

ON CITIZENSHIP STRIPPING



GLOBAL SEMINAR SERIES

LECTURE 2

**“A FAIR AND EFFECTIVE REMEDY?”
SHAMIMA BEGUM, BOTCHED
LEGISLATION AND THE UK COURTS**



AMANDA WESTON

LECTURE & DEBATE KIT

THE ONLINE LECTURE ‘A FAIR AND EFFECTIVE REMEDY? SHAMIMA BEGUM,
BOTCHED LEGISLATION AND THE UK COURTS’
BY AMANDA WESTON QC AND FURTHER READING

QUESTIONS TO GUIDE VIEWING OF THE LECTURE IN A WORKSHEET
(ANSWERS ON THE LAST PAGE OF THE KIT)

QUESTIONS FOR CRITICAL REFLECTION,
DISCUSSION OR DEBATE

SUGGESTIONS FOR AN EXERCISE OR RESEARCH
TO LEARN MORE ABOUT THE TOPIC

VIDEO RECORDING OF THE LECTURE

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ABOUT THE LECTURE

In this lecture, Amanda Weston QC offers a practitioner's perspective on citizenship stripping in the United Kingdom (UK). Focusing on the case of Shamima Begum, Weston addresses the escalation of nationality deprivation powers in the UK. She exposes the gaps in due process which undermine the effectiveness of appeal rights, especially of British citizens deprived 'in absentia', and contribute to a global trend which sees citizenship status devalued and under threat.

AMANDA WESTON QC is a leading public law barrister with an outstanding track record in complex, sensitive and contentious judicial review in a broad range of fields including national security and unlawful detention, citizenship and statelessness, immigration and asylum, minority and disability discrimination and civil liberties, prisoners' rights, community care and Court of Protection. She also takes on Inquiry work and advises on international and European public law matters.

FURTHER READING

- Institute on Statelessness and Inclusion (2020) [The World's Stateless 2020: Deprivation Of Nationality](#)

This lecture is part of the [GLOBAL SEMINAR SERIES ON CITIZENSHIP STRIPPING](#).

QUESTIONS TO GUIDE VIEWEING - WORKSHEET

- 1.** How does the Shamima Begum case demonstrate that the UK government has a free hand in depriving its citizens of their citizenship, and why is this a dangerous development according to Amanda Weston?
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- 2.** According to Amanda Weston, the decision to reject Begum's appeal and strip her of her British citizenship, was an inevitable consequence of the Parliament's failure to grapple with the consequences of such draconian decisions taken against British citizens who reside outside the UK. What two key points were discussed that showcase this failure and its consequences?
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- 3.** Name two ways in which the burden to show the necessity of the very extreme measure of citizenship stripping could have been put on the State according to Amanda Weston.
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- 4.** What are the common circumstances in which expatriates find themselves when wanting to appeal the decision that strips them of their citizenship, and why do these circumstances prevent these people from having a fair appeal?
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QUESTIONS FOR CRITICAL REFLECTION, DISCUSSION OR DEBATE

- Do you think that contentious cases, like the case of Shamima Begum, could cause an international push-back against the nationality deprivation measures taken by the UK (and other countries), or could they encourage other Western States, like the Netherlands or France, to take the same measures?
- After listening to Amanda Weston's lecture, do you think that the large amount of media attention that a case like Shamima Begum's has received has affected the outcome, either positively or negatively? Has the extensive media coverage contributed to raising more awareness of the problems associated with the measure, or has it had the opposite effect of convincing people that citizenship stripping is a good security measure?
- Citizenship stripping seems to raise issues of comity with the countries / territories that host individuals who have their UK citizenship stripped. Which strategies could international diplomacy, courts and other organizations follow to influence the UK's position that appears to abandon former citizens and their children abroad?
- Amanda Weston discussed that in the current situation in the UK, a foreigner enjoys more protection from deportation than a British citizen would from the deprivation of their nationality. To what extent do you think this is the case, and how do you think that it could be changed?

LEARN MORE...

