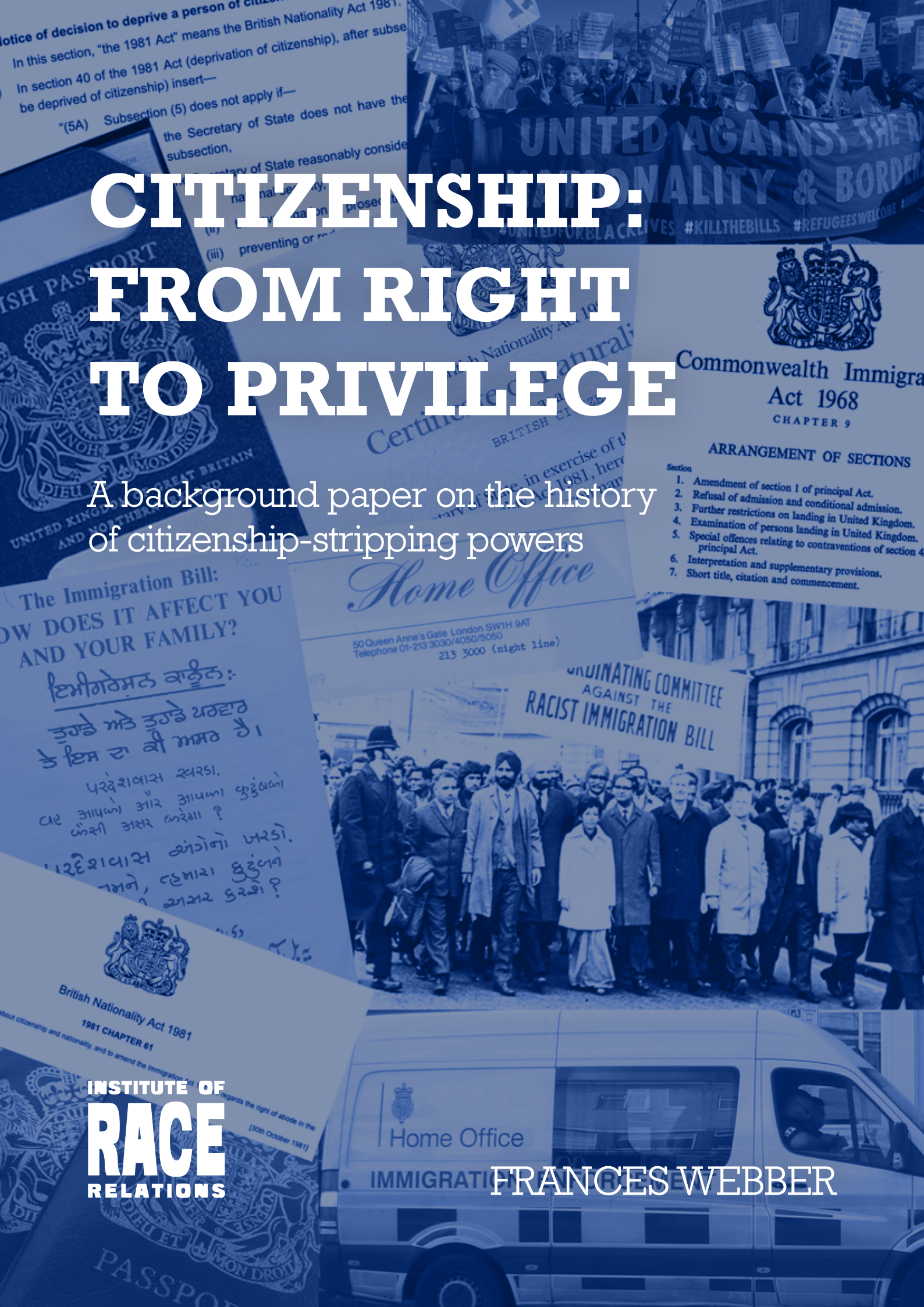


CITIZENSHIP: FROM RIGHT TO PRIVILEGE

A background paper on the history of citizenship-stripping powers



Commonwealth Immigrants Act 1968
CHAPTER 9

ARRANGEMENT OF SECTIONS

- Section
1. Amendment of section 1 of principal Act.
 2. Refusal of admission and conditional admission.
 3. Further restrictions on landing in United Kingdom.
 4. Examination of persons landing in United Kingdom.
 5. Special offences relating to contraventions of section 4 of principal Act.
 6. Interpretation and supplementary provisions.
 7. Short title, citation and commencement.

The Immigration Bill:
HOW DOES IT AFFECT YOU
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ਤੇ ਇਸ ਦਾ ਕੀ ਅਸਰ ਹੈ।
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ਦਾ ਆਪਣਾ ਆਰ ਆਪਣਾ ਖੁਫ਼ੇਲਾ
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UNIONIZING COMMITTEE
AGAINST THE
RACIST IMMIGRATION BILL



British Nationality Act 1981
1981 CHAPTER 61

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CITIZENSHIP: FROM RIGHT TO PRIVILEGE

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Preface

The whole history of British citizenship is a history of state racism – from the differential treatment of 'non-patrial' citizens who acquired citizenship through a colony rather than through British ancestry, which led to the 'East African Asians' scandal of 1968, and the quiet withdrawal of British citizenship from former colonial citizens when their countries became independent, which led to the Windrush scandal, through the dilution of the right of citizenship by birth in the UK (*ius soli*) in 1981, to the current laws which apply the logic of deportation and exclusion to black and brown citizens.

Likewise, law and practice surrounding British nationality and its removal has been shaped by racism. British citizens are divided into those claiming only British citizenship, who can never lose it whatever they do, and those who, although they may have been born here, have access to another citizenship, who can lose their British citizenship on the say-so of a minister. The latter group, with a second-class, disposable, contingent citizenship, are

mostly from ethnic minorities – and as this background paper shows, the changes to citizenship law which have created these classes of citizenship were brought in to target British Muslims of south Asian and middle eastern heritage.

And while the government seeks to reassure us that only those whose actions pose grave threats to national security, or who have committed abhorrent crimes, will lose their citizenship, and numbers remain small, the division of citizens into those with secure and insecure status affects vastly more people. Such divisions act as a constant reminder to minority ethnic citizens that they must watch their step, and reinforces racist messages about ‘undeserving’ racialised groups unworthy of being British.

