

Australian government seeks to rush through new citizenship cancellation laws

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In what amounts to a double ultimatum to the Australian parliament, the Albanese government is demanding the passage this week—the scheduled final parliamentary session of 2023—of two sweeping bills that eviscerate fundamental democratic and legal rights.

One bill attacks the right to citizenship and the other bill attacks the right not to be imprisoned without trial. Taken together, they constitute a warning of a turn by the ruling class to dictatorial measures amid mounting political disaffection.

The twin ultimatum has been accompanied by a foul witch hunt that, in effect, demonises refugees and other immigrants, depicting many of them as a danger to society. A reactionary climate of emergency is being whipped up by the very same forces that are backing the Israeli genocide of Palestinians in Gaza.

The Labor government, the Liberal-National Coalition and the corporate media are vying to outdo each other in branding as “murderers,” “sex offenders” and the “worst of the worst” all the people who could be thrown back into indefinite immigration detention as a result of the two bills.

One is the preventative detention bill, due to be tabled tomorrow. Home Affairs Minister Clare O’Neil proclaimed last week that the bill, then still to be drafted, had to be passed by both houses of parliament by this Thursday, or parliament would be kept sitting until it did so.

That bill, reportedly cynically rebadged as a “Community Safety Scheme,” is a transparent bid to flout a November 8 High Court order. Unanimously, the seven judges partially overturned the reactionary three-decade regime of indefinite immigration detention of asylum seekers and other non-citizens who had been stripped of visas.

A government spokesperson blatantly declared

yesterday that the bill would re-detain most of the 148 or so detainees that the government was forced to release as a result of the seven judges’ unanimous ruling. The bill would allow the immigration minister to apply for a court order to re-incarcerate an ex-detainee on the flimsy allegation of “a high degree of probability” that “the offender poses an unacceptable risk of seriously harming the community by committing” what the bill classifies as “a serious violent or sexual offence.”

Clearly, by its spokesperson’s boast, the government is not waiting for a court to pass judgment on individuals, even by that arbitrary test. This amounts to punishment for a thought crime, based on an accusation of what the person might do in the future, not on what they have actually done.

The other bill is a no less far-reaching operation to evade two other recent High Court rulings that outlawed powers legislated in 2015 by the previous Coalition government with Labor’s assistance. That legislation allowed the home affairs minister to strip dual citizens of their Australian citizenship for allegedly committing acts deemed to “repudiate” their “allegiance” to Australia.

Last week, in partnership with the Coalition, the Labor government rammed the Australian Citizenship Amendment (Citizenship Repudiation) Bill 2023 through the House of Representatives in a single day and is demanding that the Senate rubberstamp it by this Thursday.

That is despite the vast implications of stripping someone of their citizenship, which even one of the High Court judges described as a punishment amounting to “civil death.” Without citizenship, no other political or civil right currently exists, including to vote, reside, travel and not be detained without trial,

and the same goes for access to employment, health and welfare services.

In two cases in 2022 and 2023, known as *Alexander* and *Benbrika*, the High Court overturned parts of the 2015 legislation that blatantly violated the limited protection of the colonial-era 1901 Constitution.

This constitution contains no bill of rights whatsoever. But it contains a formal separation of judicial and executive powers. That essentially forbids most forms of punishment, which includes cancellation of citizenship, from being imposed without a court order, except in wartime.

Labor's bill hands vague and politically-loaded powers to judges. Acting on a government application, they will determine whether a person's "serious offences" have "repudiated their allegiance" to Australia by repudiating "Australian values."

These values are said to consist of "values, democratic beliefs, rights and liberties that underpin Australian society." Yet, the bill itself demonstrates the readiness of the ruling class and its political servants to override "democratic beliefs, rights and liberties."

The "serious offences" listed in the bill include terrorism-related acts, advocating mutiny, treason, espionage, foreign interference and foreign incursion. These offences have the potential to be used to lay charges against opponents of any war waged by the Australian government, on the grounds, for example, that their political activities serve the interests of the enemy.

The bill's definition of "serious offences" also applies to a broad range of offences that include preparatory conduct, that is, alleged plots or behaviour which have not resulted in a crime.

There is a threshold that a person must have been sentenced to at least three years' imprisonment, but most of the listed offences carry sentences that can far exceed that.

The danger to democratic rights is highlighted by threats that have been made to charge people with crimes, such as "giving material support" to terrorism for opposing the Israeli genocide in Gaza. Accusations have been made that denouncing the massacres of Palestinians constitutes assisting Hamas, which has been listed by successive governments as a "terrorist organisation" under Australia's sweeping "counter-terrorism" legislation.

Because of the broad legal definition of terrorism, a person could lose their citizenship for supporting the right of people in Gaza to resist the Israeli onslaught. Likewise, the extensive "foreign interference" offences could cover anti-war and anti-government activists.

The government and the Coalition rode roughshod over proposed amendments in the House of Representatives last Wednesday. Independent Kylea Tink sought to raise the age of those who could lose their citizenship from 14 to 18. Another "teal" independent, Zoe Daniel, tried to have the section on "values" struck out. Both were brushed aside.

Greens leader Adam Bandt said: "It's one of the most fundamental issues, the bedrock of democracy in this country, and we get an hour to debate it—and, as a result, someone can lose their citizenship!"

These objections only produced a doubling down. Opposition leader Peter Dutton wrote to Prime Minister Anthony Albanese last Thursday demanding that further offences be listed as "serious" in the bill, including advocating terrorism or genocide, and training with a foreign military.

Citizenship-cancellation powers are being used with little or no media coverage. According to figures released under Freedom of Information legislation by the Home Affairs Department last year, 59 people have had their citizenship revoked by governments since 2007, when the first cancellation powers were introduced.

So far, citizenship-stripping legislation has been restricted to dual citizens—those holding citizenship of another country. But that covers millions of Australians in an increasingly diverse population. Moreover, the High Court rulings do not legally prevent any extension to sole citizens.



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