

Isaac Kfir / John Coyne



13 October 2019

**Submission to the Joint Parliamentary Committee on Intelligence and Security  
in respect to a review of the Australian Citizenship Amendment (Citizenship  
Cessation) Bill 2019**

Isaac Kfir / John Coyne

This submission does not reflect the Australian Strategic Policy Institute's perspective or views. It is the sole opinion of the authors Dr Isaac Kfir deputy director of director defence, strategy and national security, head of the counterterrorism policy centre and Dr John Coyne, head of the strategic policing and law enforcement program, ASPI.

1. This submission addresses the implications of the terrorism-related citizenship loss provisions in the Australian Citizenship Act 2007.<sup>1</sup> The legislation provides that, at the discretion of the Minister for Home Affairs, a person who is a national or citizen of a country other than Australia ceases to be an Australian citizen if the person acts inconsistently with their allegiance to Australia by:
  - a. Engaging in specified terrorism-related conduct
  - b. Fighting for, or being in the service of, a declared terrorist organisation outside Australia
  - c. Engaging in conduct that results in a conviction for a specified terrorism offence, and sentenced to a period of imprisonment of at least 3 years, or periods totalling at least 3 years.
2. We recognise that the Australian Citizenship Amendment (Citizenship Cessation) Bill 2019 incorporates the recommendations of the Independent National Security Legislation Monitor (INSLM) who had also reviewed the legislation and to whom we had also made a submission.<sup>2</sup>

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<sup>1</sup> Australia is not unique in adopting this measure. Reportedly, between 2012 and 2018 Bahrain has revoked the citizenship of 738 individuals. 'Bahrain: Hundreds Stripped of Citizenship', *Human Rights Watch*, 27 July 2018, [online](#); David J. Trimbach and Nicole Reiz, 'Unmaking Citizens: The Expansion of Citizenship Revocation in Response to Terrorism', *Center for Migration Studies*, 30 January 2018, [online](#); Christophe Paulussen, 'Repressing the Foreign Fighters Phenomenon and Terrorism in Western Europe: Towards an Effective Response Based on Human Rights', *International Centre for Counter-Terrorism – The Hague*, ICCT Research Paper November 2016, [online](#); Christophe Paulussen, 'Countering Terrorism Through the Stripping of Citizenship: Ineffective and Counterproductive', *International Centre for Counter-Terrorism – The Hague*, 17 October 2018, [online](#).

<sup>2</sup> Report to the Attorney-General: Review of the operation, effectiveness and implications of terrorism-related citizenship loss provisions contained in the Australian Citizenship Act 2007, by the Independent National Security Legislation Monitor, Dr James Renwick CSC SC, 2019, [online](#).

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- a. The INSLM recommended that the revocation of dual-national Australian citizenship will take place through a Ministerial decision model as opposed to a loss through the action of the individual.
3. Nevertheless, we argue that the premise behind citizenship revocation as a national security tool is flawed for the following reasons:
  - a. There is no substantive empirical evidence supporting the claim that citizenship revocation act as a deterrent for those seeking to engage in violent extremism.
  - b. Terrorism-related citizenship revocation may in fact weaken Australian national security because:
    1. It feeds into the broader narrative of groups such as ISIL that western governments unfairly target Muslims. The legislation is likely to only impact those who have gone to Iraq and Syria and is unlikely to affect far-right violent extremists thus adding to the perception that it targets Muslims.
    2. It denies authorities the opportunity to deradicalise, and or monitor returned foreign fighters and terrorists.
    3. It ignores the value of using foreign terrorist fighters to help in deradicalisation initiatives and gain valuable intelligence as these individuals cannot return to Australia.
    4. It may lead foreign terrorist fighters and their families to seek new safe havens from which they would continue their various terrorist related activities.
  - c. With the demise of the territorial Caliphate, it is unlikely that other Australians would make the journey to join the group in Iraq and Syria and therefore the amendment may no longer be necessary.
  - d. There is no evidence supporting the view that allowing Australians to return would lead to terrorist activity in Australia, especially if certain security measures are applied to vis-à-vis these individuals.

