

Deprivation of Citizenship: What Do We Know?

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At a glance

A rising number of people have lost their citizenship under the Coalition government. This article summarises some of the main uses of the power and the points of concern, referring to cases identified by a two-year journalistic investigation on the topic.

Introduction

Since entering power in May 2010, the Coalition government has made increasing use of citizenship-stripping powers as part of its national security strategy. The Home Secretary, Theresa May, has the power to revoke the nationality of those she regards as a threat to national security. But this escalation has taken place largely behind closed doors, with little public scrutiny or discussion of how the powers are used and what the implications may be.

At the Bureau of Investigative Journalism (BIJ), a non-profit research organisation based at City University London, a small team has spent over two years tracking the government's use of citizenship revocation. In the time the team has been reporting on the power, the number of people who have lost their citizenship under the present government on grounds of being 'not conducive to the public good' ('conducive' cases) increased from 12 to at least 25.¹ In addition, the previous government revoked the citizenship of three people on these grounds between 2006 – when the present powers were introduced – and the general election in 2010.

The Home Office rarely openly discusses its use of the power and does not publish policies or guidance, instead issuing journalists with a statement that 'citizenship is a privilege, not a right'. Even as the government has openly discussed revoking the nationality of British-born fighters in Iraq and Syria, it has declined to provide specifics of how the power has been used to date. But piecing together details of the individual cases offers a sense of how deprivation of citizenship is currently used, and how this has evolved over time.

The BIJ's team has been able to identify and follow many of the cases, revealing what has become of those who have lost their citizenship. In the absence of official transparency this has been a demanding process, involving use of the Freedom of Information Act to request statistics from the Home Office as well as conversations with lawyers and other sources, searches of public records and documents, and weeks spent following cases in court.

¹ Figures gained through successive Freedom of Information requests to the Home Office, lodged by BIJ journalists between May 2012 and June 2014.

The research has revealed some highly concerning outcomes, including two men who are known to have died in US drone strikes, and a further man who was subjected to rendition to the US, where he is now being held awaiting trial on terrorism offences. Others remain stranded abroad, sometimes in precarious and vulnerable positions, as they fight legal appeals that can last for years. The cases reveal some potentially concerning techniques in how the powers are implemented.

This article is based on a presentation given by this author at a one-day seminar on citizenship-stripping at Middlesex University in February 2014. It examines the main apparent uses for deprivation of citizenship under the current government that emerge from the cases identified by the BIJ's reporting, and some of the concerns that are raised. The article groups the cases roughly by issue, examining how deprivation of citizenship functions in the context of counter-terrorism; the apparently arbitrary nature of the process; and, the challenges faced by those attempting to overturn the orders.

It is important to note, though, that this analysis of citizenship-stripping in action relies only on the cases that have been identified. Nothing at all is known of at least 11 'conductive' cases – over a third of the total, meaning that there may well be uses and techniques that are as yet unknown.

Use as a counter-terrorism tool

Under the British Nationality Act 1981, the Home Secretary can deprive an individual of their British citizenship where she feels their presence in the UK is 'not conducive to the public good'. In such a case she can only use the power where it will not make them stateless. She can also revoke citizenship where an individual is found to have acquired their nationality through fraud. Since mid 2014, she has also had the ability to revoke citizenship where she believes a naturalized citizen has done something 'seriously prejudicial to the vital interests' of the UK, even where it will render the individual stateless provided there is a reasonable belief that another nationality may be acquired.

Almost all 18 cases identified by the Bureau have been under the 'conductive' test; one is on fraud grounds. Of the 'conductive' cases, only one was on suspicion of espionage – the case of Anna Chapman, a Russian-born woman who was discovered to be part of a long-established spying ring based in the US.² She held British citizenship from a marriage in her early twenties to a British citizen. Chapman was exposed as a Russian spy in June 2010.

All other 'conductive' cases identified by the BIJ – 16 – have involved allegations of Islamic extremism or terrorism. A quarter of these individuals have later been affected by US counter-terrorism practices that have been the cause of serious concern by human rights and legal experts, including targeted killing, rendition and potentially coercive incarceration practices.

US counter-terrorism action

These cases include those of Bilal al Berjawi and Mohamed Sakr, who according to family members were friends from their childhood.³ Berjawi came to the UK from Lebanon as a one-

2 'Russian spy Anna Chapman is stripped of UK citizenship' *BBC Online*, 13 July 2010, <http://www.bbc.co.uk/news/10620352>, accessed 21 August 2014.

