK it is possible to revoke the citizenship of a person who has a legal right of access to the citizenship of another country, even if that right has not been exercised.
29. The United Kingdom has recently introduced legislation allowing the relevant Secretary of State to make an order depriving a person of citizenship where:
 

the Secretary is satisfied that the deprivation is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom...<sup>29</sup>
30. This may only be done where the Secretary ‘has reasonable grounds for believing they would be able to become a national of another country.’<sup>30</sup>
31. Unlike the proposal contained in the discussion paper, the United Kingdom legislation only allows for the deprivation of citizenship that has been obtained through naturalisation.<sup>31</sup>
32. This provision in the United Kingdom legislation is an express exception to the general prohibition on the Secretary depriving persons of citizenship where doing so would render them stateless.<sup>32</sup> The statute therefore recognises that depriving a person of citizenship, in circumstances where they may be able to obtain a second citizenship but do not currently hold one, will render that person stateless. That reflects the finding of the United Kingdom Supreme Court in *Secretary of State for the Home Department v Al-Jedda*.<sup>33</sup>
33. Unlike Australia, the United Kingdom has made a reservation to article 8 of the Statelessness Convention. It is therefore possible that the United Kingdom legislation may not be in violation of its obligations under that Convention. It

does not follow that Australia could enact a similar law without being in breach of its obligations.

#### **4.4 The Right to enter one's own country**

34. The ICCPR does not protect a right to nationality in those terms. Rather, article 12(4) provides:

No one shall be arbitrarily deprived of the right to enter his own country.

35. This right implies the right to *remain in* one's own country.<sup>34</sup>

36. The concept of one's 'own country' is broader than that of nationality. It includes non-nationals who have special ties or an enduring connection to a particular country. Relevant factors will include length of residence, close personal and family ties, intention to remain, and lack of these ties to other countries.<sup>35</sup>

37. The mere fact that the Minister deprived an Australian of citizenship would not have the result that Australia ceased to be that person's 'own country.' The Human Rights Committee has explicitly stated:

A State party must not, by stripping a person of nationality or by expelling an individual to a third country, arbitrarily prevent this person from returning to his or her own country.<sup>36</sup>

38. The prohibition in article 12(4) is on 'arbitrary' deprivation of the right to enter one's own country. Of this qualification, the Human Rights Committee has stated:

The reference to the concept of arbitrariness in this context is intended to emphasize that it applies to all State action, legislative, administrative and judicial; it guarantees that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances. The Committee considers that there are few, if any, circumstances in which deprivation of the right to enter one's own country could be reasonable.<sup>37</sup>

39. Introducing a power to deprive Australian's of their citizenship would have the result that former citizens outside Australia would have no right of return. Those within Australia would, absent further legislative change, be granted an ex-citizen visa,<sup>38</sup> but that visa could be revoked at the discretion of the Minister, ultimately leading to deportation. For these reasons, the power is likely to lead to violations of article 12(4) of the ICCPR.

#### **4.5 The Rights of Children**

40. Children are particularly vulnerable if they or their parents become stateless. In addition to the rights mentioned above, the proposed power to revoke citizenship would be likely to lead to violations of children's rights under the CRC.



41. Article 3 of the CRC provides that in all actions concerning children, the best interests of the child shall be a primary consideration. The UNHCR Expert Meeting has stated that ‘it is never in the best interests of the child to be rendered stateless’.<sup>39</sup>
42. A child’s right to nationality is also protected by articles 7 and 8 of the CRC.
43. The proposed power of revocation could affect children in several ways. First, it is quite possible that persons under the age of 18 may be directly considered for deprivation of citizenship if they were alleged to have engaged in relevant acts. Secondly, children whose parents’ citizenship is revoked may also have their citizenship revoked by the Minister.<sup>40</sup> An exception exists if the Minister is satisfied that revocation of citizenship would render the child stateless. The Commission submits that it is essential that this exception be maintained, and extended to apply to any new revocation power.
44. However, the exception in s 36 would not prevent a child from having their citizenship revoked if they held a second citizenship. A child might have dual nationality by virtue of their parents’ birth, without ever having visited the country of their second nationality or having any meaningful tie to that country.
45. In the event a child’s citizenship were not revoked when their parent’s citizenship were revoked, there is a strong chance of separation of the family amounting to arbitrary interference with family and family life, contrary to articles 17 and 23 of the ICCPR, and a number of provisions of the CRC.<sup>41</sup>

