



Justifiable Backlash Prompts the Removal of a Provision in a Proposed Bill

Widespread public outcry from civil liberties groups and free speech advocates prompted the withdrawal of a controversial provision in a proposed bill which would have granted U.S. Secretary of State Marco Rubio unilateral power to arbitrarily revoke passports. House Foreign Affairs Committee Chairman Brian Mast (R-FL) sparked the justifiable backlash after he introduced the provision as part of a larger State Department reorganization bill last week. Following the wave of condemnation, Mast later filed an amendment to remove the measure in what many hailed as a victory for the defense of freedom of speech and expression. Civil liberties organizations had warned that the provision would give Rubio broad powers that he could weaponize to target activists without due process and suppress constitutionally protected free speech. This fear has particular merit given that the State Department under the current Trump administration has already targeted individuals based solely on free speech and without cause or specific charges, especially those that have expressed views critical of Israeli policies and conduct.

Due to the similar type of vague language in the removed provision that resembled previous Trump administration attempts to stifle anti-Gaza War free speech, observers believe it was clearly intended to target activists seeking to draw attention to Israeli human rights violations and abuses. In his time serving as U.S. Secretary of State, Rubio has overseen efforts to try to deport international students merely involved in anti-war demonstrations on college campuses (most notably in the cases of Mahmoud Khalil and Rümeysa Öztürk) and deploy an AI-powered “Catch and Revoke” system to target foreign nationals Trump administration officials baselessly allege support Hamas. The now withdrawn Mast provision would have significantly escalated these unconstitutional and politicized measures by targeting U.S. citizens. Additionally, as one commentator put it, the provision would have alarmingly eliminated the right to due process and essentially allowed Rubio to be “judge, jury, and executioner” on the unilateral and arbitrary revocation of passports. The lack of due process that this would have created is highly troubling. Unlike cases where passport revocation normally follows some type of criminal conviction, the provision would have bypassed the legal process and given the executive branch unchecked power to make sole determinations at its whim. Analysts have also pointed to how the rhetoric in Mast’s provision mirrored that in the so-called “nonprofit killer” provision that some Republicans attempted to pass back in July. In that instance, the denounced provision was ultimately removed as well, but had it remained, it would have problematically allowed the Treasury Secretary to unilaterally strip nonprofit status from anything he alone deemed to be a “terrorist-supporting organization.”

In their sweeping denunciation of the removed provision, rights advocates highlighted some of the other major concerns with what it would have paved the way for. One official with the Foundation for Individual Rights and Expression (FIRE) outlined how unlike in a criminal court case where allegations of “material support for terrorism” would require prosecutors to demonstrate a direct connection between the defendant and a specific group, under the provision originally pushed by Mast, Rubio would not have the same evidentiary standards. Thus, the Secretary of State could have tried to label any form of protected free speech that he or the Trump administration did not like as “material support for terrorism” and grounds for passport revocation – without the need for an actual criminal charge or conviction. Furthermore, another huge issue with the removed provision is that individuals who were to have their passports revoked under it would only be able to appeal the decision to the State Department

itself. This total lack of oversight would have been an undeniable abuse of power, giving one entity alone complete control over the process.

Civil liberties organizations rightly celebrated Mast's backtracking and removal of the controversial proposed bill provision. The American Civil Liberties Union (ACLU) welcomed the scrapping of the provision, with ACLU officials remarking that "It's a really great thing that this provision got struck...It was hugely problematic and created a huge risk of abuse and of politicized enforcement." The Council on American-Islamic Relations (CAIR) also hailed the withdrawal, expressing that Mast's retreat from the harmful measure shows that dangerous attacks on Americans' rights can be stopped through organized advocacy and public pressure. While it is a significant victory for those on the front lines of safeguarding freedoms and civil liberties, others did take time to remind these groups and those who support their efforts that the original inclusion of the provision is proof of the lengths that some will go to try and silence dissent and as such, there is a need to remain vigilant in order to successfully push back against them.