Introduction

‘Wouldn’t it /Be simpler ... if the government /Dissolved the people and /Elected another?’ Bertolt Brecht¹

‘There cannot be different grades of Britishness in the eyes of the law. You are either British, or you are not.’ Philip Hensher²

We are taught to think of our citizenship as something completely reliable and enduring, a core part of who we are and something we generally take completely for granted. But government actions over the past few years have shaken that belief. We are now told that citizenship is ‘a privilege, not a right’. Successive legal changes have made it harder to acquire - but easier to lose, for certain groups of people – and in practice, those most affected by these changes are British Muslims, particularly of south Asian heritage.

In 2021 as the Nationality and Borders Bill 2021-2 was going through parliament, the Institute of Race Relations (IRR) drew attention to the implications of its Clause 9, which meant citizenship could be revoked without those affected being notified.³ The subsequent campaign against the clause has heightened public awareness of the injustice contained in the deprivation of citizenship powers.

1 ‘The Solution’, 1953.

2 ‘It’s wrong to strip Abu Hamza of his citizenship’, *Independent*, 3 April 2003 (reissued 8 December 2013)

3 <https://irr.org.uk/article/removing-clause-9-and-beyond/> The IRR had been asked in 2021 to prepare a report on the deprivation of citizenship and the public sector equality duty as part of the appeal against the revocation of the citizenship of a number of young British Muslim women of South Asian heritage, including Shamima Begum, who had travelled to Syria, often as children to join ISIS.

Beginning with the public debate over Clause 9, this background paper looks at the history of citizenship-stripping powers and their use over the past two decades against the background of the colonial roots of British citizenship and the way citizenship continues to be shaped by a colonial approach. It looks at how the creation of a 'second-class citizenship' has impacted on Muslims and other communities already demonised and stigmatised by racist media coverage, politicians' statements and policies such as Prevent, in the context of the government's increasing disregard for racial and religious equality.

1. The 'Clause 9' furore

In October 2021, the government added a new clause to the Nationality and Borders Bill 2021-22, whose nationality provisions, up to that point, had been designed mainly to enable the grant of citizenship to those historically prevented from obtaining it.

What clause 9 said

The new clause, which became clause 9 of the Bill,⁴ provided that British citizens could be deprived of their citizenship without notice:

- > If the information needed to serve a notice is not available;
- > it would not be reasonably practicable to tell them;
- > in the interests of national security;
- > in the interests of diplomatic relations; or
- > not informing them is 'otherwise in the public interest'.

It went on to retrospectively legalise a number of deprivations which were illegal under the existing law because notice was placed 'on the file' and not served on the person who lost citizenship.⁵

What it means

The clause means that a British citizen who is abroad and is deprived of citizenship might not know about it until:

- > they try to come home and are refused boarding; or
- > they need help from the British Embassy because their passport, money etc have been lost or stolen; or

4 Now section 10 of the Nationality and Borders Act 2022.

5 In law, documents are legally served if they are sent to the person's last known address, and do not have to be given personally to the individual affected.

- > they need the British Embassy's protection because they have been arrested and possibly ill-treated or threatened with ill-treatment (such as torture or execution) by the country's authorities.

Those affected

Those potentially affected by the clause include:

- > any British citizen, whether born British, registered or naturalised, who has another citizenship;
- > any naturalised British citizen with access to another citizenship.
- > According to the *New Statesman*, up to six million citizens have or have access to a second citizenship.
- > In practice, those most likely to be affected are BME citizens, two in five of whom have or have access to another citizenship.⁶

Public outrage

The contempt which the clause embodied - for those citizens who would be affected, and for basic, centuries-old principles of natural justice demanding that those affected by decisions know about them – shocked many. Fear and anger erupted on social media, in the press,⁷ in parliament, where Imran Hussein MP asked prime minister Boris Johnson 'When are you coming for me?',⁸ and in MPs' constituency surgeries. Activists and community groups raised the alarm, with over 300,000 people signing [a parliamentary petition](#) to remove the clause from the bill, and several organisations including Reprive, the Muslim Association of Britain, Rights and Security International, and [Status Now for All](#), mobilised to oppose clause 9.

Ministers were at pains to point out that the change would affect only a tiny handful of people, that resort to deprivation was very rare. Yet, although the clause didn't change the criteria for the removal of citizenship – who could lose citizenship and for what sort of conduct – it brought home to a wider public how precarious and fragile British citizenship is for Black and Muslim citizens. For them, citizenship has become 'a privilege, not a right', as a result of changes brought in since 2002 whereby anyone with another citizenship, even if they were born and brought up in Britain and know no other country, can lose their British citizenship if deprivation is deemed 'conducive to the public good'. The 'deportation logic' on which the deprivation powers are based – get rid of them, regardless of family ties, or how long they have lived here, if they cause trouble, or can't prove their right to be here – is the same logic that deprived the Windrush generation of their livelihoods, their homes, and

6 Ben van der Merwe, 'British citizenship of six million people could be jeopardised by Home Office plans', *New Statesman*, 1 December 2021.

7 See eg, 'I was born here but could be sent "back to where I came from" with no warning', *Daily Mirror*, 9 December 2021.

8 *Huffington Post*, 1 December 2021.

in some cases their freedom and their country. Now, it was realised, this same logic, which is inherently expansive, is applied to British-born citizens too – and this drove public anger.

In January 2022, the Lords threw the clause out – and some peers wanted to go further, tabling an amendment to remove all the powers to revoke citizenship that Parliament had given to ministers from 2002 onwards. The amendment wasn't passed – but it showed the depth of feeling on the issue. As Conservative peer Lord Moylan said: 'When something as important as nationality and national identity is treated by our own Government like a mere driving licence or library ticket that can be cancelled by administrative fiat, we are all the poorer.'⁹

In March 2022, the Commons reinstated Clause 9, but restricted no-notice deprivation to specified scenarios, i.e., where the information needed is not available; or if the minister reasonably thinks notice should not be given in the interests of:

- > national security;
- > investigating or prosecuting serious or organised crime;
- > preventing or reducing a risk to someone's safety; or
- > diplomatic relations.

