

# THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

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## TCP: Citizenship Stripping Legislation 'Practically Useless, Raises Serious Constitutional Concerns'

WASHINGTON, D.C. -- Legislation aimed at stripping U.S. citizenship from any American that fights with or supports a foreign terrorist organization working to attack the United States would serve no good purpose, and would raise serious constitutional concerns, say the co-chairs of The Constitution Project's bipartisan Liberty and Security Committee in a [letter delivered](#) to members of the Senate Judiciary Committee earlier this morning.

The Expatriate Terrorist Act, introduced by Senator Ted Cruz (R-Texas), would add joining a terrorist organization's armed forces while they are fighting the U.S., or providing support and training to a foreign terrorist organization, to the very short list of acts that can result in the loss of citizenship. The bill would also require the Secretary of State to deny a passport to, or revoke one from, anyone who is a member of a foreign terrorist group, or is attempting to become one.

Citizenship is a constitutional right under the 14th Amendment that can be knowingly and voluntarily waived but cannot be taken away by the government under any circumstances absent such a waiver, David Cole and David Keene wrote in their letter, citing a 1980 Supreme Court decision. Hence, unless a person subject to expatriation proceedings admits he joined or supported a terrorist group specifically intending to give up his U.S. citizenship, the legislation would "almost certainly result in no additional expatriations," they said.

They also note that the passport revocation provisions of Senator Cruz's bill "are similarly unnecessary" because the Secretary of State already has the power under current law to deny or revoke a passport for anyone whose activities abroad are causing, or are likely to cause, damage to the national security or foreign policy of the U.S.

"Not only is the bill practically useless, it also raises serious constitutional concerns," Cole and Keene wrote. They pointed out that the legislation does not require proof of a conviction prior to stripping citizenship, undermining due process, and that federal courts ruled that another law - on prohibiting material assistance to terrorist organizations - with similar language to Cruz's bill was unconstitutionally vague.

Cole is a law professor at the Georgetown University Law Center, and Keene is opinion editor at the Washington Times and former chairman of the American Conservative Union.

The Senate Judiciary Committee is expected to debate the bill Thursday morning.

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### [About The Constitution Project](#)

*Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.*