## **5 The consequences of revocation of citizenship**

46. A decision to deprive an Australian of their citizenship would have serious consequences for a number of their other human rights. Several of these are discussed briefly below.

### **5.1 Arbitrary detention**

47. Article 9 of the ICCPR prohibits arbitrary detention.
48. In the event an Australian’s citizenship were ‘revoked’ while they were abroad, it is likely they would not be permitted to re-enter Australia. As discussed above, that would be likely to amount to a violation of article 12(4) of the ICCPR.
49. In the event that they were permitted to re-enter Australia, they would, unless granted a visa, be subject to mandatory immigration detention.<sup>42</sup> A person in this situation would be unlikely to be granted a visa, as it is likely they would be found by the Minister to fail the character test.<sup>43</sup>
50. In the event a person were to be deprived of citizenship while in Australia, they would automatically receive an ex-citizen visa.<sup>44</sup> However, they would lose that visa if they left Australia. The visa would also potentially be subject to cancellation on character grounds. In those circumstances, they too would be subject to mandatory immigration detention.

51. Under Article 9 of the ICCPR, detention will become arbitrary when it is not necessary and proportionate to achieving a legitimate objective, and is not subject to periodic review. Australia’s mandatory immigration detention scheme has been found by the Human Rights Committee to have led to the arbitrary detention of a significant number of complainants, contrary to articles 9(1) and 9(4).<sup>45</sup>

## **5.2 Interference with Family Life**

52. Articles 17 and 23 of the ICCPR protect against arbitrary interference with family and family life.
53. Revocation of citizenship leading to deportation, mandatory immigration detention, or the prevention of re-entry to Australia is likely to interfere with the families and family life of persons deprived of citizenship and their relatives.

## **6 ‘Suspension of privileges for Australian citizens engaged in terrorism’**

54. The discussion paper states:

To ensure there are consequences for all Australians who engage in terrorism, not just dual citizens, should we consider additional powers like suspending certain privileges of citizenship?

55. This passage makes clear that the purpose of any such powers to ‘suspend privileges’ is punitive.
56. The examples of ‘privileges’ proposed to be suspended are the right to vote and consular assistance. The discussion paper also refers by way of example to legislation passed in November 2014 allowing for the cancellation of social security payments on national security grounds.<sup>46</sup>

### **6.1 The Right to Vote**

57. The right to vote is guaranteed to citizens by article 25(b) of the ICCPR. Any deprivation of the right must be objective, reasonable, and proportionate.<sup>47</sup>
58. As the suggested suspension of voting rights is intended as a ‘consequence’ of serious conduct of a criminal nature, any such suspension should:
- a. Be of a duration proportionate to the seriousness of the particular conduct
  - b. Only be imposed following a criminal conviction resulting from a trial that is compliant with article 14 of the ICCPR.
59. It is difficult to envisage any circumstances which would justify suspending the voting rights of citizens convicted of terrorism-related offences for a period lasting beyond any term of imprisonment imposed.

## 7 Conclusion and Recommendations

60. For the reasons above, the Commission considers that the introduction of a power to deprive Australians of citizenship in circumstances where they are not already dual nationals will almost inevitably lead to statelessness, contrary to the Statelessness Convention.
61. It is likely that the proposed power would also lead to violations of article 12(4) and a number of other human rights, including the rights of children.

