

Bill C-425

Comments from the International Civil Liberties Monitoring Group (ICLMG) Submitted to the Standing Committee on Citizenship and Immigration Ottawa, April 17, 2013

The ICLMG is a pan-Canadian coalition of civil society organizations that was established in the aftermath of the September 11th, 2001 terrorist attacks in the United States. The coalition brings together 39 international development and human rights NGO's, unions, professional associations, faith groups, environmental and refugee organizations. Its purpose is to monitor the impact of anti-terrorism legislation on human rights standards, to advocate against abuses and violations, and in certain cases, to take up the cause of those who have become innocent victims of such abuses. (For more information visit ICLMG website at <http://iclmg.ca/>)

Introduction

Bill C-425, An Act to amend the Citizenship Act (honouring the Canadian Armed Forces) is a private member's bill, introduced by Devinder Shory, MP. The bill would allow permanent residents who serve in the Canadian Armed Forces to obtain Canadian citizenship more quickly, and would provide for Canadians to be stripped of their citizenship if they engage in an act of war against the Canadian Armed Forces.

Bill C-425 is currently before committee. On 21 March, the Minister of Citizenship and Immigration told the committee that he is proposing a number of amendments to the bill. Among these is an amendment to have the power to strip citizenship of people who have been convicted of various terrorism offences.¹ The Minister also proposes that citizenship be stripped only from dual citizens (so that people would not be left stateless).

Concerns of the ICLMG

1. All citizens must be treated equally

It is unfair and discriminatory to have citizens face different consequences for committing the same crimes. Creating separate rules for dual citizens creates a two-tier

¹ The exact wording of the amendment was not tabled, but the Minister proposed that citizenship could be stripped from "those who've served as a member of an armed forces of a country or as a member of an organized armed group that was engaged in an armed conflict with Canada; or have been convicted of high treason under section 47 of the Criminal Code; or have been sentenced to five years or more of imprisonment for terrorism offences, as defined in section 2 of the code, or equivalent foreign offences for terrorism; or have been convicted of offences under sections 73 to 76 of the National Defence Act and sentenced to imprisonment for life because they acted traitorously; or have been convicted of an offence under section 78 of the National Defence Act and sentenced to imprisonment for life; or have been convicted under section 130 of the National Defence Act for committing high treason punishable under section 47 of the Criminal Code or for committing a terrorism offence and it is defined in section 2 of the Criminal Code and sentenced to at least five years in prison."

citizenship, with lesser rights for some citizens.

2. Vagueness of terrorism definition

The term “terrorism” is problematic because it is vague, broad and politicized. In fact, there is no consensus on its definition at the United Nations, nor are there any definitions of the concept in any important international instruments such as the *Rome Statute of the International Criminal Court*.

The definition introduced in the Criminal Code by Canada’s *Anti-Terrorism Act* in December 2001 provides a vague, imprecise and overly expansive definition of “terrorism” and “terrorist activity” that could be interpreted arbitrarily to encompass forms of dissent and/or violent behavior that have little to do with terrorism, thus threatening civil liberties and the right to legitimate political dissent. For instance, several democratic countries have recently invoked anti-terrorist laws to prosecute opponents and protesters against resource development projects. Recent Public Safety and CSIS reports also blur the line between “dissent” and “terrorism”. Under the proposed amendments, Canadians with dual citizenship who are environmental defenders or who protest at international summits and are convicted of terrorist-related offences by a foreign country, or by Canada itself, could be stripped of their citizenship. This would be a grave Charter violation of the right to free expression of certain Canadians.

Another problem with such a sweeping definition of “terrorism” is that it fails to distinguish between criminal terrorist entities and freedom fighters or liberation movements, whose legitimacy can shift depending on the time period and the dominating political interests at stake. Under Canada’s current definition, Nobel prize recipients Nelson Mandela and Rigoberta Menchu would be considered terrorists. Even members of the French resistance fighting against the Nazi occupation would have fallen into the same category.

3. Foreign convictions may be unfair

It is especially troubling that people could be stripped of their citizenship based on a foreign conviction. Criminal proceedings in some countries are routinely unfair; cases relating to terrorism are particularly vulnerable to proceedings that violate the principles of natural justice. The proposed amendment does not offer a fair and independent process in Canada for the person to show that the foreign conviction was unjust.

Maher Arar is a Canadian dual citizen who was unfairly suspected of terrorism and jailed in Syria. Fortunately he was able to return to Canada, and as a Canadian citizen, was able to advocate for his rights, leading to the O’Connor Commission which cleared his name.

If the proposed amendment is passed, a Canadian in a similar situation to Mr Arar in the future could be unfairly accused and convicted of terrorism abroad, and stripped of his Canadian citizenship, while still in jail abroad.

4. Amendments send a negative message

No one anticipates that the power to strip citizenship would be used in large numbers of cases. Nevertheless, the symbolic importance is significant. The proposed amendments send the message that Canadians are not all equal, and that the loyalty of some citizens is in question. This negative message particularly affects certain Canadians, notably Muslims and Arabs, who have been unfairly and persistently associated with terrorism.