

Master's Thesis in Political Science

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# Illegitimate Principles of Exclusion?

THE DEBATE ON DENATIONALIZATION AS AN INSTRUMENT  
FOR COUNTER-TERRORISM IN THE UNITED KINGDOM

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## Abstract

The issue of citizenship deprivation has become an increasingly relevant topic in the struggle against terrorism. It is related to different conceptions of citizenship as well as the question of what is at stake in the process of depriving individuals of it. In the United Kingdom three acts have been passed in the 21<sup>st</sup> century so far that has reduced the requirements needed for the to deprive individuals of their citizenship and also to render individuals stateless. This thesis systematises the arguments made in the academic and political debates related to these acts and evaluates their legitimacy in relation to different normative standpoints. The main conclusion regards a logical inconsistency in the differentiation of two types of British citizenship, one where individuals have naturalised, the other where they are native born Britons, the latter may not under British law be rendered stateless while the former can be, although both have the status of citizen, which becomes problematic in terms of equality before the law and equal rights.

Keywords: Security, terrorism, the United Kingdom, citizenship, legitimacy, British law, Magna Carta, citizenship deprivation, statelessness, denationalization.

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## **List of Abbreviations**

BNA = British Nationality Act 1981.

HC = House of Commons.

HL = House of Lords.

MP = Member of Parliament.

NIAA2002 = Nationality, Immigration and Asylum Act 2002.

RTR = Right to rights.

SILAC = Special Immigration Appeals Court.

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## 1. Introduction

*"Every country must have the right to decide who it allows to stay within its borders. We must make sure we have the right to deport people who are a threat."*

– David Cameron, 2003, (Williams et al., 2003, Daily Mail).

The concept of belonging to a community has been a part of humanity for centuries. As humans we have always grouped together for safety and survivability. Over time these principles developed into citizenship with the emergence of states and borders. In recent times the very essence of citizenship has been widely debated in the field of political science and in the face of increased movement of people as a consequence of a more globalised and interconnected world.

Central to this essay stands the normative issue of citizenship deprivation, which will be primarily referred to as *denationalization* in this essay. The term means the mechanism that removes the citizen status from an individual against the will of that individual. This can happen for different reasons and has been increasingly used as a measure for counter-terrorism, that is, depriving individuals that are perceived as threats of their citizenship as a means to contain that threat and to limit their mobility, (Macklin, 2015, p.1). This essay will examine the case of the United Kingdom and systemise different positions for and against that kind of denationalization in the political as well as academic debates.

Debates on citizenship have historically been focused on the process of acquiring citizenship with a state and the requirements that such a procedure would entail rather than the deprivation of it, (Barry & Ferracioli, 2016, p.1055). The issue being that the deprivation of citizenship may have serious consequences for the individual as she is lifted out of her context and one might argue, away from her right to have rights (RTR), (Arendt, 2004, p.295-299), but also for the country executing the order in terms of its international obligations and reputation.

Denationalization has become especially actualised in the struggle against terror. In the fight against terror, legal principles have become increasingly stretched with the aim to increase security for citizens as well as the state. This development can be seen in countries such as Canada, USA and Norway, (Lenard, 2016, pp.73-76).

The case of increased denationalization in the UK is a demonstration of this trend where the majority of cases have been justified in terms of increased security and not seldom with arguments in favour of such a measure as an effective instrument for counter-terrorism, (Barry & Ferracioli, 2016, p.1056). These arguments are also found in the debates around the political acts that has resulted in increased capabilities for the Home secretary to revoke citizenships, (McGuinness & Gower, 2017). Especially in the aftermaths of the terror attack in New York on the 11<sup>th</sup> of September 2001. One year later the 2002 Nationality, Immigration and Asylum Act was passed in the U.K, which dramatically changed how denationalization in the UK operates, which will be explored further in this paper (The National Archives, 2002).

In the United Kingdom there has been an increase in the frequency of cases where a UK national loses her citizenship. Between 2006 and 2015 there has been 81 such cases, which is a dramatic increase compared to there being 10 cases between 1949 and 1973, (McGuinness & Gower, 2017, pp. 3, 6-7 & 10). There has also been a series of reforms, which has further centralised the instrument of denationalization to the Home Secretary who may deprive a U.K national of her citizenship if it can be argued that such an act “is conducive to the public good”, (Ibid., 2017, p.5).

Furthermore, it has historically been unlawful as well as illegitimate under UK law to leave an individual stateless as a consequence of depriving her of her citizenship. But through the Immigration Act 2014 it became possible for the Home Secretary to render a UK national stateless if the Secretary is confident that the individual may be able to gain citizenship somewhere else and given that the individual has naturalised to the UK, (Ibid., 2017, p.8).

These recent developments in the UK bring into light the complexities in the relationship between citizens and the state. It problematises the nature of that relationship and it raises questions of whether or not it can be morally legitimate for a state to have the right to deprive an individual of her citizenship. This essay will delve deeper into those questions while also mapping the international obligations that the UK has and if the removal of individuals citizenship that renders them stateless does in fact break any of those obligations.

This highlights two issues related to citizenship deprivation. The first is procedural legitimacy of denationalization as such, or in other words, the question of whether or not the decision could be made with moral legitimacy. This issue concerns the conditions for citizenship in the UK. The



second issue regards the due process for denationalization and who should decide to denationalize someone, (I.e. politicians or court). As it stands today it is the home secretary (an elected politician) that has the power to deprive an individual of her citizenship with no requirement to a prior legal process.

The thesis will map out the recent historical developments in the UK while keeping the legitimacy concept central to its analysis. The theme is relevant to the discipline of political science as well as to the public debate today, where individual rights and citizenship as well as the nature of the state phenomenon have changed as a consequence of increased globalisation and technological advancements. The question of what it means to be a citizen in a globalised world is a topical discussion that should be addressed effectively in relation to the state and the question of what power over citizenship that it should have.

The concept of denationalization is not an entirely new phenomenon but has been actualised especially in the UK with its recent developments and becomes relevant beyond the context of Britain as the notion of citizenship is a part of every state. By discussing the idea of citizenship as a privilege or a right in the context of the UK, readers will be able to draw conclusions from the findings of this essay that is relevant to the political science discipline and beyond.

When providing the historical background this essay will focus its scope on four acts that decisively changed the possibilities for citizenship to be revoked in the United Kingdom, namely the British Nationality Act 1981, the 2002 Nationality, Immigration and Asylum Act, Immigration, Asylum and Nationality Act 2006 and the Immigration Act 2014. By doing so it will address a procedural question regarding the legitimacy of the legal process based on its own premises (internal critique). It will also use article 39 of the Magna Carta as an important normative principle that will be used when assessing the legal as well as moral validity of denationalization in the UK. This stands in contrast to the more substantive issue about the concept of citizenship revocation, which will also be explored (external critique).

The United Kingdom has a series of obligations under international law in regard to statelessness and migration, which will also be touched upon in the analysis of this paper. Those obligations have been discussed in the academic as well as political debates surrounding citizenship deprivation and relates to the issue of moral legitimacy and the obligations of the British state towards its subjects as well as other states.

The question of whether or not a state should have the power to remove citizenship from its citizens or not boils down to the question on the very nature of citizenship as either a privilege that can be legitimately revoked, or as an adamant right that cannot. In the context of the United Kingdom this question will be addressed, analysed and as a result this essay will provide a systemised analysis of the different arguments and will then suggest a normative assessment regarding the moral reasonableness of citizenship revocation as well as of the procedure for denationalization.

## 1.2 Research question

In order for this essay to be focused it needs central questions, which it will aim to resolve. Each of the two questions concerns two aspects, (1) the procedural (legal) and (2) the substantial, which is concerned with the issue regarding the right of a state to revoke citizenship. Therefore, the question formulation of the essay will be to:

- A) Systemise and analyse the main positions and the arguments made for them in the debate surrounding the 2002 Nationality, Immigration and Asylum Act, the Immigration, Asylum and Nationality Act 2006 and the Immigration Act 2014.
- B) Discuss the moral legitimacy of the different positions and arguments.

### 1.3 Outline

The questions formulated above will be resolved in this essay through the following chapters with their respective subsections that will guide the reader to gain insight into the topic of modern citizenship. Firstly, the essay will turn to a methodological chapter where the reader will be presented with the methods as well as research strategies that will be used to approach and make sense of the materials that this essay will analyse. The methods chapter will also describe how that material was collected and justify on what grounds that material is reliable.

Next the essay will present a theoretical chapter where the reader will be familiarised with contrasting normative standpoints on citizenship. Historical background on the recent key developments in the United Kingdom will follow after the theoretical chapter. The chapter will describe how the debate has developed in recent times and how the effects of that development is being executed today in terms of denationalization.

After the empirical case has been mapped out, the essay will turn to its normative analytical chapter and an in-depth analysis of the moral and legitimacy aspects of denationalization in the United Kingdom. It will explore if such an instrument can in fact be justified and if so, under what circumstances. The chapter will make use of internal as well as external critique.

Lastly, the essay will have a closing chapter with concluding remarks on its research and present its key points from the analysis of the material. The chapter will make a response to the central questions of this paper regarding the legitimacy and morality aspects of depriving an individual of her citizenship.

## 2. Method

The method of this paper is well established. It will make use of a traditional critical analysis of ideas based on interpreting empirical data primarily in the form of text. By using such a method this paper will analyse the debate around the reforms that has minimised the criteria for denationalization in the UK by systematising and analysing the arguments of that debate as well as the acts associated with that development. It will pinpoint and systematise the material on which the essay will stand through that method while being critical of its sources and the data that it presents by focusing on what is being said in a text and the core arguments of its contents through critical interpretation.