It also agreed safeguards protecting appeal rights and allowing a measure of judicial oversight of decisions to deprive without notice, as well as periodic reviews of their use.

But the fundamentally racist deprivation provisions remain, as do the provisions retrospectively validating unlawful deprivations made without notice, in section 10 of the Act.

2. A history of deprivation powers

Lawyers, judges and philosophers agree that citizenship is a foundational status, conferring not only the all-important right of residence, but the right of belonging to a political community. Philosopher Hannah Arendt famously described citizenship as 'the right to have rights'; human rights were, she pointed out, inaccessible to those without a political community (ie, a country of nationality) to enforce them.¹⁰ The US Supreme Court adopted Arendt's formulation in *Trop v Dulles*, in which it said '[deprivation of citizenship means] the total destruction of the individual's status in organized society. It is a form of punishment more primitive than torture'.¹¹

9 [HL Deb](#) 27 January 2022, col. 508.

10 *The origins of totalitarianism* (1951), Chapter 9.

11 *Trop v Dulles*, US Supreme Court (1957) 356 US 86 (Chief Justice Warren).

Clause 9 made people sit up and take notice of previously little-known legal changes since the millennium which have fundamentally changed the nature of citizenship. Before 2002, deprivation powers had remained more or less constant for over half a century, and were hardly used. British citizens could be deprived of citizenship if it had been obtained by fraud (this criterion has remained constant). Citizens by registration or naturalisation could also lose their citizenship if:

- > they had displayed disloyalty or disaffection; OR
- > they had traded with, communicated with or assisted the enemy in time of war; OR
- > they had been sentenced to 12 months or more imprisonment anywhere within five years of becoming British; AND
- > it was conducive to the public good to remove their citizenship; AND
- > they would not become stateless as a result.¹²

Three main Acts of Parliament transformed the powers of the government to revoke British citizenship:

- > The 2002 Nationality, Immigration and Asylum Act replaced the list of specific behaviours with a 'catch-all' criterion of doing 'anything prejudicial to the vital interests of the UK' (retaining the additional 'conducive to the public good' test);¹³
- > for the first time, it extended the deprivation provisions to those born British, as well as naturalised and registered citizens, provided they had another citizenship;
- > The 2006 Immigration and Asylum Act reduced the threshold for deprivation of citizenship to a mere 'conducive to the public good' test – the same as for deportation;
- > The 2014 Immigration Act for the first time allowed citizenship to be removed from people with no other citizenship who had done 'anything prejudicial to the vital interests of the UK', provided they were believed to be able to acquire one.

Facts and figures of deprivation

The government publishes statistics on deprivations (although only reliably for the past few years), but does not break them down by ethnicity or other nationality. They show the number of deprivations on grounds other than fraudulent acquisition of citizenship as follows:¹⁴

12 British Nationality Act 1981, s 40. The 1948 British Nationality Act deprivation provisions (s20) were in similar terms, with an additional ground of living abroad for more than seven years while failing to register the intention to remain British.

13 By amending s 40 British Nationality Act 1981.

14 See also 'Over 1,000 decisions made to strip citizenship since 2012', [Free Movement](#), 8 March 2022. Free Movement's total includes deprivations on grounds of fraudulent acquisition

1973-2002	none	May 2010-Dec 2013	24
2003	one (Abu Hamza)	2014	4
2004-2005	none known	2015	5
2006	one	2016	14
2007	one	2017	104
2008	none	2018	21
2009	two	2019	27
2010	4/5	2020	10

- > We know from a variety of sources that the vast majority of those deprived are Muslim men with south Asian or middle Eastern/ north African heritage;¹⁵
- > Most deprivations are on national security grounds, although 3 or 4 in 2015 were on grounds of serious criminality (trafficking and sex crimes against children);
- > Although the numbers remain small, there has been steadily increasing use of deprivation powers over the past two decades, with a large spike in 2017 corresponding to the collapse of ISIS in Syria.

Arbitrariness unchecked

As the focus of deprivation powers has shifted away from what the person has done to more nebulous and undefined criteria for deprivation, the danger of arbitrary deprivations is increased, and with it the danger of discriminatory implementation:

- > The Principles on Deprivation of Nationality as a National Security Measure (2020), reflecting principles of international law, require 'clear, precise, comprehensive and predictable' criteria 'to guarantee legal certainty';¹⁶
- > The phrases 'conducive to the public good' and conduct 'prejudicial to the vital interests' of the UK are extremely vague and are not defined in the legislation;

15 See e.g. "'Medieval exile": the 42 Britons stripped of their citizenship', *Bureau of Investigative Journalism*, 26 February 2013 (updated, nd); *Deport Deprive Extradite website*; home secretary's statement on foreign fighters, *HC Deb 18 February 2019*, vol 654, col 1193.

16 Principle 7.3.

- > There is no requirement that the person needs to have been convicted of any offence, let alone a particularly serious one, and many of those deprived have no criminal convictions;
- > There is no requirement for the Home Office to show objectively reasonable grounds.

The vagueness of the criteria for deprivation means it can be used for political purposes:

- > Citizenship scholar Matthew Gibney described deprivation of citizenship as 'reliant too much on the judgment (or hunches) of a politically elected official';¹⁷
- > In the Lords, former DPP Lord Macdonald said of the 2006 changes that they appeared 'to have been conjured up to serve an entirely party-political purpose'.¹⁸

These dangers are enhanced by the denial of any effective challenge to the decision for those subjected to citizenship deprivation. The Principles on Deprivation of Nationality as a National Security Measure (2020) require notification and an opportunity to respond in advance of a decision, written reasons, effective judicial review and the right to remain in or return to the country to participate in the appeal in person.¹⁹ Those deprived of British citizenship have none of these rights:

- > The law was changed in 2004 to enable deprivation to take effect as soon as the person is served with notice instead of after losing an appeal;
- > Since then, most deprivation decisions are taken when the subject is abroad, and they are immediately prevented from returning to the UK;²⁰
- > The Supreme Court recognised in the *Shamima Begum* case that someone in a prison camp in Syria cannot have an effective appeal against the loss of their citizenship;
- > But it ruled that the home secretary's assessment that national security prevented her return took precedence over basic fairness, so she could not return;²¹
- > Even where the person deprived of citizenship can attend their appeal, in national security cases they get little or no information or evidence explaining the decision – making it very hard to challenge;
- > The court cannot decide for itself whether the person being deprived is a national security risk, and can only allow an appeal against deprivation if on the evidence the home secretary's decision is wholly irrational.

