



Removing the Right to Have Rights

Nisha Kapoor*
University of York

Since the Immigration, Asylum and Nationality Act 2002 came into force, it is estimated that at least fifty-three people have been stripped of their British citizenship, with forty-eight of these cases occurring since 2010 under the coalition government (Galey and Ross 2014). In 2006, legislation was passed to make possible the removal of citizenship from someone if it was deemed that to do so would be 'conducive to the public good' (Immigration, Asylum and Nationality Act 2006, 56(1)), and last year a new clause was approved which effectively means naturalized Britons can be made stateless if there are 'reasonable grounds for believing' citizenship can be acquired from another country (Immigration Act 2014, 66(1)). Essentially what we have witnessed since the beginning of the twenty-first century is the gradual extension of state powers to remove citizenship, where the premise upon which it can be withdrawn has become more and more expansive and the fundamental rights which it provides for have become ever more precarious.

In the context of the War on Terror, it is arguments put forward concerning national security issues that generally provide the justification for these grave measures, where racially marginalized minorities, and in particular Muslim communities in the current moment, are centred as the target threat. The criminalization of Muslims, immigrants, and people of colour – as 'terrorists', 'welfare scroungers', and 'foreign criminals' – provide the discourses, the terms of reference, which serve to legitimate the necessity of expulsion. It is these ideas that inform the premise upon which debate and discussion ensues as to the terms on which individuals should be exiled and expelled (Kapoor and Kalra 2013; Kundnani 2014). But alarmingly, the moral panic created shuts down any conversation that would critically question the sudden eruption of such threats, the meaning and realities behind the labels, and, importantly, the consequences of the implementation of reactionary repressive measures for minority communities and society as a whole. This more extensive use of citizenship deprivation seems to be symptomatic of the expansion of the 'law and order' society that Stuart Hall and colleagues (1978) foresaw in the 1970s, where now the perpetual threat of terror sanctions a turn towards ever-expansive securitization

* Nisha Kapoor is Lecturer in Department of Sociology, University of York.

and executive power – that is, a move towards the permanency of the ‘exceptional’ state. This shift, where emergency laws become permanent fixtures and authoritarian posture the normative mode of address (Hall et al. 1978), is sanctioned and sustained through the popular anxieties produced from the moral panic of the threat of terror. The resulting authoritarian populism, as Hall characterized the popular approval of and support for ‘law and order’, leads to a state of legitimate coercion.

The expanding use of the deprivation of citizenship also reveals a shift in the way in which racism, as a process of population management as Michel Foucault characterized it, is being invoked by the state. In his 1975–76 lectures entitled ‘Society Must Be Defended’, Foucault (2003) conceptualized racism as a technology for organizing the population that ultimately permits the enactment of biopower, the sovereign control over life and death. It is, he noted, ‘the condition for the acceptability of putting to death’ (Foucault 2003:228). In the contemporary context, racial categorizations and exclusions, altered from their mid-twentieth-century form, take on ever more complex systems and arrangements, and the possibilities for putting to death – socially, mentally, and physically – are more sophisticated. The civil and human rights gains made in the second half of the twentieth century through the U.S. civil rights movement, its counterpart struggles in Britain and Europe, and the independence struggles across the colonized world laid the vision and foundations for a more inclusive form of social democratic governance, even if limited in its implementation. The victories of anti-racist movements saw to the enactment of equality policy and legislation (for example, in the British context, the Race Relations Acts of 1965, 1968, and 1976), which recognized a more inclusive set of rights that aimed at incorporating the racially oppressed and other marginalized groups into the social and political structures on equal terms.

