

Australian citizen to return from Syria under police-state conditions

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29 June 2026

In a bid to thwart a potential legal and constitutional challenge, the Albanese Labor government last week lifted a ban on the return of an Australian citizen from Syria, but only under conditions that resemble those of a police-state.

The government is clearly seeking to evade a possible High Court ruling that could clarify the constitutional and basic democratic right of citizens to leave the country and return.

Home Affairs Minister Tony Burke said he had received legal advice that he had no choice other than to grant a return permit to a young mother Hodan Abby, 29. He had earlier subjected Abby to a Temporary Exclusion Order (TEO) barring her from returning home following seven years of detention in squalid camps following the crushing of the Islamic State caliphate.

After Burke issued the TEO, Abby was reportedly detained in a Syrian prison with her nine-year-old daughter, who has serious shrapnel injuries to her head, hip and back, and requires urgent medical treatment. Abby herself has a piece of shrapnel in her chest. Abby had left western Sydney in 2015 when she was 18.

Abby and her daughter were the last of a group of 11 women and 23 children, all Australian citizens, whom the Labor government had for months tried to prevent from returning to the country, despite them holding valid Australian passports.

Burke said the federal police and intelligence agencies would impose a “very high level of surveillance” on Abby, applying every possible restraint under the TEO legislation. These included having to report where she lives, works, studies and travels.

Abby also will be barred from using any telecommunications device, including a phone, email account or social media platform, without 24 hours’ notice to authorities. This applies to use of the internet “for any reason.” Burke declared: “Even if you want to

use a public phone, it is 24 hours’ notice.”

Prime Minister Anthony Albanese personally backed the decision, claiming that it showed that his government respected the rule of law and the rights of Australian citizens, even while referring to the possible consequences of legal challenges.

In fact, the government is trying to prevent a test case on constitutional rights. Its move also sets far-reaching precedents for political use against returning citizens. The vague and arbitrary TEO laws, imposed by the previous Liberal-National government in 2019 with Labor’s support, allow the government to ban an Australian citizen from returning home if the home affairs minister declares a “reasonable suspicion” that an exclusion order would “substantially assist” the prevention of a possible terrorist-related act.

A citizen can be blocked by ministerial fiat also if the Australian Security Intelligence Organisation (ASIO)—the domestic political surveillance agency—classifies them as likely to support “politically motivated violence.” That includes acts directed to “assisting in the overthrow” of a government, which could mean voicing anti-establishment or socialist views.

A TEO can block a citizen from re-entering Australia for up to two years at a time, with extensions possible, unless they apply for a return permit. The TEO legislation denies any right to procedural fairness, that is, the right to notice, a hearing and lack of bias by the minister.

Legal experts pointed out that if the government had rejected Abby’s application for a return permit, it risked losing a legal challenge, even though the 1901 Constitution, a British colonial-era document adopted by the emerging Australian capitalist class, treated residents not as citizens but as “British subjects.”

Historically, there have never been constitutionally protected rights of citizenship in Australia. In fact, there is no bill of rights explicitly guaranteeing any democratic

right, even the right to vote. However, the possibility of the High Court finding an implied right of return has remained a legally grey area for years.

In 1998, the High Court struck down a law effectively imposing a tax on citizens returning from abroad, saying that the right of an “Australian citizen to enter the country is not qualified by any law imposing a need to obtain a licence or ‘clearance’ from the executive.” Constitutional lawyers have said this may forbid a government barring or delaying access to a citizen, except on “legitimate” grounds, such as temporary quarantine requirements.

The right to return is recognised to some extent under international law. For example, Article 12 of the International Covenant on Civil and Political Rights states that no one shall be arbitrarily deprived of the right to enter their own country, thus potentially rendering them stateless. But Australian governments have frequently defied international law, such as by militarily turning back or detaining refugees seeking asylum under the international refugee convention.

The police-state restrictions imposed on Abby are also echoed in the bail conditions set last week for another member of the group that the Albanese government finally permitted back home, with three of the women arrested to face criminal charges, mainly for entering a proscribed zone in Syria.

A Melbourne magistrate granted bail to Kawsar Abbas, a 54-year-old grandmother, with her brother, Abraham Abbas, guaranteeing a \$75,000 surety. She must report to police three times a week, comply with a nightly curfew and surrender all passports and travel documents.

Abbas must also provide the Australian Federal Police with her mobile phone number and PIN, is restricted to possessing a single mobile phone and is prohibited from making or answering calls to anyone outside Australia. She also is barred from attending mosques or engaging in any paid or unpaid work involving religious studies.

That is despite the magistrate accepting the evidence of a forensic clinical psychologist that there was “simply nothing” to suggest Abbas remained committed to extremist ideology.

These women, usually from working-class suburbs of Sydney or Melbourne, often went to Syria at very young ages. Throughout these suburbs, young people from Middle Eastern and other immigrant backgrounds face a future of low-wage employment, poor educational and social facilities, and constant police harassment.

These oppressive social and political conditions provided fertile ground for the recruitment of vulnerable

young men and their partners by reactionary Islamists who posed as enemies of global imperialism, especially after the devastating US-led, Australian-joined, invasions of Afghanistan and Iraq.

As the WSWS has explained, the TEO laws and Labor’s previous operations to block all the women and children constitute a historic attack on the core democratic right of citizenship, without which no other political or civil rights can effectively be exercised, such as the rights to reside, vote, politically communicate and challenge government decisions, even arbitrary detention without trial.

Labor’s assault on fundamental democratic rights has escalated since the December 14 Islamic State-linked terrorist shootings at Sydney’s Bondi Beach, for which the federal and state Labor governments have blamed—and sought to shut down—the widespread demonstrations in Australia against the ongoing US-backed Israeli genocide in Gaza, falsely accusing participants of antisemitism.

The Labor leaders are vying with their Coalition counterparts to outdo Senator Pauline Hanson’s far-right anti-immigrant One Nation party. They are all trying to make immigrants, particularly Muslims, scapegoats for the declining living and social conditions confronting working-class households, like their counterparts internationally, such as the Trump administration in the US, Nigel Farage’s Reform UK, Marine Le Pen’s National Rally in France and the AfD in Germany.

The defence of fundamental democratic rights cannot be left in the hands of the ruling class, capitalist governments and the courts. It requires the development of a mass movement of the working class, guided by a socialist perspective for the complete reorganisation of society on the basis of genuine democracy and equality, with full social and political rights for all people, regardless of their country of birth.



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