The limits of the court's powers were starkly demonstrated, in March 2022, when the Special Immigration Appeals Commission (SIAC) dismissed the deprivation appeal of a British-born dual British-Moroccan woman who spent her whole life in the UK until, as the judges accepted, she was forced to go to Syria with her abusive and coercive husband, who had

17 ['Should citizenship be conditional? Denationalisation and liberal principles'](#), RSC working paper 75, Refugee Studies Centre, 2011, p22.

18 Immigration Bill, HL consideration of Commons amendments, [HL Deb 12 May 2014](#), vol 753, col 1677.

19 Principle 7.6.

20 See Amanda Weston, ['Deprivation of citizenship – by stealth'](#), *IRR News*, 9 June 2011.

21 See [R \(Begum\) v SoSHD](#), [2021] UKSC 7, 26 February 2021.

violently beaten her at least twice for refusing to go.²² As SIAC said in her case, the law allows the home secretary to revoke citizenship on national security grounds without giving her a chance to show before taking the decision that she does not pose a risk to national security; without requiring the home secretary to show that she does pose such a risk; without allowing her to persuade an independent tribunal that she does not. It concluded, 'SIAC is not empowered to decide for itself whether she poses a risk to national security.'²³

3. A lesser citizenship: embedding discrimination

The extension of the logic of deportation to British citizens is racialised. The changes in the law were all made specifically to de-nationalise Muslims:

- > The 2002 changes were made so that Muslim preacher Abu Hamza could be deported despite being British;
- > The 2006 changes were made in response to the July 2005 London bombings;
- > The 2014 changes were made in order to remove the citizenship of Hilal Al-Jedda, after the Supreme Court ruled that he no longer held Iraqi citizenship so could not be deprived of his British citizenship.

'A privilege not a right'

In December 2013 Theresa May, then home secretary, asserted that 'British citizenship is a privilege, not a right', revealing that she had revoked the British citizenship of 20 British jihadists that year.²⁴ The statement, repeated by successive Home Office ministers, is directed at Muslims, not at the British population as a whole, and is understood as such. For 'native' British citizens who are sole nationals, the statement is nonsensical: for them, citizenship is an inalienable, irrevocable and unconditional right. It is only a withdrawable 'privilege', contingent on good behaviour, for others (British-born, registered or naturalised citizens with another nationality or access to one).

This immediately sets up a hierarchy of citizens, as many have pointed out:

22 'Victim of brutal domestic abuse loses appeal against deprivation of British citizenship', [Free Movement](#), 10 March 2022.

23 SIAC, Decision in [U3 v SoSHD](#), 4 March 2022, para 41.

24 'Home Office: "British citizenship is a privilege, not a right"', [ITV](#), 22 December 2013. In fact the idea was first stated by David Davis in parliament in 2008, and repeated by other ministers: see [HC Deb 20 February 2008](#), col 354; [HC Deb 2 June 2009](#), col 183; [HC Deb 14 July 2009](#), col 223, cited by Raza Husain QC and others in their [Joint Opinion](#) on Clause 9 of the Nationality and Borders Bill for the Good Law Project (2022) para 47.

- > the precarious and conditional nature of dual nationals' citizenship 'create[s] ... a second category of citizen, [breaching] the fundamental underlying principle of equality of all her Majesty's subjects';²⁵
- > it 'equat[es] dual-national British citizens with foreign nationals';²⁶
- > it means that 'Like Roman Catholics in previous ages, immigrants (sic) are obliged to go on proving their loyalty even after citizenship has been granted';²⁷
- > 'The message ... is that British citizenship is some kind of commodity, not a matter of birthright, that Ministers can take away on political grounds';²⁸
- > 'In the 21st century, misdemeanours by a citizen should be dealt with by prosecution rather than exile ... It cannot be necessary to remove the nationality of a minority ethnic national but not that of a majority ethnic national';²⁹
- > 'The status of citizenship, as the grounding principle of state membership, simply ought to be a status which admits of no gradations or rankings ... the UK's new denationalisation provisions ... treat dual nationals as inferior citizens'.³⁰

As noted above, the vast majority of those deprived of citizenship since 2003 have been British Muslims. As Arun Kundnani said in 2014, '... the equal citizenship of Muslims is, in practice, precariously dependent on their being able to prove their allegiance to ill-defined Western values.'³¹

Colonial legacies

The hierarchy of citizenship created by the deprivation powers recalls the British state's treatment of its former colonial subjects in earlier times. The 'Kenyan Asians' scandal of 1968 demonstrated the ruthlessness as well as the racism of a former colonial power in stripping ethnic minority citizens of residence rights and devaluing their citizenship. In 1968, 200,000 British passport holders, residents of Kenya, of Indian heritage, who had opted to retain UK & Colonies citizenship instead of becoming Kenyan citizens on independence, were suddenly deprived of their right to enter their country of nationality on racial grounds:

- > When the Kenyan government adopted an 'Africanisation policy' and began expelling UK & Colonies citizens of south Asian heritage, they tried to come to the UK;
- > The British government pushed through an Act in days, which decreed that only those citizens whose ancestors were from the UK, rather than a colony, had entry rights to the UK;³²

25 Immigration Bill, Report stage, [HC Deb 30 January 2014](#), vol 574, col 1086.

26 [HL Deb 19 January 2006](#), Vol 677, col GC269.

27 'It's wrong to strip Abu Hamza of his citizenship', [Independent](#), 3 April 2003 (reissued 8 December 2013).

28 Lord Lester, debate on Nationality, Immigration and Asylum Bill, [HL Deb 8 July 2002](#), vol 637, cols 500-501.

29 [Memorandum](#) to the Joint Committee on Human Rights from the Society of Legal Scholars (Immigration and Refugee Law section), JCHR 17th report of 2001-02, Appendix 8.

30 'Should citizenship be conditional? Denationalisation and liberal principles'.

