



United Nations
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Comparative Research
on Cultural Diversity and Social Justice

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To whom it may concern,

National Consultation on Citizenship

I am writing in reply to the Government's invitation for my written contribution to the National Consultation on Citizenship. My submission is based on a number of intersecting perspectives: firstly as an Australian Muslim, secondly as the UNESCO Chair on Cultural Diversity and Social Justice; and, thirdly, as the director of a research institute (Alfred Deakin Institute for Citizenship and Globalisation - ADI) which focuses on citizenship as one of its two cornerstone conceptual pillars. ADI is one of the largest and most influential social sciences and humanities institutes of its kind in Australia and internationally.

The Prime Minister has stated that a national conversation about Australian citizenship is needed to ensure that Australia remains, indeed becomes, an even more inclusive and democratic pluralist society and also to ensure we safeguard it from potential acts of violent extremism. The stated aim of the Government's proposed legislation is indeed to make Australia safer. However, in my opinion, based on a significant body of theoretical and empirical evidence, the best way to achieve this goal is by ensuring any new legislative amendments meet three guiding principles for Australian citizenship. Namely to:

1. advance the social inclusion of all Australians,
2. strengthen core Australian principles and values, and
3. not diminish Australia's standing in the world.

Advance the social inclusion of all Australians:

Citizenship is a political representation of social belonging. Thus, legislation must foster inclusiveness and equality. It must not disproportionately affect or target particular groups; stigmatise or threaten them. Such an approach to citizenship will only serve to alienate, disconnect and destabilise particular members of our society. Without nurturing a strong sense of belonging and inclusion, the mooted new legislation risks making affected communities' members more vulnerable to internal domestic prejudice and negative international influences. The legislation must avoid this or it risks making Australia more, not less vulnerable.

The history of such approaches shows us the limited success, indeed the counterproductive nature, of such measures. From South Africa's treatment of anti-apartheid activists to France's draconian laws forbidding Islamic religious symbols in public and the British treatment of Irish republican suspects in the 1970s, there is undeniable comparable empirical evidence that harsh measures do not often solve problems. These are examples which demonstrate exclusionary and punitive legislative measures are not always the optimal tools for fighting radicalisation and violent extremism. More positive approaches, such as a Singaporean mosque's rehabilitation programme which the Prime Minister has recently visited, provide an alternative approach more likely deliver the goals of broader social peace as well as countering forces of exclusion and conflict.

Strengthen core Australian principles and values:

Democratic freedoms are most at threat during times when the state faces challenges to its sovereignty and security. It is at the most challenging of times that our commitment to democratic principles are most tested and most important. Derogations demonstrate a lack of meaningful commitment to these rights; in this case specifically the right to belong that all citizens (as well as residing non-citizens) must enjoy - not as a privilege that can be taken away by a ministerial decision, but as a constitutional right that is as irrevocable as any other basic human right. Even in a context where an individual commits an atrocious crime or terrorist act, the state must consistently and openly subject them to the rule of law and a fair trial. Our strength and resilience as a nation will only be furthered if our commitment to the rule of law goes hand-in-hand with our commitment to freedom of religion, expression, assembly and association. These are the cornerstones of civil liberty and should never be jeopardised; even as we fight and resist the scourge that is international terrorism and violent extremism.

Specifically the issue most politically-central to the National Consultation on Citizenship, that is citizens involved in international inter and intra-state conflicts ('foreign fighters'), is not a new phenomenon. History is rich with examples; well-known recent ones include the Western-sponsored Afghan mujahedeen in the Soviet-Afghan War and the International Brigades in the Spanish Civil War. Neither is it one for which there is not a range of alternative recourses for the Government to apply. Contemporary alternatives to draconian measures, such as stripping of citizenship, to consider include those currently pursued in parts of Asia (see Singapore example noted above) and the European example of the reintegration of foreign fighters in Denmark.

The proposed legislation must, therefore, avoid the slippery slope of derogation and eroding the independence of judicial power; a fundamental democratic safeguard against excessive executive power. The people of Australia, via the agency they invest in their democratically-elected governments, have given consent to the signing of a range of international documents which define, for an international family of nations, a framework of rights and obligations for states and their citizens. In this way the National Consultation on Citizenship must, in principle and practice, uphold Australians commitment a framework that conceptualises:

- citizenship as a fundamental right, and not a revocable privilege. The right to belong is a basic human right and therefore any move to render a person stateless or forcibly return them to a state where they may face torture or death contravenes a number of international agreements and treaties to which Australia is a signatory.
- citizenship as entailing both rights and obligations (known as contributory rights). These hold even when a citizen is accused of contravening the law (for example allegedly undertakes an act of criminality or violence); the state's approach must be to subject them to the formal legal processes for adjuration, not cancelling citizenship.
- citizenship as more than a narrow set of political rights; indeed the less tangible processes of (cultural and social) inclusion are as important, if not more so.

Not diminish Australia's place in the world:

Australia is hailed internationally as a country that has managed successfully to build a strong, vibrant and resilient society, incorporating successive waves of migrants from all corners of the world to form the multicultural society it is today. Indeed, by any comparative measure (and many of my research projects on migrant settlement in Western émigré societies are both international and comparative in their approaches), Australia has led by example. Yet, these historical successes, that were remarkably achieved with the background of appallingly inhumane treatment of aboriginal people and the racist White Australia policy, risk being undermined at a crucial time as Australia joins international attempts to counter terrorism and violent extremism.

Through legislation which allows for the revoking of citizenship, Australia risks just this; shifting the burden to another state reduces Australia's standing as a responsible international citizen. That is to strip the citizenship of 'undesired' members of our community, we shift the burden of responsibility for them and their associated risks to another, and perhaps less able, community to deal with. Australia should take responsibility for its citizens and lead by example as an upholder of international citizenship. Failure to do so risks weakening Australia's international standing, thus undermining our ability to collaborate with other states on global issues, including terrorism, people-smuggling, drug-trafficking and foreign fighting.

Finally, the need to demonstrate leadership on this difficult issue (instead of burden shifting by exporting our 'bad apples') will ultimately strengthen Australia's ability to engage in collaborative arrangements and demand equal treatment abroad for its own citizens. To this end, upholding the rule of law by ensuring fair judicial process, increases our ability to argue on behalf of Australians in other jurisdictions to ensure they are afforded access to a fair trial and the rule of law. A unilateral and short-sighted approach to dealing with violent extremism has the potential to undermine Australia's ability to argue for due processes in particular circumstances, such as the repatriation of its citizens who have committed crimes in overseas jurisdictions (the case of the Bali nine and the recent execution of two Australians is a case in point).

To conclude, and while the argument for changes to citizenship laws comes as part of a series of security measures presented as hard choices between national security and civil liberties, it is ultimately the upholding of civil liberties which differentiates us from those very ideologies we seek to counter. Eroding democratic values and civil liberties does not offer Australia any tangible protection as they weaken our social cohesion and present a victory of sorts to the dark forces that loath first and foremost all notions of liberties and democratic governance.

Yours sincerely



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