It is now for the most part widely accepted that an individual’s racial or ethnic identity should not determine whether or not they are able to access fundamental social, economic, and political rights. But as the notions of citizenship began to become more inclusive, so the criminalization of those less desired – in biopolitical terms – has become more intense. So we have this – albeit precarious and malleable – distinction forming at the discursive level that attempts to distinguish between different types of (racially-coded) citizen – the settled/ integrated citizen on the one hand and (illegal) immigrants and asylum seekers on the other, where the latter are demonized to such an extent that they are portrayed as unworthy of the protection of the law (Fekete and Webber 2010; McGhee 2008). The figure of the terrorist, a racialized trope linked to political dissent, allows for the invocation of racism in a way where more explicit racial categories are no longer always socially acceptable and is sufficiently malleable to extend to both the enemy within (settled British Muslims/minorities) and the enemy without (foreign nationals, asylum seekers, and refugees). Thus, it works as a categorization that assists in disciplining the population. Here, the prospect of citizenship deprivation to deal with this threat lays out a new kind of social death. It is not the equivalent of medieval exile, since its contemporary form is not the result of the limitations of sovereign power, but rather the product of an inflated and more sophisticated

policing apparatus with much bleaker consequences. It is an extension and elaboration of the kind of statelessness that Hannah Arendt (1994) discussed in the twentieth century.

The hyped-up threat of the terrorist, which has dominated approaches to state governance in the twenty-first century, constructs a monster so barbaric, irrational, and uncivilized that those same repressive measures that have been historically used to discipline the racially Othered and undesired are rehashed, extended, and elaborated upon to deal with what is now portrayed as the current evil amongst us. The sentiment of heightened threat in the post-9/11 context has been perpetually vocalized by key political figures and the media. For example, Cofer Black (2002) stated in 2002 that ‘there was “before” 9/11 and “after” 9/11. After 9/11 the gloves come off’. Similarly post-7/7, Tony Blair (2005) argued for a reduction in provisions afforded by the human rights legislation stating that ‘the rules of the game are changing’. The subsequent response to this altered threat has materialized in increasingly restrictive immigration legislation (Webber 2014), the expansive use of secret evidence and closed material procedures (Amnesty International 2012), escalating deportation and the implementation of mass deportation (Fekete 2011; Gibney 2008; Miller and Youssef 2013), enhanced use of stop and search (Burnett 2012; Kundnani 2006), and a perpetual push for the repeal of human rights (McGhee 2010; Webber 2013). In practice this often means that racially marginalized communities who have long experienced unequal access to housing, health, education, and employment, who have extensive experience of dealing with police harassment are now profiled, surveiled, and harassed under counter-terrorism measures and/or its off-shoots. The Prevent programme, for example, which sees to the implementation of a range of oppressive policing practices aimed at ‘preventing violent extremism’ was administered to specifically target areas with a sizeable Muslim population (Department for Communities and Local Government 2007). It is these same areas with significant Muslim populations that are also likely to be amongst the most deprived in the country. The 2001 Census data showed that 55% of all Muslims in Britain lived in the 20% worst areas of multiple deprivation (Peach 2006), and, in 2011, 49% of Muslims (or in terms of ethnicity, one in three Pakistanis and Bangladeshis and one in five blacks) were living in the most deprived areas (Jivraj and Khan 2013). These populations also continue to report the highest unemployment rates (Nazroo and Kapadia 2013), some of the worst health outcomes (Becares 2013), and exclusion from education (Gillborn 2008), yet the focus of state intervention is placed on pre-emptive policing – criminalizing individuals before any crime has been committed because they are profiled to be at risk of committing such an act. This can be seen, for example, in the expansion of the Prevent agenda into primary and secondary education curriculum, which has overshadowed any emphasis on race equality (Miah 2013). The culture of securitization can also be seen more widely. The stop and search rates of black people under criminal justice legislation have increased significantly at the same time that counter-terrorism measures have been stepped up. Between 2005/06 and 2008/09, the use of Section 60 searches (for which no reasonable suspicion is required) against blacks rose by more than 650% (Townsend 2010).

