

Australian government seeks arbitrary powers to revoke citizenship

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The Liberal-National government introduced a bill last week that would hand the home affairs minister extraordinary powers to “cease” the citizenship of anyone accused of “repudiating” their “allegiance” to Australia. This is the latest in a series of attacks on the fundamental democratic right of citizenship.

The bill goes beyond a 2015 act that handed the government such a citizenship-stripping power for the first time. It is another indication of the repressive measures that the ruling class is preparing to deal with rising working-class discontent. Without citizenship, people can be deprived of other basic civil and political rights, such as residence, voting, healthcare and welfare.

Under the 2015 legislation, some ministerial decisions to revoke citizenships depend on recommendations by a hand-picked Citizenship Loss Board. According to the government, this “operation of law” model is now to be replaced by a “ministerial model” that allows the home affairs minister to unilaterally cancel citizenships. In other words, the government is dispensing with the pretence of a legal process.

For now, the powers are still confined to people who are deemed to be dual citizens, not sole citizens of Australia. But that affects more than six million people—about a quarter of the population. And the bill makes it easier for the government to claim that someone has, or can claim, another citizenship. The bill only requires the minister to be “satisfied” that a person is entitled to another citizenship.

The new legislation was tabled on the pretext of combatting terrorism, like all the 75 other “anti-terrorism” measures implemented by federal governments since 2001. In reality, the bill would enable a single minister to revoke the citizenship of a

person for conduct or convictions relating to a range of political offences, including “foreign interference,” sabotage, espionage and treason, not just terrorism.

The bill’s explanatory memorandum claims that such crimes are “inconsistent with allegiance to Australia.” Opponents of Australian military operations, as part of the US alliance, whether in the Middle East or the Indo-Pacific region, could fall under these clauses.

The Australian Citizenship Amendment (Citizenship Cessation) Bill 2019 provides for citizenships to be revoked by decree in two ways. One is based on a conviction and imprisonment for three years or more for one of these terrorism or political offences. This is down from the previous threshold of six years’ jail. That power would be backdated to cover all convictions from 2003.

The other form of revocation requires no criminal conviction whatsoever. The home affairs minister could simply declare that a person’s citizenship has ceased because they allegedly joined or supported terrorist-related activity or were a member of a proscribed terrorist organisation. This is far-reaching because the definition of terrorist acts can cover political protests, and the minister can issue regulations to proscribe political groups by arbitrarily branding them “terrorist.”

Home Affairs Minister Peter Dutton said 12 people had already had their citizenship revoked since 2015. He referred to “around 80 Australians of counter-terrorism interest” believed to be in Syria and Iraq. He would not reveal how many more individuals could be affected by the expanded ministerial power.

The bill excludes the rules of natural justice—that is, the right to a fair and unbiased hearing—from decisions to revoke citizenships. It even allows the home affairs minister to not notify a person that they are being

stripped of citizenship, if the minister “is satisfied that giving the notice could prejudice the security, defence or international relations of Australia, or Australian law enforcement operations.”

Despite widespread concerns about the impact on basic legal and democratic rights, the Labor Party supported the 2015 laws, with minor amendments, and will likely do the same again. Labor has backed, or implemented itself, every significant expansion of the powers of the government, the intelligence agencies and the police.

Opposition home affairs spokeswoman Kristina Keneally said Labor would consider the proposed laws. “When it comes to keeping Australia safe from violent extremism and terrorism we should expect and demand a home affairs minister and government that are listening to our national security agencies,” she said.

The government introduced a similar bill last year but modified it on the basis of a review by the Independent National Security Legislation Monitor, James Renwick. He warned that some aspects of the 2015 act and the government’s proposals could be unlawful or unconstitutional. Renwick recommended that the law be replaced with an approach that leaves the decision up to the home affairs minister.

In an attempt to side-step constitutional challenges, there would be a right of appeal to a court, but only after the “cessation” had already occurred. Such an appeal would be particularly difficult to mount if the person were stranded overseas, barred from returning to Australia.

Last week, the domestic spy agency, the Australian Security Intelligence Organisation (ASIO) warned that the present citizenship revocation laws could block the extradition of people from overseas. The laws could “impede criminal prosecutions or cause them to fail” because Australian citizenship was required for such extraditions.

But the government, encouraged by Labor’s bipartisanship, is pushing ahead with even greater citizenship-stripping powers. It wants to wield such powers without having to prove any crime in a court of law. The legislation is also intended to boost the government’s constant whipping up of terrorist scare campaigns as a means of diverting the mounting social and political unrest.

In July, Labor backed the swift passage of a

Temporary Exclusion Orders Act that hands virtually unfettered power to the home affairs minister to bar even sole citizens from returning to Australia. Without any judicial hearing or natural justice, the minister can issue and extend two-year “exclusion orders.”

The minister only has to assert a “reasonable suspicion” that an exclusion order would “substantially assist” the prevention of a terrorist-related act, or that ASIO had classified the citizen as likely to support “politically motivated violence.” The definition of “politically motivated violence” includes acts directed to “assisting in the overthrow” of a government, which could mean voicing anti-government views.

The Australian ruling elite, like its counterparts in the US, Britain, France, Germany and elsewhere, is establishing the scaffolding of a police-state. This is aimed at dealing with rising political disaffection and signs of working-class resurgence, amid a deepening economic and social crisis, and the country’s escalating involvement in the US-led confrontations with China and Iran.



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