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Is exile an act of discrimination? [Newspaper article].

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Shamima Begum's exile over Isis support raises profound questions about racism, sexism and British citizenship

Dr Paul Arnell

The case of Shamima Begum raises strong and contrasting opinions. Many people feel that her permanent exile from the UK is a just and reasonable response to what she has done. Others are of the view that that fate is discriminatory and egregious. Yesterday's Supreme Court decision satisfied the former camp. All of the arguments put forward on Begum's behalf were dismissed. She remains de facto stateless in a Syrian camp with nowhere to go.

Begum's story is by now familiar. Leaving her home in England in 2015, aged 15, she travelled to Syria to support Islamic State. She lived under its rule for more than three years, married a Dutchman fighting with the group, and gave birth to and lost three babies. She is now 21. Sajid Javid, the former Home Secretary, deprived her of her citizenship in February 2019.

Yesterday's Supreme Court judgment followed decisions of the Special Immigration Appeals Commission and the Court of Appeal. The latter found that the only way she could have a fair and effective appeal was to be allowed to return to the UK. It was challenged by the UK Government, which argued that allowing Begum to return would create a national security risk.

The UK Supreme Court dismissed all of the arguments made on Begum's behalf. The President of the Court, Lord Reed, wrote the judgment which identified four errors in the Court of Appeal's decision.

Firstly, the Supreme Court noted that a refusal of permission to enter the UK could only be challenged on the basis of human rights. Since Begum's lawyers did not advance that argument the Court of Appeal should have rejected her appeal on that point.

The second error concerned role of the Home Secretary in assessing UK national security and the deference that courts should give to it. It was held that the Court of Appeal erred in not giving the Home Secretary's assessment the respect it merited.

Thirdly, the weight given to Begum's right to a fair hearing by the Court of Appeal was rejected. The Supreme Court held that Begum's right to a fair hearing was legitimately trumped by public safety. Notably, it also held that the appropriate course was to suspend Begum's appeal against deprivation until she is able to play an effective part in it without compromising public safety.

Fourthly and finally, the Supreme Court agreed with the first instance tribunal that the application of the existing extraterritorial human rights policy by the Home Secretary was not unreasonable. In essence this meant that the opinion of the Home Secretary that depriving Begum of her citizenship would not expose her to mistreatment rightfully stood.

As with all decisions where strong feelings are aroused yesterday's judgment will have been met with both satisfaction and sadness. Whilst the position from Begum's perspective is bleak, there is the possibility that she can continue her appeal against deprivation at some point in the future. There is also the possibility of her case being taken to the European Court of Human Rights in Strasbourg.

The Supreme Court's judgment is of great importance to Begum and may also influence future citizenship deprivation practice. It also raises several broader and underlying questions. Why do British nationals and residents choose to travel abroad to support and fight with organisations hostile to the UK? What is the appropriate response to that activity? What exactly does citizenship entail? Have racism and sexism affected the perception of Begum by the public and media?

For most people the notion of travelling abroad to support or fight with a terrorist group is unfathomable. For a small minority it is thought appropriate or indeed necessary. Why? Is this a function of radicalisation? Social isolation and ghettoisation? Educational failings and deprivation? The answer is most likely a combination of these. Research and action are urgently needed to understand and affect the behaviour of individuals considering that course of action.

Where British nationals and residents make that choice the UK Government must respond. The question is how? On the statute books are measures providing for the loss of citizenship and temporary exclusion from the country. Laws also make criminal giving support to outlawed organisations and entering certain 'hot-spots' around the world. Of these, citizenship

deprivation is the worst option. It may create martyrs and foment greater enmity against Britain amongst radicalised and hostile groups abroad. In many cases it is an abrogation of responsibility by the UK to other countries and the international community. A proportionate response that punishes, as far as possible deters, expresses societal disapproval as well as rehabilitates and reintegrates is what is required.

Citizenship is traditionally understood as membership of a polity, with reciprocal obligations of allegiance and protection upon the individual and state. A birth right, existential to one's identity in the modern world and permanent. Is this conception now archaic? Has citizenship become transient, disposable, a commodity to be sold and withdrawn? There are grave dangers in this conception. Simply, the duty of countries to prevent statelessness and to protect their citizens – good and bad - must prevail.

Begum has been demonised in parts of the media and public consciousness. She is considered a traitor by many. Why has she given rise to such strong feelings? Her interview a national newspaper in February 2019 where she showed no remorse is partly the reason. What other factors are at play? Are racism and sexism also responsible? That Begum has been singled out appears to support that proposition. The majority of so-called UK foreign terrorist fighters have been allowed to return to the country.

Shamima Begum will soon slip away from public consciousness. Her plight in a Syrian camp will be forgotten. Her non-criminal punishment for foolhardy actions taken whilst a young girl has been confirmed as banishment. The Supreme Court yesterday offered her very little hope.