**ATC Counter-Terror - Module 5: Citizenship Stripping**

# **What is Citizenship?**

Citizenship is a legal status that means a person has a right to live in a state and that state cannot refuse them entry or deport them. This legal status may be conferred at birth or, in some states, obtained through 'naturalisation'.

An individual can choose to be a citizen of more than one country simultaneously. This is also known as dual citizenship.[[1]](#footnote-0) However, not all countries do not allow their citizens to have dual citizenship.

# **Citizenship in the UK:**

British citizenship was first put on a statutory footing by the British Nationality Act 1948. Before that, there was no such thing as citizens; there were only subjects.

The definition of a British citizen is contained in the British Nationality Act 1981, which states that an individual can automatically become a citizen by birth or through naturalisation or registration once the person has met all eligibility criteria.[[2]](#footnote-1)

Citizenship guarantees several rights, which include:[[3]](#footnote-2)

* The right to live and work in the UK (Immigration Act 1971, section 2),
* Leave the UK for an extended period without losing 'right to return',
* Right to vote and stand in elections,
* Access to social security and NHS services,

A British citizen, in return, must obey UK laws and may be asked to perform specific duties such as jury duty.

## **Naturalisation**

Naturalisation is the legal process by which a non-British adult becomes a British citizen. The requirements for naturalisation include a set period of lawful residence in the United Kingdom, possession of permanent immigration status, passing the “good character” test, passing the “Life in the UK” test, and taking an oath of allegiance to Her Majesty the Queen at a formal citizenship ceremony. Around 160,000 foreign nationals became British citizens in this way in 2019.[[4]](#footnote-3)

# **Citizenship Deprivation**

At least 464 people have been stripped of their British citizenship over the last 15 years. The data is not readily available but can be pieced together from a combination of historic freedom of information requests and obscure statistical publications.[[5]](#footnote-4)

## **British Nationality Act 1981**

An individual's citizenship can be taken away at any point in their life. Citizenship deprivation is governed by the British Nationality Act 1981, section 40, which states:[[6]](#footnote-5)

The Secretary of State may deprive a person of a citizenship status if they are satisfied that deprivation is conducive to the public good.

Moreover, the Secretary of State may deprive a person of citizenship if they are satisfied that the registration or naturalisation was obtained through:

* fraud,
* false representation, or
* concealment of a material fact.

The power only applied to those who acquired British citizenship by registration or naturalisation. British citizens by birth could not be deprived of their citizenship. In practice, deprivation powers were not used at all between 1973 and 2002.[[7]](#footnote-6)

## **The Nationality, Immigration and Asylum Act 2002 & 2006**

The government aimed to further refine the immigration system according to its objectives of stronger immigration controls and "managed migration" policies.

In 2002, the UK introduced measures that allowed British-born nationals and naturalised citizens to lose their nationality rights.[[8]](#footnote-7) Before this law, British citizens who acquired that status by birth or descent could not be deprived of British nationality. The Secretary of State cannot make an order if citizenship deprivation would result in the individual becoming stateless.[[9]](#footnote-8)

And since the 2006 legislation, the British government has had the power to strip dual nationals of their British citizenship if doing so is deemed "conducive to the public good".[[10]](#footnote-9) The provisions to remove British citizenship for dual nationals were widely believed to have been inspired by the case of Abu Hamza, the ‘radical’ Muslim who was fighting attempts to remove him from Britain under similar measures created by the Nationality, Immigration and Asylum Act.[[11]](#footnote-10)

## **Immigration Act 2014**

Theresa May declared in an interview with the Telegraph in 2012 that she wanted to create a “really hostile environment” for irregular migrants in the UK.[[12]](#footnote-11) As of July 28 2014, it is possible to deprive a person of British citizenship and make them stateless under certain conditions. The new section 40(4A) allows deprivation even where it might cause statelessness if the Secretary of State renders that:

'the deprivation is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom, any of the Islands, or any British overseas territory.'[[13]](#footnote-12)

The measure was introduced as a response to the Supreme Court case of al-Jedda and in light of the number of British citizens who had joined the rebel fighters in the Syrian civil war.