3 C Woods and KA Ross 'Former British citizens killed by drone strikes after passports revoked' *The Bureau of Investigative Journalism*, 27 February 2013, <http://www.thebureauinvestigates.com/2013/02/27/former-british-citizens-killed-by-drone-strikes-after-passports-revoked/>, accessed 22 August 2014.

year-old with his family and later became a British citizen, while Sakr was born in London as a British citizen, to parents who had moved to the UK from Egypt. According to a timeline of the cases pieced together by the BIJ, the two men left the UK in October 2009 headed for Somalia, home to al Shabaab, an armed group. In 2010, the Home Secretary revoked the citizenship of both men. The notification letter sent to Mohamed Sakr, signed by Theresa May, reads: ‘The reason for this decision is that the Security Service assess that you (Mohamed Sakr) are involved in terrorism-related activities. The Security Service further assess that you have links to a number of Islamist extremists, including Bilal BERJAWI’ and another man.⁴

Sakr started proceedings to appeal against the decision, but later abandoned these as he was told he would have to return to the UK to lodge an effective appeal – but he feared that attempting to get there would endanger him.⁵ Berjawi does not appear to have lodged an appeal.

In January 2012, a US drone reportedly targeted a vehicle just outside Mogadishu, the Somali capital, killing Berjawi. His family told reporter Ian Cobain of the Guardian that Berjawi’s wife had given birth to his son in London on the same day, and that Berjawi had called home after the birth.⁶ They told Cobain they believed the call had helped the US to target Berjawi with the drone – raising concerns that the UK had shared information that had led to his death.

The following month, reports suggested that a ‘very senior Egyptian’ commander had been killed in another US drone strike.⁷ The BIJ later found that this referred to Sakr. Although Sakr appears to have been technically entitled to Egyptian nationality by virtue of his parents, Sakr’s parents told BIJ reporter Chris Woods that he had never taken any steps to assert this and had considered himself entirely British. They believed that the loss of Sakr’s nationality was intimately connected to his later death in a US drone strike, with his father Gamal Sakr telling Woods: ‘I’ll never stop blaming the British government for what they did to my son. They broke my family’s back.’⁸

A third man, named Mahdi Hashi, who shared acquaintances with Berjawi, and possibly Sakr also became subject to US counter-terrorism processes after losing his British citizenship. Hashi was born in Somalia but moved to the UK with his family as a child and claimed asylum, later becoming a British citizen. He claims that from his late teens, he was continually targeted by the British security services and asked to provide information on other young Muslim men.⁹ In 2009, he returned to Somalia. His family says he returned to look after his elderly grandmother. He appears to have later made contact with Berjawi in Somalia.¹⁰

In June 2012 Hashi’s family received a letter informing him that he was to lose his British nationality.¹¹ As in Sakr’s case, no details were provided. Within weeks, Hashi had disappeared.

4 Document seen by BIJ reporters.

5 C Woods, ‘Parents of British man killed by US drone blame UK government’ *Bureau of Investigative Journalism*, 15 March 2013, <http://www.thebureauinvestigates.com/2013/03/15/parents-of-british-man-killed-by-us-drone-blame-uk-government/> accessed 22 August 2014.

6 A birth certificate obtained by the BIJ confirms that Berjawi’s son was born on the day of his death.

7 A Sheikh, ‘Four foreign militants killed in Somalia missile strike’ *Reuters* February 24 2012, <http://in.reuters.com/article/2012/02/24/somalia-conflict-idINDEE81N0C820120224>, accessed 21 August 2014.

8 Woods, n 5.

9 R Verkaik, ‘Exclusive: How MI5 blackmails British Muslims’ *Independent* (London, 21 May 2009). Available online at <http://www.independent.co.uk/news/uk/home-news/exclusive-how-mi5-blackmails-british-muslims-1688618.html>, accessed 21 August 2014

10 AK Ross, ‘Mahdi Hashi is still sitting in solitary confinement’ *VICE News* April 18, <https://news.vice.com/article/mahdi-hashi-is-still-sitting-in-solitary-confinement>, accessed 22 August 2014

11 AK Ross, ‘British-Somali man’s family fear US is secretly holding him’ *Bureau of Investigative Journalism*, 22 December 2012, <http://www.thebureauinvestigates.com/2012/12/21/british-somali-mans-family-fear-us-is-secretly-holding-him/> accessed 22 August 2014.

