

**SHAMIMA BEGUM: UK CITIZEN, TERRORIST, ISIS WIFE, ‘GROOMED  
SCHOOLGIRL’ OR NONE OF THE ABOVE?**

Since the downfall of ISIS and the liberation of many Syrian people, women and children (and whole families) have been fleeing to refugee camps to escape from the fighting and killings. Shamima Begum a 19-year old British girl and her newly born child are such refugees. Following the birth of her child in a refugee camp, the Home Secretary, Sajid Javid has revoked her British citizenship. **Yasin Patel** and **Amy Hazlewood** investigate the revoking of her citizenship and analyse the legal principles, authorities and arguments behind the Home Secretary’s decision.

Shamima Begum, was a British schoolgirl of 15 years of age, studying for GCSE’s when she left to go to Turkey with three other school friends. At 19, she wished to return home. An ISIS bride, married twice, widowed to her first husband, having lost one child and now mother to a new-born child. The Home Secretary, Sajid Javid, states she is no longer welcome here and nor is she entitled to her British nationality.

The acquisition and deprivation of nationality implicates multiple areas of the law, but at its heart lies the core principle of a State’s sovereign right to determine who may enter and remain within its territory. But what if you are born somewhere, it is the only country of which you are a national and have no passport, identification or documentation entitling you to be a national elsewhere. Do you then become stateless? And what rights and entitlements do you have anywhere?

This article assesses the law with regards to revoking someone’s citizenship in the context of Ms. Begum’s circumstances. A teenager seeking to return to the UK after fleeing to join ISIS but one who finds that her citizenship to the UK has been revoked and she is no longer welcome.

**The Law**

In 1948, in the aftermath of the Second World War, the newly formed United Nations adopted the Universal Declaration of Human Rights (“Universal Declaration”).

The resulting European Convention on Human Rights was signed in 1950 and ratified by the UK a year later.

Article 15 of the Universal Declaration states:

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

And with the UK threatening to withdraw her nationality, this is the natural recourse Ms Begum would argue before the courts.

The Home Secretary on the other hand, in seeking to revoke Ms. Begum's citizenship and will no doubt rely upon Article 15 of the British Nationality Act 1981 section 40 (2) which states:

*The Secretary of State may by order deprive a person of a citizenship status if the Secretary of State is satisfied that deprivation is conducive to the public good.*

However, this section of the Act is preceded by the following limitation under The British Nationality Act 1981 section 40 (4) which states that:

*The Secretary of State may not make an order under subsection (2) if he is satisfied that the order would make a person stateless.*

The Home Secretary will argue that Ms. Begum will not be stateless as she can return to the country of her mother's birth: Bangladesh. One that he assumes she has dual nationality entitlement to due to her parents Bangladeshi nationality and their citizenship being passed onto their daughter.

But there is a problem for Mr. Javid. Bangladesh's Ministry of Foreign Affairs has said Ms. Begum is not a Bangladeshi citizen and there is "no question" of her being allowed into the country. And on that basis, if Miss Begum's British citizenship is withdrawn, she would become stateless: something that section 40 (4) does not allow.

The Home Secretary could find the decision to make Ms. Begum stateless a breach of various fundamental human rights including, but not limited to:

- i) Article 3: Freedom from torture and inhuman or degrading treatment;
- ii) Article 5: Right to liberty and security
- iii) Article 6: Right to a fair trial
- iv) Article 8: Respect for your private and family life

### **Threat to National Security**

In revoking Ms. Begum's citizenship, the Home Secretary appears to be relying on the arguments that Ms Begum is a threat to the national security, to prevent crime and disorder and to protect other people's rights and freedoms.

However, there has been no testing of this in order to prove she is any of these. It has been said that she went to Syria, that she put messages on social media of support for ISIS and denouncing the allies, that her conduct was such that she poses a risk to the UK and indeed to the rest of the world.

None of this has been tested evidentially. This teenager and the circumstances in which she ended up in Syria have neither been investigated nor analysed properly. Why? Is it because the Home Secretary does not want a platform to be provided so that we can ask very uncomfortable questions. After all, neither Ms Begum nor her 3 other school friends fit the 'profile' of terrorists/Jihadi fighters/ISIS supporters. And this raises very worrying questions: 'how did four young teenage girls, born and raised in London, England, end up in Syria as brides for ISIS soldiers'? Were they 'groomed'? If so, how and by whom? Why was this not picked up by the education authorities, social services, national security? Who made the arrangements for their travel? What were the circumstances when Ms. Begum was broadcasting on social media? Was she and her school friends 'children' when they got married? How were they treated in Syria? How was this child (Ms Begum) actively and willingly involved in an act of 'terrorism' and acting against the national interest of the UK?

Ms. Begum, may be no more than a young British schoolgirl who was groomed, brain-washed, abused, raped, taken advantage of and a victim herself. But the Home Secretary does not want

this reviewed. This ‘dirty’ and stained piece of our history is to be gotten rid of: it is not our problem but someone else’s.

And the Home Secretary has made this decision buoyed by the case of K2.

### **K2 v the UK**

This is not the first instance that a British citizen has had their citizenship revoked. In the case of, *K2 v the United Kingdom (application no 42387/13)*, the European Court of Human Rights unanimously ruled against him.