*Citizenship revocation is not a deterrence*

4. There is no publicly available evidence to suggest that any of those who sought to become foreign terrorist fighters considered citizenship revocation as a deterrence. In fact, there is evidence of numerous ISIL recruits burning their passports to highlight their commitment to ISIL/al-Qaeda.
  - a. In one video French ISIL fighters call on those that cannot travel to commit acts of violence in their country of residence.<sup>3</sup>
  - b. In another video, an American national, Moner Mohammad Abu Salha also burned his passport. He was to later commit a suicide attack in Syria.<sup>4</sup>

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<sup>3</sup> 'French Isis fighters burn their passports', *The Guardian*, 24 November 2014, [online](#).

<sup>4</sup> Meg Wagner, 'We are coming for you': American suicide bomber who threatened U.S., burned passport returned to U.S. for months before Syria attack', *The New York Daily News*, 30 July 2014, [online](#).

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5. If as so often argued, terrorism has become a global threat, then terrorism-related citizenship loss provisions fail to mitigate the global risk of terror attacks because those who lose their citizenship could and would end up residing in jurisdictions with insufficient legislation, resources or will to manage their cases, which therefore means that they will remain committed to violent extremism.
6. The legislation does not recognise the new post-caliphate environment, which eschews formal membership of terrorist organisations, with leaders increasingly preferring fewer formal ties with individuals, as seen for example with Haisem Zahab.<sup>5</sup>
7. The legislation does not seem to address the increasing concern in the international community that citizenship revocation amounts to a ‘pass the buck’<sup>6</sup> policy that not only spreads insecurity but it also undermines Australia’s claim to uphold the international rules-based order and our claim of being a responsible actor in international society.

*Terrorism-related citizenship revocation weaken Australian national security as it limits intelligence collection and weakens deradicalization processes*

8. The ISIL leadership has shown great interest in understanding the pull and push factors that led individuals to abandon their homes and families and move to the Caliphate. ISIL’s ‘Personnel Affairs and Human Resources’ office collected information on those that travelled to join the Caliphate.<sup>7</sup> ISIL seems to recognise that individuals are attracted to it for different reasons, as seen by the diverse backgrounds of its supporters.<sup>8</sup>
9. Successful debriefing of those individuals who have been seduced by the ISIL narrative will likely provide much needed insight into ISIL recruitment and Radicalisation. Such knowledge would be invaluable to Australia’s security services and those involved in P/CVE programmes. This kind of information will permit the identification of new terror trends.<sup>9</sup>

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<sup>5</sup> Zahab pleaded guilty in 2018 to knowingly providing support or resources to a terrorist organisation (ISIL). Zahab an electrician by trade was working on such equipment as a laser warning receiver, rockets and rocket guidance methods. Australian AP, ‘NSW electrician jailed for providing missile advice to Islamic State’, *The Guardian*, 8 June 2019, [online](#); AAP, Rachel Olding, ‘NSW electrician jailed for missile research to help IS’, *The Sydney Morning Herald*, 7 June 2019, [online](#).

<sup>6</sup> Tamara Laine ‘Passing the Buck’: Western States Race to Denationalise Foreign Terrorist Fighters, *Journal of Peacebuilding & Development*, 12:2 (2017): 22-35, DOI: 10.1080/15423166.2017.1333448

<sup>7</sup> Richard A. Oppel, Jr., Foreign Fighters in Iraq Are Tied to Allies of U.S., *The New York Times*, 22 November 2007, [online](#); Rukmini Callimachi, ‘The ISIS Files’, *The New York Times*, 4 April 2018, [online](#); Joseph Felter and Brian Fishman, *Al-Qa’ida’s Foreign Fighters in Iraq: A First Look at the Sinjar Records* (West Point, NY: Combating Terrorism Center, 2008), [online](#); Aymenn al-Tamimi, ‘The Evolution in Islamic State Administration: The Documentary Evidence’, *Perspectives on Terrorism*, 9:4 (2015): 117-129, [online](#).

<sup>8</sup> For example, if one looks at the Americans who have gone to join ISIL, they include a substitute teacher from Texas, a Baptist mother of four from Indiana, an FBI translator. Robin Wright, ‘Despite Trump’s Guantánamo Threats, Americans Who Joined ISIS Are Quietly Returning Home’, *The New Yorker*, 11 June 2019, [online](#).

<sup>9</sup> Daniel Milton, Julia Lodoen, Ryan O’Farrell, and Seth Loertscher, ‘Newly Released ISIS Files: Learning from the Islamic State’s Long-Version Personnel Form’, *The CTC Sentinel*, 12:9 (2019):15-21.