This essay is driven by an empirical interest in the arguments and a normative interest in assessing the different arguments in the academic as well as political debate. Therefore, my investigation is empirical as well as theoretical in the sense that I will assess the different arguments put forward in the empirical debate from a set of normative principles. The issue of citizenship deprivation linked to security is an urgent problem facing society today. Method as well as theory will be used to organise the material and the analysis of it, (Shapiro, 2004).

The purpose of this essay is not to explain why person X said Y in the debates, but to present different positions that are formulised in text. The purpose is to condense different positions that are formulated by examining protocols, articles and the contents of those texts, which is the essence of what is interesting to the purpose of this essay. The method will be to read these texts and to extract the messages (and positions) that are formulated to analyse them critically through internal as well as external critique, which will be elaborated upon further down.

One of the two primary aims of this essay is to pursue a normative discussion on the moral legitimacy of the legal process of citizenship deprivation in the UK as well as the principle of citizenship revocation in itself. It will also refer to the academic as well as political debate in the UK that revolves around those questions. After descriptively presenting a general account of what has been said it will normatively evaluate the legitimacy of these arguments.

The essay is primarily normative in the sense that it is evaluating from the perspective of moral legitimacy and provides an evaluation of citizenship revocation relative to normative principles.

In other words, the paper will address the question of right and wrong from different standpoints that will be presented more thoroughly in the theoretical chapter, (Olsthoorn, 2017, p.159-161).

In the process of approaching text there are two relevant mechanisms of understanding its meaning that are at play<sup>1</sup>. Firstly, there is an empirical dimension, which is what is actually being said by the author. Secondly, the philosophical issue regarding the moral underpinning of the arguments and what has been said. In other words, I will first try to make an accurate empirical statement of what has been said, secondly, I will give an interpretation of the philosophical underpinning of the arguments, (Blau, 2017, p. 243). In other words, the two dimensions that will be at play when interpreting and criticising the arguments are:

1. Empirical.
2. Philosophical (normative).

The materials that will serve as the background to this paper will be interpreted by me as its author, just as this paper in turn will be interpreted by its reader, which could introduce a confirmation bias where the reader will passively or actively seek to find evidence that proves his or her point. By highlighting that danger this paper will approach the data with a reflexive mind, in an endeavour to avoid such a bias, (Ibid., 2017, p.243).

The normative philosophical approach of interpreting text is essential to grasp the moral underpinning of its contents. We may very well grasp the meaning of a work but will gain a deeper understanding of it if we also evaluate the ideas behind it through a critical approach where we acknowledge its advantages, disadvantages, what is being included and what is not. It is therefore paramount that dimension 1 and 2 are both used, it is such an approach that this essay will use, (Ibid., 2017, pp.243-45).

This essay will use the empirical as well as normative philosophical approach in its method to evaluate the arguments of the debates surrounding the developments regarding denationalization in the UK. When I assess the arguments I will be analysing the reasoning behind them while studying them in relation to their empirical context as well as a set of normative principles. In doing so, it will combine both the empirical as well as the philosophical dimension in its method to gain a deeper understanding of the case of the UK.

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<sup>1</sup> There is also a third dimension primarily used in literature sciences called the aesthetic dimension (See Blau, 2017, p.243).

The empirical dimension will primarily manifest itself in terms of the materials and data that this essay will analyse. It will make an extensive use of The National Archives of the United Kingdom, which collects all UK legislation including the specific acts that this essay will analyse. The archives also manage the Crown copyright and is a well-established provider of sources, (The National Archives, 2018).

To address the research questions of this paper the essay will systemise the academic debate as well as the political debate regarding the deprivation of citizenship in the UK and therefore make use of a series of academic papers but also protocols from the debates in the House of Commons as well as the House of Lords, critically. A great resource in that process is the Uppsala University Library and its associated database, which uses extensive source criticism as well as information regarding the origins of a source and if it has been subject of peer review, (Uppsala University Library, 2017).

In the making of this thesis I have gathered some material through e-mail conversations. More specifically, I have been in direct contact with the UK Home Office who have provided me with statistics on the number of appeals made by individuals who have been deprived of their citizenship since 2002. I have also been discussing the system of appeal directly with Oxford University professor Matthew Gibney who has provided guidance on the denationalization process. Both of these sources can be found at the end of this essay and will be provided happily to any reader who might have an interest in those conversations by contacting me as the author.

## 2.1 Internal and External Critique

To address the research question of this essay I will make use of internal- and external critique. The former will be used in the sense that I will interpret and systemise different arguments in the political and academic debate and evaluate their logical consistency. I will also pursue an external critique by assessing the moral positions of those arguments and evaluate their legitimacy against a set of normative principles.

The distinction between internal and external critique in methodological terms is that the former is based on principles that are found within the concept itself, that is, critique of the denationalization process in itself without bringing it outside of its own contextual premises. This kind of critique has many different subcategories within its field, but this essay will make use primarily of the internal critique called *logical inconsistencies*, (Tralau, 2013, p.1-2).

This type of internal critique has been chosen specifically because it targets the very core of a concept by evaluating a (explicit/implicit) principle related to the (explicit/implicit) normative standpoint to which it relates, (Ibid., 2013, p.2). If the legitimacy of the process holds according to such a critique it will be proven to be a strong concept based on its own premises, however if it does not, the critique will prove to be one of serious kind, undermining the very core elements of the argument<sup>2</sup>, (Ibid., 2013, pp.2-9).

In conclusion, the internal critique that this essay will use aims to identify a normative principle, which will be used as a point of departure for the arguments being made in order to justify a standpoint (I.e. Deprivation of citizenship is legitimate). Since the standpoint relates to such a principle, that relationship has to be logically consistent as it embodies the argument as a whole, (Ibid., 2013, pp.2-9).

One of the greatest risks of internal critique lay in the process of identifying implicit normative principles, that is, principles that are not explicitly uttered but underlying. Whilst identifying these implicit principles there is a risk that they might not be correct but imposed on the textual material through the biased perspective of its reader, or in the case of this essay, the perspective of its researcher whilst approaching the empirical material.

This risk will be alleviated by remembering the fundamental principles of critical text analysis in that the essay shall remain true to what is actually being said in the text that it is analysing. Through this process the risk of forcing a narrative onto it will be limited. By not only being critical towards the text but also to the interpretation of it, this essay aims to be loyal to what is being expressed in the textual material that will form the basis of its analysis.

As a contrast to internal critique, this essay will also make use of external critique, primarily when addressing the substantive normative issue regarding the right of a state to revoke citizenship. By doing so, it extracts the instrument of denationalization from the context of the United Kingdom and its legal principles to discuss the concept outside of that context to address the issue of its legitimacy in itself.

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<sup>2</sup> An example of this internal critique can be found in a statement made by Thrasymachos in Republic (Tralau, 2013, p.2).

This kind of external critique will take a perspective that applies to no specific context by examining the legitimacy of the principle to revoke citizenship without relating it to a specific time or place and by evaluating "... how good the good arguments are." in themselves, (Heidegren, 2013). The danger of using this kind of critique is that it might become too abstract and in doing so lose relevance in terms of the empirical premises of a context (I.e. A country or community), (Honneth, 2002, p.514).

These dangers will be alleviated in part by active reflexivity regarding the position of the author to hinder confirmation bias or personal agendas influencing the external critique. As mentioned above, the paper will also provide an internal critique to its case, which will be a contrast to the external critique. Together they will provide a perspective on the research questions of this paper. Furthermore, the essay will stay centred on issues related moral validity and issues related to its research questions, which will contribute towards focused arguments even at the higher level of abstraction that is external criticism.

To summarise, this essay will firstly gather materials from the academic as well as political debates in the UK, then it will systemise the arguments of those debates and then address the moral legitimacy of those arguments. In other words, (1) what is being said, (2) what position does that argument belong to and (3) is that argument and position legitimate?

## 2.2 Limitations

Lastly, a few words on the limitations of the methodological approach of this essay and what will fall outside of its scope. Based on the critical textual analysis and internal/external critique it will not provide an in-depth perspective on the motivations of the involved actors that could be explored through interviews with relevant individuals such as MP's.

The aim of this essay is not to explain why the UK has developed in a certain direction, nor to analyse the causality of such developments. Instead it aims to provide its reader with an overview of the debate in the UK and to present descriptively what has happened historically to then follow up normatively with an analysis of ideas as its main purpose, that is, an analysis of the main positions in the debate. The essay will not conduct a discourse analysis of the messages or expressions in the debate, nor will it use contextual explanations. It will use a traditional analysis, based on interpretation of messages in the text. Once again, the purpose is not explanatory, but to approach text and relating it to normative principles.



The focus is on text and the meaning of text. The analysis of the different arguments in the debates will be conveyed by text and interpreted through a critical analysis of ideas through a normative philosophical approach.

The purpose of this essay is to systemise arguments in the recent (political and academic) debates around the previously mentioned political acts. These acts often make references to the British Nationality Act 1981. The paragraphs of that act were expanded upon in 2002, 2006 and 2014. The 1981 act will be outlined in the background of this paper, but the arguments made in the debates surrounding the act will not be systematised with the purpose of analysing the developments in the UK in more of a contemporary context.

### 3. Normative Standpoints on Citizenship and Overview

The essay has thus far introduced its two research questions and the methods that it will use in order to resolve those questions. We will now turn to its theory, which will act as a lens through which the thesis will analyse the materials. Central to this essay stands the concepts of citizenship and legality. These concepts will be defined and specified in this chapter.

