

## BOOK REVIEW

*WHEN STATES TAKE RIGHTS BACK: CITIZENSHIP  
REVOCATION AND ITS DISCONTENTS*, EDITED BY  
ÉMILIE FARGUES, ELKE WINTER AND MATTHEW J  
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Citizenship deprivation has increasingly come into both the academic focus and the public eye<sup>1</sup> — as the debate around the case of Shamima Begum has shown.<sup>2</sup> Consequently, this volume on denationalisation and its consequences is especially timely. *When States Take Rights Back: Citizenship Revocation and its Discontents*, edited by Émilien Fargues, Elke Winter and Matthew J Gibney, looks at various aspects of citizenship deprivation that go beyond the current focus on denationalisation linked to counterterrorism.<sup>3</sup> It includes a combination of perspectives — historical, sociological, political and legal — and case studies to exemplify and emphasise the authors' key points.

Fargues and Winter introduce the volume with an overview on the current academic debate on denationalisation, especially the legal and normative debates. While outlining the various contributions, they pose the following questions denationalisation as a policy raises, which guide the discussions in this volume:

how far can governments go in extending their leeway to revoke citizenship? What strategies do they follow? Do these strategies vary from one state to another? Are there limits to citizenship revocation that states have to obey?<sup>4</sup>

Thus, the overall aim is to develop a discussion on the different dimensions of citizenship as a concept that goes beyond the normative and legal discourses on denationalisation.<sup>5</sup> Fargues and Winter outline three dimensions of citizenship that act as the basis of understanding of the concept of citizenship: the 'legal bond' (rights and duties); 'practices of participation' (good versus bad forms of behaviour); and 'identity and belonging' (symbolic level, imagined community).<sup>6</sup>

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1 Citizenship revocation, citizenship deprivation, and denationalisation are used interchangeably throughout the book. It is also used interchangeably in this review.

2 Dominic Casciani, 'Shamima Begum Cannot Return to UK, Supreme Court Rules', *BBC* (online, 26 Feb 2021) <<https://www.bbc.co.uk/news/uk-56209007>>.

3 Émilien Fargues, Elke Winter and Matthew J Gibney (eds), *When States Take Rights Back: Citizenship Revocation and its Discontents* (Routledge 2020).

4 Émilien Fargues, Elke Winter, 'Conditional Membership: What Revocation Does to Citizenship' in Émilien Fargues, Elke Winter and Matthew J Gibney (eds), *When States Take Rights Back: Citizenship Revocation and its Discontents* (Routledge 2020) 1.

5 *ibid.*

6 *ibid.* 2.

Thus, in the theoretical approach taken, they highlight citizenship's power to categorise, setting the tone of the entire volume:

We approach citizenship as a mechanism of social closure... that not only differentiates between 'citizens' and 'aliens' but also draws a line between 'desirable' and 'undesirable' citizens.<sup>7</sup>

Deirdre Troy's chapter focuses on historically analysing the United Kingdom's approach to citizenship revocation with an imperial perspective. She argues that 'revocation [is] not... an exception to citizenship, but... a practice that represents the logic of citizenship — a logic that divides and codes subjects, categorizing them as desirable and undesirable'.<sup>8</sup> This logic of citizenship 'simultaneously produces multiple categories alongside the citizen through practices such as immigration, revocation, naturalization'.<sup>9</sup> By focusing on the drafting history of the *British Nationality and Status of Aliens Act 1914*,<sup>10</sup> Troy forces the audience to look past the counterterrorism and security lens that denationalisation is positioned in today, in order to understand the unexceptional state of revocation. Denationalisation practices need to be considered in relation to immigration, naturalisation and emigration.<sup>11</sup> The example of the Rochdale child exploitation scandal<sup>12</sup> and the consequent denationalisations show the 'broadening of the application of revocation from terrorism to criminality'.<sup>13</sup> Consequently, this expansion of denationalisation leads to 'new categories [of subjects] appear[ing] each time citizenship is constituted'.<sup>14</sup> Troy concludes by stating that it is vital to 'move beyond the framework of national security to both challenge given narratives about exceptionally bad citizens and examine other motivations behind revocation's use'.<sup>15</sup>