10. The Radicalization Awareness Network has reported that around 30% of foreign terrorist fighters have returned to their home countries, which means that around 70% have either opted not to return or could not return to their home country.<sup>10</sup>
  - a. Between 2014 and 2016 operational connectivity between ISIL and homegrown violent extremists has been identified in 38 of the 42 attacks that took place within those two years.<sup>11</sup>
  - b. As the Caliphate crumbled many foreign terrorist fighters sought out smugglers to help them escape paying around US\$600 per person to move from al-Raqqa or Idlib.<sup>12</sup> In other words, there is a strong possibility that foreign terrorist fighters and their families have nourished international human smuggling networks. Such a threat is substantial because ISIL has substantial access to financial reserves estimated in 2019 to be between \$50 million and \$300 million.<sup>13</sup>
11. Returning foreign fighters also provide tremendous intelligence, as seen for example with Mohimanul Alam Bhuiya an American national who travelled to Syria to join ISIL in 2014. Three months after arriving in country, Bhuiya reached out to the FBI in an email asking for help, as he sought to return to the USA. Bhuiya's decision to reach out stemmed from him being 'fed up with this evil' adding that the Islamic State was a 'dystopia'. In return for allowing him to return to the USA, Bhuiya provided information on the group, which included providing documents and insights on the group's network, its culture and logistics.<sup>14</sup>

#### *Citizenship revocation and violent extremist narratives*

12. The goal of the violent extremist narrative is to offer a person a community, a place to belong and some greater purpose and in developing their narrative violent extremists exploit and seek to capitalise on negative emotions such as anger, a sense of persecution, discrimination, and isolation. The narrative develops the construction of two groups: the out-group and the in-group.<sup>15</sup>

<sup>10</sup> Radicalization Awareness Network (RAN) 'Responses to returnees: Foreign terrorist fighters and their families', *RAN Manual*, July 2017, [online](#).

<sup>11</sup> Jacob Olidort 'Inside the Caliphate's Classroom: Textbooks, Guidance Literature and Indoctrination Methods of the Islamic State', The Washington Institute for Near East Policy, Policy Focus 147, 2016, [online](#).

<sup>12</sup> Quentin Sommerville and Riam Dalati, 'Raqa's Dirty Secret', *BBC News*, 13 November 2017, [online](#).

<sup>13</sup> 'Eighth report of the Secretary-General on the threat posed by ISIL (Da'esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat', UN Security Council, 1 February 2019, S/2019/103, [online](#).

<sup>14</sup> Adam Goldman, 'I am fed up with this evil': How an American went from Ivy League student to disillusioned ISIS fighter', *The New York Times*, 30 June 2016, [online](#); Alan Feurer, 'A Second Chance for an Ivy League ISIS Recruit', *The New York Times*, 28 June 2018, [online](#).

<sup>15</sup> Henri Tajfel, 'Social identity and intergroup behaviour' *Information* (International Social Science Council) 13.2 (1974): 65-93; Henri Tajfel, (ed). *Differentiation between social groups: Studies in the social psychology of intergroup relations* (Oxford: Academic Press, 1978); Henri Tajfel, 'Individuals and groups in social psychology', *British Journal of Social and Clinical Psychology*, 18.2 (1979): 183-190; Henri Tajfel, et al. 'An integrative theory of intergroup conflict', *Organizational identity: A reader*, (1979): 56-65; Randy Borum, 'Radicalization into violent extremism I: A review of social science theories', *Journal of strategic security*, 4.4 (2011): 7-36.