The normative conceptions of citizenship and of the due process for deprivation will be specified here and are important since they are frequently referred to in the empirical materials. The different conceptions used in the debate will be explored and evaluated.

The different standpoints are ideal types. Meaning that they are constructed in theory and that the context of the UK debates might result in them taking slightly different forms. The different standpoints should therefore be regarded as a spectrum rather than fixed positions. It is for example possible to have a liberal standpoint on citizenship while also arguing in favour of certain citizenship obligations.

#### 3.1 The Liberal Conception of Citizenship

Citizenship theory is a diverse field with many different perspectives and assumptions. They are all concerned with the fundamental principle of belonging, that is, the belonging of an individual in a political community that contains other individuals. Furthermore, citizenship from a functionalist perspective is a "... relationship between rights, duties, participation and identity ...", (Lister & Pia, 2008, p.8). We will now turn to examine two contrasting normative standpoints on citizenship, namely the liberal perspective and the realist state conception of citizenship.

The liberal conception views citizenship as a right that is equally entitled to every individual, much like a human right. From this perspective individuals should have the right to be citizens because they should be enabled to live secure and free lives. This is conditional on political equality in an egalitarian sense, which is meant to work as a mechanism that in theory prevents power from being too centralised, (Ibid., 2008, p.9).

Individuals shape their society through their actions, which can make it better or worse. This thought goes back to the Liberal thinker John Locke who introduced the concept of the social

contract. Viewing individuals as rational beings that in their state of nature are free., (Ibid., 2008, p.10).

Because the individual enjoys her freedom she decides to engage in a society. By becoming a citizen, she voluntarily limits some of her freedoms, in exchange the state guarantees that her freedoms will not be limited by anyone else. From this social contract view, the individual has no obligations towards other individuals than to refrain from limiting their freedoms. Therefore, in theory, she has no obligations towards the state. This liberal conception is closely related to the concept of universalism, that is, equal rights for all and in this case that also includes citizenship. This also includes equality before the law and in the political realm, (Ibid., 2008, pp.10-13).

We have now established that the liberal conception regards citizenship as a right. According to the famous thinker Hanna Arendt (who builds upon this perspective), citizenship as a concept can be defined as a right to have rights (RTR), (Arendt, 2004, p.295-299; Näsström, 2014, p.544). From this view, citizenship is to belong to a political community that guarantees the individual basic rights such as healthcare and security, (Ibid. 2014, pp.547-548).

By connecting basic rights to citizenship and the state, Arendt argues that these rights, although they may come from nature, are not protected by it but are instead protected by the human engineered state system, (Arendt, 2004, p.280, 290-292, 295). As a consequence, she emphasizes that the loss of citizenship has serious consequences for the individual as it leaves her without her basic rights protected whilst also depriving her of the possibility to influence the political system of her previous community. This limits her ability to claim her basic rights as she then stands outside of that political system, (Macklin, 2015, p.4).

One of the main critique points that can be argued regarding the RTR is that the perspective does not emphasize the nature of the citizenship in question. The main argument is that citizenship is a mechanism that makes a state protect the basic natural rights of the individual. This argument is mostly theoretical. In terms of empirical premises all states are different, and some states may in fact infringe such basic natural rights rather than protect them. As a consequence, an individual might not have the possibility to influence the political community that she belongs to, meaning that all citizenships are not equal but that the concept is contextual, (Lister & Pia, 2008, p.14).

### 3.2 The Realist State Conception of Citizenship

As a contrast to liberal standpoint on citizenship there is the realist perspective. The liberal perspective emphasizes that the individual has some political obligations towards the state based on consent amongst citizens, which puts obligations on the state towards the individual. The realist conception emphasizes the obligations of the individual towards the state and the community associated with it, to enjoy the privileges that it offers, conditional on loyalty, (Lister & Pia, 2008, p.15).

Where the liberal standpoint argues that political communities are created by the individuals who are politically engaged in it, the realist state conception has more of a monolithic view where the structure of the community exists on its own, while also defining what is expected from an individual that wishes to become a part of it, (Ibid., 2008, p.16). What is expected from the realist standpoint is that an individual contributes to her community. This is because the individual does not have any right to be a part of that community and therefore must contribute to it in order to enjoy being one of its members, (Beckman, 2006).

It is the greater good of one's community that should be prioritized rather than the rights of the single citizen. This argument builds upon the notion that individuals gain their identity and agency as a consequence of the political community rather than by nature itself, because individuals are dependent on that community, it needs to be preserved and therefore the good of the community should be put before the good of the individual. In other words, obligations before rights in the name of the greater good of the community. According to that conceptualisation, the liberal emphasis on individual rights will result in the suffering of citizens in a community as a whole, (Ibid., 2008, p.18).

The realist approach to citizenship regards the state as highly important as it governs the community of individuals and provide them with privileges such as protection. Therefore, the perspective describes citizenship as a privilege rather than a right, much along the lines of what the famous scholar Thomas Hobbes as argued in some of his famous works, (Hobbes., 1651, pp.174-181, 245-246; Hobbes, 1647, ch.1).

According to Hobbes logic, the state acts as the primary defence against the chaos that is associated with the state of nature that pre-existed the state, which is associated with anarchy, misery and suffering, (Ibid., 1651, pp.174-181; Ibid., 1647, ch.1). Because a world without the

state as a protector of rights and preventer of the state of nature would be miserable, the state needs to be respected as well as strong. It should according to the Hobbesian perspective be prepared to do what is necessary in order to guarantee the safety of its citizens, even if it would mean infringing the rights of one individual or using what liberals would regard as illegitimate measures, (Ibid., 1651, pp.249-269, 296).

The Hobbesian perspective contrasts the idea that citizens must contribute and partake in their community in order to grant the privilege of citizen. Instead Hobbes emphasis lay much more on loyalty and that a citizen should be loyal towards the state and that the state in turn should reward those citizens with protection from the state of nature. Both ideas fit under the realist conceptualisation of citizenship although the main focus is slightly different, (Ibid., 1651, pp.249-269, 296; Beckman, 2006).

One critique of the realist perspective on citizenship is that it puts great trust in the state apparatus and a respect for the measures that it might take to preserve itself as well as the community. The question becomes to what cost such a trust might come at. If pushed too far a state might use inhumane measures in order to forcefully control individuals that might be regarded as individuals which rights can be easily infringed, leading down a road of fear and suffering for its citizens, (Lister & Pia, 2008, p.22).

### 3.3 Jus Soli & Jus Sanguinis

There are two additional principles worth mentioning in relation to citizenship law that has influenced the west for decades, namely jus sanguinis (the blood principle) and jus soli (the territorial principle). In the former, citizenship is based on the citizenship of an individual's parents. In the latter it is determined by where an individual is born, (Dictionary of Social Sciences, 2002; Nesler, 2017, p.215).

The territorial principle is followed in the United Kingdom but under strict circumstances only, (Ibid., 2017, p.2015). An individual will acquire British citizenship under jus soli given that she is born on British territory (or overseas territory, formerly known as colonial territory), but must also have a parent that is a British citizen or who has settled<sup>3</sup> in British territory, (British Government, 2018).

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<sup>3</sup> "Settled" means you can stay in the UK without any time restrictions", (British Government, 2018).

The blood principle works slightly differently. An individual will gain British citizenship if one of her parents is a UK national. The citizenship is only transferred one generation if the child was born abroad and will therefore not automatically transfer to the grandchildren of a UK citizen if based overseas, (Home Office, 2017). An individual may also become a citizen of the UK through naturalisation, adoption or registration, (Work Permit, 2018).

Other general criteria for becoming a British citizen through naturalisation include that one should be of good character; a history of crime and fraud are examples of variables that could make it difficult to pass this criterion. One also needs to reside in the UK, pass an English language test and a test regarding the life in the UK. There is also a requirement to have lived in the UK for the past five years and not having left British territory for longer than 450 days during that period, (Immigration Direct, 2018).

### 3.4 The Concept of a Free and Fair Trial

When engaging in the discussion of legal legitimacy regarding the deprivation of citizenship in the United Kingdom, it is logical to address the Magna Carta, although rewritten into new laws since the 13<sup>th</sup> century, it still acts as a cornerstone in UK law. Originally there were 63 clauses with legal effect but today four remain active, this paper will focus on the one of those four, namely clause 39, (Breay & Harrison, 2014).

This clause states that an individual has a right to a free and fair trial and should not be subjected to unjustified imprisonment, (Summerson, et al., 2018):

“No free man is to be arrested, or imprisoned, or disseised, or outlawed, or exiled, or in any other way ruined, nor will we go against him or send against him, except by the lawful judgment of his peers or by the law of the land.”

This clause becomes especially relevant because it addresses the concept of exiling individuals and that such an act should not be done illegitimately without the individual being able to defend herself in a free and fair trial. This clause recognises that such an action might have serious consequences for the individual as she is removed from her context, home, friends and family. It also underlines the severe nature of arbitrary use of such an instrument and attempts to limit its illegitimate use in order to protect the individual of a state.

Although the magna carta in itself has less weight today in the modern UK its legacy is still highly relevant as it is frequently referred to by politicians, (Danziger & Gillingham, 2004, p. 278; Breay, 2010, p.48). The principle of a free and fair trial still very much lives on and has become the foundation of the UK legal system as a leading principle that should be respected and still holds much symbolic value in modern Britain, (Rozenberg, 2015).

The conception of a free and fair trial could allow for individuals to be exiled or even become stateless as long as it is done through due process, which would include the possibility to try a case in a court of law. The contrasting position to this conception is the pragmatic idea that the legal system needs to adapt to the real world, which for instance could result in a state of emergency where the principle of a free and fair trial needs to be put on hold. From that standpoint, politicians should not be held back by old principles but instead do what is necessary for the best of the community as a whole, today.