31 Kundnani, *The Muslims are coming!* p88.

32 Commonwealth Immigrants Act 1968.

- > Many UK & Colonies citizens were turned away when they arrived here, and 'shuttlecocked' around various airports;
- > The European Commission on Human Rights ruled, in a case brought by 25 excluded citizens, that their exclusion constituted race discrimination which in the circumstances amounted to degrading treatment;³³
- > Instead of restoring entry rights to UK & Colonies citizens, the government rewrote citizenship law in 1981, so that only UK & Colonies citizens with UK ancestry became 'full' British citizens with rights of entry and residence in the UK;
- > Under the 1981 Act, the UK & Colonies citizens with connections to a colony or former colony became 'British Overseas' and 'British Dependent Territories' citizens with no right to enter the UK.

The Windrush scandal of 2018, leading to the resignation of a home secretary, was another reminder of the careless betrayal of former colonial citizens:

- > The Windrush generation arrived from 1948 onwards as 'British subjects: citizens of the UK and Colonies';
- > Many lost their citizenship without realising it, on Jamaican and Trinidadian independence in 1962 and Barbadian in 1966;
- > Their right of permanent residence under the 1971 Immigration Act turned out to have been written in ink invisible to the officials administering 'hostile environment' policies in the 2000s, until the revelations of destitution, detention and deportation of thousands.³⁴

In May 2022, a leaked Home Office-commissioned report which had been suppressed for a year, *The historical roots of the Windrush scandal*, written for dissemination to all 35,000 Home Office employees, found that 'during the period 1950-1981, every single piece of immigration or citizenship legislation was designed at least in part to reduce the number of people with black or brown skin who were permitted to live and work in the UK.'³⁵

Access to citizenship has been narrowed in other ways too:

- > The 1981 Act also removed the right of those born in the UK to automatic British citizenship, granting it only to those with a British parent or one who had settled status;
- > Those born in the UK to parents who later become British or settled, and those born in the UK and living in the UK for ten years, have the right to register as British, but must now pay over £1,000 in fees to exercise that right – which the Supreme Court recently held lawful despite acknowledging that it was unaffordable;³⁶
- > The 2002 Act imposed more requirements for naturalisation including English language and life tests;

33 [East African Asians v United Kingdom](#), 1973.

34 See [The embedding of state hostility: A background paper on the Windrush Scandal](#), IRR, 2019.

35 See ['Windrush scandal caused by "30 years of racist immigration laws" – report'](#), *Guardian*, 29 May 2022.

36 [R \(O and Project for the Registration of Children as British Citizens\) v SoSHD](#), Supreme Court, February 2022.

- > In 2009, the good character test, previously used only for naturalisation, was applied to applicants for registration, including children of ten.³⁷

The impact of deprivation on individuals

Deprivation of citizenship means the loss of home, family, protection and belonging. It can lead to loss of liberty and even life. The impact of deprivation of citizenship on the individual has been demonstrated by what has happened to some former British citizens:

- > Mahdi Hashi, a British citizen who had lived in the UK from infancy, went to Somalia, where he was married with children. He was going to come back to the UK, but in Djibouti he was arrested. When he said he was a British citizen he was told 'not any more'; he was kidnapped and taken to New York to stand trial;³⁸
- > At least two men, Mohamed Sakr and Bilal al-Berjawi, were killed by US drone strikes after losing their British citizenship;³⁹
- > Many women who were trafficked as children from the UK to Syria, or forced to go by violent or coercive husbands, are stranded in intolerable conditions in prison camps after being stripped of British citizenship;⁴⁰
- > As the Joint Committee on Human Rights has said, deprivation of citizenship could expose subjects to inhuman and degrading treatment, loss of liberty, loss of family life and loss of one's home.⁴¹

The impact on communities

The adverse effects of the deprivation powers and their use spread a lot further than the individuals subjected to orders and their families, deep into the communities from which they come, and into society as a whole:

- > As Lord Ahmed said '... many young British Muslims already feel disenfranchised. These proposals would only compound those feelings, making their "Britishness" seem like a temporary state, removable at will, rather than a permanent part of their identity. This could seriously damage community relations which are already very strained';⁴²

37 [Borders, Citizenship and Immigration Act](#), s 47; Home Office guidance: [Nationality: good character requirement](#) (2020). The 2009 Act also introduced a complicated scheme for 'probationary citizenship leave' the length of which depended on among other things the voluntary activities would-be citizens undertook, but it has never been implemented although it remains on the statute book.

38 See speeches of Frank Dobson and Baroness Kennedy in Parliament, at [HC Deb](#) 30 January 2014, vol 574, col 1094 and [HL Deb](#) 10 February 2014, vol 752, col 484.

39 ["Medieval exile": the 42 Britons stripped of their citizenship](#), *Bureau of Investigative Journalism*, 26 February 2013 (updated, nd).

40 See [Report of Inquiry](#) by All Party Parliamentary Group on Trafficked Britons in Syria, February 2022; [Reprieve submission](#) to Office of UN High Commissioner for Human Rights, March 2022.

41 [JCHR inquiry into counter-terrorism policy and human rights](#), Third report of 2005-06, para 159.

42 Lord Ahmed, [HL Deb](#) 6 December 2005, Vol 676, col 562.

- > A lawyer who specialises in immigration and citizenship observed that ‘There is no recognition or protection of the right of dissent in the context of acquiring or losing citizenship – there is real fear in migrant communities, for example about demonstrating anger about Afghanistan ... If communities are frightened to speak out about things like that, while the rest of us can, it fosters division’;⁴³
- > Others point out the dangers of making one racialised group feel that they don’t really belong and will never really be considered British, even if they were born and brought up here.

The message sent by the legislation on deprivation of citizenship since 2002 and its implementation largely against British Muslims of south Asian heritage is that, despite their passports, these people are not and can never be ‘true’ citizens, in the same way that ‘natives’ are. While a ‘native’ British citizen, who has access to no other citizenship, can commit the most heinous crimes without jeopardising his right to remain British, *none of the estimated six million British citizens with access to another citizenship can feel confident in the perpetual nature of their citizenship.*

This message, directed along with so many other warnings from politicians and media towards Britain’s ethnic minority communities, is not lost on ‘native Brits’, for whom a quasi-imperial sense of entitlement and superiority is reinforced. This gives a fillip to the far Right, who feel justified and vindicated in their racist attacks and ‘crusades against Islam’ as they see politicians repeating their message. The very public performance by Sajid Javid of stripping the teenager Shamima Begum of her citizenship in 2019, in response to the outburst of racialised outrage whipped up by the media (as detailed below), reinforced the vulnerability of the one group and the invulnerability and sense of superiority of the other.