The third chapter by Tom L Boekestein and Gerard-René de Groot uses both a legal and normative perspective to analyse the discrimination against Dutch-Moroccan dual citizens and the incompatibility of Dutch denationalisation measures with the *Convention for the Protection of Human Rights and Fundamental Freedoms* ('ECHR').<sup>16</sup> They use this mixed approach as human rights law can only explain a certain fraction of the debate, while the normative angle allows for other aspects to be considered, especially considering the question of whether foreign fighters should be denationalised or not.<sup>17</sup> In the Netherlands,

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<sup>7</sup> *ibid* 2.

<sup>8</sup> Deirdre Troy, 'Governing Imperial Citizenship: A Historical Account of Citizenship Revocation' in Émilien Fargues, Elke Winter and Matthew J Gibney (eds), *When States Take Rights Back: Citizenship Revocation and its Discontents* (Routledge 2020) 11.

<sup>9</sup> *ibid* 13.

<sup>10</sup> *ibid*, citing *British Nationality and Status of Aliens Act 1914* (United Kingdom).

<sup>11</sup> Troy (n 8) 13.

<sup>12</sup> The Rochdale case in Greater Manchester, United Kingdom involved multiple men sexually abusing teenaged girls. It resulted in the denationalisation of three men who had dual British and Pakistani citizenship. See Troy (n 8) 12, 22.

<sup>13</sup> Troy (n 8) 13.

<sup>14</sup> *ibid* 21.

<sup>15</sup> *ibid* 23.

<sup>16</sup> *Convention for the Protection of Human Rights and Fundamental Freedoms*, opened for signature 4 November 1950, ETS No.005 (entered into force 3 September 1953).

<sup>17</sup> Tom L Boekestein and Gerard-René de Groot, 'Discussing the Human Rights Limits on Loss of Citizenship: A Normative-Legal Perspective on Egalitarian Arguments Regarding Dutch Nationality Laws Targeting Dutch-Moroccans' in Émilien Fargues, Elke Winter and Matthew J Gibney (eds), *When States Take Rights Back: Citizenship Revocation and its Discontents* (Routledge 2020) 26, 33.

denationalisation is legal for those faced with terrorism charges and those who joined a conflict abroad and are affiliated with Al-Qaeda, ISIS or associated organisations.<sup>18</sup> Boeckstein and de Groot thus distinguish between ‘reactive’ and ‘proactive’ denationalisation in the context of the Dutch law.<sup>19</sup> The first targets convicted terrorists, and the latter aims at preventing the return of foreign fighters. These two approaches have led to the key concern of inequality through discrimination (both direct and indirect),<sup>20</sup> but also other normative concerns, including alienation, radicalisation and terrorist recruitment,<sup>21</sup> as narratives of ‘us-vs-them’ may be enhanced. Consequently, the disproportionate targeting of Dutch-Moroccans as primary subjects of denationalisation, Boeckstein and de Groot argue, is unlikely to be justifiable under the *ECHR*.<sup>22</sup>

In the fourth chapter, Elke Winter and Ivana Previsic analyse the consequences of the short-lived Canadian denationalisation law. Bill C-24, *Strengthening Canadian Citizenship Act*, permitting revocation on the grounds of ‘high treason, terrorism and espionage’,<sup>23</sup> was first introduced in 2014 and then repealed in June 2017 by the Trudeau Government. Winter and Previsic examine three discursive sites — political debates, mainstream media and online commentary — to examine the effects of the denationalisation policy.<sup>24</sup> They argue that the ‘specific historical and geopolitical context’<sup>25</sup> of the Bill — post-9/11, the ‘War on Terror’ and other countries’ justifications of denationalisation policies — have led to the ‘victimisation of Muslims’<sup>26</sup> and thus the emergence of ‘symbolic boundaries of citizenship’.<sup>27</sup> Muslims are portrayed as being excluded from the *symbolic boundaries of citizenship* which entails ‘the collective identity shared by most individuals possessing the same status.’<sup>28</sup> Furthermore, they are presumed to be the main candidates of potential denationalisation by society, in addition to being categorised as a group and not as individual *bad apples*.<sup>29</sup> In contrast, terrorists who are white are seen as ‘exceptions rather than symptomatic of a group problem’.<sup>30</sup> Winter and Previsic conclude by highlighting that:

[t]his additional stigmatising of Muslims is not only unnecessary, citizenship revocation legislation is widely seen as having few tangible security effects — it is also counter-productive, potentially producing or reinforcing the formation of

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18 *ibid* 28.

19 *ibid* 27.

20 *ibid* 30.

21 *ibid* 36.

22 *ibid* 38.

23 Elke Winter and Ivana Previsic, ‘The Politics of Un-Belonging: Lessons from Canada’s Experiment with Citizenship Revocation’ in Émilien Fargues, Elke Winter and Matthew J Gibney (eds), *When States Take Rights Back: Citizenship Revocation and Its Discontents* (Routledge 2020) 44, 46, citing Bill C-24, *Strengthening Canadian Citizenship Act* (2014) (Canada).

24 *ibid* 49.

25 *ibid* 55.

26 *ibid* 56.

27 *ibid* 48. Symbolic boundaries of citizenship refers to ‘the collective identity shared by most individuals possessing the same status’. Muslims are excluded, and thus fall outside of the boundaries of ‘collective identity’.

28 *ibid* 48.

29 *ibid* 55.

30 *ibid*.

reactive ethnic and religious identities ... and even encouraging religious radicalisation.<sup>31</sup>

Therefore, although the use of denationalisation remained limited in the Canadian context, it did not prevent the association of the Bill with a specific group of peoples, and not single outliers, as would be the case if the outliers were white.

The fifth chapter by Patrick Sykes focuses on the United States and the United Kingdom debates on denationalising ‘foreign fighters’ that have been sparked by the rise of the Islamic State. Sykes focuses on how the concept of citizenship was reconstructed through the debate in both states, especially its transformation to ‘a privileged status’.<sup>32</sup> Both countries discussed amendments to their denationalisation laws in 2014, with amendments being blocked in the US and the UK’s *Immigration Act* being amended.<sup>33</sup> Citizenship can be understood as ‘conduct’ or as ‘connection’, according to Sykes. It is through these two lenses that he analyses the debates in both countries. Connection refers to ‘conceptualisations that present citizenship as constituting a particular relationship between the citizen and the state’.<sup>34</sup> Citizenship as conduct views it as a privilege, rather than a right: ‘it extends the familiar expectation of loyalty to the state (usually only violated through treason or service with a foreign military), and makes citizenship more broadly conditional on good behaviour’.<sup>35</sup> Therefore, not everyone is entitled to citizenship, nor the connection that evolves from it, so goes the argument.<sup>36</sup> Consequently, the debates in both countries show that ‘[c]itizenship is still conceived of as a body of individual rights, but they are conditional on loyalty to the state’,<sup>37</sup> leaving states to ‘selectively exclud[e] particular ‘undesirable’ groups — terror suspects, naturalised citizens’.<sup>38</sup>

In the sixth chapter, the issue of denationalisation through fraud, which may not be on the radar for most, is addressed by Fargues. They focus on the ‘moral economy’, which analyses ‘norms and emotions behind the decision-making process’ of officials and judges in the context of fraud-based denationalisation.<sup>39</sup> This is used to explain ‘how the selection between “desirable” and “undesirable” citizen is made and how citizenship functions as a mechanism of exclusive inclusion’.<sup>40</sup> Fargues identifies key similarities and differences in the UK’s and France’s approaches. While in the UK those denationalised are deported, those in France are usually allowed to stay on French territory.<sup>41</sup> French courts’ ability to interfere in processes of denationalisation is greater than in the UK. Connected to

31 *ibid* 56.