## 4. Background

The thesis has thus far introduced its subject, method and theory. It will now turn itself to two chapters where the material will be presented and later analysed using the tools presented in the previous chapters. Firstly, changes in the conditions for British citizenship will be outlined descriptively, describing what has happened based on empirical data. Secondly, the political and academic debates revolving around these changes will be presented before moving on to a normative analysis on the material presented in this chapter.

### 4.1 Controversial Changes in Conditions for British Citizenship

The concept of denationalization is highly relevant today but is far from a new phenomenon. Throughout British medieval history it was used frequently by the monarch to exile individuals from British territory. During the times of colonial expansion and the British Empire, denationalization was still very much an instrument that was being used in the name of the interests of the country. This took form mainly in sending criminals to colonies to serve their sentences through labour, (Barry & Ferracioli, 2016, p.1055).

The concept lived on during the first half of the 20<sup>th</sup> century in the UK and was used during the Great War and the second World War as a measure to eject individuals that could be potential threats associated enemy powers. Between 1918 and 1950 thousands of citizens had been revoked of their citizenship statuses. After that period restrictions were made in the UK regarding denationalizations, until the early 1980s. Between 1949 and 1973 the number of citizens that were deprived of their citizenships had decreased from thousands to 10, (Weil, 2017, pp.421-422; McGuinness & Gower, 2017, pp.6-7).

#### 4.1.1 The British Nationality Act 1981

The first major change regarding the deprivation of British citizenship in modern times (that was later expanded upon in 2002, 2006 and 2014) happened with the British Nationality Act 1981. The act addresses British citizenship on several accounts and lays out what it means to be a citizen in a legal sense and how an individual can become a UK national procedurally. Section 40 (subsection 1-10) focuses specifically on the deprivation of citizenship and under what circumstances it is legal to do so, (The National Archives, 1981, pp.32-34).



Denationalization under this act became legal under three circumstances. (1) An individual might be subjected to deprivation of her citizenship given that she has attained her citizenship through fraud or provided false information in the process of becoming a UK national. (2) If an individual has acted in a disloyal manner towards the Crown through speech or action, (Ibid., 1981, pp.60-61). (3) The Home Secretary may deprive an individual of her citizenship if the Secretary is certain that such an action would be "... conducive to the public good ...", (Ibid., 1981, p.61).

This act became a major step towards the increased power of the Home Office and the Home Secretary in terms of depriving individuals of their citizenships. This act was enacted until 2002 when the 2002 Nationality, Immigration and Asylum Act expanded on the 40<sup>th</sup> section of the British Nationality Act 1981. By 2002 it is claimed by the Home Office that no individual had been denationalized since 1973, (Home Office, 2002, p.35).

#### 4.1.2 The Nationality, Immigration and Asylum Act 2002

In the aftermath of the terrorist attacks in America associated with September 11<sup>th</sup>, the United Kingdom passed another act in 2002 that would dramatically change the frame for denationalization within its borders. One of the main changes that were made to the 40<sup>th</sup> section of the 1981 act was that before only non-natives could have their citizenship removed (that is naturalised citizens that had attained a UK citizenship), but with the 2002 act denationalization was extended to native Britons. This group could not however be legitimately deprived if it would render them stateless, (The National Archives, 2002, p.3).

Another important aspect of the 2002 act is that it introduced a system of appeal, which replaced the old system under the 1981 act that had a review committee that was external to the home office. This change made it so that the home secretary no longer had to communicate with an exterior function before depriving an individual of her citizenship, in that reform, power had been more centralised to the home secretary, while the appeal system would act as a counter measure to that move of power, (Ibid., 2002, pp.3-4).

By the 2002 act it was however still deemed illegitimate as well as illegal to render an individual stateless, that is, it was still only allowed to denationalize individuals with dual citizenships, even if that individual was born within the borders of the United Kingdom or not, (Ibid., 2002, p.6). It would be four years until the next major act was passed, by then only one individual had been

attempted to be denationalized unsuccessfully as he had become deprived of his citizenship by Egypt, making it unlawful since it would render him stateless, (Gardham 2010).

### 4.1.3 The Immigration, Asylum and Nationality Act 2006

The next act that was passed regarding the deprivation of citizenship was the Immigration, Asylum and Nationality Act 2006. This act changed the second paragraph of the BNA 1981 so that denationalization would no longer have to be justified in terms of the vital interests of the Kingdom but that it is enough for the Home Secretary to be certain that the deprivation of citizenship would be done in the name of the public good, (The National Archives, 2006, p.31; The National Archives, 1981, p.60).

This reform minimized the scope of criteria required to render an individual without UK citizenship and emphasised the need for such an action to be good from the perspective of the public (other UK citizens).

Between the act of 2006 and 2014, approximately 53 UK citizens had been denationalized by the Home Office, many of which were made in the name of the public good principle, (HC 2014-01-30, col:1045; Home office, 2016).

### 4.1.4 The Immigration Act 2014

The Immigration Act 2014 resulted in a dramatic change for deprivation of citizenship in the UK. Much like the previously mentioned acts, it expanded on the framework that had been formulated in 1981. This time a reform was pushed that made it possible for the home secretary to denationalize a UK national as long as she was confident that the individual could become a citizen somewhere else in the world. As it had been legal only to denationalize dual citizens before, it was now lawful to do so also with mono citizens as long as they were not native Britons, (The National Archives, 2014, p.57).

There was another addition to section 40 of the British Nationality Act 1981, which states that the Home Secretary is obligated to report a summary of the operations associated with citizenship deprivation to the House of Lords as well as the House of Commons every three years. The system of appeal remained unchanged with the immigration act of 2014, (Ibid., 2014, p.57).

The act of 2014 was the last one to be passed that changed the terms of citizenship deprivation to this date. According to the Home Office, (2018a), 170 individuals were deprived of their citizenship between 2014 and 2018 (up-to-30-jun-2018). A major increase compared to the years between 2009 and 2014 where only 30 individuals were denationalized, (HC 2014-01-30, col:1045; Home office, 2016). The House of Commons Library states that the number of deprivations has increased since 2013 as a result of the war in Syria as some UK nationals have travelled there to fight, losing their citizenship as a result, (The House of Commons Library, 2017a).

A brief note on passports. Citizenship in the UK enables an individual to apply for a passport that will allow them to move between countries more easily as well as lawfully. The British passport is issued by the Home Office under a Royal Prerogative, meaning that the document is issued in the name of the Crown and can therefore be withdrawn without further ado under the same principle. Any UK citizen can therefore have their passport withdrawn without any chance to appeal or attempt to overrule the decision. They may however apply for a new passport from the Home Office, (Ibid., 2017a; Bartlet & Everett, 2017, pp.4-9).

### 4.1.5 Number of Appeals

The Home Office has directly provided this essay with statistics on the number of appeals made post-denationalization by deprived individuals. Note regarding table 1 and 2 (Home Office, 2018):

“These statistics have been taken from a live operational database. As such, numbers may change as information on that system is updated.

Figures are rounded to the nearest 5 (- = 0, \* = 1 or 2) and may not sum to the totals shown because of independent rounding.”

**Table 1**

- Appeals lodged between 01-Jan-2002 and 30-Jun-2018

- Case type linked to the appeal must be "Consideration of Deprivation of Citizenship"

Year Lodged	Total
2009	25
2010	*
2012	*
2013	5
2014	30
2015	45
2016	40
2017	25
2018 (up to 30-Jun-2018)	30

Source: The Home Office, 2018a, Annex A.

According to the Home Office (2018), the first appeals were lodged in 2009, seven years after The Nationality, Immigration and Asylum Act 2002 was passed, which introduced the system of appeal, (The National Archives, 2002, p.3-4). These lodgings were made to the Special Immigration Appeals Court (SIAC).

**Table 2**

- First Tier appeal outcomes between 01-Jan-2002 and 30-Jun-2018

- Case type linked to the appeal must be "Consideration of Deprivation of Citizenship"

First Tier Outcome Year	Allowed	Allowed - SOS Reconsideration	Dismissed	Struck Out	Withdrawn by Appellant	Withdrawn by Home Office	Grand Total
2009	-	-	-	-	-	*	*
2011	*	-	-	-	-	5	5
2012	-	-	10	*	*	*	15
2013	-	-	-	-	-	*	*
2014	5	*	10	-	*	-	15
2015	5	5	15	-	*	5	30
2016	10	*	25	-	5	5	40
2017	15	5	20	-	5	-	40
2018 (up to 30-Jun-2018)	5	-	5	-	-	*	15
<b>Grand Total</b>	<b>40</b>	<b>10</b>	<b>85</b>	<b>*</b>	<b>10</b>	<b>15</b>	<b>160</b>

Source: The Home Office, 2018, Annex A.

Table 2 shows that a grand total of 160 appeals have passed the first tier after being lodged, between 01-Jan-2002 and 30-Jun-2018. The majority of these cases have been dismissed by SIAC (85 cases) while 25% of the total number of first tier appeals have been allowed a trial in the same period. Note that the total number of appeals lodged (showed in table 1) exceeds the total number of first tier appeal outcomes. This is likely a consequence of the time it takes for SIAC to thoroughly process appeals.