Racialised citizenship rights do not exist in a vacuum, but in conjunction with racialised ‘hostile environment’ anti-refugee and migrant policies and discriminatory policing practices. Taken together, they result in Black and brown British citizens having to prove their entitlement to be in the country, to obtain housing, health care, employment, education, bank account, the right to marry etc. All this is self-reinforcing: the more checks are required, the more suspicion is created – and the less ‘British’ racialised groups feel.

4. Muslims as suspects

The deprivation provisions of 2002 onwards, along with the measures making citizenship harder to acquire, such as the ‘life in Britain’ test, are just one aspect of measures targeting Muslim communities, in Britain and abroad, in the past two decades, which have helped to turn British Muslims in the UK into a ‘suspect community’:

43 Amanda Weston, ‘Deprivation of citizenship – by stealth’, [IRR News](#), June 2011.

- > In the wake of 9/11, with the government caught up in the US 'War on Terror', the Blair government enacted over 200 pieces of anti-terrorist legislation targeting Islamist terrorism;
- > It openly cooperated with states known to practise torture, in the Middle East as well as the US, exchanging intelligence, assisting in extraordinary renditions and deporting hundreds on suspicion of involvement in terrorism;
- > Legislation in 2001 allowed for the indefinite internment of foreign terrorist suspects, and all those detained under the provisions until they were declared unlawful three years later were Muslims;
- > The control orders and later TPIMs (Terrorism Prevention and Investigation Measures) which replaced internment, and combined constant surveillance with severe restrictions on movement and communication, were imposed almost exclusively on Muslims, both British and foreign;
- > Statistics on terrorism-related stop and searches, stops at airports for questioning and arrests all show disproportionate targeting of those of perceived Asian ethnicity and/ or Muslims;⁴⁴
- > In the Trojan Horse affair, heads and governors who had transformed failing Muslim-majority schools into centres of excellence were demonised and smeared as 'Islamist extremists' on the basis of a letter known to be false;⁴⁵
- > The Prevent programme (part of the government's Contest counter-terrorism policy, which since 2015 imposes a legal duty on teachers, health professionals and youth workers to report suspicions of 'radicalisation') initially focussed exclusively on Muslims, and remains Islamophobic in its operation;⁴⁶
- > In 2016, the UN Committee for the Elimination of Racial Discrimination (CERD) expressed concern that the 'Prevent' duty imposed on public authorities had 'created an atmosphere of suspicion towards members of Muslim communities' leading to 'increased profiling of individuals based on their ethnicity and/or religion';⁴⁷
- > The 2020 Report of the UN Special Rapporteur on Human Rights and Countering Terrorism expressed particular concern about the Prevent duty on teachers, social workers and others as 'impinging on [their] unique ethical obligations ... to those they serve' and impacting on duties of non-discrimination and rights to freedom of religion and expression and privacy.⁴⁸

44 See [Terrorism in Great Britain: the statistics](#), House of Commons Research Briefing, October 2021.

45 See the work of Professor John [Holmwood](#), in particular (with Theresa O'Toole) *Countering Extremism in British Schools? The Truth about the Birmingham Trojan Horse Affair*, Policy Press, 2018 and the *New York Times* [podcast](#) on the affair.

46 Although not for William Shawcross who, according to a leak of his review of Prevent, decries the recent emphasis on far-right extremism which he claims sees people referred for 'mainstream' views, and seeks more emphasis on Islamist extremism: [Guardian](#), 16 May 2022. See Arun Kundnani, *The Muslims are coming!*; see also the [People's Review of Prevent](#) (2022).

47 CERD, Concluding Observations 2016, paras 11, 18.

48 *Human Rights impacts of policies aimed at preventing violent extremism*, [A/HRC/43/46](#), 2020, para 32.

Muslims v. British values

The treatment of British Muslims as terrorist suspects goes hand in hand with a public debate on Muslims' loyalty and allegiance to 'British values', amplified by politicians' and media presentation of Islam as 'medieval and dangerous, as well as hostile and threatening'.⁴⁹

- > Politicians from David Blunkett⁵⁰ to Boris Johnson⁵¹ have disparaged and rebuked Muslims and Islam in ways which would be seen as unacceptable regarding any other religious community;
- > Measures such as the 2002 'Life in the UK' test for intending citizens, and regulations introduced in the wake of the 2014 Trojan Horse affair requiring British schools to teach 'British values',⁵² were fed by and fed into the idea that Muslims and Islam were 'inherently and irrevocably not a part of "our way of life"'.⁵³
- > A 2008 study of media found the most common words used to describe British Muslims were all terrorism- and extremism-related,⁵⁴
- > 70 percent of media stories about Muslims in a 3-month sample in 2012 were hostile, 'informed often by a virulent, racialised Islamophobic discourse';⁵⁵
- > Misleading or false derogatory stories about Muslims were 'shared' on social media hundreds of thousands of times, very often by far-right groups, despite being changed or retracted,⁵⁶
- > For the Muslim Council of Britain, the securitised view of Muslim communities through Prevent had 'led to a perception that Muslims are not being treated as equal citizens and are instead apart from the rest of the society'.⁵⁷

Permission to hate

Policies and politicians' statements targeting Muslims, amplified by sensationalist media coverage, have emboldened far-right and racist activity, creating and maintaining a hostile climate in which racist and Islamophobic attacks thrive:

49 *Covering Islam: How the media and the experts determine how we see the rest of the world*, London, Vintage, 1997, p157, cited in Moore et al, [Images of Islam: The representation of British Muslims in the national print news media, 2000-2008](#), Cardiff School of Journalism, Media and Cultural Studies, July 2008, p6. See also Matt Carr, 'You are now entering Eurabia', *Race & Class* 48:1, 2006, 1-22.

