

Australian government rules out referendum as dual citizenship crisis escalates

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19 May 2018

The Liberal-National Coalition of Prime Minister Malcolm Turnbull yesterday rejected a parliamentary committee recommendation to call a national referendum to repeal or amend Section 44(i) of Australia's 1901 constitution.

The arcane language of Section 44(i) states that no-one can sit in parliament if he or she has "allegiance, obedience, or adherence to a foreign power" or is "entitled" to the "rights and privileges of a foreign power." In 1901, all persons in Australia, with or without their agreement, were deemed to hold "allegiance" to the British monarchy. Holding Australian citizenship, distinct from being a "British subject," was not defined in legislation until 1949.

In a series of unprecedented rulings over the past year, the unelected judges of the High Court have ruled that the clause stipulates that no-one can even nominate to stand for a federal election without fully "renouncing" their *entitlement* to hold dual citizenship with another country.

On May 9, five more democratically-elected members of the Australian parliament were ousted, or resigned from their positions, due to the latest ruling. The court enforced the strictest possible interpretation of Section 44(i), casting aside a previously accepted defence of taking "reasonable steps" to renounce a foreign citizenship entitlement.

The witch-hunt against politicians who have purportedly failed the "unqualified allegiance" test, due to their dual citizenship entitlements, was initiated in June 2017. In total, 15 upper house senators and lower house members have been expelled or resigned from parliament—out of the 224 elected in July 2016. The position of dozens more remains under threat.

The dual citizenship purge has unfolded alongside a broader hysteria within the political and media establishment over "foreign interference" and "Chinese influence" in the country. It has been used to shift official politics even further into xenophobic nationalism under conditions where successive Labor and Coalition governments have aligned Australian imperialism with the US preparations for confrontation and war with China.

In response to popular bewilderment over the ousting of

elected politicians because of their parents' country of birth, a joint-party parliamentary committee was commissioned last year to examine the issue. Made up of members of the governing Liberal-National Coalition, the Labor Party opposition, the Greens and so-called "independents," it released its report on Thursday.

The committee found that the High Court rulings meant that some 52 percent of Australians were ineligible to stand for federal parliament unless they had renounced dual citizenship rights.

The statistic reflects the country's diverse, immigrant character. At least 28 percent of the 25-million population was born in another country.

In the most common case, millions of Australians who were either born, or whose parents were born, in a member-state of the European Union—especially the United Kingdom, Greece or Italy—hold a dual citizenship passport because it permits them to move across most of the European continent without a visa.

The parliamentary committees' estimate of 52 percent ineligibility did not include those who could have a dual citizenship "entitlement" because of the low bar some countries have set for them to qualify—e.g., some countries allow applications on the basis that a grand-parent was a citizen.

In addition, other clauses in Section 44 bar all employees of federal or state governments, government contractors, undischarged bankrupts, people convicted of treason, or those charged with a federal or state offence punishable by imprisonment for a year or more, from standing for parliament.

The committee's report estimated that, overall, Section 44 disqualifies more than 60 percent of voters. In other words, the High Court has enforced an interpretation of the constitution that disqualifies some 10,779,230 voting age citizens out of 16,076,433 million from being elected to the federal parliament.

The committee did not oppose the requirement of "unqualified allegiance" to the Australian state. Its report

insisted that “parliamentarians must be loyal to Australia and must make decisions that are in the best interests of Australia and no other country.”

In fact, one of the committee’s main concerns was that foreign governments could “manipulate” elections by refusing to permit dual citizens to renounce their entitlements. This objection dovetails with the intensifying “foreign interference” scare campaign that the government, the media and the US-linked intelligence apparatus are waging, targeting China in particular.

The report’s other primary concern was that “instability” could upset the political system as a whole. It stated: “Challenges to sitting members will continue into future elections, disrupting electoral outcomes, causing uncertainty and confusion, and having the potential to undermine the authority of both federal parliament and the constitution itself.”

Pointing to the possible wider political and legal implications of the citizenship furore, the report noted that if candidates were disqualified, it could throw into doubt election results if their voting preferences helped other candidates win seats.

While the committee listed repealing Section 44 as an option to put to a referendum, its preference was to modify the clause to give parliament the right to set the disqualification conditions itself. As the report noted, however, such a proposal, which would give the widely detested political establishment absolute power to ban citizens from nominating, “will not be positively received by Australians.”

Turnbull’s immediate rejection of a referendum underscores the underlying anti-democratic and nationalistic motives behind the parliamentary citizenship purge. He declared: “I very much doubt whether Australians would support a change to the constitution to allow people with dual nationality to sit in the parliament.”

Instead of seeking to change the constitution, the Coalition government has moved to make it even more difficult to prove “unqualified allegiance.”

Under new measures announced yesterday, candidates will have to disclose to the Australian Electoral Commission (AEC) their birthplace and citizenship and those of their parents and grandparents. They must also lodge documents proving they have renounced any dual citizenship entitlements and that the other nation involved has formally accepted that renunciation. In addition, all records of criminal convictions, bankruptcies, government employment and interests in government contracts must be produced.

Last November, the government, backed by Labor and the Greens, introduced a “citizenship register” which requires all current and future parliamentarians to reveal their

birthplace, that of their parents and grandparents and to produce documents showing renunciation of foreign citizenship. In effect, the requirement is now being extended to all potential candidates.

These measures are designed to cause major difficulties for political parties that do not have the corporate-supplied resources of the Coalition, Labor and the Greens. They will be obliged to seek expensive legal advice on citizenship laws in other countries and compel their candidates to devote time and money to “renouncing” potential entitlements. Many working class immigrants and indigenous people do not even have full documentary records of their ancestry.

The AEC has already posted a new candidate nomination form on its website. It warns: “Candidates who have any doubts about their eligibility, by virtue of section 44 of the Constitution, are advised to obtain their own legal advice.” Further, it declares that giving the AEC “false or misleading information is a serious offence.”

In plain language, candidates who fail to adequately renounce dual citizenship entitlements face the prospect of legal prosecution.

The parliamentary crisis appears set to deepen, however, and may yet lead to the fall of the Coalition government, which holds office with just a one-seat majority in the lower house.

The Labor Party has reportedly drawn up a hit list of 14 Coalition MPs, whom, it insists, have failed the government’s test of possible dual citizenship—in some cases because of where their grandparents were born. That follows a declaration last Thursday by Attorney-General Christian Porter that some Labor members, with Egyptian, Polish or Irish backgrounds, have not yet proven their renunciation of dual citizenship rights.

Adding to the instability, the introduction of the government’s new electoral “integrity measures” is being cited as a reason for delaying five simultaneous by-elections, four of which were caused by the forced resignations of MPs over the citizenship issue.



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