#### 4.1.6 International Law - The 1961 Convention on the Reduction of Statelessness

In terms of international law one document has been especially reoccurring in the material. The 1961 Convention on the Reduction of Statelessness has become increasingly discussed in the UK, especially after 2014, (HC 2014-01-30, col:1050; HL 2014-04-07, col:1168). The Convention states that no individual should be rendered stateless as a consequence of actions made by any government. The aim of the convention is to reduce the number of individuals that were left vulnerable without citizenship, (UN, 1975). The document was signed as well as ratified by the UK, however, they did so with a reservation, which allowed them to render an individual stateless in a situation where her actions worked against the vital interests of the Crown, (Ibid., 1975, p.4). This reservation will be discussed further down.

## 4.2 The Debates on the Issue of Citizenship in British Politics

As previously mentioned, each of the above acts were controversial and had a political debate surrounding them. This essay will now systemise those debates regarding the acts from 2002 till today, while identifying different positions within the debate. Firstly, a few paragraphs on the academic debate.

### 4.2.1 Normative Positions in the Academic Denationalization Debate

This paper has previously described two major theoretical positions in regard to citizenship, namely, to see it as a right that should not be violated, or as a privilege that can be broken because of disloyalty towards the state or its people. The scholarly debate revolves mainly around these two positions where the former argues that denationalization is illegitimate as well as negative, while the latter argues that it is indeed legitimate as well as positive under the right circumstances, (Lister & Pia, 2008, pp.8-18).

The rights position in the philosophical debate bases itself on the views of Hanna Arendt who argued that citizenship is the key to living a life where the individual may enjoy her universal rights such as the pursuit of happiness, (Arendt, 2004, p.280, 290-292, 295; Macklin, 2015a, p.4). From this position denationalization in the UK demonstrates a trend towards citizenship as a privilege rather than a right. The rights perspective raises concern about that trend, arguing that there is a great danger in giving the power of denationalization to a central authority who might use it illegitimately, arbitrarily and without enough empirical evidence that it creates more security or less acts of terror, (Macklin, 2015a, pp.1-6).

The privilege position argues the opposite, underlining denationalization can be a positive and legitimate instrument against terror. Especially in terms of limiting the movements of terrorist by terminating their citizenship and the privileges associated with it such as having a passport, (Hailbronner, 2016, pp.23-25). This position also argues that if a terrorist aims to conduct misdeeds, the threat of losing one's citizenship could in fact prevent terror attacks, (Erkander, 2017, p.14).

Both positions in the philosophical debate agree that the developments in terms of citizenship deprivation in the UK influences the fundamental conceptualisations of citizenship. The two sides also agree that there is a potential danger with denationalization if used illegitimately,

although the privilege position recognises that such a scenario can be alleviated, while the rights position disagrees, (Ibid., 2017, p.14).

The principle of the right to a free and fair trial is also prominent in the academic debate and commonly referred to in relation to the fact that denationalization in the UK has immediate effect once issued by the Home Office, (Macklin, 2015b, pp.51-52). The 39<sup>th</sup> clause of the Magna Carta is rarely mentioned explicitly, however, the principle of free and fair trial is frequently referred to and seen as that is what the 39<sup>th</sup> clause refers to, these formulations could be used interchangeably, (I.e. Macklin, 2015ab; Bosniak, 2015; Zeigler 2015).

Some argue that the individual's right to make her case in a court of law is undermined by the immediate effects of denationalization and that it therefore would seem unlawful as well as illegitimate, (Bauböck, 2015, pp.27-29; Shaw, 2015, pp.47-49). From this position in the academic debate the system of appeal is a measure that can hardly be seen as free and fair since the execution of the issued denationalization has already come into force. It would therefore not seem fair, especially since the individual might not be aware of the order and so might not be able to request an appeal within the required time limit, (HC 30-01-2014, Col: 1049).

There are those who would argue that denationalization is a necessary measure in some cases where it can be deemed proportionate and in the public interest. This position argues that one needs to be pragmatic and take the necessary measures to create security and that those who argue otherwise are too laden in theory, which will ultimately harm innocent people, (Hailbronner, 2016, pp.23-25).

In terms of *jus sanguinis* and *jus soli* some academics have argued that there is a dangerous discrimination between individuals depending on how they acquired their citizenship embedded in the process of denationalization, (Joppke, 2015, pp.11-13). This is because it is easier to denationalize an individual with dual citizenships than one that only has one. It is also more complicated to denationalize a native UK national than one who has naturalized since the former may not be rendered stateless. This creates differences in how citizens are treated before the law, (Erkander, 2017, p.15). This position argues that there should be no discrimination between different citizens in that regard and that all citizens should be treated equally independent from how they became citizens, (Joppke, 2015, p.11).

One of the most established scholars on the concept of denationalization is Matthew J. Gibney at the University of Oxford. Mr. Gibney has written several articles on the subject where he is highly critical against citizenship deprivation, (I.e. Gibney, 2013, 2014). Gibney has argued that denationalization is making citizenship unsecure as the power could be wielded arbitrarily whilst dramatically changing the lives of individuals who should have the right to be citizens and through that status be able to be processed through the judicial system, (Gibney, 2015). These standpoints put Gibney in line with the liberal conception of citizenship.

Furthermore, Gibney has argued that denationalization is a weak as well as ineffective instrument against terrorism. Arguing that it also undermines international cooperation against terror, which in its essence is a global threat that should be dealt with through collaboration between states, (Ibid., 2015).

#### 4.2.2 Political Arguments in the Parliamentary Debates 2002-2006

Through the years several arguments have been reoccurring in the political debates in the House of Lords as well as the House of Commons. One such argument has been a call for clarification on what it means to be a UK citizen. In example, the Home Minister in 2002, David Blunkett referred to the then recent clashes in several parts of the U.K between different ethnicities. In light of this Blunkett argued that there needed to be more of a sense of belonging amongst citizens, which he argued would be one effect of the Nationality, Immigration and Asylum Act (NIAA2002), (Home Office, 2002, p.10).

The argument made by the government was mainly pushed when there was a Labour government who argued that the ability to deprive a citizen of her citizenship in the UK would add value to that status and make individuals less likely to want to lose it, which could alleviate threats such as terror, (HL 2002- 10-09, col:283). The 2002 bill was introduced by the then Labour government led at the time by prime minister Tony Blair. Once introduced, the purposed bill in general was heavily criticised by the conservatives as well as the liberal democrats. Although, section 40 regarding denationalization was criticised less compared to other parts of the bill, (HC 2002-06-11, col:730-733).

The opposition argued that the Labour government tried to push NIAA2002 too quickly and that there needed to be more time to consider the bill, which would affect several aspects of citizenship in the UK. The government allowed for some extra discussions before the bill was



passed in the House of Commons and later also in the House of Lords, (Erkander, 2017, pp.25-26).

The bill was critiqued by the opposition and even by some Labour MPs who argued that the reforms regarding citizenship deprivation was a worrying move towards centralisation of power that could have dire consequences for citizens of the UK, (Ibid., 2017, p.26).

Concerns were raised by the Liberal Democrats in the House of Commons who underlined that citizenship is a right that should not be removed. To them, the reform seemed illogical and rushed. In the debate they also argued that it would be problematic that the bill would make denationalization apply to all individuals, not only those who had naturalised. The fear being that it could be used against individuals who had a right to be citizens by birth, (HC 2002-04-30, col:51-52).

As the bill was debated in parliament, the oppositional parties attempted to change different amendments unsuccessfully as the government had the majority of votes. These attempts were focused on trying to limit the ambiguity in the bill by specifying more precisely under what conditions denationalization was legitimate in fear that the concept would be used against innocent people. Eventually they managed to change one paragraph so that the Secretary of State could not only “think that” an individual might do something against the UK but that he or she had to be “satisfied” that such was the case, (Erkander, 2017, pp.26-27).

Other frequent arguments in the political debate was that individuals should not be deprived of their citizenship as a consequence of crime, but that they should then be subjected to the judicial system and be put on trial, much like other citizens, (Malins HC 2002-04-30, col:52). The government argued that denationalization would only be used very carefully and in the most serious cases as well as in situations where the Home Minister would be certain that it would be the best way forward to protect the citizens of the UK, (Eagle HC 2002-04-30, col:53).

Arguments regarding statelessness was hardly raised in the 2002 debates and all sides seemed to agree that it is a danger that would not be legitimate under the act, (HL 2002-10-09 col:1170). Concerns regarding the seriousness of denationalization was however frequently discussed and even compared to the death penalty by some who argued that it would take an individual completely out of her context, (Erkander, 2017, pp.28-29).

Another position identified in the House of Lords was that citizenship should be regarded as a privilege that should be treated equally to all citizens and not pay attention to whether or not it had been acquired by birth or naturalisation. From this argument some of the Lords agreed that the 2002 bill would be fairer than the BNA 1981, (Ibid., 2017, p.29).

The loudest opposers to the 2002 bill were the Liberal Democrats who frequently made arguments related to equality and illegitimate centralisation of power to the Home Minister. The Conservatives were also against the bill and highlighted that the formulations in the bill were dangerously open to interpretation, which could create a situation where the Home Minister would be able to denationalize an individual illegitimately as well as subjectively. In the debate, citizenship was described as a privilege as well as a right. Eventually the bill passed and would be active for four years until the debate on citizenship surfaced once more.

Four years after the NIAA2002 had been passed, the Labour government under Tony Blair introduced the Immigration, Asylum and Nationality bill that would change the grounds for citizenship deprivation once more. As previously mentioned, the major reform that the bill would introduce was to change the second paragraph of the BNA 1981 so that an individual could be denationalized as long as the Secretary of State was certain that such an action would be made "... conducive to the public good.", (The National Archives, 2006, p.31; The National Archives, 1981, p.60).

