

## SUBMISSION TO ALL PARTY PARLIAMENTARY GROUP ON TRAFFICKED BRITONS IN SYRIA

1. This submission will address section F of the terms of reference for written evidence (questions 24-27), the issues of discrimination and disproportionality of impact on particular communities of government action, specifically in relation to citizenship-stripping.
2. The Institute of Race Relations (IRR) is the UK's oldest independent organisation concerned with racial equality. Founded in 1958, it is an educational charity with an international reputation, and is concerned with issues of structural race discrimination ie, discrimination embedded in laws, policies and institutional practices. It has participated in meetings of experts convened by the OSCE and by United Nations special rapporteurs on race discrimination and on the promotion of human rights while countering terrorism, and has submitted evidence to a number of parliamentary committees on aspects of policing and immigration policy. Most recently, we have produced a report for use in the SIAC appeals against deprivation of citizenship of young Muslim women currently held in north-east Syria, on the issue of the Secretary of State's compliance, in taking the decisions, with the Public Sector Equality Duty (s 149 Equality Act 2010, which requires due regard to be had to the elimination of discrimination and the promotion of good relations between groups with and without protected characteristics).
3. The government's approach to these young women has been discriminatory in effect, if not in intent, in depriving them of citizenship, thereby leaving them abandoned in appalling circumstances without the protection of the British (or probably any) state. In so doing, the government refuses to see them as survivors of trafficking and grooming for sexual exploitation, instead treating them as autonomous, informed and willing collaborators in terrorist acts, ignoring their extreme youth and the power and sophistication of the grooming operation. It also treats their birth, upbringing and education in the UK as of no account.

### **The powers and their use**

4. The revocation decisions embody the discriminatory principles embedded into the law through the expansion of deprivation powers to British-born citizens with dual nationality in 2002<sup>1</sup> and to sole-nationals who can be expected to acquire another nationality in 2014,<sup>2</sup> and the loosening of the criteria for loss of citizenship, first replacing specific acts with the vague formulation 'conduct seriously prejudicial to the UK's vital interests' (also in 2002) and lowering the threshold to 'conducive to the public good', the same test as for deportation, in 2006.<sup>3</sup> The changes were brought in to deal with Muslims (Abu Hamza in 2002, Hilal al-Jedda in 2014, and British Muslims generally in 2006, following the 7/7 bombings), and the provisions

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<sup>1</sup> Through the Nationality, Immigration and Asylum Act, amending s 40 British Nationality Act 1981.

<sup>2</sup> Through the Immigration Act 2014.

<sup>3</sup> Immigration and Nationality 2006. The 'conduct seriously prejudicial to the UK's vital interests' test remains for deprivation of sole-nationals.

have been used almost exclusively against Muslims, mainly of South Asian, middle Eastern and African heritage (as far as we can tell: the government does not break down deprivation statistics by ethnicity, other nationality or religion).<sup>4</sup> The new deprivation powers have been used with increasing frequency in recent years, from no deprivations between 1973 to 2002, to one or two per year in the 2000s, to double figures in the 2010s and 104 in 2017.<sup>5</sup> Four British-Pakistani dual nationals were deprived following their conviction on charges of trafficking and sex crimes against minors, all in 2015,<sup>6</sup> but generally deprivation is used in the context of ‘national security’, a term widened since 9/11 to include the interests of any friendly power, and in regard to which the courts defer almost wholly to the executive.<sup>7</sup>

5. Following a legal change in 2004,<sup>8</sup> unnoticed at the time, which allowed deprivation decisions to take effect immediately rather than following an appeal, service of decisions while the subject is abroad became routine, with an immediate exclusion order leaving the person stranded and preventing their return. At least two men, Mohamed Sakr and Bilal al-Berjawi, have died in targeted US drone strikes following deprivation,<sup>9</sup> and a third, Mahdi Hashi, was kidnapped from Djibouti to a US prison.<sup>10</sup>

