

ACTION ALERT 19-6: FOREIGN FIGHTERS

As Quakers we seek a world without war. We seek a sustainable and just community. We have a vision of an Australia that upholds human rights and builds peace internationally, with particular focus on our region. In our approach to government we will promote the importance of dialogue, of listening and of seeking that of God in every person. We aim to work for justice and to take away the occasion for war.

August 2019

Federal Parliament has now passed laws to give the Government power to deny Australian citizens (from 14 upwards) who are living in camps in Syria, having been involved with ISIS, the right of re-entry to Australia for up to two years. This Alert explains the current situation, the legislation, and possible responses.

Background

There are currently some 11,000 foreigners (mainly women and children) related to ISIS held in locked camps in northeast Syria run by the Kurdish Autonomous Administration. Some 80 of these are Australians. The conditions of the camps are grim, featuring overflowing latrines, contaminated water tanks, stinking garbage, and tattered tents. As a result, the detainees exhibit skin rashes, swollen bellies, and diarrhoea. Hospital facilities are under-staffed and under-resourced. Tension and violence are a constant threat to the safety of detainees.

The Kurds want home countries to take back their citizens. In June, Australia brought home 8 children, but the recent legislation raises more barriers to further repatriation.

The Legislation

The Counter-Terrorism (Temporary Exclusion Orders) Act passed on 25 July 2019 by Parliament, supported by the Coalition and ALP, but opposed by the Greens. It introduces two new orders that can be made by the Minister for Home Affairs (Peter Dutton MP):

- A temporary exclusion order (TEO) which may prevent an Australian citizen 14 or over from returning to Australia for up to two years at a time.
- A return permit with conditions imposed by the Minister that can last for up to twelve months.

The Minister is required to (a) refer TEOs to a reviewing authority which can cancel the order if an error is found, (b) report annually on the issuance of TEOs, and (c) allow the Independent National Security Monitor to review the law. The Joint Parliamentary Intelligence and Security Committee made several recommendations that were rejected – including preventing ASIO from being used to assess the need for an order, and adding a provision that a person had to have engaged in a certain form of conduct to warrant an order.

Commentary

Michele Grossman (Deakin University) said on the *ABC Radio AM* program on 27 July that the longer people are left in difficult situations the less chance there is of their reintegration into Australian society, and the greater danger they could pose to Australia's security. She doubted the chance that TEOs would be based on sufficient information about particular cases. They would be especially harmful to children who had no responsibility for their parents' actions.

Letta Taylor (Human Rights Watch) has seen the camps first-hand and said (23 July): "Governments should be doing what they can to protect their citizens, not abandon them to disease and death in a foreign desert". She says more aid is needed from the UN and other humanitarian agencies, and detainees should be allowed free movement in and out of the camps.

Arthur Moses (President of the Law Council of Australia), in a media release on 25 July 2019, said certain sections of the legislation may be at odds with the Australian Constitution, and will create uncertainty. "To present any minister with the power to exclude citizens because it is believed they may be foreign fighters creates a slippery slope to exclude people on other grounds, such as geography or religion". He drew attention in particular to the legislation's extension of the questioning and detention warrant powers as "far-reaching and extraordinary".

Action

Given the dangerous conditions in which the detainees are held, our politicians need to be reminded of the risks associated with this kind of legislation. Its emphasis on security over compassion is likely to create more harm than good, especially to women and children caught in circumstances over which many have little control. If more attention and resources are given towards reintegration and rehabilitation, there is a good chance that most of the detainees will be able to fit back into Australian society in due course.

You may wish to contact your MPs and Senators to seek answers to the points raised here, and to express your own views on how to ensure that this legislation does not create constitutionally-doubtful measures and remove basic human rights from Australian citizens.

Canberra
July 2019