The concept of denationalization was raised one more in the aftermaths of the 2005 London bombings, after which Prime minister Tony Blair had stated that the measures for counter terrorism needed to be extended. Terrorism was a returning concept in the 2006 parliamentary debates, (Erkander, 2017, p.32).

Once again, the opposition raised concern and argued that the bill seemed rushed and that more time would have been desirable since the act would have serious consequences to the meaning of British citizenship. Like the debates in 2002 the government countered these arguments, stating that there was enough time and that the bill should be passed as it would increase security in the UK, (Ibid., 2017, p.33).

There was a concern that the suggested change in the act could be dangerous because the definition of the grounds for denationalization seemed broad and subjective. The result of this

could be that the Home Minister received an extensive power to completely change the lives of individuals that might be innocent. It was argued that the centralization of power seemed illegitimate since it would surpass a legal process, enabling the Home Secretary to deprive an individual of her citizenship with immediate effect, even if she could then appeal, her life would dramatically change as a consequence of denationalization, (Harris, HC 2005-10-27, col:266; Hylton HL 2006-01-19, col: GC273).

The government once again responded to this critique by underlining that denationalization would not be used arbitrarily but delicately under special circumstances in order to safeguard the interests of the UK, (HL 2006-01-19, col: GC273-GC274).

Another position in the political debate was a concern regarding responsibility to deal with potential threats. The argument made by one MP suggests that by depriving a citizen of her citizenship the problem is pushed away from the UK to another nation. In that process the threat in itself is not resolved but instead forced onto another state, who might not even choose to deal with the situation, (Gerrard HC 2005-10-27, col:272).

The bill was indeed criticized and defended by different MP's in the debate but eventually passed with more ease compared to the act in 2002, (Erkander, 2017, p.36). The political debate regarding denationalization would return 8 years later in 2014 when a major change was proposed by the Conservative government led by former Prime Minister David Cameron.

#### 4.2.3 Statelessness and Legality, the 2014 Parliamentary Debate

The Immigration Act 2014 is enacted today and changed citizenship deprivation in the UK fundamentally. As of the writing of this essay there has been no legal update to the concept since 2014. The act once more reformed section 40 of the BNA 1981 and now made it possible for the Home Secretary to denationalize individuals with only one citizenship, rendering them stateless as long as the Secretary is confident that the individual can become a citizen somewhere else and as long as the individual is not a native-born UK national, (The National Archives, 2014, p.57).

Concerns were raised on the concept of making an individual stateless in the 2014 debates, especially the legality of such a scenario, (HC 2014-01-30, col:1050). In terms of international law, making an individual stateless is illegal according to the Convention on the Reduction of Statelessness that was formulized in 1961. The UK signed the treaty but did so however with a

reservation that they would still be allowed to terminate the citizenship of an individual if she would act against the interests of Her Royal Majesty, (UN, 1975).

Nevertheless, concerns regarding the international legality of the suggested bill was discussed further and in the House of Lords one member of the Liberal Democrats even suggested that a committee should be created to further examine the different perspectives on the issue, (HL 2014-04-07, col:1168). Such a committee was however never established, and the government argued that the bill should not be unnecessarily delayed in the light of pressing threats to the UK, (Erkander, 2017, p.39).

Another suggestion in terms of legality was made by opposition who suggested that a clause should be added, which would only allow the Home Secretary to denationalize an individual with the permission from a court of justice and would under other circumstances deem the act illegitimate as well as illegal. The suggestion was however not passed in the House of Commons, (Andersson, 2016, p.9).

In 2014 the war in Syria and the expansion of the Islamic State (IS) had resulted in an increase of UK nationals that travelled to either fight in Syria or join IS in their terrorist acts, (Mantu 2015, p.204). As a result, the debates in parliament revolved extensively around terrorism and threats to the UK, as well as a further need to contain those threats through denationalization, even if it would render a citizen stateless, (Erkander, 2017, pp.37-38).

Once again, the process of the bill was criticized by members of parliament for being too short, expressing that additional time would be appropriate for such an important matter as citizenship in the UK, (HC 2014-01-30, Col: 1040). After much discussion in both Houses the bill was eventually passed in the House of Commons even though the House of Lords had suggested that additional time for discussions regarding the legality of the bill should be made, they accepted the decision in the House of Commons and the 2014 act came to be, (Erkander, 2017, p.40).

In the 2014 debate there was a continuation of the arguments that had been made in 2006 as well as 2002 regarding the potential danger in allowing a Minister to wield denationalization as an instrument for security, who in practice could make an individual stateless on subjective grounds, (Ibid., 2017, p.40).

Concerns regarding terrorism was raised and in the House of Lords it was emphasized that the concept is of global nature and that it should therefore be handled through international cooperation and coordination, rather than potentially pushing the problem of terror by denationalizing an individual, (HL 12-05-2014, Col: 1670). At an earlier debate in the House of Lords a similar concern had been raised that it would be more appropriate to use the judicial system to handle terrorists and increase security in Britain, rather than pushing them to another country, (HL 2014-02-10, Col: 437).

In the same debate concerns were also raised that it may be a lengthy process to obtain a new citizenship, which could potentially leave an individual stranded for months. The question was then raised as to what obligations the UK would have towards such an individual who might not gain citizenship elsewhere and how making an individual might result in a safer Britain, (HL 12-05-2014, Col: 1672). The Home Secretary at the time, Theresa May, had addressed the former concern by stating that if an individual would fail to attain citizenship elsewhere and therefore be stateless, the international obligations of the UK would hinder such an individual of being left vulnerable, (HC 30-01-2014, Col: 1049).

Another position in the debate underlined the complexity of the immediate effects of denationalization, which de facto would mean that an individual would not be a citizen during a potential process of appeal, another issue connected to this was raised, namely that the individual in question might not even be informed of the deprivation during the period of appeal, (HC 30-01-2014, Col: 1049).

Further critique towards the suggested bill described the status of statelessness as outright evil and something that belongs to the medieval times rather than the modern UK. Hanna Arendt's description of citizenship as a right to have rights was quoted explicitly in the House of Lords and it was suggested that by leaving an individual without citizenship, she would be left in the state of nature without her fundamental human rights protected. This position in the debate also argued that the state had an obligation to prevent such scenarios, (HL, 2014-04-07, Col: 1174-76).

The opposition were concerned that the bill would discriminate between different citizens as a result of their background as naturalized citizens could be extensively targeted by denationalization compared to native Britons, (Erkander, 2017, p.42-3). In response to this critique, a Conservative MP argued that British citizenship is characterized by rights as well as

obligations. This argument demonstrates a point that citizenship can be legitimately revoked by a state if it is in the best interest of the state, (HC 30-01-2014, Col: 1042).

Another position that was raised in the debates argued that denationalizing an individual, pushing them to another state, might weaken the diplomatic position of the UK since it puts the other country in a situation where they have to deal with the individual. Especially in the House of Lords, where some argued that terrorism is global and should therefore be dealt with at that level, rather than pushing the problem onto others, which might not deal with the issue at all, (Erkander, 2017, p.44).

#### 4.2.4 Systemising the Political Arguments in the Debates 2002-2014

By systemising the arguments in the political debates between 2002 and 2014, it has become evident that there are arguments in the political debates that are reoccurring. There are several references to citizenship as a right as an argument against denationalization. This position has also underlined that the state has an obligation towards its citizens not to make her stateless, (HC 2002-04-30, col:51-52; HL, 2014-04-07, Col: 1174-76; HL, 2014-04-07, Col: 1174-76).

In terms of the substantial issue of denationalization, the realist position has mainly expressed opinions in favour of denationalization, emphasising that the state needs to do what is necessary to protect its citizens. This position has also argued that once a citizen fails in her obligations towards the state her citizenship may be legitimately terminated, (Erkander, 2017, p.29; HC 30-01-2014, Col: 1042). There has also been references to terrorism and the conflict in Syria as threats to the UK and that these threats could be best alleviated through the use of denationalization, (Erkander, 2017, pp.37-38).

The liberal conception of citizenship has also formed a position in the debate, arguing that an individual should not be subjected to denationalization since it is the gateway to her right to have rights, (HL, 2014-04-07, Col: 1174-76; HC 2002-04-30, col:51-52). Furthermore, that denationalization is illegitimate since it takes an individual out of her social context and limits her freedoms, potentially stranding her in another country, (Erkander, 2017, pp.28-29; HL 12-05-2014, Col: 1672).

The procedural issue has also been debated, mainly in relation to the system of appeal. One main position has been arguing that denationalization is illegitimate and that terrorists should be

prosecuted through the judicial system rather than being deprived of their citizenship without a trial, (HL 2014-02-10, Col: 437; Malins HC 2002-04-30, col:52). In response to such critique arguments have been made by some MPs that the system of appealation would serve as a mechanism in which the individual could have her case processed but that terror is such a serious crime that denationalization is a proportionate measure and that the immediate effect of such an order would make the UK more secure and would only be used very carefully, (HC 30-01-2014, Col: 1049; HL 2006-01-19, col: GC273-GC274).

A position that responds to such arguments states that individuals have the right to a free and fair trial where their case should be processed through the judicial system before an issued denationalization order becomes in effect. This position aligns with the 39<sup>th</sup> clause of the Magna Carta and has also argued that denationalization is illegitimate since an individual should be subjected to the judicial system if she is deemed a national threat rather than being deprived of her citizenship. It has also been argued that the system of appealation is not fair since an individual might suffer the consequences of denationalization before she may appeal, (HC 30-01-2014, Col: 1049; Harris, HC 2005-10-27, col:266; Hylton HL 2006-01-19, col: GC273).