**Recommendation 1: The Commission recommends that no power should be introduced that would permit the Minister to revoke the citizenship of Australians who are not currently dual citizens.**

62. This recommendation should not be taken as an endorsement of a power for the Minister to strip Australian citizenship from dual nationals.
63. In the event that Recommendation 1 is not accepted, the Commission submits that all measures should be taken to prevent or minimise the violation of the rights discussed in this submission.
64. As discussed above, the loss or deprivation of nationality must not be arbitrary, and must be proportionate. It must be clearly defined in law and must be prospective. It must take all the relevant circumstances into account. To achieve these goals, it is necessary that any decision be made by an impartial decision maker, that natural justice be afforded, and that there be appropriate rights of appeal.

**Recommendation 2: In the event that Recommendation 1 is not accepted, the Commission urges that all appropriate measures be taken to ensure that the risk of statelessness and other human rights violations is minimised by ensuring that any mechanism to revoke citizenship:**

- a. applies in only the most exceptional circumstances;
- b. only be enlivened by a criminal conviction for a terrorist act;
- c. applies only where the acquisition of an alternative nationality would occur as of right, automatically and without delay;
- d. is never applied to children;
- e. is transparent, and based on clearly articulated criteria;
- f. takes into account all relevant criteria including the effect on family, and makes the rights of any affected child a primary consideration;
- g. is prospective, applying only to future conduct;
- h. ensures that any decision to revoke citizenship is made by an independent and non-political decision maker;
- i. affords an affected citizen natural justice;
- j. is subject to full merits review; and

**k. is reversed pending review in the event that a person does not in fact obtain alternative citizenship within a short fixed period (of, say, no more than six months).**

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<sup>1</sup> Published at <http://www.immi.gov.au/pub-res/Pages/discussion-papers/citizenship-right-responsibility.aspx> (accessed on 22 June 2015).

<sup>2</sup> (New York, 30 August 1961), [1975] ATS 46 (entered into force for Australia on 13 December 1975).

<sup>3</sup> (New York, 16 December 1966), [1980] ATS 23 (entered into force for Australia on 13 November 1980).

<sup>4</sup> (New York, 20- November 1989), [1991] ATS 4 (entered into force for Australia on 16 January 1991).

<sup>5</sup> The government has introduced the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015.

<sup>6</sup> *Australian Citizenship Act 2007* (Cth), s. 26.

<sup>7</sup> *Australian Citizenship Act 2007* (Cth), s. 27 and Schedule 1.

<sup>8</sup> See UN Human Rights Council, Resolution 20/5 *Human Rights and Arbitrary Deprivation of Nationality*, 16 July 2012, UN Doc A/HRC/Res/20/5, [1].

<sup>9</sup> UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

<sup>10</sup> UNHCR, *Guidelines on Statelessness No. 1: The definition of "Stateless Person" in Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons* (2012), UN Doc. HCR/GS/12/01, [46].

<sup>11</sup> See, for instance, the Preambles to the UDHR and the ICCPR.

<sup>12</sup> That rights are inalienable does not necessarily mean that all rights are absolute. Many rights are subject to limitations, provided those limitations are proportionate, or must be balanced against other rights. But the fact that a right is subject to limitation does not mean that it has been or can be 'forfeited'.

<sup>13</sup> *Statelessness Convention*, Article 7(1)(a).

<sup>14</sup> *Statelessness Convention*, Article 8(1).

<sup>15</sup> *Convention relating to the Status of Stateless Persons* (New York, 28 September 1954), [1974] ATS 20 (entered into force for Australia on 13 March 1974), article 1.

<sup>16</sup> See discussion in UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [53].

<sup>17</sup> Article 8(2)(b) of the 1961 Convention on the Reduction of Statelessness.

