

Bill C-24: Strengthening Canadian Citizenship - Weakening Global Security

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Statute Commented On: *Strengthening Canadian Citizenship Act*, [SC 2014 c 22](#)

On June 11, 2015 the final host of amendments created under the *Strengthening Canadian Citizenship Act* (Bill C-24) came into force. Among those were amendments to section 10 of the *Citizenship Act*, [RSC 1985 c C-29](#) greatly expanding the government's ability to revoke Canadian citizenship. The amendments apply to naturalized Canadians, dual citizens and Canadian-born citizens who are eligible to obtain dual citizenship. Prior to Bill C-24, only naturalized citizenship could be revoked, and revocation was limited to cases where citizenship was obtained by means of fraud or false pretenses (See Parliamentary Information and Research Service, *Legislative Summary of Bill C-24: An Act to amend the Citizenship Act and to make consequential amendments to other Acts* by Julie Béchar, Penny Becklumb, & Sandra Elgersma (Ottawa: Library of Parliament, 2014) available [here](#)). Now treason, terrorism, aiding the enemy, espionage, and communicating safeguarded or operational information have been added to the list of exile-worthy offences.

The government announced that the measures, “underscore the government’s commitment to protecting the safety and security of Canadians and promoting Canadian interests and values [and] reinforces the value of Canadian citizenship” (See the [backgrounder](#) published by Citizenship and Immigration Canada). However, opponents contend that the amendments are unconstitutional and create a highly-problematic two-class system of citizenship in which naturalized Canadians are vulnerable to having their citizenship arbitrarily revoked.

I have three main issues with the recent amendments to the *Citizenship Act*. First, in a globalized world, readopting the long-abandoned archaic practice of banishment is not an effective response to terrorism. Second, Bill C-24 and the *Anti-terrorism Act, 2015* [Bill C-51](#) (which received royal assent on June 18, 2015) work together to reimagine the word “terrorist” in broad, amorphous terms, potentially encompassing people who would not typically be considered terrorists. Third, providing the Minister with discretionary powers to revoke citizenship denies people due process in what is likely one of the most critical decisions of their lives. Each of these concerns are addressed below.

We live in a globalized world. Never has it been easier to share ideas, transport goods, and exercise personal mobility. Consequently, terrorism is no longer an issue that can be confined within borders. The legislation must reflect this conceptual evolution. Terrorism is a global issue that requires a global response. It is irresponsible for Canada to revoke citizenship of convicted terrorists and send them to countries that may not have the ability to adequately or appropriately deal with the situation. In a featured article by the Canadian Security Intelligence Service (CSIS), Director Michael Coulombe astutely [wrote](#), “even if a Canadian extremist does not immediately return, *he or she is still a Canadian problem*. Just as Canada expects other nations to prevent their citizens from harming Canadians and Canadian interests, *we too are obligated to deny Canadian extremists the ability to kill and terrorize people of other countries.*” ([emphasis](#)

[added](#)). If every country were to adopt Canada's response to terrorism, the solution would look like a global conveyor belt of terrorists being transferred between countries.

In recent headlines is the case of Hiva Alizadeh. In September 2014, Alizadeh pled guilty to the offence of possessing explosive materials for the purpose of endangering life or causing serious property damage involving Canadian citizens in their homeland (*R v Alizadeh*, [2014 ONSC 5421](#)). Though Alizadeh did not in fact carry out a terrorist attack, he admitted to travelling to Iran and then Afghanistan in 2009 to attend a terrorist training camp and to smuggling customized circuit boards into the country with the intention to build explosive triggering devices, upon his return to Canada. During sentencing Justice Colin McKinnon stated, "you are now a convicted terrorist. The fact carries with it an utterly deplorable stigma that is likely impossible to erase You have betrayed the trust of your government and your fellow citizens" (*Alizadeh* at para 1). Alizadeh was sentenced to 24 years in prison. Alizadeh is a dual Canadian and Iranian citizen. This month the government began to take the initial steps under the *Strengthening Canadian Citizenship Act* to revoke Alizadeh's Canadian citizenship (See [here](#)). The question for me is whether deporting Hiva Alizadeh or similar cases actually increase Canadian security?

Since 2012 Canada has listed Iran as a state that supports terrorism (See Foreign Affairs, Trade and Development Canada on [Terrorism](#)). It is difficult to believe that Canada's solution to terrorism is to send a known terrorist to Iran instead of keeping him in a Canadian prison where we can have confidence that the risk to the public is low and he may even be able to rehabilitate. Terrorists do not need to be on Canadian soil to undertake attacks. Canadians and consular services can be found in almost every country in the world. By sending known terrorists to foreign countries Canada is shirking its responsibilities and naively relying on other governments to keep Canadians safe.