In terms of *jus sanguinis* (the blood principle) and *jus soli* (the territorial principle), some have argued that there should be no discrimination between citizens in terms of denationalization but that if the instrument is to be used, it should be used equally and independent from how an individual acquired her citizenship, (Erkander, 2017, p.42-43). The different bills have made changes in relation to these two principles and eventually made it possible to denationalize native as well as naturalised Britons. Although it is still illegal to render a native UK national stateless, meaning that there is still a difference of sorts, (The National Archives, 2002, p.3).

## 5. Normative Analysis

The essay will now critically analyse the materials that has been presented in chapter 4 in an attempt to evaluate the moral legitimacy of the systemised arguments by the use of its theoretical standpoints. The aim of this essay has been to systemise the different arguments in the political as well as the academic debate in order to critically and normatively evaluate them in relation to specific normative standpoints in order to test the legitimacy of those arguments. The essay will now analyse the systematised arguments in such a manner.

### 5.1 Internal Critique

In terms of internal critique there have been several arguments in the political as well as academic debate, which has argued that denationalization is an illegitimate instrument because it undermines the judicial system, (HL 2014-02-10, Col: 437; Malins HC 2002-04-30, col:52). The response from the government has in those instances been that it does not surpass the judicial system since the denationalized individual can appeal her case, (HL 2006-01-19, col: GC273-GC274; HC 30-01-2014, Col: 1049; HL 2006-01-19, col: GC273-GC274).

The system of appeal is however problematic. The main concern is that it enters the picture after the decision to denationalize an individual has already come into action. As a consequence, the life of an individual may dramatically change as she loses the benefits associated with being a UK national immediately when the decision has been made. As previously mentioned, after 2014 the denationalization order may even render an individual stateless as long as the Home Secretary is satisfied that the individual can attain citizenship somewhere else, (The National Archives, 2014, p.57).

The system of appeal has been used frequently as an argument in an attempt to legitimise denationalization. As previously mentioned, there has been 81 individuals who have been deprived of their citizenship between 2006 and 2015, (Home Office, 2016). According to the Special Immigration Appeals Commission (2018), there has been a single case where the appeal has been allowed where the individual managed to regain his citizenship during that period.

There may of course be several explanations as to why the number of appeals has been relatively low. One reason could be that the individuals had no interest in appealing, another might be that they were unaware of the deprivation. Another might be that the Home Office has primarily



denationalized individuals who in fact do not care if they remain UK nationals and who aim to destabilize national security in the UK.

In terms of the arguments made pro denationalization as an instrument for security, the question of logical inconsistency arises. The aim of the mechanism is to protect the citizens of the UK. The way in which this is made is by removing citizenship from some UK nationals. It would seem like there is a logical inconsistency in that formula. Especially since the deprived individual may end up stateless in a dangerous country.

In other words, the mechanism aims to protect UK citizens while also removing citizenships from them. The individual is then not prosecuted in court and therefore serves no sentence in the UK. If the argument is to protect citizens by removing citizenship status from some of them, then it could be argued that the solution to the problem is illogical since the process is selective in process. The aim then becomes to protect some citizens and denationalization becomes selective. It would therefore be illogical to argue that the mechanism protects all citizens of the UK since some of individuals of that group becomes deprived of their citizenship.

This selection aspect of denationalization demonstrates an important point, which is that it divides citizens into two categories, one (native born British) has the right to keep its citizenship while the other (naturalised) does not. This divide seems illogical since it does not constitute equal rights because the latter category can be rendered stateless even though both groups have the status of British citizens. In a realist sense, the system makes it so that some citizens have rights that others do not, right from the start.

On the other hand, it could be argued that terrorist individuals have themselves terminated their citizenship by planning horrible acts that targets innocent civilians and stand in opposition to the interests of the state. From such an argument one might claim that denationalization is nothing but a (legitimate) technicality in which the citizenship of that individual is officially removed. Through this process the individual has made the choice herself, which legitimises the selective nature of denationalization.

Another inconsistency has become evident while studying the political debates. The immigration acts of 2002 and 2006 were passed under a Labour government while the act of 2014 passed while the Conservative-Liberal coalition were in power. It seems like both have been siding more

with the liberal position on citizenship whilst being in opposition to the other. In the same sense, both sides have argued from realist principles when they formed the government. This shift becomes especially interesting since all the major parties have been siding with both principles at different times through the years.

This is likely the result of a changing political landscape, which influences the practical politics in the UK. It also underlines what has been previously stated in this essay, namely that the realist and liberal perspective should be viewed as a spectrum between ideal types where different arguments and principles may be placed.

### 5.1.1 Arbitrariness, Terrorism and International Law

Arbitrariness has proven to be a reoccurring theme in the academic as well as political debate. Concern has been raised that too much power should not be placed with one individual (The Home Secretary) or government body (The Home Office). The fear being that an elected official with extensive power to render someone stateless would do so with a lack of restraint and without qualified reasoning. The concern has been raised in large part in relation to the 2006 reform, which allowed the Home Secretary to denationalize an individual as long as it was made conducive to the public good, (Erkander, 2017, pp.26-27).

The formulation raises question as to what constitutes the public good and who defines the criteria. The subjective nature of the formulation may indeed be cause for concern, especially if paired with a lack of transparency on exactly who an individual was a threat to the public good, which has been the main concern raised by those who oppose the formulation, (Harris, HC 2005-10-27, col:266; Hylton HL 2006-01-19, col: GC273; HL 2006-01-19, col: GC273-GC274). It is however important not to forget that the Home Secretary is obligated to report a summary of the operations associated with citizenship deprivation to the House of Lords as well as the House of Commons every three years, (The National Archives, 2014, p.57).

In relation to the issue of arbitrariness, there has been an emphasis on terrorism in the academic as well as political debate although some have stressed the necessity to extend the possibility to denationalize individuals, while others has argued in favour of using the judicial system, (HL 2014-02-10, Col: 437; Malins HC 2002-04-30, col:52; HC 30-01-2014, Col: 1049; HL 2006-01-19, col: GC273-GC274). The actual efficiency of denationalization as an instrument against terrorism

has been widely debated amongst academics and one of the most outspoken scholars against has been Gibney.

He has argued that denationalization has very limited efficiency against terrorists (if any) at the cost of weakening citizenship in the UK by making it easier to remove, (Gibney, 2015).

Furthermore, it has been argued in the political debate along the same lines that citizenship deprivation merely pushes the problem while weakening the international relations of the UK by stranding individuals abroad, (HL 12-05-2014, Col: 1670). On the other side of the issue it has been argued that denationalization is an effective deterrent since it places more value on citizenship if it can be removed; furthermore, that it limits the mobility as well as capabilities of a suspected terrorist through the removal of his or her passport and privileges associated with being a citizen of the UK, (HL 2002- 10-09, col:283).

Such privileges include, for instance, access to the UK mainland which would potentially compromise the inner security of the UK since it would simplify the ability of a terrorist to plan and attack targets within its borders. It could also enable such an individual to promote harmful terror ideology. In terms of passport, it is important to remember that they may be removed effectively under the Royal Prerogative, which could be used to limit the mobility of a suspected terrorist outside of the UK borders, (The House of Commons Library, 2017a; Bartlet & Everett, 2017, pp.4-9).

The legal procedure of denationalization in the UK in relation to international law has been primarily discussed in relation to the status of statelessness and the obligations of the 1961 Convention on the Reduction of Statelessness, (HC 2014-01-30, col:1050; HL 2014-04-07, col:1168). The UK did however ratify the 1961 convention document with a reservation, (UN, 1975, p.4), that allow them to denationalize an individual if an individual:

- (i) “Has, in disregard of an express prohibition of Her Britannic Majesty, rendered or continued to render services to, or received or continued to receive emoluments from, another State, or;
- (ii) Has conducted himself in a manner seriously prejudicial to the vital interests of Her Britannic Majesty.”

In 2014 the House of Commons and the House of Lords joint committee on human rights investigated the legality of denationalization in relation to the 1961 convention. They concluded that the mechanism is lawful because of the above reservation. Furthermore, that no other aspects of the convention are broken since a stateless individual may use the system of appeal to test her case, (HL & HC, 2014, pp.12-13).

It is therefore vain attempt to argue that the UK would act unlawfully in relation to the 1961 convention. The reservation that the UK made could however be discussed in moral terms where from a liberal perspective on citizenship one might argue that it is illegitimate to make such a reservation while also propagating in favour of human rights or that it is immoral to render an individual stateless. The more realist position would instead argue that it is legitimate to render an individual stateless if she has acted in a way that breaks the obligations associated with being a citizen. These themes have reoccurred in the political as well as academic debate, (Erkander, 2017, p.14; HC 30-01-2014, Col: 1042; HL, 2014-04-07, Col: 1174-76). That is, the question of whether or not individuals are born into obligations or if they are born with rights.

## 5.2 External Critique

In terms of external critique aimed at denationalization, the question arises on whether or not a state can legitimately deprive an individual of her citizenship status. The issue from the liberal perspective on citizenship as a right to have rights as well as the state having an obligation to protect those rights, the principle of denationalization itself becomes illegitimate since it would break that obligation. From this perspective it can be argued that one of the most fundamental rights that the state is obligated to protect is the right to a free and fair trial.

This would also be undermined by the act of denationalization. It would deny an individual access to the judicial system as well as the opportunity to influence the community to which that individual once belonged. Such a status can be described as a political death, meaning that citizenship enables an individual to influence the politics of her community through participation (I.e. voting or being a member of city council), (Macklin, 2015a, p.4).