Citizenship deprivation forms part of this security apparatus signifying the ultimate punishment of expulsion and denial of rights, which, with its extended permissions, can be used against British born, naturalized, and dual citizens. In this sense, the gains of the civil rights movement that pushed for inclusivity and incorporation on equal terms are being hollowed out as the weakening commitment to welfare and greater inclusion is offset by a more pressing securitization agenda determined to eliminate perceived threats (Goldberg 2009). And, of course, what the state legitimizes as necessary for dealing with the most oppressed soon becomes quite a routine approach for dealing with society as a whole (Arendt 1994).¹

For those who experience directly the brutality of these measures, the consequences are severe. As Amanda Weston discusses here, most deprivations occur when the individuals are out of the country, making it very difficult for them to appeal. It is known that two men – Bilal al-Berjawi and Mohamed Sakr – were deprived of their citizenship and then subsequently killed by U.S. drones (Woods and Ross 2013). Mahdi Hashi, also deprived of his citizenship, was subject to torture and rendition before reappearing some months later in a New York courtroom facing terrorism charges. Some months prior to his disappearance, he had reported how he was repeatedly approached by MI5 and asked to work as an informant, warned that they would make life difficult if he refused to cooperate. In a complaint to the regulators, he wrote:

I myself am sick and tired of this cycle of savage harassment for the last three years to the point where they are making me a terror suspect. What have I done to deserve this and to be wanted and known as a dangerous terrorist. It looks like there is no way out.

(Ross 2014)

Hashi's case, like the others, is a forewarning of the assault on human rights that the enforcement of citizenship deprivation is not only part of but furthers. We are witnessing the pursuance of statelessness. If we think about citizenship as the fundamental right to have rights as Hannah Arendt (1994) proclaimed, where she defined citizenship as a status that allows for the possibility of 'action' and 'opinion' (Arendt 1994:296), then the act of removing it essentially takes away a person's right to exist, to be. It means you have no legal existence; you have no automatic right to education, to employment, to healthcare. No right to vocalize dissent or to protection by government. You are instead banished by government. Once excluded you become extremely vulnerable. Your existence wherever you reside is not legitimate. You become 'illegal'. You are once again criminalized. In this instance, the crime that one becomes guilty of is much less about any act of deviance that puts the rest of society in danger and much more about a crime of being; of representing that which is marked as outcast in order for those in positions of power and privilege to remain.

Note

¹ This is apparent, for example, in the way in which policies developed to deal with asylum seekers such as the programme of dispersal and implementation of a voucher system have been introduced into mainstream social housing system (see, e.g., Ramesh et al. 2012).

References

- Amnesty International. 2012. 'Left in the Dark: The Use of Secret Evidence in the United Kingdom'. London: Amnesty International Publications.
- Arendt, Hannah. 1994. *The Origins of Totalitarianism*. New York: Houghton, Mifflin, Harcourt.
- Becares, Laia. 2013. Which Ethnic Groups have the Poorest Health? Ethnic Health Inequalities 1991 to 2011. *Centre on Dynamics of Ethnicity Briefing* October 2013.
- Black, Cofer. 2002. '9/11 Congressional Inquiry', 26 September. Available at: https://www.fas.org/irp/congress/2002_hr/092602black.html.
- Blair, Tony. 2005. 'PMs Press Conference', 5 August. Available at: <http://webarchive.nationalarchives.gov.uk/20060715135117/number10.gov.uk/page8041>.
- Burnett, Jon. 2012. 'After Lawrence: Racial Violence and Policing in the UK'. *Race and Class* 54 (1): 91–8.
- Department for Communities and Local Government. 2007. *Preventing Violent Extremism Pathfinder Fund. Guidance Note for Government Offices and Local Authorities in England*. London: DCLG.
- Fekete, Liz. 2011. 'Accelerated Removals: The Human Cost of EU Deportation Policies'. *Race and Class* 52 (4): 89–97.
- Fekete, Liz and Frances Webber. 2010. 'Foreign Nationals, Enemy Penology and the Criminal Justice System'. *Race and Class* 51 (4): 1–25.
- Foucault, Michel. 2003. *Society Must Be Defended: Lectures at the Collège de France*. New York: St Martin's Press.
- Galey, Patrick and Alice K. Ross. 2014. 'Interactive: The 53 Britons Stripped of Their Citizenship'. *The Bureau of Investigative Journalism*, 3 June. Available at: <http://www.thebureauinvestigates.com/2014/06/03/interactive-the-53-britons-stripped-of-their-nationality/>.
- Gibney, Matthew J. 2008. 'Asylum and the Expansion of Deportation in the United Kingdom'. *Government and Opposition* 43 (2): 139–43.
- Gillborn, David. 2008. *Racism and Education: Coincidence or Conspiracy?* London: Routledge.
- Goldberg, David Theo. 2009. *The Threat of Race: Reflections on Racial Neoliberalism*. Oxford: Blackwell.
- Hall, Stuart, Chas Critcher, Tony Jefferson, John Clarke, and Brian Roberts. 1978. *Policing the Crisis: Mugging, the State and Law and Order*. New York: Holmes and Meier.
- Jivraj, Stephen and Omar Khan. 2013. *Ethnicity and Deprivation in England: How Likely Are Ethnic Minorities to Live in Deprived Neighbourhoods?* Centre on Dynamics of Ethnicity Briefing, December.
- Kapoor, Nisha and Virinder S. Kalra. 2013. 'Introduction: The State of Race'. In *The State of Race*, ed. Nisha Kapoor, Virinder S. Kalra, and James Rhodes. London: Palgrave.
- Kundnani, Arun. 2006. 'Racial Profiling and Anti-terror Stop and Search'. *Institute of Race Relations*, 31 January. Available at: <http://www.irr.org.uk/news/racial-profiling-and-anti-terror-stop-and-search/>.
- Kundnani, Arun. 2014. *The Muslims are Coming! Islamophobia, Extremism, and the Domestic War on Terror*. London: Verso.