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- a. The outgroup refers to the community-at-large, which is presented as inimical to the views of the ingroup. The outgroup is portrayed as hostile, dangerous, destructive, etc.
  - b. The ingroup refers to members of the community who had shed their false consciousness and are enlightened.
13. Interfused within the ingroup narrative is that the out-group rejects the in-group, and such things as social cohesion and other initiatives aimed at integration are mere attempts to corrupt and exploit the in-group. Therefore, the ingroup will use various examples to emphasis to potential recruits (and to its recruits) that the outgroup is always hostile to the ingroup. Moreover, the ingroup emphasises positive distinctiveness from the outgroup, including underlying its positive qualities whereas the outgroup is seen as purely negative.
14. Banning individuals like New Zealander Mark Taylor (a.k.a. the Kiwi Jihadi), 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.
15. Effective deradicalisation of ISIL or al-Qaeda members would have great strategic value in the struggle to undermine the Salafi-jihadi narrative as these individuals could and would share their experiences with ‘at risk’ individuals.
  - a. Taylor had lived in the Caliphate for five years. He has declared, ‘There was no food, no money, basic services were pretty much collapsed.’ He has also admitted to seeing beheadings and executions. He also claims that he had become ‘more resentful towards the security of the Islamic State more than anything else. I was threatened with torture and jailed on suspicion of being a spy.’<sup>16</sup>
  - b. Zaynab Sharrouf was around 12 or 13 when she was taken by her parents Khaled Sharrouf and Tara Nettleton to Syria.<sup>17</sup>
  - c. American prosecutors allowed Mohimanul Alam Bhuiya to give an interview to NBC News because they believed that having someone who had witnessed firsthand the horror that was the Islamic State would help deter others from joining the group.<sup>18</sup>
16. 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.

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<sup>16</sup> Adam Harvey and Suzanne Dredge, ‘New Zealand jihadist Mark Taylor captured in Syria and jailed in Kurdish prison’, *ABC News*, 4 March 2019, [online](#); Mike Ives, ‘New Zealand Won’t Revoke ISIS Member’s Citizenship, but He May Face Charges’, *The New York Times*, 4 March 2019, [online](#).

<sup>17</sup> Latika Bourke, ‘When the hell are we getting back home’: Khaled Sharrouf’s children speak’, *The Sydney Morning Herald*, 15 April 2019, [online](#); Paul Karp, ‘Bill Shorten says children of Isis terrorist Khaled Sharrouf should not be used as ‘political football’’, *The Guardian*, 16 April 2019, [online](#).

<sup>18</sup> Richard Engel, Ben Plessner and Tracy Connor, ‘American ISIS Defector: I’ve Let My Nation Down’, *NBC News*, 23 May 2016, [online](#).

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*The citizenship revocation measure is no longer necessary as the Caliphate is no longer in existence and the group is opting for a franchise model*

17. The citizenship revocation argument is largely focused on around 80 Australians who are believed to be still in Syria and Iraq and with the demise of the Caliphate and the dispersal of the group, the ability, and willingness of Australians to join ISIL has declined.
  - a. Since the demise of the Caliphate, Abū Bakr al-Baghdadi and ISIL have ceased calling on individuals to travel to the Caliphate
  - b. The Salafi-jihadi environment has become disaggregated, with groups such as ISIL and al-Qaeda opting for a franchise model which means that they are no longer wanting formal membership – there is anecdotal evidence suggesting that they prefer that individuals not be formally associated with them as it means that the individual is less likely to attract the attention of the security services.<sup>19</sup>

*Returning foreign terrorist fighters and violence*

18. To date, few foreign terrorist fighters have returned to the home countries and have committed or sought to commit a terrorism offence.
19. The three principal cases that individuals tend to identify with returning foreign fighters are the May 2014 Brussels shooting, the Bataclan theatre attack in Paris in November 2015, and the June 2016 Istanbul airport bombing. However, we would argue that these took place because many of the current security measures that would prevent returning foreign terrorist fighters, were not in operation.

*Conclusion*

20. We recognise the exceptional work undertaken by the security services and the police in guaranteeing our security and we are cognizant that allowing individuals accused of supporting ISIL is challenging for numerous reasons (politically, legally, logistically)<sup>20</sup> but we emphasise that to ensure the continued safety of Australians, Australia, and Australian interest, we must not shy away from the challenge of bringing these individuals back.
21. We thank the Committee and the Secretary for allowing us to make this submission.

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<sup>19</sup> Isaac Kfir, 'The post-caliphate Salafi-jihadi environment', *ASPI Strategic Insight*, Canberra, 10 July 2019, [online](#); Isaac Kfir, 'What can we take from Zawahiri's latest message? Vigilance remains vital' *APPS Policy Forum*, 1 October 2019, [online](#).

<sup>20</sup> Michael Birnbaum, 'The difficult diplomacy involved in returning former ISIS fighters and their families', *The Washington Post*, 24 February 2019, [online](#).