From the contrasting realist perspective, denationalization becomes legitimate in principle in certain situations. This is because the perspective stresses that the utmost purpose of the state is to protect those citizens who fulfil their obligations towards the state and as a consequence gain privilege from it. Therefore, if an individual fails to realise those obligations she may be deprived

of her citizenship and the obligations associated with it legitimately. However, if she does satisfy those obligations, she cannot be legitimately denationalized.

The realist perspective would also render denationalization legitimate if it would target an individual whose actions would break her obligations towards the state while also endangering the safety of other citizens who do uphold their obligations. The needs of the many triumphs the needs of the few.

### 5.2.1 Rights, Obligations and the Magna Carta

The core issue of the arguments surrounding the system of appeal is whether or not it is legitimate to make legal exceptions in cases where national security might be at stake by allowing the denationalization to occur with immediate effect. In the debates there has been two primary sides to this issue.

The Liberal Democrats in particular have argued that citizenship should be characterised as a right that should not be subject to removal under any circumstances but that even individuals who pose a threat to national security has a right to a free and fair trial through the existing legal system, (HC 2002-04-30, col:51-52). This position is directly related to the 39<sup>th</sup> clause of the Magna Carta as well as to the liberal normative position on citizenship, which emphasises rights more than obligations, (Lister & Pia, 2008, pp.10-13).

These arguments in the debate uses the Magna Carta as a normative basic principle by emphasising the right to a free and fair trial. This position in the debate regards denationalization as illegitimate but is also highly critical towards the legal exception aspect of it. According to this argument, denationalization should not occur at all and especially not with immediate effect as it is not fair towards the individual. The system of appeal has been used by deprived UK nationals as has been demonstrated previously (Home Office, 2018), but from the liberal argument this is not sufficient since the effects of a denationalization order still have immediate effects that may result in serious consequences for an individual.

The opposite position has argued that the principle of a free and fair trial is important but that it should be triumphed by pragmatism and the interest of the state to defend its citizens in the war against terror. The argument acknowledges the Magna Carta but argues that the consequences of upholding it without being pragmatic about the fatal consequences of not being hard on terror

would be a mistake, (Erkander, 2017, p.29, 37-38; HL 12-05-2014, Col: 1670). In other words, the position puts pragmatism before principle, arguing that the concept of a free and fair trial may be correct in principle but that there may at times be a need for exceptions. From this side of the argument the individual who is deprived still has the opportunity to a free and fair trial if she appeals and has her request approved.

This position has many times also argued that there is an opportunity for a free and fair trial through the system of appeal but that the state needs to take the necessary measures to protect its subjects through the immediate effect of denationalization, (HL 2006-01-19, col: GC273-GC274; HC 30-01-2014, Col: 1049; HL 2006-01-19, col: GC273-GC274). This position leans more towards the realist conception of citizenship as being characterised by loyalty and obligations towards the state, which grants certain privileges associated with being a citizen, (Lister & Pia, 2008, p.15). From this position in the debate the citizenship could be legitimately removed if the individual acts in a disloyal manner. It has also been argued that citizenship as a privilege adds more value to the concept compared to regarding it as a right since it could be revoked, (HL 2002- 10-09, col:283).

The distinction between the two position becomes clear as they have different perspectives on the fairness of the system of appeal and the immediate effects of denationalization in relation to the 39<sup>th</sup> clause of the Magna Carta. The politicians who argue in favour of it seem to lean more towards realist principles, while those who deem it unfair side more with the liberal principle on citizenship.

### 5.2.2 The Debates, Blood and Territory

The arguments in the academic debate and the political debate have proven to be rather similar. The liberal and realist positions are found in both. It has also become apparent that statelessness, the system of appeal, human rights, security and effectiveness are also themes that occur in both domains. There have however been some slight differences as well. The political debate has been more focused on the fear of arbitrariness when denationalizing someone. Associated with this critique, is the fact that an elected official wields the tool, (Harris, HC 2005-10-27, col:266; Hylton HL 2006-01-19). In the academic debate there has been more of a clear theoretical emphasis on the principles behind citizenship in relation to legitimacy. But in large both the academic as well as the political debate has been addressing the same themes.

Jus sanguinis (the blood principle) and jus soli (the territorial principle) were especially discussed by politicians and academics alike who warned that denationalization was discriminatory since it makes a difference between how an individual acquired her citizenship, (Joppke, 2015, pp.11-13; Erkander, 2017, p.42-3). The argument was made that it should not matter how an individual became a UK national.

With the 2014 act it became possible to denationalize a UK mono citizen, conditional on her being a naturalised citizen and not native. It is still illegal to render a born UK national stateless. Once again, one of the requirements is that the Home Secretary needs to be satisfied that the individual could become a citizen somewhere else, (Gibney, 2018, personal communication). It can therefore still be seen as an issue that the law discriminated between different kinds of citizens dependent on how they became citizens.

From an equality perspective it might seem unfair that the system discriminates between how a UK citizenship was acquired, which does not necessarily say anything about the potential consequences of rendering an individual stateless today. It is clear that the state feels more obligated to protect those citizens who became Britons either through jus sanguinis or jus soli as long as they are native-born UK nationals. The distinction lay instead in whether or not an individual has naturalised or not.

## 6. Concluding Remarks

At the end of this essay I would like to return to the introductory quote made by David Cameron, (Daily Mail, 2003):

*"Every country must have the right to decide who it allows to stay within its borders. We must make sure we have the right to deport people who are a threat."*

This quote captures the recent developments on denationalization in the UK. With each act the process of citizenship deprivation in the UK has moved towards realist principles. More specifically the emphasis has been on situations where an individual act against the vital interests of the state and as a threat towards other UK citizens. The acts express that if a citizen breaks her obligations towards the state through deeds of terrorism, she has herself terminated the contract between citizen and state and should therefore not be able to enjoy the privileges associated with being a UK national, nor jeopardise the privileges of others.

As previously demonstrated, there has been a grand total of 160 first tier appeal outcomes between 01-Jan-2002 and 30-Jun-2018 in the UK. Of those a total of 110 were either dismissed or withdrawn, while 50 were allowed, (Home Office, 2018). These numbers have shown that the system of appeal is used and also that the number of lodged appeals has increased exponentially since 2015, (Home Office, 2018).

Those who have opposed the acts leaned more towards the liberal perspective on citizenship while they were in opposition but made a shift when they were in power themselves. One of the central issues of denationalization is that it can be pre-emptive, meaning that the individual in question perhaps has not committed any crimes but may be denationalized none the less without any judicial process until the consequences have become manifested. This stands out in the case of the UK and becomes problematic in relation to the 39<sup>th</sup> article of the Magna Carta, since there is no free and fair trial prior to the denationalization order becomes in action.

The denationalization debates boil down to a conflict of values where some MPs and academics have argued that denationalization should never be used since it is always illegitimate to deprive an individual of her citizenship. The other side has argued with an ethic of responsibility and that there will always be a conflict of values but that the state needs to be pragmatic and sometimes make necessary exceptions despite the problem of dirty hands. Or in other words, the legitimacy



of a decision is conditional on its de facto empirical consequences, which may legitimise exceptions to a norm that can still be correct in principle, (Starr, 1999).

This latter standpoint has been on the winning side of the debate in parliament, which has extended the possibilities to denationalize potential threats while it has also increasingly centralised such power to the Home Secretary. This side of the argument has at times agreed with the more Liberal side of the debate on the argument that denationalization in principle could be dangerous but that in the current state of affairs there needs to be an exception and the state needs to do what is necessary in order to guarantee security for its subjects as well as for the state apparatus itself.

The use of internal critique has demonstrated that there is a logical inconsistency between arguing in favour of protecting all UK nationals while also depriving UK nationals of their citizenship status, which associated protection cannot be contested. The external critique has made it evident that there are several sides as to whether or not denationalization in itself can be legitimate. The spectrum between the liberal and realist perspectives has shown that in theory those who adhere to the former find citizenship deprivation to be illegitimate, while those who subscribe to the latter deem it legitimate in some circumstances.

The analysis of the British case has concluded that there are two categories of citizenship in the UK in the sense that those who are native born Britons may not be rendered stateless under British law, while those who have naturalised can. This divide seems illogical since it does not constitute equal rights because the latter category can be rendered stateless even though both groups have the status of British citizens. It also raises the question of equality before the law since individuals who have the status of citizenship have different rights depending on how it was attained. Theoretically, if a native Briton is suspected of a terrorist crime she could be subjected to a trial, while a naturalised Briton could be rendered stateless and exiled. In such a theoretical scenario the logical consistency becomes especially evident.

## 6.1 Suggestions for Future Research

Denationalization is a concept that has reemerged in the UK but that is also discussed in other parts of the world. The mechanism is widely debated, and it is therefore of great importance that the concept is researched and problematized so that politicians can make educated decisions on the issues associated with citizenship deprivation and be aware of potential outcomes of such a decision.

There is much left to explore on the subject of denationalization. A suggestion for the future could be to make an extensive internal critique on the issue of denationalization in the UK while expanding on the legality issue of the process. This essay has addressed the major legal concerns raised in the political science literature but has not examined the legality in a broader sense, but instead focused on normative legitimacy.

Another suggestion could be to further research the normative foundations for citizenship in the UK. That is, to study what normative principles that form the basis for UK citizenship, which ultimately influences the outcome in terms of denationalization.

One final suggestion for future research would be to increase the scope of material by also systematising the arguments in the debates surrounding the British Nationality Act 1981, which lay the foundation for the acts that this essay has analysed. The arguments made in that debate may prove to be slightly different, belonging to the context of the cold war.

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