Al-Jedda, an Iraqi refugee granted British citizenship, was accused of being involved in terrorist activities in Occupied Iraq. In 2013, the Supreme Court struck down the order to deprive him of his citizenship because such a measure would make him stateless, thereby breaching domestic and international law, specifically section 40 of the British Nationality Act 1981 and Article 8 of the 1961 UN Convention on the Reduction of Statelessness.[[14]](#footnote-13)

Making someone stateless is indeed illegal under International Law.

### **Windrush Scandal**

Such staunch policies affected the Windrush generation, a group of people who arrived in the UK between 1948 and 1971 from Caribbean countries. The Home Office kept no record of those granted leave to remain and issued no paperwork - making it difficult for Windrush arrivals to prove their legal status.

In 2010, it destroyed landing cards belonging to Windrush migrants. Because they came from British colonies that were not independent, they believed they were British citizens.[[15]](#footnote-14)

In 2013, the government launched the peculiarly named Operation Vaken, an initiative that saw vans drive around six London boroughs, carrying billboards that warned: "In the UK illegally? Go home or face arrest." The billboards were decorated with pictures of handcuffs and the number of recent immigration arrests ("106 arrests last week in your area").[[16]](#footnote-15) This campaign was aimed to stir fear amongst illegal migrants and encourage them to leave on their own accord.

Many were threatened with deportation; more than 170,000 people, many of them living in this country legally, began receiving alarming texts, with warnings such as: “Message from the UK Border Agency: you are required to leave the UK as you no longer have the right to remain.”[[17]](#footnote-16) A group of people were now deemed illegal and were stripped of their rights as UK citizens unless they could prove they were UK nationals with relevant documentation. A Home Office inquiry revealed that more than 160 Windrush citizens could have been wrongfully deported from the UK or detained.[[18]](#footnote-17)

## **Procedure of Citizenship Removal**

The Secretary of State will send a letter in writing to the individual stating:

* A citizenship deprivation order has been made,
* Reasons for proceeding with the order,
* The individual has the right to appeal

It is only necessary that the written order be sent to the individual’s last known address – it does not take into account whether the individual concerned receives the letter.[[19]](#footnote-18)

## **Nationality and Borders Act**

The Nationality and Borders Bill was introduced to the House of Commons on 6 July 2021. It was introduced following a consultation on the Home Office’s new plan for immigration.[[20]](#footnote-19) It received royal assent and has now become a law.

The Act aims to:

* Prevent illegal entry to the UK, meaning people cannot come into the country without a visa, to scupper criminal trafficking networks.
* Remove people from the UK if they have no right to be there.
* Protect those who are in genuine need by creating a new asylum system.

### **Criticisms of the Nationality and Border Act**

* The legislation undermines the Refugee Convention and the UK's obligations under the Convention on the Rights of the Child and the Convention on Reduction of Statelessness:[[21]](#footnote-20)
  + Asylum seekers can be sent to Rwanda: This route will be used to deal with what the government considers “inadmissible” asylum claims – including people who can no longer be returned to European transit countries following the UK’s exit from the European Union.[[22]](#footnote-21)
  + Asylum seekers will be criminalised as the new law creates two classes of asylum seeker based on how they arrived in the UK. They will be given different treatments based on their means of arrival. [[23]](#footnote-22)
* The government has the authority to revoke British citizenship without prior notice if it is not "reasonably practicable" to do so, or in the interests of national security, diplomatic relations or is otherwise in the public interest. It is estimated that an estimated six million people in England and Wales six million people will be at risk of losing their citizenship, amongst which 26% are Muslim.[[24]](#footnote-23)
* Normally, a person would be given a written notification about the removal of their citizenship. However, Section 9 of the Act allows the government to remove someone’s citizenship without telling them, which effectively removes their ability to appeal. In other words, the Home Secretary has an increasingly broad mandate to remove someone’s citizenship without their knowledge, meaning that they won’t be able to practically fight the removal.

