

# Rethinking the deprivation of citizenship

ISIS women's plight raises questions over revocation of citizenship as counter-terrorism measure

Matthew Seet

For The Straits Times

Two women, Hoda Muthana and Shamima Begum, from the United States and Britain respectively, left for Syria, married Islamic State in Iraq and Syria (ISIS) fighters, had children, and now seek to return to their home countries with their children.

However, they both are barred from doing so – though for different reasons: Begum has been deprived of her British citizenship, while US Secretary of State Mike Pompeo claims that Muthana was never a US citizen, having been born to a foreign diplomat in the US.

The US has, unlike several other Western countries, not adopted or expanded denationalisation laws specifically targeting citizens who join the ranks of ISIS.

Denationalisation, the stripping of citizenship from an individual, can either take place when the individual is physically present in the country, after which the individual is deported usually to the individual's other country of nationality, or when the individual is abroad and not allowed to return (as in Begum's case).

This is part of the larger trend of Western governments tightening immigration control due to increased Islamophobia post-9/11 and the exodus of asylum-seekers from Middle Eastern unrest over the past decade.

The practice of denationalisation is not new: various governments enacted denationalisation laws in the early 20th century to deal with fraudulently acquired naturalisation certificates; Hitler's regime deprived Jews of their citizenship before sending them to concentration camps; and the US enacted a law during World War II providing for the denationalisation of citizens of Japanese descent.

## QUESTIONS ON CITIZENSHIP

Yet, the adoption and expansion of denationalisation laws as part of the war on terror against ISIS have taken place on an unprecedented scale, even compared with the

period immediately after 9/11. These have sparked robust criticism by – and debate among – academics, who question whether – and how – denationalisation has redefined the meaning of citizenship.

### • Is citizenship secure?

Governments adopting or expanding denationalisation laws in the war on terror have sought to justify this with the rhetoric that citizenship is not an inviolable right, but a "privilege" which can be revoked by the government if one poses a threat to his country's security and to fellow citizens.

Many academics have criticised this as rendering citizenship increasingly conditional, making citizens less secure.

Several academics, however, have considered whether citizenship is akin to a contract, a bond between the community and the individual, by which the community extends protection to individuals on the basis that they abide by its rules. As such, terrorists have, by their own actions which are incompatible with their community's values, excluded themselves from it.

### • Is citizenship equal?

Some countries adopting or expanding denationalisation laws are bound by a 1961 international treaty requiring its contracting parties to prevent statelessness – a situation where an individual is not a citizen of any country in the world. Accordingly, their denationalisation laws are restricted to individuals possessing more than one citizenship.

Here, it is significant that, when depriving her of citizenship, Britain (a party to the 1961 treaty) emphasised that Begum also holds Bangladeshi citizenship. Some academics note how the applicability of denationalisation to dual nationals may lead to a "race" between countries to deprive the individual of citizenship first, with the "losing" state possibly refusing to recognise the other country's act of denationalisation, ultimately rendering the individual stateless.

This may very well be Begum's fate, with Bangladesh claiming that

Begum has never applied for Bangladeshi citizenship, and disallowing her entry.

More widely criticised by academics is how discriminatory the restriction of denationalisation to dual nationals is, with a dual national, in principle, committing the same act as a mono-national but being deprived of citizenship and not subject to the same punishment as the mono-national.

This is in stark contrast to what English sociologist T. H. Marshall envisioned citizenship to be when he wrote the seminal work on citizenship, *Citizenship And Social Class*, in 1950. He stated that citizenship is equal, encompassing three "generations" of civil, political and social rights enjoyed by all members of the community.

He added that it is also equalising, because it mitigates the economic inequality and antagonism inherent in the capitalist class system of Britain in the 20th century, by redistributing a portion of the resources resulting from economic growth and fostering a sense of membership in a community. Denationalisation of dual nationals undermines citizenship as an equal status and creates hierarchies within it. The dual national is now regarded as "less" of a citizen and more "foreign".

### • Is citizenship (deprivation) relevant?

Political philosopher Hannah Arendt graphically depicted the plight of the stateless Jewish refugee during the Holocaust in her work, *The Origins Of Totalitarianism*, as such: "Once they had left their homeland they remained homeless, once they had left their state they became stateless; once they had been deprived of their human rights they were rightless, the scum of the earth."

Citizenship, according to her, is the "right to have rights". Many academics have highlighted how, with the country as the principal protector of the individual's rights, denationalisation renders the individual vulnerable to other rights violations, including the right to life, where denationalised



Ms Renu Begum, sister of Shamima Begum, holding a photo of her sister as she makes an appeal for her to return home at Scotland Yard, Britain, in 2015. Begum has been deprived of her British citizenship and barred from returning to Britain. PHOTO: REUTERS

terrorist fighters who are stranded in conflict zones may be more easily targeted by drone strikes.

However, according to other academics, the progress of the international human rights system since the end of World War II has reduced the value of citizenship, given that even stateless persons and individuals situated in countries of which they are not citizens are still entitled to human rights.

Academics also claim that, specifically in the terrorism context, having citizenship may not make any difference, with

terrorist fighters abroad formally retaining citizenship but effectively exiled from their home countries. US citizens may still be placed on watchlists and barred from entry although the US has rejected proposals to deprive terrorists of citizenship post-9/11 (an initiative which Muthana's case may reignite). Britain

mono-nationals (whose citizenship cannot be revoked because they have no other and would otherwise be rendered stateless) may still be subject to temporary exclusion orders and barred from entry.

Finally, several academics have questioned denationalisation's relevance to the terrorism context.

Historically, citizenship has been framed in terms of loyalty to the country, marking the boundary between "us" and "them" and reflecting trust and solidarity. Correspondingly, denationalisation laws enacted in the 20th century increasingly targeted conduct deemed "disloyal", which included treason and, for some countries, the acquisition of another country's nationality (although dual nationals are increasingly accepted today and much less distrusted by governments for

having split national loyalty).

Traditionally, acts of disloyalty to one's country were equated to the individual's loyalty transferred to another country; the logical consequence was for the individual to be deprived of citizenship and physically transferred to that country.

This is made complicated in the terrorism context, with the ISIS fighter loyal not to a country (even prior to ISIS having suffered significant defeat in the Middle East, international lawyers largely agreed that the absence of international recognition of its legitimacy presented a major obstacle to ISIS becoming a state), but to an ideology.

This calls into question denationalisation's efficacy as a counter-terrorism approach, in contrast to the de-radicalisation approach which Singapore has adopted to deal with individuals pledging loyalty to the ideology of ISIS.

stopinion@sph.com.sg

• Matthew Seet is a lecturer at the National University of Singapore's Faculty of Law, specialising in refugee law, migration law and citizenship law.

**Traditionally, acts of disloyalty to one's country were equated to the individual's loyalty transferred to another country... This is made complicated in the terrorism context, with the ISIS fighter loyal not to a country, but to an ideology.**