### Alternatives

6. Deprivation of citizenship is a huge step, particularly for those born in the country. As Chief Justice Warren ruled in the United States Supreme Court case of *Trop v Dulles* in 1958, ‘use of denationalization as a punishment’ means ‘the total destruction of the individual's status in organized society. It is a form of punishment more primitive than torture’.<sup>11</sup> Lord Kingsland could ‘think of no worse punishment, apart from the death penalty, than being expelled from one's country of birth with all its associations of home and family, institutions, landscape and other things.’<sup>12</sup> It is the most draconian of the powers the home secretary has to deal with British citizens abroad believed to be involved in terrorism, and the easiest to deploy. The Counter-Terrorism and Security Act 2015, s 2 enables a British citizen to be excluded from the UK for up to two years under a ‘temporary exclusion order’ (TEO) for the protection of the public in the UK from the risk of terrorism, and makes return subject to obligations such as reporting to police and attending appointments with a ‘deradicalisation mentor’.<sup>13</sup> Unlike a decision to deprive, a TEO needs a court's advance permission, except in situations of urgency, and must be kept under review.

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<sup>4</sup> The Bureau of Investigative Journalism found that 16 of the 18 deprived between 2003 and 2013 were Muslims, see [“Medieval exile”: the 42 Britons stripped of their citizenship](#), *Bureau of Investigative Journalism*, 26 February 2013 (updated, nd), and home secretary Sajid Javid told Parliament in February 2019 that over 100 ‘foreign fighters’ in Syria and Iraq had lost their citizenship.

<sup>5</sup> Sources include FOI requests, the Bureau of Investigative Journalism and the government's Transparency reports on disruptive and investigatory powers.

<sup>6</sup> See ‘Rochdale sex grooming gang citizenship appeal fails’, [BBC News](#), 9 February 2017.

<sup>7</sup> *Home Secretary v Rehman* [2003] AC 153; *R (Bequm) v SIAC* [2021] UKSC 7.

<sup>8</sup> In Schedule 2 para 4, Asylum and Immigration (Treatment of Claimants) Act; see Amanda Weston, [‘Deprivation of citizenship – by stealth’](#), IRR News, 9 June 2011.

<sup>9</sup> [‘Former British citizens killed by drone strikes after passports revoked’](#), BIJ, 27 February 2013.

<sup>10</sup> See the account of Baroness Kennedy at [HL Deb 10 February 2014](#), vol 752, col. 484.

<sup>11</sup> Immigration Bill, HL Committee stage, [HL Hansard 17 March 2014](#), vol 753, col 53.

<sup>12</sup> [HL Deb 8 July 2002](#), vol 637, col 499.

<sup>13</sup> See HM Government: Transparency report 2017: Disruptive and investigatory powers, [Cm 9420](#), para 5.8.

The Home Office document of June 2018 on its 'Contest' counter-terrorism strategy gave an illustrative example of the use of a TEO in conjunction with a disengagement programme to control the return to the UK of a British woman fleeing Daesh territory with a newborn child.<sup>14</sup> However it is notable that in 2017, when 104 people were deprived of citizenship, only nine TEOs were made (six on women; we are not told the gender breakdown of the deprivations), suggesting that deprivation, with its lack of formal safeguards, was the first tool out of the box in dealing with former Daesh adherents, rather than a last resort. Even in 2018, when the number of deprivations went down to 21, this was still more than the 16 TEOs made (of which two were made on women).<sup>15</sup>