- McGhee, Derek. 2008. 'Deportation, Detention and Torture by Proxy: Foreign National Terror Suspects in the UK'. *Liverpool Law Review* 29 (1): 99–115.
- McGhee, Derek. 2010. *Security, Citizenship and Human Rights: Shared Values in Uncertain Times*. Basingstoke: Palgrave Macmillan.
- Miah, Shamim. 2013. '“Prevent”ing Education: Anti-Muslim Racism and the War on Terror in Schools'. In *The State of Race*, ed. Nisha Kapoor, Virinder S. Kalra, and James Rhodes. Basingstoke: Palgrave.
- Miller, Phil and Shiar Youssef. 2013. *Collective Expulsion: The Case against Britain's Mass Deportation Flights*. London: Corporate Watch.
- Nazroo, James and Dharmi Kapadia. 2013. 'Ethnic Inequalities in Labour Market Participation'. Centre on Dynamics of Ethnicity Briefing, September.
- Peach, Ceri. 2006. 'Muslims in the 2001 Census of England and Wales: Gender and Economic Disadvantage'. *Ethnic and Racial Studies* 29 (4): 629–55.
- Ramesh, Randeep, Hélène Mulholland, and Peter Walker. 2012. 'London Looks to Export Council Tenants'. *The Guardian*, 24 April. Available at: <http://www.theguardian.com/uk/2012/apr/24/london-exporting-council-tenants>.
- Ross, Alice K. 2014. 'Stripped of His Citizenship, Now Mahdi Hashi Is in Solitary Confinement in New York'. *The Bureau of Investigative Journalism*, 19 April. Available at: <http://www.thebureauinvestigates.com/2014/04/19/stripped-of-his-uk-citizenship-now-mahdi-hashis-in-solitary-confinement-in-new-york/>.
- Townsend, Mark. 2010. 'Black People Are 26 Times More Likely Than Whites to Face Stop and Search'. *The Guardian*, 16 October. Available at: <http://www.theguardian.com/uk/2010/oct/17/stop-and-search-race-figures>.
- Webber, Frances. 2013. 'Europe's Pariah State? The Future of Human Rights in Britain'. *IRR UK Briefing Paper No. 8*, 8 May.
- Webber, Frances. 2014. 'Extending Immigration Policing and Exclusion in the UK'. *Race and Class* 55 (3): 86–92.
- Woods, Chris and Alice K. Ross. 2013. 'Former British Citizens Killed by Drone Strikes after Passports Revoked'. *The Bureau of Investigative Journalism*, 27 February. Available at: <http://www.thebureauinvestigates.com/2013/02/27/former-british-citizens-killed-by-drone-strikes-after-passports-revoked/>.