First “foreign fighter” arrest in Australia

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More than two years after returning to Australia, a Sydney man was arrested on Tuesday in a blaze of media publicity on “foreign incursion” charges. He allegedly travelled to a Middle Eastern zone that had been proscribed by the federal government.

Belal Betka, 25, is the first person to be charged under “foreign fighter” laws that the Liberal-National government, backed by the opposition Labor Party, imposed in 2014 as part of a further barrage of so-called counter-terrorism legislation.

His arrest highlights the sweeping character of the laws, which give the government powers to ban travel to any part of the world by ministerial decree and extend the already vast array of vague “terrorism-related” offences.

Police allege Betka travelled to Syria’s Raqqa province between March and July 2015, and returned to Australia in October that year. At the time, Foreign Affairs Minister Julie Bishop had declared the Raqqa region as a prohibited zone where a “listed terrorist organisation”—ISIS—was engaging in “hostile activity.”

No explanation was provided for the delayed timing of the move against Betka. Police said he had been subject to ongoing investigations since he returned from Syria. Members of the New South Wales Joint Counter Terrorism Team, which includes the Australian Security Intelligence Organisation (ASIO), and state and federal police, were reportedly involved in the operation.

Police said it was part of an “in-depth investigation” into allegations of money laundering and proceeds of crime being used to help fund terrorist organisations. Another man was arrested the same day on “proceeds of crime” charges.

On Wednesday morning, Immigration and Border Protection Minister Peter Dutton, who was about to be sworn in as home affairs minister later that day, gave a round of media interviews. He seized upon Betka’s arrest to justify the creation of the new “security” super-ministry.

Dutton, a key member of Prime Minister Malcolm Turnbull’s cabinet, has been placed in charge of ASIO—the main domestic spy agency—as well as the Australian Federal Police, the Australian Border Force, the Australian Criminal Intelligence Commission and the Australian Transaction Reports and Analysis Centre.

Dutton was interviewed on Sky News by Peta Credlin, ex-chief of staff of former Prime Minister Tony Abbott. “So the idea is that we have a better coordination, a better capacity for those agencies to deal with the threat that exists,” he declared.

“And it’s not just in the counter-terrorism space—we saw yesterday the 81st person has been charged with a terror-related offence since 2014. So the threat is real, and as we know with foreign fighters returning back from Syria and Iraq, it is going to be with us for a long period of time.”

Dutton thus directly prejudiced any chance of a fair trial for Betka, who had intended to apply for bail. Long before any trial, the minister insinuated that the 25-year-old was guilty and linked him to the growing list of arrests on terrorism-related charges.

Dutton’s comment also indicates that the government and the security agencies plan more such operations to politically exploit the “foreign fighters” issue.

Dutton’s new Department of Home Affairs later told Special Broadcasting Services News that “up to” 110 Australians were fighting or engaged with terrorist groups in Syria and Iraq, while about 40 people had returned to Australia after joining such groups.

Betka has been charged with incursion into foreign countries with the intention of engaging in hostile activities. This could result in life imprisonment. He also has been charged with entering and remaining in a “declared area,” an offence punishable by up to 10

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years in jail, and dealing in the proceeds of crime.

The "foreign fighters" laws ban entering, preparing to enter, or recruiting someone else to enter, a foreign country with an intent to engage in a "hostile" activity. Such activity is not confined to terrorism—it could include opposing a government or opposing US or Australian military operations in another country.

The legislation also features an unprecedented power for the government to proclaim "no-go" areas overseas. People can be convicted for simply entering such a zone unless they can prove it was solely for a "legitimate" reason, such as a family visit.

Passports and visas can be secretly suspended, without any notice or right of appeal, on vague and arbitrary grounds, such as, ASIO considers that a person *may* leave Australia to engage in activity that *might* prejudice the "security" of Australia or a foreign country. Those whose passports or visas are revoked can be cut off all welfare payments, including aged pensions and family benefits.

In addition, people face up to 25 years in jail if convicted of fighting for, recruiting, training and gaining or dealing with funds for a group listed by the government as terrorist.

Anyone can be jailed for five years, or groups can be outlawed (making all their members and supporters liable to imprisonment) for "advocating" terrorism, even if no act of terrorism occurs and they are merely "reckless" as to whether any terrorism would occur.

"Advocating" includes urging, promoting, encouraging or "counselling." This formulation can cover general statements of sympathy for, or calls for the understanding of the root causes of, terrorism. Submissions to a parliamentary committee on the legislation noted that even people who "like" a Facebook comment containing favourable reference to terrorist activity could be charged with "advocating" terrorism.

In his interview with Credlin, Dutton voiced the government's readiness to go further by barring Australian citizens from returning to the country, effectively stripping them of all their citizenship rights. This would also render them stateless, in violation of international law.

The government and Labor have already pushed through legislation to enable the government to revoke the citizenship of Australians who have citizenship entitlements in another country, but sole citizens have not yet been included in those powers.

Credlin asked Dutton: "What do you think about what the Brits have just moved in the last 12 months to put in place temporary exclusion orders which will say to those that are only British citizens you cannot come back to this country?" In his reply, Dutton insisted: "[W]e're very willing to look at any sensible measures."

During his response to Credlin's question, Dutton declared that the government's preferred solution was for any "foreign fighters" to be killed. "Frankly, the best thing that can happen to that person is they're killed in the theatre of war over there so they don't return," he stated.

With Labor's assistance, the Turnbull government has also altered the rules of engagement for the Australian Special Forces and warplanes deployed in the Middle East to permit the killing of anyone accused of supporting a terrorist group, even if they are not near a battlefield.

Betka's arrest and Dutton's comments are another warning of the government's increasing resort to "security" scare campaigns and repressive police-intelligence powers under conditions of mounting social and political discontent and rising dangers of war.

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