50 See e.g., 'Blunkett: I agree with far Right on Muslims', *Scotsman*, 1 June 2002.

51 'Boris Johnson faces criticism over burka "letterbox" jibe', *BBC*, 6 August 2018; 'Boris Johnson claimed Islam put Muslim world "centuries behind"', *Guardian*, 15 July 2019.

52 See Education Select Committee, *Extremism in Schools: the Trojan Horse affair*, 2015.

53 'Britishness and Muslim-ness: differentiation, demarcation and discrimination in political discourse', *Identity Papers: A Journal of British and Irish Studies* 1(2), 2015.

54 Moore et al, [Images of Islam: The representation of British Muslims in the national print news media, 2000-2008](#), Cardiff School of Journalism, Media and Cultural Studies, July 2008.

55 Sian et al, [The media and Muslims in the UK](#), Centre for Ethnicity and Racism Studies, Leeds University, March 2012.

56 '[Inaccurate or misleading stories about Muslims have been shared hundreds of thousands of times this year](#)', BuzzFeed, 16 August 2017.

57 *The impact of Prevent on Muslim communities*, February 2016.

- > TellMAMA in their annual reports from 2013 on, and many other commentators have noted the rise of anti-Muslim hate crime on the streets;
- > By 2013, between 40 and 60 percent of all mosques, Islamic centres and Muslim organisations had experienced at least one 'hate' attack;⁵⁸
- > Two-thirds of 1,800 Muslim respondents to a 2014 survey had experienced anti-Muslim verbal abuse, and nearly one-fifth physical assault;
- > In 2015, researchers noted how 'Muslim identity has been subject to a process of racialisation whereby this identity is defined on the basis of the individual's race rather than exclusively on the basis of their religion. Indeed ... anti-Muslim hate crime and racism were inextricably intertwined',⁵⁹
- > Mainstream and far-right parties played on anti-Muslim sentiment during the Brexit referendum, which saw a large spike in attacks following the vote;
- > A survey in 2018 found that 70 percent of Muslim respondents had suffered religion-based prejudice in the previous year;⁶⁰
- > Racial and religious hate crimes rose to nearly 100,000 in the year 2020-21;⁶¹
- > Far-right groups such as the English Defence League have fed off and fed into anti-Muslim racism and have been responsible for a large proportion of online and street-based anti-Muslim racist attacks.

5. Shamima Begum: the construction of a hate figure

When in February 2015, CCTV footage was released of 15-year-old Shamima Begum leaving the UK for Syria with two schoolmates, the response focussed on safeguarding issues: how had the girls been able to leave, amid huge concern after another school friend had left the previous December? A Met police commander described the girls as 'extremely vulnerable'.

But only four years later, when Begum reappeared, still only a teenager, interviewed in a prison camp as she was about to give birth to a third child after losing two, and pleading to come home, she had become a hate figure.⁶²

58 Copsy et al, [Anti-Muslim hate crime and the far Right](#), Teesside U/ TellMAMA, July 2013; Tell MAMA annual reports.

59 Awan and Zempl, [We fear for our lives](#), Birmingham City U, Nottingham Trent U, TellMAMA, October 2015.

60 Abrams et al, [Developing a national barometer of prejudice and discrimination in Britain](#), EHRC Research Paper 119, October 2018.

61 Home Office, [Hate crime, England and Wales, 2020 to 2021](#), October 2021.

62 'Shamima Begum: bring me home, says Bethnal Green girl who left to join ISIS', *Times*, 13 February 2019. Sky News interviewed her four days later, after her son's birth: see [Sky News](#), 17 February 2019, transcript 20 February 2019.

The outcry caused by the teenager's apparent callousness and lack of remorse (later explained by her as due to the presence of 'extremists' in the camp, who had threatened her) fuelled a media campaign to prevent her return:

- > 'You've made your bed, now lie in it', was the response of a *Telegraph* columnist to Begum's plea to be allowed to return home;⁶³
- > A similar response came from the *Express*, the *Mail* and the *Sun*;⁶⁴
- > Home secretary Sajid Javid added fuel to the fire, telling the *Times* two days after her interview that he would stop the return of anyone who supported terrorist groups abroad;⁶⁵
- > He repeated the message in a piece for the *Sunday Times* two days later and then told parliament the same thing the day after;⁶⁶
- > The day after that, six days after her interview, he revoked her citizenship,⁶⁷ and was applauded by the tabloid press;⁶⁸
- > The following week, a Merseyside shooting range used her image as a target;⁶⁹
- > Her family's lawyer was attacked in the media,⁷⁰ was threatened with murder and received social media posts telling him to kill himself and to 'fuck off to Syria'.⁷¹

The speed of the deprivation decision and the apparent disregard for any 'human' factors in Begum's case endorsed her treatment as a popular hate figure for whom no compassion was possible. Of course, the attitude she displayed to the crimes of ISIS in the early interviews was abhorrent – but lifelong banishment from the country of her birth and only effective nationality seems a terrifyingly disproportionate response, and one which is wrong in principle. Factors militating against deprivation which appear to have been disregarded include:

- > her youth, and the fact that she was a child when she left for Syria;
- > her status as a victim of the well-known sophisticated online grooming practices of ISIS;
- > her birth and upbringing in the UK;
- > her lack of connection with Bangladesh, of which she was said to be a citizen (denied by the Bangladesh authorities and still in issue);
- > the lack of evidence of any actions on her part which would support a criminal prosecution, and the lack of any attempt to bring charges against her;
- > the circumstances of the *Times* and *Sky News* interviews;
- > the inhumane and life-threatening conditions in the prison camp;

63 *Telegraph*, 14 February 2019.

64 *Express*, 15 February 2019; *Mail*, 18 February 2019; *Sun*, 18 February 2019.

65 [100,000 back petition to ban ISIS members returning too UK amid Brit schoolgirl Shamima Begum row](#), *Birmingham Mail*, 15 February 2019.

66 [HC Deb 18 February 2019](#), vol 654, col 1193.

67 *Guardian*, 19 February 2019.

68 See Roy Greenslade, 'Sajid Javid is pandering to rightwing press over Shamima Begum', *Guardian*, 24 February 2019.

69 'Shooting range criticised for Shamima Begum target', BBC News, 27 February 2019.