<sup>18</sup> The circumstances are set out in Article 7(4) and (5). Article 7(4) states that a naturalised person may lose his nationality on account of residence abroad for a period, not less than seven consecutive years, specified by the law of the Contracting State concerned if he fails to declare to the appropriate authority his intention to retain his nationality. Article 7(5) states that in the case of a national of a Contracting State, born outside its territory, the law of that State may make the retention of its nationality after the expiry of one year from his attaining his majority conditional upon residence at that time in the territory of the State or registration with the appropriate authority.

<sup>19</sup> The Commission made a submission addressing these issues to the Senate Legal and Constitutional Affairs Legislation Committee Inquiry into the Australian Citizenship and Other Legislation Amendment Bill 2014. That submission is available at <http://www.aph.gov.au/DocumentStore.ashx?id=2ce044cf-a0dc-4fda-9d28-27a6f0b5a9f6&subId=301530>.

<sup>20</sup> See discussion in UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [68].

<sup>21</sup> See discussion in UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [68].

<sup>22</sup> The UNHCR Expert Meeting noted that only 15% of signatories retain a specific ground for loss of nationality under article 8(3): Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [65].

<sup>23</sup> See discussion in UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [5].

<sup>24</sup> See discussion in UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [19]-[20].

<sup>25</sup> See discussion in UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [21].

<sup>26</sup> See discussion in UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [16]-[17].

<sup>27</sup> See discussion in UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [23].

<sup>28</sup> See discussion in UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [24].

<sup>29</sup> *Immigration Act 2014* (UK), s 66, inserting a new subs 40(4A) and s 40B in the *British Nationality Act 1981* (UK).

<sup>30</sup> *British Nationality Act 1981* (UK), s 40(4A)(c)

<sup>31</sup> *British Nationality Act 1981* (UK), s 40(4A)(a).

<sup>32</sup> *British Nationality Act 1981* (UK), s 40(4).

<sup>33</sup> [2013] UKSC 62.

<sup>34</sup> United Nations Human Rights Committee, *General Comment 27* (1999), UN Doc CCPR/C/21/Rev.1/Add.9, [19].

<sup>35</sup> See eg *Nystrom v Australia*, UN Human Rights Committee, Communication No. 1557 of 2007, [7.4].

<sup>36</sup> United Nations Human Rights Committee, *General Comment 27* (1999), UN Doc CCPR/C/21/Rev.1/Add.9, [21].

<sup>37</sup> United Nations Human Rights Committee, *General Comment 27* (1999), UN Doc CCPR/C/21/Rev.1/Add.9, [21].

<sup>38</sup> *Migration Act 1958* (Cth), s 35.

<sup>39</sup> UNHCR, Expert Meeting, *Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions* (November 2013), [62].

<sup>40</sup> *Australian Citizenship Act 2007* (Cth), s 36.

<sup>41</sup> For instance articles 3, 5, 7, 8, 10 and 16.

<sup>42</sup> *Migration Act 1958* (Cth), s 189(1).

<sup>43</sup> *Migration Act 1958* (Cth), ss 501ff. The Commission notes that the Minister for Immigration and Border Protection would exercise both the power to revoke a person's citizenship, and to decide whether subsequently to grant the person a visa.

<sup>44</sup> *Migration Act 1958* (Cth), s 35.

<sup>45</sup> Eg *F.K.A.G. et al. v Australia*, United Nations Human Rights Committee, Communication No. 2094 of 2011; *M.M.M. et al. v Australia*, United Nations Human Rights Committee, Communication No. 2136 of 2012.

<sup>46</sup> It is of concern that the power to suspend social security payments is cited in the discussion paper as an example of ensuring that there are 'consequences' for engaging in terrorist acts. At the time those measures were introduced, they were stated to be necessary to ensure that funds obtained through social security payments were not diverted to finance terrorism: Explanatory Memorandum to the Counter-Terrorism (Foreign Fighters) Bill 2014, [266], [269].

<sup>47</sup> United Nations Human Rights Committee, *General Comment No. 25* (1996), UN Doc. CCPR/C/21/Rev.1/Add.7.