His family was later contacted by a man claiming he had been imprisoned alongside their son in Djibouti, the small country to the north of Somalia, and that he had been ‘taken’ by Americans. But they had no concrete knowledge of his whereabouts: when his parents appealed to the British government for any information they had, they were told that since their son was no longer a British citizen, he had no right to consular assistance.¹² Then, in December 2012, months after he vanished, Hashi reappeared in a courtroom in New York, alongside two Swedish citizens of Somali origin, charged with offences relating to al Shabaab. He has been told he faces decades in prison, according to his father. Mohamed Hashi told this author: ‘It’s like they want to demoralize him,’ his father says. ‘If you’re left locked in a room, 23 hours a day, knowing nothing about what’s going on, obviously you will give up, life will have no meaning to you.’¹³

Hashi is currently being held in highly restrictive solitary confinement awaiting trial. In April 2014, the UN special rapporteur on torture, Juan Mendez, told the author he considers such conditions in pre-trial detention to be ‘coercive’ and ‘unacceptable’.¹⁴

A further man raised in London, who was born in Vietnam and is referred to in court proceedings as B2, was stripped of his nationality on the grounds that he had allegedly trained with an armed Islamist group in Yemen. Unusually, he was deprived of his citizenship while in the UK, after returning from Yemen. He appealed on the grounds that it would make him stateless, as the Vietnamese government claimed he was no longer a citizen. This appeal was upheld by the Special Immigration Appeals Commission (SIAC) (although later reversed by the Court of Appeal) – but on the day the tribunal released this judgment, the US announced extradition proceedings against him to stand trial, like Mahdi Hashi, in a US court (SIAC 2012a).

The nature of any connection – if one exists – between the revocation of Berjawi, Sakr, Hashi and B2’s British citizenship and subsequent action by the US is unclear. In February 2014, as the government proposed to expand its powers to revoke citizenship, Labour MP Diane Abbott raised the prospect of a connection between the revocation of Berjawi and Sakr’s nationality and their deaths. This was ‘strenuously denied’ by Home Office minister James Brokenshire. ‘They are two clearly separate issues and there is nothing to indicate, in any respect, that they are linked,’ he said.¹⁵

Contemporary exile

In some other cases, the purpose of depriving individuals of their citizenship appears to be to prevent them from returning to the UK – effectively ‘changing the locks’ while they are outside the country. In parliamentary debates on the Home Secretary’s plans to expand her citizenship-stripping powers, the government has denied that there is any policy of using citizenship in this way. Home Office minister James Brokenshire said: ‘It is true that people have been deprived while outside the UK, but I do not accept that it is a particular tactic. It is simply an operational reality that in some cases the information comes to light when the person is outside the UK or that it is the final piece of the picture, confirming what has been suspected’.¹⁶ The government

12 AK Ross, ‘Mahdi Hashi is still sitting in solitary confinement’ *VICE News* April 18, <https://news.vice.com/article/mahdi-hashi-is-still-sitting-in-solitary-confinement>, accessed 22 August 2014.

13 *ibid.*

14 *ibid.*

15 HC Deb, 11 February 2014: col 261 WH <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140211/halltext/140211h0002.htm>

16 *ibid.*

repeatedly declined during the legislative process to provide figures on how many times it has revoked citizenship while the affected individual was overseas.

But the cases identified by the BIJ reveal, if not a policy, then a strong preference for acting in this way. In 15 of the 17 ‘conductive’ cases identified, the order to revoke citizenship was made while the individual was abroad. In one case, referred to by the anonymised code L1, Home Office officials have given witness statements acknowledging they deliberately waited until the man was out of the country before acting, even suspending an earlier attempt to remove his citizenship when he returned to the UK. He remained in the country for months and was not charged with any crimes or subjected to processes such as Terrorism Prevention and Investigation Measures. A Home Office official told a Court of Appeal hearing that the decision was taken to wait until L1 left the country, which he eventually did in July 2010. Within days, an official acting on behalf of the Home Secretary signed an order revoking his nationality.¹⁷

In the other known cases, the interval between an individual leaving the country and the revocation of their nationality was longer. But since deprivation orders take immediate effect and citizenship can only be retrospectively reinstated following successful legal appeal, those affected are immediately prevented from returning to the UK. In many cases the Home Secretary also signs an exclusion order formally preventing the individual from returning.¹⁸ The BIJ has not yet identified a single case where an individual has been able to return to the UK following the loss of their citizenship. Although many are pursuing appeals, these typically take years and appellants face severe obstacles in challenging the government’s order. These are discussed in more detail below.

