Rethinking the deprivation of citizenship

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Two women, Hoda Matarana and Shamima Begum, from the United States and Britain respectively, left for Syria, nested Islamic State in Iraq and Syria (ISIS) fighters, had children, and now seek to return to their home countries with their children.

However, they both are barred from doing so—though for different reasons. Begum has been deprived of her British citizenship, while US Secretary of State Mike Pompeo claims that Matarana was a US citizen, having been born a foreign diplomat in the US.

The US has, unlike several other Western countries, not adopted expanded denationalisation laws specifically targeting citizens who join the ranks of ISIS.

Denationalisation, the stripping of citizenship from an individual, can either take place when the individual is physically present in the country, after which the individual is deported usually to the individual's country of nationality, or when the individual is abroad and not allowed to return (as in Begum's case).

This part of the larger trend of Western governments tightening immigration control and increased splice since 9/11 and the results of asylum seekers from Middle Eastern states over the past decade.

The practice of denationalisation is not new: various governments enacted denationalisation laws in the early 20th century to deal with fraudulently-acquired naturalisation certificates. Hitler's regime deprived Jews of their citizenship before sending them to concentration camps, and the US enacted a law during World War II providing for the denationalisation of citizens of Japanese descent.

QUESTIONS ON CITIZENSHIP

Yet, the adoption and expansion of denationalisation laws as part of the war on terror against ISIS has taken place on an unprecedented scale, even compared with the period immediately after 9/11. These have sparked robust criticism by academics, who question whether—and how—denationalisation has redefined the meaning of citizenship.

- Citizenship secure? Governments adopting or expanding denationalisation laws in the war on terror have sought to justify this with the rhetoric that citizenship is not an indivisible right, but a “privilege” which can be revoked by the government if it poses a threat to the country's security and/or flows.

Many academics have criticised this as rendering citizenship increasingly conditional, making citizenship less secure.

- Citizenship equal? Some countries adopting or expanding denationalisation laws are bound by a 1961 international treaty requiring it contracting parties to prevent statelessness—a situation where an individual is not a citizen of any country in the world. Accordingly, their denationalisation laws are restricted to individuals possessing more than one citizenship.

Here, it is significant that, when depriving her of citizenship, Britain (as per the 1961 treaty) emphasized that Begum also holds Bangladesh citizenship. Some academics note how the application of denationalisation to dual nationals may lead to a “race” between countries to deprive the individual of citizenship first, with the “losing” state possibly refusing to recognize the other country’s act of denationalisation, ultimately rendering the individual stateless.

This may well be Begum’s fate, with Bangladesh claiming that Begum has never applied for Bangladeshi citizenship, and disallowing her entry.

- More widely criticised by academics is how discriminatory the restriction of denationalisation to dual nationals is, with a dual national, in principle, committing the same act as a mono-national but being deprived of citizenship and not subject to the same punishment as the mono-national.

This is starkly contrasted to what English sociologist T.H. Marshall envisioned citizenship to be when he wrote the seminal work on citizenship, Citizenship And Social Class, in 1950. He stated that citizenship is equal, encompassing three “generations” of citizens, political and social rights enjoyed by all members of the community.

He added that it is shrewd, because it mitigates the economic inequality and antagonism inherent in the capitalist class system of Britain in the 20th century, by redistributing a portion of the resources resulting from economic growth and fostering a sense of membership in a community. Denationalisation of dual nationals undermines citizenship as an equal right and creates hierarchies within it. The dual national is now regarded as “less of a citizen and more foreign”.

- Citizenship (deprivation) relevant? Political philosopher Hannah Arendt graphically depicted the plight of the stateless Jewish refugee during the Holocaust in her work, The Origins Of Totalitarianism, as such: “Once they had left their homeland they remained homeless, once they had left their state they became stateless, once they had been deprived of their human rights they were stateless, the end of the earth.”

Citizenship, according to her, is the “right to have rights”. Many academics have highlighted how, with the country as the principal processor of the individual’s rights, denationalisation renders the individual vulnerable to further violence, including the right to the life, where denationalised terrorist fighters who are stranded in conflict zones may be more easily targeted by drone strikes. However, according to other academics, the progress of the international human rights system since the end of World War II has reduced the value of citizenship, given that even stateless persons and individuals stranded in countries of which they are not citizens are still entitled to human rights.

Academics also claim that, specifically in the terrorism context, having citizenship may not make any difference, with terrorist fighters abroad formally retaining citizenship but effectively exiled from their home countries. US citizens may still be placed on watch lists and barred from entry, although the US has rejected proposals to deprive citizens of citizenship post-9/11 (an initiative which Matarana’s case may trigger), but citizens of mono-nationals (whose citizenship cannot be revoked because they have no other) will be rendered stateless and subject to temporary exclusion order and barred from entry.

Finally, several academics have questioned denationalisation’s relevance to the terrorism context. Historically, citizenship has been framed in terms of Obedience to the country, making the boundary between “us” and “them” and reflecting race and solidarity. Correspondingly, denationalisation laws enacted in the 20th century increasingly targeted conduct deemed “disloyal”, which included treason and, for some countries, the acquisition of another country’s nationality (although dual nationals are increasingly accepted today and much less distrusted by governments for having split national loyalties). Traditionally, acts of disloyalty to one’s country were equated to the individual’s loyalty transferred to another country, a logical consequence was for the individual to be deprived of citizenship and physically transferred to that country.

This is made complicated in the terrorism context, with the ISIS fighter loyal to a country (even prior to ISIS having suffered significant defeats in the Middle East) international lawyers largely agreed that the absence of international recognition of its legitimacy presented a major challenge to ISIS becoming a state), but to an ideology.

This calls into question denationalisation’s efficacy as a counter-terrorism approach, in contrast to the de-radicalisation approach which Singapore has adopted to deal with individuals pledging loyalty to the ideology of ISIS.

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