K2 was excluded from the United Kingdom on the ground that he was involved in terrorism-related activities and had links to a number of Islamic extremists. He claimed that the decision breached his right to respect for private and family life under Article 8 and had been discriminatory.

The Court found that although an arbitrary denial or revocation of citizenship might in some circumstances raise an issue under Article 8 of the Convention, because of its impact on the private life of an individual, no such issue arose here. The Home Secretary at the time had acted swiftly and diligently, and in accordance with the law.

The Court found conclusive evidence that he had been engaged in terrorism-related activities and in any case, it was K2 who had originally chosen to leave the country.

Finally, the Court noted that the applicant would not be left stateless by the loss of UK citizenship (as he had Sudanese citizenship), and the interference to his private and family life caused by the deprivation of citizenship was limited<sup>1</sup>.

Applying this judgement to Ms. Begum, she appears on the facts to be analogous to K2 because;

- She left the UK to join a terrorist organisation (ISIS);
- She has expressed her intention to return to the UK; and
- The Home Secretary has revoked her UK citizenship.

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<sup>1</sup> [https://hudoc.echr.coe.int/eng-press#{"fulltext":\["K2"\],"sort":\["kupdate%20Descending"\]}](https://hudoc.echr.coe.int/eng-press#{)

- Like K2, Ms. Begum is likely to rely on Article 8.

However, there are distinguishing features in Ms Begum's case. Namely,

- (a) She has a child who is a UK citizen (it is very unlikely that the Home Secretary will revoke the child's citizenship).
- (b) She does not appear to have citizenship in another country.

And therefore, as seems likely, Ms. Begum, if she wished to appeal would do so to the Special Immigration Appeals Commission ("SIAC"), which allows individuals to appeal against immigration decisions made by the Home Office<sup>2</sup>.

And on what grounds may Ms. Begum appeal? It is submitted that the following are individual Grounds which Ms. Begum could use to Appeal: if taken all together, her grounds of appeal appear so much stronger.

### **Rights of Ms. Begum's Child**

Ms. Begum's child was born before her citizenship was revoked; therefore, her child has the right to UK citizenship. The Home Secretary's comments that Ms. Begum's new born child may be entitled to UK citizenship seem to concede this point.

It is of course open to the Home Secretary to revoke the citizenship of the baby. But to do this, the Government would have to show that the baby is also a risk to national security. This appears to be unlikely. Therefore, the separation of mother and child seems a strong possibility when one analyses the question of revoking citizenship from Ms. Begum. And this in turn may be deemed to be a breach of Article 8 Grounds.

Article 8 also includes the right not to have your home life interfered with. This can be applied to Ms. Begum who has, she may argue, had her home life interfered with through revoking her citizenship in a way that did not follow the proper process under the British Nationality Act 1981 section 40 (4).

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<sup>2</sup> <https://www.gov.uk/guidance/appeal-to-the-special-immigration-appeals-commission>

## **Youth**

Hundreds of people have had their citizenship revoked. Many fighters, some who funded terrorism, some who were part of other proscribed organisations (other than ISIS), all of whom would have had dual citizenship. Very few of them would have been 15-year-old girls when they left.

When one looks at her age, she was, at the time of leaving the county, a child, just 15 when she was radicalised and left her home in Bethnal Green to join ISIS. She has only just turned 19. In the criminal justice system, when a child offends, rehabilitative measures are considered carefully when balancing them with punitive measures. In this case, the Home Secretary seems to have washed ‘his hands’ of this ‘problem’. Although this is her first offence, her youth a significant mitigating factor, her lack of convictions, apparent ‘grooming’ by others and she herself being a ‘victim’, she is not being treated as the teenager that she is.

## **Bangladesh**

A country she was not born in, not lived in, not visited, has no direct ties with and nor has she ever possessed a passport or identity card for that country. A country which has denied that she has dual nationality for and has refused to welcome her in. How can the UK argue she is a citizen of this country? Without the evidence to support this, Ms Begum has effectively been made stateless.

## **Home Secretary: Right or Unlawful?**

In analysing the Home Secretary’s decision to revoke Ms. Begum’s citizenship, we can argue that:

1. He may have acted in breach of the UDHR, Article 15.
2. He appears to have acted ultra vires with regards to The British Nationality Act 1981 section 40.
3. Clarity is required regarding the British government’s position on Article 3 and Article 8 of the Human Rights Act.
4. He may, depending on the fast-moving circumstances of Ms. Begum’s case, find himself in breach of Articles 5 and 6 of the Human Rights Act.

5. The national security may be hindered, rather than upheld, because of the decision taken to revoke her citizenship.
6. Her youth and personal circumstances have not been given proper consideration

### **Conclusion**

Ms Begum was a British national at the age of 15 and had no citizenship of any other country at the time. At the age of 19, that position had not changed. The Home Secretary may wish to argue that Ms Begum has dual citizenship with Bangladesh and therefore is a citizen of that country. As has been argued earlier in this article: that is not the case: the revoking of her British citizenship has left her stateless.

As an established democracy, with institutions, and frameworks in place to deal with such situations, it is not right that the UK simply wash their hands of an individual who was born, raised and radicalised in the UK, whilst saying to other countries, she's not our problem anymore, someone else can deal with her. She and her daughter are British citizens and remain to be so. And as such, this British teenager should be entitled to return to the UK where the next episode of her life will begin: criminal or victim?