This tendency to revoke citizenship while the individual is abroad is so pronounced that leading human rights lawyer Gareth Peirce last year compared the practice to ‘medieval exile, just as cruel and just as arbitrary’.¹⁹

Procedural concerns

Executive orders

The perception that this is an arbitrary process stems from several aspects of how citizenship-stripping functions in practice. This is an executive power wielded by the Home Secretary. She takes advice on deprivation decisions from a number of sources, including the security services. However, the BIJ has identified a case where May has overruled this advice, opting to revoke citizenship even though the express opinion of the security services was that the individual, a man known in court proceedings as Y1, should be allowed to return to the UK. Y1 was born in Afghanistan and came to the UK as an adult, where he gained British citizenship. But he returned to Afghanistan with his British wife, in what he later said was an attempt to find somewhere they could live in a more Islamic way. They were arrested in Herat by British forces in July 2011, but because of concerns about torture, they could not be transferred to Afghan custody.²⁰

17 KA Ross and P Galey, ‘Home Secretary waited until terror suspect was abroad before stripping citizenship’ *The Bureau of Investigative Journalism* 13 February 2014, <http://www.thebureauinvestigates.com/2014/02/13/home-secretary-waited-until-terror-suspect-was-abroad-before-stripping-citizenship/>, accessed 22 August 2014

18 See, for example, *G1 v SSHD* [2012] EWCA Civ 867; *L1 v SSHD* [2013] EWCA Civ 906.

19 C Woods and AK Ross, ‘Former British citizens killed by drone strikes after passports revoked’ *The Bureau of Investigative Journalism* 27 February 2013, <http://www.thebureauinvestigates.com/2013/02/27/former-british-citizens-killed-by-drone-strikes-after-passports-revoked/>, accessed 22 August 2014.

20 *Y1 v SSHD (Refusal of Entry – Substantive – Dismissed)* [2013] UKSIAC 112/2011.

Y1 spent a month in detention, in which time there were high-level discussions in the UK about what to do with him. In a witness statement during Y1's appeal, a Home Office official told SIAC: 'The security service judgement in this instance is clear: they thought there were a greater variety of options for the management of risk if the individual was in the UK'.²¹ But May conferred with 'senior Cabinet colleagues' and decided to revoke his citizenship. In his judgment, Mr Justice Irwin wrote: 'Ultimately, the Home Secretary rejected the advice of the Security Service on the 'management' issue.' He added: 'the Secretary of State was fully justified in concluding that the appellant represented a danger to national security'.²² But the case demonstrates the extent of the Home Secretary's autonomy over decisions to terminate the British citizenship of dual-nationality subjects.

Limitations of legal appeal

Since the 2006 laws were enacted, only one man, Hilal al Jedda, is known by BIJ to have successfully challenged the loss of his citizenship on 'conducive' grounds, and even then this judicial scrutiny was of the statelessness issue; that al Jedda might be able to revive his Iraqi nationality did not make deprivation resulting in statelessness lawful. It also did not prove a lasting obstacle to the Home Secretary's desire to revoke his nationality.²³ Hilal al Jedda was one of three people stripped of his citizenship on conducive grounds under the Labour government between 2006, when the current laws entered force, and the 2010 general election, when the Coalition entered power. He came to Britain as an asylum seeker in 1992 fleeing Saddam Hussein's Baath Party, and automatically lost his Iraqi nationality under the law of the time when he became a British citizen.²⁴ In 2004, after the US-led invasion of Iraq, he returned to the country, where he was detained by British forces and held for three years on suspicion of planning terrorist acts. Because he was held in military detention he was never charged. He has claimed he was ill-treated in British detention.