### **Discrimination and devaluation**

7. Concerns about the inherently discriminatory nature of the deprivation provisions and the lack of safeguards to prevent arbitrariness in their use, have been expressed since 2002, inside and outside parliament, by MPs, peers, lawyers, scholars, the Joint Committee on Human Rights, the Commission for Racial Equality and many others concerned with equality and rights.<sup>16</sup> They have pointed out that those impacted are likely to be from ethnic minorities, who are more likely to have or be able to acquire an ancestral citizenship, and that the changes constitute a 'recalibration of what it means to be a citizen', with dual nationals 'lower in standing relative to their fellow citizens',<sup>17</sup> with a citizenship worth less than that of native white Britons, being unstable, precarious and contingent on continuing good behaviour. One commentator compared British Muslims with 'Roman Catholics in previous ages ... obliged to go on proving their loyalty ...'<sup>18</sup> This process carries uncomfortable echoes of an earlier 'recalibration', where UK citizens of Asian descent, in flight from persecution in east Africa, were denied entry to their country of citizenship because they acquired it as colonial subjects.<sup>19</sup>
  
8. The citizenship changes since 2002 have formed part of a multi-pronged onslaught in the fields of counter-terrorism, migration, education, culture and child protection, which has turned British Muslims into a 'suspect community'. Policies from 'community cohesion' to 'Prevent' and the enforcement of 'British values'; English-language and 'life in Britain' tests for visas and citizenship, 200 counter-terrorism measures in the Blair era alone,<sup>20</sup> politicians' statements from David Blunkett's 2001 complaints of Muslim self-segregation to the 'Trojan Horse' confection and Boris

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<sup>14</sup> HM Government: Contest: the UK's strategy for countering terrorism', June 2018, [Cm 9608](#), p36.

<sup>15</sup> HM Government's Transparency report 2017, para 5.9; Transparency report 2018-19: Disruptive and investigatory powers, March 2020, [CP 212](#), paras 5.8, 5.9.

<sup>16</sup> See our report on *The Public Sector Equality Duty in the context of the decisions to deprive Shamima Begum and other young British Muslim women of citizenship* for details and references.

<sup>17</sup> '[Should citizenship be conditional? Denationalisation and liberal principles](#)', RSC working paper 75, Refugee Studies Centre, 2011, pp 19-20.

<sup>18</sup> Philip Hensher, [Independent](#), 3 April 2003.

<sup>19</sup> Under the 1968 Commonwealth Immigrants Act. They were subsequently categorised as 'British Overseas Citizens' with no right of entry to the UK. Their exclusion was deemed inhuman and degrading treatment for its overtly racially discriminatory nature by the former European Commission of Human Rights.

<sup>20</sup> Blick and Weir, *The rules of the game: The government's counter-terrorism laws and strategy*, York, Rowntree Reform Trust, 2005.

Johnson's 2018 'letterbox' jibe – all have fed the idea of British Muslims as the purveyors of a 'medieval and dangerous, hostile and threatening' religion, an image played up by the popular press.<sup>21</sup> International and national race bodies including the UN's Committee on the Elimination of Racial Discrimination and UN Special Rapporteur, the Commission for Racial Equality and the Joint Committee on Human Rights have expressed concern over the 'disproportionate' use of counter-terror measures, redolent of racial profiling, the 'atmosphere of suspicion' and 'vilifying' of Muslims.<sup>22</sup> (In 2015, researchers noted how 'Muslim identity has been subject to a process of racialisation whereby this identity is defined on the basis of the individual's race rather than exclusively on the basis of their religion.)<sup>23</sup>

9. The message conveyed by all the measures targeting Muslims, and the expansion of deprivation powers and their use, that British Muslims are not 'real', full British citizens, has had the effect of emboldening the bigoted attitudes towards ethnic minorities of newspapers like the *Sun* and the fanatical activism of far-right groups such as the English Defence League and Britain First, spilling over into the attitudes of the 'white majority' towards racial and religious minorities. Research indicated in 2013 that between 40 and 60 percent of all mosques, Islamic centres and Muslim organisations had experienced at least one 'hate' attack;<sup>24</sup> a 2014 survey found that two-thirds of the 1,800 Muslim respondents had experienced anti-Muslim verbal abuse and nearly one-fifth had been physically assaulted;<sup>25</sup> and in 2017, the Office for National Statistics estimated an increase in race and religion-based hate crime from an annual average of 112,000 (April 2013-March 2015) to 117,000 (April 2015-March 2017).<sup>26</sup>

