

# Submission to the Independent National Security Legislation Monitor on the review of the terrorism-related citizenship loss provisions in the Australian Citizenship Act 2007 — from Dr John Coyne and Dr Isaac Kfir

*This submission does not reflect an Australian Strategic Policy Institute perspective but is the opinion of the authors Dr John Coyne, Head of the Strategic Policing and Law Enforcement Program and Dr Isaac Kfir Director National Security, ASPI.*

## Overview

This submission addresses the implications of the terrorism-related citizenship loss provisions in the *Australian Citizenship Act 2007* on national security (sections 33AA, 35, 35A, 35AA). In doing so, we argue:

- The assumption that citizenship removal will act as a deterrent to dual national Australians or permanent residents considering undertaking acts of terrorism or travel to become foreign fighters, or as an effective risk mitigation measure for Australia's security needs to be reconsidered. There is no substantive empirical evidence supporting the claim that such measures work to support it
- Terrorism-related citizenship loss provisions undermine the risk mitigation impacts that post sentence offender management could have on Australian and global security;
- The provisions may feed into the broader narrative of groups such as ISIL, while ignoring the value of using ex-terrorists to help in deradicalization initiatives.
- The provision may cause more danger to Australia, Australians and our allies as individuals affiliated with ISIL will seek new safe havens from which they could continue their propaganda campaigns, whereas if they are permitted to return under a specific regime, they should be subject to various deradicalization programs.
- With the demise of the territorial Islamic State, it is unlikely that other Australians would make the journey to join the group in Iraq and Syria and therefore the amendment is unnecessary.

## Underlying assumptions

Public discourse on the impact of the terrorism-related citizenship loss provisions in the *Australian Citizenship Act 2007* should be supported by empirical evidence that such measures are effective in deterring individuals from joining such groups as the Islamic State.

It is safe to say that there were two underlying assumptions behind the amendment to the Australian Citizenship Act 2007:

- Citizenship removal from dual national Australian citizens would allow the Commonwealth to remove or ban from its jurisdiction individuals assessed as representing a current or future terrorist threat.
- Citizenship loss would act as a deterrent to those dual Australian citizens considering undertaking acts of violent extremism or travelling to fight with terrorist organisations like IS.

There is a lack of clear empirical evidence to support either assumption.

In the first instance, the measure amounts to a de facto exiling of individuals who held Australian citizenship. At best this approach, displaces rather than mitigates the threat as many of those that lose their citizenship will simply look for a new 'safe haven' If as so often argued, terrorism has become a global threat, then terrorism-related citizenship loss provisions, on their own, do little to mitigate the global risk of terror attacks.

Additionally, banning such people as individuals such as New Zealander Mark Taylor, who had lived in Australia for 25 years before heading to Syria or teen ISIL bride Zaynab Sharrouf, a from returning to Australia is counterproductive because they are small players in the ISIL story. We argue that their effective deradicalization would have great strategic value in the struggle to undermine ISIL's narrative.

Second, the threat from someone that believes in the ideas of the Islamic State or al-Qaeda is not mitigated by their loss of citizenship and we must be conscious of their ability to attack Australians or Australian interests from afar. This is a capacity that they will likely maintain in other jurisdictions, whereas if they are back in Australia, we can lay out certain security measures such as control orders, the authorities may limits on their access to the internet and if necessary resort to the courts who could employ a custodial sentence.

### Offender management

The ongoing post sentence management of convicted terrorists and returning foreign fighters remain vexing problems for western liberal democracies. Despite advances in deradicalization and CVE programs, the zero-tolerance for residual terrorist threats ensures that ongoing offender management is a resource intensive activity.

Over the last two decades Australian authorities have accumulated a great deal of experience with CVE/deradicalization, which has given rise to some promising tools such as that being used in NSW jails. While some of Australia's allies operate effective post-sentence management frameworks, such as probation, for criminal offenders in the justice system bespoke CVE or deradicalization programs for convicted terrorists and foreign fighters is not a global norm.

Without ongoing supervision, and wrap around support services, the application of citizen loss could result in known terrorist offenders being able to undertake further attacks or nefarious activity in other countries. In many cases those who lose their Australian citizenship could and do end up residing in jurisdictions with insufficient legislation, resources or will to manage their cases. In contrast the ongoing management of a terrorist offender in Australia, whilst resource intensive, is likely to have a far more lasting impact on mitigating global terrorism risks.

### Deradicalization

As highlighted in the previous section, the evidence base and empirical data for deradicalization continues to grow rapidly. While it remains true that the journeys to radicalisation are uniquely personal, deradicalization best practices are still being found.

Whereas there is hope that terrorists incarcerated in, or returning to, Australia may be deradicalized there is little hope that this would be the case for those who end up in foreign jurisdictions due to citizenship loss. At best there will be an opportunity for closely managed

community monitoring. Arguably, terrorism-related citizenship loss provisions may have short term terror risk mitigation impacts that in the long term may indeed increase the global risk.

### Terrorist narratives

Most terrorist narratives seek to establish within their current and potential members a sense of persecution, discrimination and isolation. This narrative argues that the terrorist group offers a person a community, a place to belong and some greater purpose. The terrorism-related citizenship loss provisions unintentionally support this narrative. If a person's citizenship can be cancelled, then surely their citizenship is worth 'less than' that of those born in Australia. These circumstances can be easily crafted into a narrative that will resonate with those who are already feeling like they are not part of Australian society. So, while the provisions may mitigate the risk from one terrorist, the act itself may contribute to the radicalisation of many more Australians.