32 Patrick Sykes, ‘Denaturalisation and Conceptions of Citizenship in the “War on Terror” in Émilien Fargues, Elke Winter and Matthew J Gibney (eds), *When States Take Rights Back: Citizenship Revocation and its Discontents* (Routledge 2020) 62.

33 See *Immigration Act 2014* (United Kingdom) (no longer in force). It has since been superseded by the *Immigration Act 2016* (United Kingdom).

34 *ibid* 69.

35 *ibid* 67.

36 *ibid* 67.

37 *ibid* 72.

38 *ibid*.

39 Émilien Fargues, ‘Simply a Matter of Compliance with the Rules? The Moralising and Responsibilising Function of Fraud-Based Citizenship Deprivation in France and the UK’ in Émilien Fargues, Elke Winter and Matthew J Gibney (eds), *When States Take Rights Back: Citizenship Revocation and its Discontents* (Routledge 2020) 77, 79.

40 *ibid* 79.

41 *ibid* 84.

this, as statelessness is a legal outcome of denationalisation in the UK, it ‘is not something that the British Deprivation Team cares about’ when considering to deprive someone of their citizenship on the basis of fraud.<sup>42</sup> Both cases show that there are specific groups of individuals that are targeted: asylum seekers and illegal immigrants in the UK, and African migrants in France.<sup>43</sup> Thus, Fargues observes ‘[t]he idea that suspected fraudsters should be more strictly controlled and, if found guilty, sanctioned has driven policy changes on both sides of the Channel’.<sup>44</sup> Overall, they highlight that the notion of citizenship is seen as ‘a reward or privilege for those who have shown themselves deserving’.<sup>45</sup> Consequently, ‘[c]itizenship is conceived by those who put it into practice (officials and judges) as a mechanism for the moralisation and responsabilisation of applicants’.<sup>46</sup> Responsibilities, fear of being denationalised and ‘virtuous behaviour’<sup>47</sup> are all key components of naturalisation and thus, inclusion. According to Fargues

[t]his implies that the political subject produced by citizenship deprivation policies is not a liberal and abstract legal subject, but that it aims instead to create a virtuous and responsible subject in the spirit of citizenship renationalisation.<sup>48</sup>

However, it is also only the naturalised citizen who is scrutinised, while the mono-national’s place — the ‘essential’ citizen — and their place is never doubted.

The role of allegiance and loyalty is addressed by Helen Irving in the seventh chapter. In light of the 2015 amendment to the *Australian Citizenship Act 2007*, she outlines the rise and fall of allegiance throughout Australian history and emphasises that allegiance itself remains ‘unclear and elusive’ in its conceptualisation and understanding.<sup>49</sup> Irving emphasises the importance of allegiance being singular and not ‘split’ between two citizenships. Thus, although dual citizenship is increasingly accepted, it remains a critical point of interest. For example, instances of Islamic ‘allegiance’<sup>50</sup> and the resignation of members of parliament with dual citizenship,<sup>51</sup> are two instances of allegiance to Australia being questioned. Consequently, Irving highlights that allegiance in the *Australian Constitution* is linked to foreign citizenship.<sup>52</sup> The renewed emphasis on allegiance in current global debates on denationalisation results in negative effects, not just for those wanting to become citizens, but also for those who *are* citizens, especially those with a foreign connection, resulting in the ‘suspicion of fellow

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42 *ibid* 83.

43 *ibid* 80–81.

44 *ibid* 81.

45 *ibid* 84.

46 *ibid* 87.

47 *ibid* 85.

48 *ibid* 87.

49 Helen Irving, ‘The concept of allegiance in citizenship law and revocation: an Australian study’ in Émilien Fargues, Elke Winter and Matthew J Gibney (eds), *When States Take Rights Back: Citizenship Revocation and its Discontents* (Routledge 2020) 93, 95.