For many supporters of the amendments to the *Citizenship Act*, Canadian citizenship is a privilege not a right (See *Debates of the Senate*, 41st Parl, 2nd Sess, Vol 149, [Issue 73](#) (17 June 2014) at 1930 (Hon Nicole Eaton)). Canada prides itself on being a peaceable and safe nation. It is easy to sympathize with those who hold the position that a person who has committed a terrorist offence (naturalized or Canadian-born) does not *deserve* to be a Canadian citizen. What makes this position more difficult to grasp is when it is accompanied with an understanding of the recent redefining of what it means to be a terrorists. When one imagines a "terrorist" they may conjure up images of groups such as the Islamic State of Iraq and the Levant (ISIL), the Irish Republican Army (IRA), Boko Haram, or the Revolutionary Armed Forces of Columbia (FARC). What one likely does not picture is someone who shares a blog over social media or who was convicted of a terrorism offence in a country that does not respect the rule of law. However, as a result of the passing of Bills C-51 and C-24, such expressions and situations may constitute a terrorism offence and could lead to revocation of citizenship.

Changes to the definition of terrorism:

- Bill C-51 amended and expanded the *Criminal Code*, [RSC 1985 c C-46](#) definition of "terrorism offence" by adding provision 83.221, which states:

"Every person who, by *communicating statements*, knowingly advocates or *promotes the commission of terrorism offences in general*-other than an offence under this section-while knowing

that any of those offence will be committed *or being reckless as to whether any of those offences may be committed*, as a result of such communication, *is guilty* of an indicatable offence and is liable to imprisonment for a term of not more than five years” (emphasis added)

Opponents contend that this provision is problematic because it is written in broad vague terms and consequently has the potential to convict people who may have *no intention* of promoting a terrorism offence.

- Bill C-24 amended the *Citizenship Act* and added section 10(2)(b), which states:

(2) *The Minister may revoke a person’s citizenship if the person, before or after the coming into force of this subsection and while the person was a citizen,*

(b) was convicted of a terrorism offence as defined in section 2 of the Criminal Code — or an offence outside Canada that, if committed in Canada, would constitute a terrorism offence as defined in that section — and sentenced to at least five years of imprisonment (emphasis added)

To understand opponents’ concerns with this provision, take for example the case of Saudi Arabian human rights activist Waleed Abu al-Khair. Waleed Abu al-Khair is currently serving a 15 year sentence in Saudi Arabia, convicted on terrorism charges stemming from his “peaceful activism, including comments to news outlets and on Twitter criticizing Saudi human rights violations” (See [Human Rights Watch "Saudi Arabia: Prominent Activist Marks Year Behind Bars"](#)). Commentators worry that if someone like Waleed Abu Al-Khair were to one day become a Canadian citizen, they would be vulnerable to having their citizenship revoked under section 10(2)(b) of the *Citizenship Act*. It is difficult to imagine a court of law interpreting this section to encompass Al-Khair’s acts (since the provision specifies that the offence committed abroad must constitute a terrorism offence as defined by the *Criminal Code*). However, a court would not be making this interpretation; the decision is left to the Minister or one of his delegates.

An enormous amount of trust has been placed in the hands of the Minister or one of his delegates to make the critical decision as to whether or not an individual’s citizenship should be revoked. The government claims that by separating this process from the judicial system, they are cutting financial costs and increasing efficiency. While this may be true, we must ask, “at what *social cost*”? In allocating this power, the government is denying due process. All citizens should be entitled to a federal court hearing to determine whether their citizenship should be revoked. It is fundamentally unjust to leave a decision of this magnitude to an arbitrary body.

The changes to the *Citizenship Act* introduced through Bill C-24 are a smoke and mirrors response to terrorism. In an effort to appear “tough on terrorism” Canada is placing its energy and focus on reintroducing a model of security that it outgrew hundreds of years ago. Canada

owes a responsibility to the global community to deal with Canadian terrorists on Canadian soil. This is no longer an era of kingdoms, castles, and moats. We can't simply throw someone outside of the Kingdom walls and expect that the problem is exiled along with the perpetrator. The changes introduced by Bill C-24 fail to protect the safety and security of Canadians from what is today, a threat that has no boundaries.

Update: the government has recently started a second application under the *Strengthening Canadian Citizenship Act* to revoke the Canadian citizenship of Misbahuddin Ahmed.

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