### **The deprivations and their impact**

10. This was the background against which the home secretary made the deprivation decisions against the young women in the Syrian camps. The only decision whose circumstances we know in detail is that relating to Shamima Begum, made in the immediate aftermath of her discovery by a *Times* journalist,<sup>27</sup> while media and public outrage at her apparent support for Daesh's justice was white-hot,<sup>28</sup> to which it appeared to be a knee-jerk, populist response rather than a careful balancing of factors. Javid's decision was communicated only six days after Begum's emergence, following two media interventions and a Commons speech, in all of which, while not

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<sup>21</sup> Edward Said, *Covering Islam: How the media and the experts determine how we see the rest of the world*, London, Vintage, 1997, p157.

<sup>22</sup> See our report on the PSED and deprivation decisions for details and references.

<sup>23</sup> Awan and Zempl, [We fear for our lives](#), Birmingham City U, Nottingham Trent U, TellMAMA, October 2015.

<sup>24</sup> Copsey et al, [Anti-Muslim hate crime and the far Right](#), Teesside U/ TellMAMA, July 2013; Tell MAMA annual reports.

<sup>25</sup> Ameli and Merali, [Environment of Hate: the New Normal for Muslims in the UK](#), IHRC, November 2015.

<sup>26</sup> Cited in Williams et al, 'Hate in the machine: Anti-Black and anti-Muslim social media posts as predictors of offline racially and religiously aggravated crime', [British Journal of Criminology](#) 60:1, January 2020, p93.

<sup>27</sup> [Shamima Begum: bring me home, says Bethnal Green girl who left to join ISIS](#), *Times*, 13 February 2019.

<sup>28</sup> See eg, 'Don't let these women wedded to terror come home', [Mail](#), 18 February 2019, [100,000 back petition to ban ISIS members returning too UK amid Brit schoolgirl Shamima Begum row](#), *Birmingham Mail*, 15 February 2019.

naming Begum, Javid vowed not to let Daesh supporters return to the UK.<sup>29</sup> 'Whatever role they took in the so-called caliphate, [UK nationals returning from Syria] all supported a terrorist organisation and, in doing so, have shown that they hate our country and the values we stand for ...'<sup>30</sup> Those protesting that she and the other girls were survivors of trafficking or victims of grooming, children when they left, who should be treated with compassion, went unheard in the clamour.

11. Javid's decision was praised by the right-wing press which had demanded it (the *Sun* concluded 'Well done the Saj', while the headline in the *Express* was 'Sense at last!) - to whom other commentators accused him of 'pandering'.<sup>31</sup> It endorsed her treatment as a popular hate figure, with a Merseyside shooting range using her image as a target, after 'record numbers of customers' requested it.<sup>32</sup> Her lawyer was subjected to media attack,<sup>33</sup> and was threatened with murder if he continued to represent her. Messages to him on social media included a post telling him to kill himself, one telling him to 'f\*\*k off to Syria', and others wishing death on his family and telling him he 'does not belong in Britain'.<sup>34</sup> Far-right columnist Katie Hopkins impersonated Begum in a deeply Islamophobic Facebook video (still openly available today).<sup>35</sup>
12. In the week following Begum's interview and Javid's response, serious anti-Muslim incidents included a bombardment of racist abuse and death threats to a fitness trainer advertising classes for Muslim women, who also had her car tyres slashed,<sup>36</sup> and an attack in central London which hospitalised radio presenter Maajid Nawaz.<sup>37</sup> A far-right alleged extremist was arrested in Leeds on suspicion of preparing acts of terrorism, as counter-terror police and anti-fascist groups warned of the potential of a growing extreme threat from the far Right, and of children of 13 and 14 becoming involved in violent far-right groups.<sup>38</sup> Since then, hate crimes in England and Wales have risen to an all-time high of 124,000, three-quarters of which are racist (representing a 12 percent rise).<sup>39</sup>
13. The decision in Begum's case has exacerbated insecurity within British ethnic minority communities, who are losing confidence that Britain is a country that values principles of non-discrimination and affords them equality of treatment. Many commentators expressed grave concerns over the discriminatory devaluation of

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<sup>29</sup> *Times* 15 February, *Sunday Times* 17 February 2019.