The then-Home Secretary Jacqui Smith took away al Jedda's British nationality shortly before his release in December 2007, but he challenged this on the grounds that it illegally made him stateless. He fought his appeal all the way to the Supreme Court, which ruled in his favour on the statelessness issue in October 2013, almost six years after he had initially lost his citizenship.²⁵ But rather than returning his passport, three weeks after the judgment May revoked al Jedda's nationality again, claiming to have uncovered new evidence regarding al Jedda's Iraqi nationality status.²⁶

In SIAC hearings for his renewed appeal in July 2014, it emerged that the fresh evidence had emerged only after the British government contacted the Iraqi government in June 2013, shortly before the Supreme Court hearing, to ask whether they regarded al Jedda as an Iraqi

21 AK Ross, 'Theresa May overrules security services in citizenship-stripping case' *The Bureau of Investigative Journalism*, 14 November 2013; available at <http://www.thebureauinvestigates.com/2013/11/14/theresa-may-overruled-security-services-in-citizenship-stripping-case/>, accessed 22 August 2014.

22 *ibid.*

23 AK Ross, 'Supreme Court rules citizenship-stripping order was illegal' *The Bureau of Investigative Journalism*, 10 October 2013, <http://www.thebureauinvestigates.com/2013/10/10/supreme-court-rules-citizenship-stripping-order-was-illegal/>; AK Ross, 'Home Secretary revokes man of UK citizenship – for the second time' *The Bureau of Investigative Journalism*, 2 December 2013, <http://www.thebureauinvestigates.com/2013/12/02/home-secretary-strips-man-of-uk-citizenship-for-the-second-time/>.

24 *SSHD v Al Jedda* [2013] UKSC 62.

25 AK Ross, 'Supreme Court rules citizenship-stripping order was illegal' *The Bureau of Investigative Journalism*, 10 October 2013, <http://www.thebureauinvestigates.com/2013/10/10/supreme-court-rules-citizenship-stripping-order-was-illegal>

26 *ibid.*

citizen. Although by this point the appeals process had been going on for several years, this was the first time the British government had contacted the Iraqi authorities to ask this.²⁷ The Iraqi government responded that he did in fact hold a valid passport and his name had not been deleted from the nationality register when he became a British citizen. In the second appeal, based on this fresh evidence, SIAC ruled that whatever the impact of the first deprivation of citizenship order, at the time of his second order in November 2013, he was an Iraqi citizen and therefore the second order has not made him stateless. Al Jemma has become the first man to lose his British citizenship twice, and his case highlights the Home Secretary's ability to undo the decisions of the highest court in the land.

The fact that al Jemma is the only person known to have succeeded – however temporarily – in a challenge to the loss of his citizenship on national security grounds also illustrates the huge difficulties faced by appellants in challenging such orders.

Closed material procedures

As mentioned above, the only route by which an individual can challenge the loss of their citizenship is through retrospective judicial appeal. Where the information on which a deprivation decision is based has come from the security services, the courts can use closed material procedures (CMPs) to hear sensitive evidence that is withheld not just from the public, but also from the appellant and their legal team. This means they may only learn the barest outline of the allegations against them, while the special advocate assigned to argue their case cannot communicate with them after they have seen the closed material.

This procedure has raised significant concern among human rights lawyers – when the government proposed to extend closed material procedures to some other forms of case, it prompted the resignation from the Liberal Democrats of several legal figures, including Dinah Rose QC. She said: 'I believe that I am the only person who has acted in SIAC for the home secretary, as a special advocate, and for appellants. My conclusion, in common with the overwhelming majority of those who have acted as special advocates, is that CMPs cannot be fairly operated'.²⁸

Narrow appeal windows

Those who have lost their citizenship often face difficulties even in lodging their appeals in the first place. Where the individual is overseas at the time, they have 28 days in which to find and instruct a solicitor and lodge an appeal – all from abroad. Court documents and interviews with family members conducted by the BIJ indicate that notifications of orders to deprive are sent to the individual's last known UK address, and in some cases family members are contacted by officials and asked to convey the news to the affected individual abroad.²⁹ Where an individual's location is not known, as one SIAC judgment notes, 'notice is deemed to have been given, unless the contrary is proved, on the second day after it was sent by post from and to a place within the United Kingdom'.³⁰

27 *Hilal Al-Jemma (Deprivation of citizenship: Preliminary Issue)* [2014] UKSIAC SC 66 2008.

28 O Bowcott, 'Secret court plans 'address genuine problem in disproportionate way' *The Guardian* (London, 19 June 2012) <http://www.theguardian.com/law/2012/jun/19/secret-court-genuine-problem-disproportionate>, accessed 22 August 2014.