# **Counter-terrorism and Citizenship Deprivation**

Citizenship deprivation operates as a preventative measure for terrorism and radicalisation by banning the person from returning to their country of citizenship. Many European countries such as Belgium, France and Germany have used citizenship deprivation as a counter-terrorism measure because the individual in question possesses dual nationality.

The UK took a step further by allowing the ability to revoke citizenship from individuals with only one nationality or citizenship status and render them stateless. This method aims to deter people from joining 'extremist' groups as the UK stresses that it is vital for people to know they cannot be a 'gap-year jihadi'.[[25]](#footnote-24)

## **Case study:**

Shamima Begum, then 15-years-old, is amongst those who had fled to Syria and married an Isis combatant. In her attempt to return to the UK, Sajid Javid decided to deprive her of British citizenship, which she had held since her birth in the UK.[[26]](#footnote-25)

The decision was made because it was conducive to the public good, and Shamima Begum would pose a security threat to the UK if she were to return. Since Shamima Begum's parents are citizens of Bangladesh, the British government argued she would hold Bangladesh nationality and revoking her British citizenship would not render her stateless.[[27]](#footnote-26) She had appealed against the removal of her citizenship, but the Supreme Court held that she was not entitled to return to the UK to take part in that appeal.[[28]](#footnote-27)

# **Implications of Depriving Citizenship**

Deprivation of citizenship entails the loss of the right of abode in the UK. It makes possible the administrative (‘immigration’) detention, deportation and exclusion from the UK of the person concerned. Flowing from the loss of the right of abode are a myriad of associated and consequential rights, duties and opportunities.[[29]](#footnote-28)

Where a person has been deprived of their British citizenship, this will generally prompt removal from the UK. Often, the reason for depriving someone of their British citizenship will also be a ground for the government to issue a Deportation Order. Without the protection of their Citizenship status, the person will typically become liable for the removal if inside the UK.[[30]](#footnote-29)

As witnessed with the Windrush scandal, citizenship stripping results in the relocation of people to countries where they have (sometimes) never been to, including individuals being sent back to war-torn areas or areas where governments are despotic and have no regard for human rights.[[31]](#footnote-30)

Citizenship stripping is form of institutional racism and Islamophobia due to the indirect discrimination inherent in it. United Nations (UN) human rights experts have told the UK government that its use of citizenship-stripping powers is likely discriminatory and unlawful because of its disproportionate impact on Muslim and migrant communities.[[32]](#footnote-31)

Liberty says the ability to deprive citizenship has created an inconsistent, discriminatory tiered system of punishment, which leads to the government stripping people who have the non-British heritage of their citizenship and expanding its powers will pose a threat to minorities living in the UK. [[33]](#footnote-32)

Losing citizenship also means a person does not have access to the fundamental rights that citizens enjoy, these include but are not limited to education, employment, healthcare, social welfare, freedom of movement, and political participation.

## **Case Study**

The human rights and immigration lawyer Fahad Ansari says that in practice, British nationals are already being deprived of their citizenship without being made aware, as many are outside the country.[[34]](#footnote-33)

**Case 1:**

Tauqir Sharif, 31, from Walthamstow, who lives and works in Idlib alongside his British wife, Racquell Hayden-Best, had his citizenship revoked in May 2017. [[35]](#footnote-34) Tauqir Sharif was notified of this, but he was left stranded for three years as he was abroad at the time of notification.

**Case 2:**

A woman known as D4 won an appeal against the Home Office after they had stripped her citizenship without notice. D4 was born in the UK in 1967 and had British nationality from birth. She also has Pakistani nationality. The decision to strip her of British citizenship was made on December 27 2019. However, her solicitors were only informed of the decision when they wrote to the Foreign, Commonwealth and Development Office in September 2020 asking for help in repatriating her.[[36]](#footnote-35)

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