<sup>30</sup> [HC Deb 18 February 2019](#), vol 654, col 1193.

<sup>31</sup> See Roy Greenslade, '[Sajid Javid is pandering to rightwing press over Shamima Begum](#)', *Guardian*, 24 February 2019.

<sup>32</sup> '[Shooting range criticised for Shamima Begum target](#)', BBC News, 27 February 2019.

<sup>33</sup> '[ISIS bride's lawyer blamed Britain](#)', *Mail* 18 February 2019.

<sup>34</sup> [Independent](#), 27 February 2019.

<sup>35</sup> <https://www.facebook.com/LetsGoHomeMedia/videos/katie-hopkins-as-shamima-begum/321602595681786/>.

<sup>36</sup> '[Tommy Robinson supporters send racist abuse to personal trainer over fitness class for Muslim women](#)', *Independent*, 22 February 2019.

<sup>37</sup> [Guardian](#), 19 February 2019.

<sup>38</sup> '[Suspected right-wing terrorist arrested in Leeds](#)', *Independent*, 24 February 2019.

<sup>39</sup> [Hate crime statistics, 2020-2021](#).

citizenship and its impact on community relations, including former reviewer of counter-terrorism legislation Lord (David) Anderson,<sup>40</sup> London mayor Sadiq Khan,<sup>41</sup> Shiraz Maher, Director of the International Centre for the Study of Radicalisation at Kings College, University of London,<sup>42</sup> H A Hellyer, senior associate fellow at the Royal United Services Institute in London and the Atlantic Council in Washington,<sup>43</sup> the Global Future thinktank,<sup>44</sup> citizenship scholar Devyani Prabhat,<sup>45</sup> and *Guardian* security, environment and social development correspondent Patrick Galey, who added, 'Does a country like Britain really bear no culpability for a young woman who was born, raised and ultimately indoctrinated within its borders? As Begum's case so starkly highlights, the government believes the answer to this to be: It depends on your background.'<sup>46</sup>

14. In September 2019, the UK's senior counter-terrorism officer warned that the far Right posed the fastest-growing terrorism threat in the UK, with police and MI5 conducting 80 investigations to stop right-wing terror.<sup>47</sup> The fact that, no matter how brutal and shocking their crimes, those who engage in them will never find themselves uprooted from the country of their birth and banished, while ministers rush to uproot and banish British Muslims, cannot but encourage strutting white nationalism, deepening fear, anger and resentment among young British Muslims, and furthering racial and religious polarisation.

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<sup>40</sup> Speaking on Radio 4's Today programme, see 'Sajid Javid defends stripping Isis bride of UK citizenship amid mounting pressure', [Independent](#), 21 February 2019.

<sup>41</sup> 'Shamima Begum citizenship decision criticised by London mayor', [Irish Times](#), 22 February 2019.

<sup>42</sup> [New Statesman](#), 2 March 2021.

<sup>43</sup> [Washington Post](#), 20 February 2019.

<sup>44</sup> 'Javid's hard line leaves 3 million Brits with second-tier citizenship', [Global Future](#), 24 February 2019.

<sup>45</sup> 'Shamima Begum: legality of revoking British citizenship of Islamic State teenager hangs on her heritage', [The Conversation](#), 20 February 2019

<sup>46</sup> 'UK's racist two-tier citizenship', [Politico EU](#), February 2019.

<sup>47</sup> [Guardian](#), 19 September 2019.