

# Australian government's citizenship cancellation sets anti-democratic precedent

Mike Head

7 December 2020

The Australian government is currently seeking to have a man, who was convicted on vague terrorism-related offences over a decade ago, kept in prison indefinitely. At the same time, it has just cancelled his Australian citizenship.

Both the Liberal-National government's court application for a "Continuing Detention Order" for Abdul Nacer Benbrika and its stripping of his citizenship by ministerial decree set far-reaching political precedents. Once again, laws passed on the pretext of combating terrorism are being used to abrogate basic democratic rights.

On November 25, Home Affairs Minister Peter Dutton confirmed that he had revoked Benbrika's citizenship on November 20. At a media conference, Dutton boasted: "He's the first individual to have lost his citizenship onshore under the terrorism related provisions of the Australian Citizenship Act of 2007."

Dutton also revealed that 20 other "dual-nationals"—Australians holding citizenship of another country—had likewise had their Australian citizenships "ceased," on the grounds of "engagement in terrorist conduct." But, he repeated, Benbrika was the first to be still inside Australia.

With the Labor Party's backing, the Citizenship Cessation Act was amended in September to apply to Benbrika or any other citizen convicted of terrorism-related offences from May 2003. The act previously applied to offences committed after December 2015, so this amounts to retrospective punishment.

In order to justify the unprecedented measures being taken against Benbrika, the corporate media, including the Australian Broadcasting Corporation, is echoing the government by labelling him "one of Australia's most notorious terrorists." He is routinely claimed to have been "plotting" to target major sporting events in Melbourne and Sydney's Lucas Heights nuclear reactor in 2005 or 2006.

In reality, Benbrika was not convicted of any plot. The "counter-terrorism" laws were amended in 2005 to require no proof of any specific plot, let alone any actual "terrorist act." Benbrika was sentenced to 15 years' jail for being a

member of and directing the activities of an unnamed "terrorist organisation"—apparently consisting only of his alleged followers—and for possessing "a thing connected with the preparation of a terrorist act."

His conviction was based almost entirely on covertly-recorded conversations between a group of Islamic men that included statements about wanting to do "something big" or kill people to stop Australia's involvement in the US-led occupation of Iraq.

An undercover police infiltrator, referred to as Security Intelligence Officer 39, took Benbrika to a remote hilltop to show him how to detonate an ice-cream container of ammonium nitrate. In other words, the only explosion presented as evidence in the trial was one conducted by a police provocateur. It was a classic case of entrapment, a technique commonly used for frame-ups.

Any talk of killing innocent people expresses the reactionary perspectives of Islamic fundamentalism and individual terror. But there is no evidence that Benbrika or anyone in the group took these words seriously enough to actually do anything. Jailing people for doing no more than voicing hostile sentiments toward the government and the wars in Iraq and Afghanistan sets a dangerous precedent for use against political dissent.

Like much of the legislation passed by parliament in the "war on terrorism," the Citizenship Cessation Act is not confined to terrorism-related offences. It covers conduct or convictions relating to a range of political offences, including "foreign interference," sabotage, espionage and treason.

The home affairs minister can alternatively "cease" a person's citizenship because they allegedly "supported" terrorist-related activity or were a member of a proscribed terrorist organisation. This is also far-reaching because the minister can issue regulations to proscribe political groups by arbitrarily branding them "terrorist."

For now, these powers are 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.

These powers are profoundly anti-democratic. Without citizenship, people can be deprived of other basic civil and political rights, such as residence, voting, healthcare and welfare.

According to media reports, the intelligence agencies have raised concerns about trying to deport Benbrika to Algeria, where he is said to hold citizenship. So an alternative plan is underway to keep him imprisoned, potentially for life.

That is why the government is now seeking a Continuing Detention Order (CDO) against Benbrika in the Victorian state Supreme Court. CDOs violate the core legal principle of habeas corpus—no detention without a criminal trial. They allow prisoners to be incarcerated indefinitely, using renewable three-year detention orders, regardless of the original terms of their imprisonment.

Such orders require no proof of any intent to commit a further offence—just a “high degree of probability” that a crime could occur. This standard of proof is much lower than the criminal one of “beyond a reasonable doubt of guilt.”

Like the citizenship-stripping laws, this legislation, adopted in 2016, extends beyond terrorism-related offences. It also covers prisoners convicted of treason or “foreign incursions.” Treason includes “assisting enemies at war with the Commonwealth” and “assisting countries or forces engaged in armed hostilities against the Australian Defence Force”—which could mean opposing wars and other military interventions.

The list of relevant offences also includes: membership of, or raising funds for, an organisation declared by ministerial decree to be terrorist, and “providing support” to such a “terrorist organisation.”

Benbrika’s non-parole period has expired but Victoria’s Supreme Court has so far granted the government two temporary, 28-day extensions to keep him behind bars. The court hearing on the CDO is continuing.

A third draconian measure from the post-2001 “war on terror” has also been applied to Benbrika. A Federal Court judge last week granted the government a “control order,” imposing a curfew on Benbrika and ordering him to wear a tracking device if ever released.

Among other restrictions, Benbrika was also prohibited from forming prayer groups, in or out of a mosque, leading prayers or influencing anyone about religion in any group.

Control orders override basic freedoms such as speech, movement, association and communication, and can reach the level of complete home detention. All that the government has to assert is that such an order would “substantially assist in preventing a terrorist act”—again, far less than evidence of criminal intent, let alone any plan or

act.

In effect, Benbrika has become a test case for three provisions that can be invoked far more widely, including against anti-war and other political activists. These dangers are magnified by the fact that the legal definition of “terrorism” is so sweeping that it can extend to any anti-government activity, or even discussion, that could be accused of involving violence or damage to property.

Since the “war on terror” was declared in 2001 by US President George W. Bush, echoed by Prime Minister John Howard’s government, Australia’s parliament has rubberstamped more than 100 “counter-terrorism” bills—reportedly more than any other country.

As the WSWS has warned from the outset, unprecedented police-state powers have been created that can and will be used increasingly to outlaw, silence or intimidate political and working class discontent as social inequality intensifies and preparations mount for new US-led wars.

Once again, the Labor Party rushed to solidarise itself with Prime Minister Scott Morrison’s government in triggering the citizenship-stripping power, just as it has endorsed each piece of “terrorism” legislation and every measure taken by the government to bail out big business during the COVID-19 pandemic.

Labor’s shadow foreign minister Penny Wong told reporters: “We did understand when we passed those laws through the parliament that the cancellation of citizenship was a big step but a necessary step in certain circumstances.”

In other words, a Labor government would be no less committed to overturning democratic rights in an effort to suppress rising unrest.



To contact the WSWS and the  
Socialist Equality Party visit:

**[wsws.org/contact](https://wsws.org/contact)**