29 AK Ross, 'British-Somali man's family fear US is secretly holding him' *Bureau of Investigative Journalism*, 22 December 2012, <http://www.thebureauinvestigates.com/2012/12/21/british-somali-mans-family-fear-us-is-secretly-holding-him/>; *L1 v SSHD* [2013] EWCA Civ 906; *E2 (Refusal of entry – Directions – Refused)* [2012] UKSIAC 117/2012.

30 *E2 (Refusal of entry – Directions – Refused)* [2012] UKSIAC 117/2012.

Several of the individual cases identified by BIJ failed to lodge their appeals in time. Hashi's father told the BIJ how he received a letter addressed to his son at his London home, over two years after his son had left the UK. He was then called by a Home Office official urging him to open the letter, which contained the Home Secretary's notification of intention to deprive. Mohamed Hashi had a brief Skype call with his son, in which he said he wanted to appeal. But Mahdi Hashi disappeared shortly afterwards – according to the timeline provided to BIJ by his father, Mahdi was in custody in Djibouti as the appeal window closed.³¹

In the case of L1, where the Home Secretary had deliberately waited for him to leave the country before revoking nationality, court documents show that officials contacted L1's brother asking him to inform L1 – who was in Sudan at the time – of the decision to revoke his nationality. L1 claimed that he did not learn of this for some weeks afterwards. SIAC ruled that he had missed the deadline for appealing and initially struck out his appeal, although it has now been reinstated after lengthy recourse to the Court of Appeal.³²

Similarly, an Afghanistan-born man referred to in court papers as E2 was prevented from appealing against the loss of his citizenship on the grounds that he had missed the 28-day deadline for appealing. He had left the UK for a few months in early 2012 to travel to Afghanistan and Pakistan to visit family members. While he was abroad the Home Secretary revoked his citizenship, again sending the notification to E2's London address. E2 claimed that he only learned of the loss of his citizenship when he was stopped at Dubai airport on his way back to the UK and his passport was confiscated. However SIAC ruled that as he ran a business from his London address, he would surely have had someone checking the post and it was 'inconceivable' that they would not have let him know about the notification, and struck out his initial appeal.³³

Given that those affected by deprivation of citizenship are often in unstable or poor parts of the world where communication is difficult, the tight deadlines impose a significant challenge for many appellants – and as the above cases show, SIAC does not always show forbearance with these difficulties.

Appealing from overseas

When an individual is overseas at the time of the decision to deprive – as in the overwhelming majority of cases – they are forced to conduct their appeal from overseas, meaning that communications with lawyers are usually handled remotely and they must watch court proceedings and give statements over video link from afar.

In some cases, appellants have claimed this puts them at a significant disadvantage and even endangers their safety. S1, a British-born man and his three adult sons T1, U1 and V1 – all of whom were also born in the UK – have refused to make a statement responding to the allegations that they have supported the armed groups Lashkar e Tayyba and al Qaeda.³⁴

A SIAC judgment records that according to expert witness Ali Dayan Hasan, of Human Rights Watch, 'the appellants have a legitimate and real fear about giving detailed instructions on a national security case via unsecured electronic communication devices and whilst

31 AK Ross, 'British-Somali man's family fear US is secretly holding him' *Bureau of Investigative Journalism*, 22 December 2012, <http://www.thebureauinvestigates.com/2012/12/21/british-somali-mans-family-fear-us-is-secretly-holding-him/>.

32 *L1 v SSHD* [2013] EWCA Civ 906.

33 *E2 (Refusal of entry – Directions – Refused)* [2012] UKSIAC 117/2012.

34 *S1, T1, U1 & V1 (Refusal of entry – Application for a stay of appeal – Refused)* [2012] UKSIAC 106/2011.

remaining in Pakistan. Both the ISI [Pakistan's intelligence services] and LeT would take an adverse interest in them.³⁵

A Sudanese-born appellant, referred to in court records, as G1 has claimed similar fears, citing concerns over his communications being intercepted by the Sudanese intelligence services.³⁶ In other cases, it may have prevented people from appealing at all. Mohamed Sakr's father told BIJ reporter Chris Woods that he had initially intended to appeal the loss of his citizenship, but had halted the process as he was afraid his communications with lawyers could be intercepted and used to locate him, potentially for lethal action.