50 *ibid* 100.

51 Paul Karp, ‘Dual Citizenship Crisis: Four MPs resign after Court Rules Katy Gallagher Ineligible’, *The Guardian* (online, 9 May 2018) <<https://www.theguardian.com/australia-news/2018/may/09/dual-citizenship-high-court-rules-labor-senator-katy-gallagher-ineligible>>.

52 Irving (n 49) 100, citing *Constitution of Australia*, s 42.

citizens'<sup>53</sup> and the questioning of their allegiance to the state and its national values.<sup>54</sup>

The concluding chapter by Janie Pélabý and Réjane Sénac provides a summary of the key points highlighted throughout the book, but more importantly, attempts to identify the challenges denationalisation poses to liberal democracy. Denationalisation is considered a 'borderline case with regard to liberal democracy'.<sup>55</sup> Picking up from the introduction's citizenship dimensions, Pélabý and Sénac identify the risks denationalisation has, especially through the increased focus on the 'thick concept of membership'.<sup>56</sup> The protection of the political community — the 'us' — is then provided through 'the shared meanings and conceptions of the good publicly declared to unite the citizenry'.<sup>57</sup> Anyone who falls outside of this, therefore, does not belong and is categorised outside of the membership: 'Those citizens whose beliefs and behaviours are suspected of being incompatible with the values deemed to be the cornerstone of national identity are perceived as endangering social cohesion and political unity.'<sup>58</sup> Cosmopolitanism, especially in the protections provided by universal human rights, is increasingly challenged through the rise of patriotism in light of national security. Citizenship revocation presents a weakening of these legal protections, especially as many courts have 'validated' revocation's exclusionary function.<sup>59</sup> Consequently, they argue, liberal democracy is increasingly challenged by certain tensions, including 'between unity and diversity, and in the opposition between perfectionist and neutral state action.'<sup>60</sup>

*When States Take Rights Back* presents a well-written and thoughtful debate on what denationalisation does to conceptions of *Western* citizenship. The main strength of the volume is that it forces the audience to look past the security and counter-terrorism box that denationalisation is currently put in. It also leaves the reader with the need to rethink what these policies do to notions of identity, belonging and citizenship, and to reflect on what kind of society we want to live in. This leads to two main criticisms of the volume: It is very much a Western perspective on notions of citizenship, and the format of the book is mainly limited to the academic world. First, the Western focus as a limitation, although acknowledged, is one that should be addressed. More first-hand accounts of what denationalisation does to transnational identities and conceptions of citizenship need to be considered, in addition to what the countries at the other end of the line — those dealing with the individuals who have been stripped of their *Western* citizenship — are confronted with. Additionally, it is not just the West that uses denationalisation to rid themselves of the 'unwanted', but also states in the Global South, for example several Gulf states or India. Therefore, denationalisation is not just a Western phenomenon and needs to be looked at from different understandings of citizenship and membership. Secondly, and also more importantly, *When States Take Rights Back* leaves the reader with many topics that

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<sup>53</sup> *ibid* 104.

<sup>54</sup> *ibid*.

<sup>55</sup> Janie Pélabý and Réjane Sénac, 'Citizenship Revocation: A Stress Test for Liberal Democracy', in Émilien Fargues, Elke Winter, Matthew J. Gibney (eds), *When States Take Rights Back: Citizenship Revocation and its Discontents* (Routledge 2020), 109, 110.

<sup>56</sup> *ibid* 114.

<sup>57</sup> *ibid* 114.

<sup>58</sup> *ibid* 120.

<sup>59</sup> *ibid* 121.

<sup>60</sup> *ibid* 120.

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should not just be addressed solely in the academic sphere, but also the political and societal sphere. Consequently, *When States Take Rights Back* — a collection of articles from a special issue in *Citizenship Studies* — will attract not only an academic audience but also the broader public. The citizenry also needs to be confronted with these issues as denationalisation goes beyond the popular discussion of the case of Shamima Begum.