70 'ISIS bride's lawyer blamed Britain', *Mail* 18 February 2019.

71 *Independent*, 27 February 2019.

- > the fact that deprivation would leave her and her new-born child (who died shortly afterwards) stranded there indefinitely;
- > alternative measures such as temporary exclusion orders, which can be used to prevent the return of British citizens to the UK while a package of measures is prepared to control the perceived risks to national security.

Sajid Javid's performance on the issue of Begum's citizenship fed into the stereotypes of Muslims as uniquely bad and dangerous. It echoed the 'monstering' of others such as Abu Hamza and of Abu Qatada, subject to deprivation and deportation respectively:

- > the 2002 change in the law to make deprivation easier by replacing specific acts with a vague 'conduct prejudicial' formula was dubbed the 'Hamza amendment' because its express purpose was to strip Abu Hamza of his citizenship for hate speech;
- > in the run-up to the change, massive media coverage made use of the radical preacher's prosthetic hand and eye-patch to turn him into a pantomime villain.
- > later, then home secretary Theresa May and prime minister David Cameron pursued an epic battle to deport the 'truly dangerous individual', radical imam Abu Qatada, a Palestinian from Jordan, threatening along the way to withdraw from the European Court of Human Rights if that court prevented his deportation;
- > Abu Qatada finally agreed to be deported in 2013 and was subsequently [acquitted](#) of terrorism charges by the Jordanian courts.

As with Shamima Begum, intense disapproval or abhorrence for the hate speech mouthed by Abu Hamza in the wake of 9/11 should not blind us to the uniquely dreadful, lifelong punishment that is deprivation of citizenship. Such punishment is justified by the creation by politicians, aided by racist and sensationalist media, of racialised caricatures, 'folk devils', who do not deserve justice. This is a very dangerous slippery slope for the rule of law. Perhaps even the Supreme Court was influenced by the 'uniquely bad and dangerous' narrative justifying the deprivation of Begum's citizenship, in its ruling that she could not attend her appeal, as 'national security' considerations known only to the Home Office took priority over basic fairness.

6. The context: retreating from equality

It is no coincidence that deprivations of citizenship, along with other measures targeting Muslims and migrants, and anti-Muslim hate crimes, have all grown at the same time as

racial equality (which in this context includes equality for Muslims)⁷² has been deprioritised by government:

- > Official commitment to 'multiculturalism' gave way in the 2000s to an agenda of 'community cohesion', with Muslims accused of 'self-segregation';
- > In 2007, the official race equality body, the Commission for Racial Equality, was merged with the Disability Rights Commission and the Equal Opportunities Commission to form the Equality and Human Rights Commission (EHRC), severing the CRE's ties with local BME communities;⁷³
- > The EHRC's first chair, Trevor Phillips, diluted the focus on combatting racism, and his comments on Muslims led to his suspension from the Labour party;⁷⁴
- > The EHRC's funding was cut by over 70 percent between 2010 and 2015, resulting in a huge reduction in the number of discrimination cases it assisted, investigations and other work, and its budget was subjected to Cabinet Office approval, severely compromising its independence;
- > The EHRC has consistently failed to investigate anti-Muslim discrimination in state institutions and government, despite many and repeated calls from Muslim and race equality groups over issues including the Trojan Horse affair, the Prevent programme and Islamophobia in the Conservative party.⁷⁵

'Fairness not favouritism'

Since Boris Johnson's government was elected in 2019 with a large majority on the manifesto 'Get Brexit done', it has adopted an increasingly aggressive stance on racial and religious equality:

- > Controversial appointments have included, in November 2020, David Goodhart as EHRC commissioner, a man who 'supports the hostile environment, decries 'overdiversity', writes off Muslims for their 'grievance culture' and insists that the white working class are now the most marginalised';⁷⁶
- > In the same month the parliamentary Joint Committee on Human Rights pointed out that the failure of the EHRC to step up forcefully meant that 'at national level there is no organisation whose priority it is to champion race equality and lead the drive for progress';⁷⁷
- > The appointment of right-winger William Shawcross, who had described Islam as a 'terrifying problem', to review the Prevent programme resulted in key human rights groups and hundreds of Muslim groups boycotting the review;⁷⁸

72 See Awan and Zempl, *We fear for our lives*, above.

73 See Jenny Bourne, 'From CIAC to EHRC', *IRR News*, 23 November 2020.

74 See 'Trevor Phillips suspended from Labour over Islamophobia allegations', *BBC*, 9 March 2020.

75 See John Holmwood and Peter Osborne, 'Trojan Horse, Prevent, Islamophobia: how the EHRC failed British Muslims', *Middle East Eye*, 24 July 2020;

76 Jenny Bourne, 'From CIAC to EHRC'.

77 JCHR, *Black people, racism and human rights*, session 2019-2021, paras 92, 100.

78 'Hundreds of Islamic groups boycott Prevent review over choice of chair', *Guardian*, 17 March 2021; 'Quarter of Charity Commission inquiries target Muslim groups', *Guardian*, 16 November 2014.

- > The 2021 report of the Commission for Race and Ethnic Disparities (CRED), set up by prime minister Boris Johnson and headed by Dr Tony Sewell, denied institutional racism and claimed that in the meritocracy that is modern Britain, any inequalities result largely from specific cultural or biological factors;⁷⁹
- > The 'new approach to equalities' set out by equalities minister Liz Truss, denies the existence of structural racism and prioritises 'diversity of ideas', choice and opportunity over protection of racial and religious minorities, which is seen as 'favouritism'.⁸⁰

The prospects for racial equality among citizens and for legal protections of rights are likely to be further weakened by the Bill of Rights Bill currently going through Parliament, which will make it more difficult to bring cases alleging breaches of human rights and remove protections against deportation. Even the much-vaunted special protection for freedom of speech has no application in the fields of immigration and citizenship.

The message campaigners need to put across is that citizenship is a right, not a privilege, a foundational status which must be enjoyed equally by all citizens. Those who have fallen foul of the law should be subjected to criminal investigation, and if appropriate, to prosecution – but citizenship should not be bought or sold, toyed with or weaponised.

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