

The fate of Shamima Begum [Newspaper article]

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Five years ago Shamima Begum, then 15, left her home and birthplace in England and made her way to Syria. She travelled to lend her support to Islamic State. Begum now wants to return, but is barred from doing so. She is presently in limbo, living in the Al-Roj displaced persons camp in north-east Syria. The UK Government has deprived Begum of her citizenship and refused to grant her permission to enter the country.

The deprivation of citizenship equates to modern-day banishment. Its effects are life-changing. Persons deprived lose their right to live in that country. They require permission, or leave, to enter it. They are outcasts.

The use of citizenship deprivation in the name of national security has grown considerably in recent years. So-called foreign terrorist fighters have largely been the target, in the UK and elsewhere. Numbers have grown and the scope of the power has widened. British-born citizens can now lose their nationality.

The power to deprive an individual of their citizenship is exercised by the Secretary of State under the powers given to her in the British Nationality Act 1981. For foreign terrorist fighters the basis of a decision must be that it is conducive for the public good because that person conducted herself in a manner seriously prejudicial to the vital interests of the country. Applying this test in February 2019 then Home Secretary Sajid Javid stripped Begum of her citizenship.

Begum will shortly re-enter public consciousness. The UK Supreme Court will on Monday begin to hear arguments in her appeal against the loss of her citizenship. The President of the Court, Lord Reed, and four other Justices will consider features of the procedure to-date in her case. Its decision could well seal Begum's fate – one way or the other.

The Supreme Court will not directly answer the critical question in Begum's case; whether the deprivation of her citizenship was lawful. Rather, it will decide whether she should be admitted to the UK in order to participate in her appeal against it. In a previous decision the Court of Appeal held a fair and effective appeal required her presence.

It is impossible to predict what the Supreme Court will hold. If it upholds the Court of Appeal decision Begum will be allowed back into the country

to pursue her appeal. If it overturns its decision, matters are unclear. What is certain, however, is that if Begum is allowed to return removing her in the future, whatever transpires in the courts, will be well-nigh impossible.

The law provides an individual cannot be deported where there is a real risk of inhuman and degrading treatment abroad. Camp conditions in Syria meet that standard. Even if they did not, there is no lawful basis for sending Begum to Syria. She has no personal connection to that country.

Bangladesh is the birthplace of Begum's parents. The court of first instance in her case interpreted Bangladeshi law to mean she was also a citizen of that country. Bangladesh, however, has publicly disavowed her as a national and refused to admit her. Simply, there is nowhere for Begum to be sent.

The exercise of considering possible destinations for Begum to be forcibly transferred brings to the fore the absurdity, and indeed immorality, of the law in her case. The UK has a duty to protect all those persons connected to it. This flows from the social contract that exists between the state and individuals subject to its power. Begum is British-born and knows no other country.

It may be argued that by travelling abroad and associating with Islamic State Begum broke the terms of her social contract. Her relationship with the UK, and its duty of protection, were thereby ended. On the other hand, there are reasonable grounds for considering Begum a victim of radicalisation. That process affected 15-year-old Begum's ill-conceived decision. Her development and actions are the UK's concern.

Begum's actions are certainly not the responsibility of Bangladesh or any other third country. Through depriving her citizenship the UK is attempting to off-load an inconvenient notionally former citizen to the only country where it's arguably lawful to do so. In truth, Begum's citizenship deprivation and banishment are an abrogation of duty.

From a practical perspective, Begum's banishment is an act of folly. The question that must be asked is what purpose does it serve? National security? Deterrence? Retribution? Punishment?

The answer is that none of these are well-served by Begum's exile. She is unlikely to threaten UK security if allowed to return. Terrorism prevention

measures can be imposed upon her if this is mistaken. In contrast, persevering with Begum's banishment could stoke enmity within and outside the country. She might become a symbol of the UK's treatment of its Muslim citizens – a group that appears to be disproportionately affected by the deprivation power.

Deterrence, retribution and punishment are all better served by permitting Begum to return to the UK and trying her any crimes she has committed. Supporting a banned terrorist organization is one such crime, for example. If convicted, Begum would be punished under UK law. This would satisfy the purposes of the criminal law and demonstrate societal condemnation of her actions.

Citizenship deprivation is draconian, particularly so where the individual was born and raised in the UK. The power also operates randomly, only affecting those who have immigrated to the UK and their descendants. It should only be exercised in the most exceptional of circumstances.

Convicted murders and rapists are given a second chance at a life at liberty in the UK. Not so, it appears, are misguided teenagers with foreign-born parents. The Supreme Court has the opportunity to provide a second chance to Begum. Let's hope it is taken.