In her lecture, Amanda Weston offers a comprehensive overview of the case of Shamima Begum, exposing the gaps in due process and pointing at the escalation of nationality deprivation powers in the UK. Learn more about the rise of this trend in the UK and abroad by researching or writing about it!

- ***For UK-based learners:***
Look into the practice of citizenship stripping in the UK, beyond the Begum case, and search for information about other nationality deprivation cases. How have nationality deprivation powers been used, how often, against who and why? Were these cases reported by the media and/or other entities and with what angle?
- ***For learners outside of the UK:***
Take a closer look at the UK's deprivation powers and find out more about the scope of the measure: Who can be deprived of their citizenship and under what conditions? Compare this to the deprivation powers that exist in your (or a specific) country and identify similarities and differences, including around questions of due process.

QUESTIONS TO GUIDE VIEWEING - ANSWERS

- 1.** How does the Shamima Begum case demonstrate that the UK government has a free hand in depriving its citizens of their citizenship, and why is this a dangerous development according to Amanda Weston?

It shows that the UK government can strip the citizenship of even the most vulnerable and powerless, for reasons that may not be revealed and without judicial oversight prior or subsequently to the decision. Shamima Begum became an ISIS bride when she was 15, and she was detained in a camp in Syria when the UK government stripped her of her citizenship. Her citizenship was stripped for national security reasons, which were not made public, nor shared with her or her representatives. This shows that the government can deprive a UK citizen of their nationality if there is a claim that it protects national security, even without disclosing valid reasons. The fact that Shamima Begum was located abroad when she was stripped of her citizenship and was therefore unable to appeal the decision in a fair manner, also showcases that these very impactful decisions are not made on fair and just grounds.

- 2.** According to Amanda Weston, the decision to reject Begum's appeal and strip her of her British citizenship, was an inevitable consequence of the Parliament's failure to grapple with the consequences of such draconian decisions taken against British citizens who reside outside the UK. What two key points were discussed that showcase this failure and its consequences?

i. The respective roles of the Parliament and the Courts; Parliament enacts legislation, the Courts interpret and apply it. Parliament and the Courts have distinct constitutional roles, and different responsibilities. This aspect of the fundamental separation of powers means that it is for the Parliament to scrutinize legislative changes, confront foreseeable consequences and make adequate provision for them. It is a fundamental principle that Parliament is presumed to legislate with its eyes open, cognizant to the implications of its legislation. Another principle is that Parliament is presumed to legislate based on the principles of natural justice, or procedural fairness. The decision in the Begum case therefore shows a failure of the respective roles of the Parliament and the Courts.

ii. The stripping of a person's citizenship, resulting in the severance of their relationship to the state, is an act that violates their right to have rights. The consequence of this is that the most fundamental rights become meaningless without a state in which and by which those rights can be enforced. The government's decision to reject Begum's appeal therefore showcases a failure to protect her right to have rights.

- 3.** Name two ways in which the burden to show the necessity of the very extreme measure of citizenship stripping could have been put on the State according to Amanda Weston.

Two of the following:

- *Proper consideration of the impact of out-of-country appeals.*
- *Establishing grounds on which a court may be satisfied that an effective right of appeal may be displaced.*
- *Place obligations on the decision maker to ensure that on the date of decision an appeal could be effectively mounted.*
- *Parliament could have identified express circumstances in which effective access to justice could only be denied in the most extreme of cases, proportionate to the identified risk.*

- 4.** What are the common circumstances in which expatriates find themselves when wanting to appeal the decision that strips them of their citizenship, and why do these circumstances prevent these people from having a fair appeal?

- *There might be a lack of reliable forms of communication, meaning that they do not have access to their lawyer or other representatives.*
- *They might live in insecure environments where a person who wishes to speak frankly about events and circumstances material to their appeals, may not be safe to do so. Speaking out about the brutality of a regime or an organization with which they have been associated, giving rise to their deprivation of citizenship, would be unsafe to do when residing in that country, or in an environment where they are not protected.*
- *They might also have language, cognitive, discriminatory, social, gender or trauma related impediments to effective access to justice, in the same way that they occur in the undeprived population of litigants.*