

Factsheet - 4th Cycle

Universal Periodic Review of the United Kingdom of Great Britain and Northern Ireland



Arbitrary Deprivation of Nationality on National Security Grounds

Summary of key issues from previous cycles

- In the 3rd UPR cycle, the UK received and noted three recommendations on rights relating to name, identity, and nationality, from Kenya, the Islamic Republic of Iran, and Hungary.
- The UK received and supported approximately 14 recommendations calling on the government to strengthen its efforts to combat racism and discrimination. Some of the recommending states include Bangladesh, the Russian Federation, and the United States of America.
- Malaysia recommended that the UK review its counter-terrorism policies that target people based on their race, ethnic, background, or religion, including those from Muslim communities.

Challenges

- Under Section 40 of the British Nationality Act 1981, the Home Secretary ('HS') has the power to deprive someone of their British nationality if it is deemed 'conducive to the public good,' which is defined by reference to 'unacceptable behaviours.'
- In 2004, the UK passed the Asylum and Immigration Act 2004 to remove the suspensive right of appeal for nationality deprivation decisions, allowing for them to become effective immediately.
- In 2014, The UK passed the Immigration Act 2014, enabling the HS to deprive someone of their British nationality, even if it causes statelessness.
- In 2021, the UK introduced Clause 9 into the Nationality and Borders Bill, which empowers the HS to deprive someone of their British nationality without giving notice in certain circumstances. However, the Home Office states that it uses its nationality deprivation powers 'sparingly.'

Impact

- The vagueness of 'conducive to public good' means the HS has extensive powers to arbitrarily deprive someone of their British nationality. These powers also have inherent discriminatory potential, as they lack independent authorisation and procedural safeguards.
- The immediate effect of deprivation decisions makes it more challenging for former citizens to appeal, especially if they are abroad.
- The UK's citizenship-stripping practices violate international treaty obligations under the 1961 Convention on the Reduction of Statelessness, which prohibits deprivation if it would render statelessness.
- If enacted, Clause 9 of the Nationality and Borders Bill would allow deprivation decisions to proceed without giving notice to the affected persons, meaning individuals may not be aware that they have been deprived of citizenship, and subsequently, other human rights protections.
- Although the Home Office states that deprivation decisions are made sparingly, a government report from 2018 shows that 104 people were deprived of their British nationality in 2017 alone.

Recommendations

1. Respect and protect everyone's right to nationality.
2. Reform nationality deprivation laws to avoid potential discrimination.
3. Refrain from instrumentalising citizenship deprivation to evade human rights responsibilities, including subjecting affected persons to further human rights violations.

Sources

1. 134.53 Implement the 1954 Convention on statelessness to ensure that stateless persons in Britain access British nationality (Kenya); 134.82 Exert all its efforts in law and practice, to combat racism, xenophobia and Islamophobia, and to eliminate all forms of discrimination against migrants, and to avoid subjecting asylum seekers and stateless persons to prolonged and/or repeat unlawful detention (Islamic Republic of Iran); 134.225 Categorize statelessness as a protection status and provide stateless persons expedited and affordable access to British nationality (Hungary).
2. 134.118 Address racial discrimination, xenophobia and hate crimes by further strengthening effective legislative and judicial measures (Bangladesh); 134.97 Take effective measures to prevent manifestations of intolerance on the grounds of nationality and race (Russian Federation); 134.87 Review and strengthen current policies and initiatives to combat societal discrimination against members of racial, religious, and ethnic minority groups (United States of America).
3. 134.128 review counter-terrorism measures which target individuals based on race, ethnic background, or religion, including Muslims or Muslim communities (Malaysia).
4. British Nationality Act (1981), Section 40, available at <https://www.legislation.gov.uk/ukpga/1981/61/section/40>. See also https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/631643/deprivation-nullity-Chapter-55.pdf.
5. Asylum and Immigration Act (2004), available at: <https://www.legislation.gov.uk/ukpga/2004/19/schedule/2>. 47 <https://www.legislation.gov.uk/ukpga/2006/13/section/56>
6. Immigration, Asylum and Nationality Act (2006), available <https://www.legislation.gov.uk/ukpga/2006/13/section/56>
7. Nationality and Borders Bill' (2021) UK Government, available at: <https://bills.parliament.uk/bills/3023>.
8. Nationality and Borders Bill: Deprivation of citizenship factsheet, UK Government, available at <https://www.gov.uk/government/publications/the-nationality-and-borders-bill-factsheet/nationality-and-borders-bill-factsheet>
9. Article 8 (1) 1961 Convention.
10. 'HM Government Transparency Report 2018: Disruptive and Investigatory Powers' (2018), available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727961/CCS0418538240-1_Transparency_Report_2018_Web_Accessible.pdf