G1's lawyers noted an apparent inconsistency in the law, which appears to put those who have once held British citizenship at a disadvantage to those who have never held citizenship at all. Where the Home Secretary issues an exclusion order against someone who holds leave to remain in the UK, they are entitled to return to the UK to challenge this. But where she issues an exclusion order against an individual following the revocation of their citizenship, there is no similar right to an in-country appeal.

Lord Justice Rix observed of this: 'The difference between the alien with leave to enter or remain and the citizen is surprising and counter-intuitive... and may not have been intended. However... it is plainly there. It is not clear to me why it is there, nor why there may not be a discriminatory aspect to it.'³⁷ However this places those experiencing the threats claimed by S1 and his sons, and G1, at a significant disadvantage for pursuing their appeals.

Recent cases

The cases identified by the BIJ highlight concerns over how citizenship-stripping functions in practice, including the scope for human rights abuses, procedural unfairness, and a lack of checks and balances on an executive power wielded by the Home Secretary, who as an elected official may use it for political gain.

But with only one exception, all cases after summer 2012 remain unidentified: they have not reached SIAC hearings, and news of them has not emerged elsewhere. This means it is hard to tell how the power is currently being used. Nonetheless, figures released to the Bureau through Freedom of Information disclosures, as well as statements to parliament, show that it continues to be relied upon.

As concern has grown around British fighters who have gone to join armed groups in Syria and Iraq, senior government figures have repeatedly pointed to the power to revoke citizenship as an important counter-terrorism tool for protecting the country – although they have declined to discuss it in any more detail. A response to a Freedom of Information request by the Bureau in December 2013 showed that 20 people had lost their citizenship that year.³⁸ The government later clarified that eight of these were on conducive grounds – still a higher number than in any previous year. But only one case has yet been identified: that of Hilal al Jedda.

In December 2013, Theresa May told the Home Affairs select committee, while discussing the threat of returning fighters: 'Obviously there are a number of options that can be taken

35 *S1, T1, U1 & V1 (Refusal of entry – Application for a stay of appeal – Refused)* [2012] UKSIAC 106/2011.

36 *G1 v SSHD* [2012] EWCA Civ 867.

37 *ibid.*

38 AK Ross and P Galey, 'Rise in citizenship-stripping cases as government cracks down on UK fighters in Syria' *Bureau of Investigative Journalism*, 23 December 2013 <http://www.thebureauinvestigates.com/2013/12/23/rise-in-citizenship-stripping-as-government-cracks-down-on-uk-fighters-in-syria/> accessed 22 August 2014.

in certain circumstances in relation to the deprivation of citizenship.’³⁹ And in January 2014, David Cameron told a joint parliamentary committee on national security strategy: ‘In every discussion that we have had about Syria, we have also discussed the dangers of British people travelling to Syria... and the dangers of terrorists returning home... Not unrelated to that is why, downstairs in the House of Commons, we are debating how we should be able to take away people’s citizenship.’⁴⁰

But as of August 2014, the BIJ has been unable to identify any cases where those going to Syria or Iraq have lost their citizenship, meaning it is impossible to tell whether the government’s public pronouncements accurately reflect how the power is currently being used.

The figures also indicate a rise in the revocation of citizenship where the individual is judged to have obtained their citizenship through fraud or false representation: 12 people lost their citizenship on these grounds in 2013 – previous to that, the BIJ had identified only one case. In parliamentary hearings Home Office ministers have said that 26 people have lost their citizenship on fraud grounds in total. From informal conversations with lawyers, the BIJ understands that large numbers of people who claimed asylum in the UK as Kosovan refugees have since been told that the Home Office believes they are in fact from Albania and are to lose their citizenship on fraud grounds. However Home Office disclosures through FOI reveal that those stripped of their nationality on fraud grounds include people claiming to be from Bangladesh, Iraq, Egypt, Lebanon, Uganda and Nigeria as well as Albania, indicating that fraud cases may be more diverse than is commonly believed.

In light of the profound impact that the loss of British citizenship has been shown to have on the individuals affected, it is all the more important that further cases are identified and highlighted for public scrutiny.

Alice Ross

³⁹ *ibid.*

⁴⁰ Joint Committee on the National Security Strategy, Transcript of oral evidence from the Prime Minister, 30 January 2014 <http://www.parliament.uk/documents/joint-committees/national-security-strategy/PM%20session/JCNSS14-01-30TranscriptCameronC.pdf> accessed 22 August 2014.