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## Characterising Citizenship: Race, Criminalisation and the Extension of Internal Borders

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### Abstract

Citizenship in the UK has in recent times been explicitly framed as a privilege not a right, granted selectively and withdrawn from some. There are several criteria that assist the government in distinguishing those deserving of British citizenship from those undeserving, one of the key being 'character'. The 'bad character' criteria can apply for multiple reasons from inconsistencies in immigration paperwork to direct or indirect political associations with a range of disavowed political groups. Although not new, 'bad character' has become a principle reason for citizenship refusals in recent years, though has received little academic scrutiny. By bringing together quantitative and qualitative data on citizenship refusals, the paper maps the scale of this measure, outlining what it means and to whom it applies. It argues that the 'bad character' criteria operates as a racialised exclusionary mechanism that constitutes a new set of amorphous restrictions upon the lives of non-white denizens.

Key words: citizenship, citizenship refusal, bad character, racial exclusion

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## Introduction

'Citizenship', the Home Office has repeatedly stated of late, 'is a privilege not a right' (Home Office 2013). Though the sentiment is not new, its stark expression is a reflection of the enhanced regulation of the distribution of citizenship which operates to maintain its exclusivity (De Genova 2007). The policing of citizenship attempts to distinguish the dutiful, deserving from the disobedient, transgressive, undeserving; the former qualities attributed to those regarded as having earned the right to citizenship, the latter to those who have not (McGhee 2009). To achieve and sustain this hardened threshold, a range of policies and legal measures have been introduced, or, if already in place, enhanced, to allow for the state retraction, withdrawal or denial of citizenship (Kapoor and Narkowicz 2017). Such measures include citizenship deprivation, passport removals and refusal of naturalisation. The effect of such measures is to starkly illuminate the extension of the border beyond the point of immigration so that marginal subjects who possess legal citizenship remain vulnerable and in positions of precarity through maintained raced and classed structures of exclusion. Across the spectrum of this immigration and citizenship border policing, a key framing criteria that has significantly grown in emphasis since the early twenty-first century centres around the 'character' of a subject. A sufficiently amorphous value-laden measure, the notion of 'character' has been overlaid onto the already institutionalised, complex interconnections between race and criminality, supplementing the check against criminal conduct with a broader assessment of civil and community behaviour and standing. Where the early makings of the character tests were alluded to in the securitisation of the asylum process, which marked a broad range of activity as constituting 'particularly serious crime' so as to disqualify vast numbers of asylum applications in 2004 (Joint Committee on Human Rights 2004), the measure has further advanced and encroached into other parts of the immigration system so that 'non conducive, adverse character, conduct or associations' (Home Office 2017) also informs decisions on applications for leave to remain (permanent settlement) in the UK.

Most starkly, the character requirement has been laid out rather explicitly in the criteria for citizenship, becoming a pivotal condition of citizenship acquisition. Yet unlike other threshold requirements for immigration and citizenship such as residency, tests measuring aptitude in the English language and knowledge of life in the UK (Byrne 2017, Osler 2009), the emphasis on character has received relatively little attention, a significant oversight because, as we illustrate below, it represents the principle reason for citizenship refusal over the last few years. In this paper we address this gap, exploring the use of the notion of 'bad character' as a border policing technique. We consider its application in immigration and citizenship regulation, focusing particularly on the latter. Through a multi-method analysis using Home Office statistical data, appeal judgements from the High Court (Administrative Court) and

from the Special Immigration Appeal Commission (SIAC), as well as interview data gathered from an individual who have been refused citizenship on these grounds, this paper argues that the measure of 'character' operates as a racialised exclusionary mechanism that works to supplement and legitimate race/class dynamics of immigration/citizenship exclusion. Framed in terms of an ever expansive notion of criminality, itself a process that mobilises racial ideologies and structures (Gilroy 1987, Davis 1997, Goldberg 2002), governing by 'character' furthers the project of biopolitical disciplinary paradigms in order to sustain and enhance systems of racial exclusion.

### **Framing Character**

In 2009 the good character requirement for citizenship was revised as part of broader immigration-citizenship reforms brought in under Gordon Brown (Borders, Citizenship and Immigration Act 2009), all part of the state response to the enduring crises of multiculturalism (Lentin and Titley 2011) and increasing political calls for integrationism (Kundnani 2007). The Brown Government's 'Path to Citizenship', accordingly, strengthened a notion in development for some time that citizenship was something to be 'earned' (Home Office 2008, Blunkett 2002). The 2009 enhancement centred around a staged process that would involve demonstration of contribution to social and economic life in a number of ways as well as proving a certain degree of assimilation. Sufficient knowledge of life in the UK and the English language, requirements passed in 2002 (Byrne 2017), would need to be demonstrated alongside exemplifying that one was of reputable 'character', a requirement that encompassed multiple considerations including previous criminal convictions and suspected criminality but also civil society contributions such as paying taxes and civic engagement. Though the character requirements have long been part of legal provisions for citizenship, policy changes brought in at this time introduced a stricter test, adding a further dimension to a shift in the administration of citizenship that was already underway. In response to the concern that tests and prevailing regulations had not resulted in the politically desired results of reducing citizenship applications, Damien Green MP noted during the Public Bill Committee debate that 'this part of the Bill [on good character]' could be regarded 'as the Government slightly belatedly addressing the fact that the current test and regulations may not have fulfilled all the criteria that the Minister would want—or, indeed, that many others would want' (House of Commons 2009, col.132).

At the policy level, the attachment of the notion of 'good character' to immigration-citizenship regulations has been threaded through Britain's racialized history of immigration and nationality legislation. Alongside the immigration restrictions of the 1960s and 1970s, culminating in the 1971 Immigration Act which introduced the racially-coded concept of patriality (Gilroy 1987, Sivanandan 1981), the introduction of nationality legislation worked to reinforce racialised distinctions in rights and belonging, further cementing hierarchies of citizenship (Tyler 2013). The 1981 Nationality Act removed automatic citizenships rights from

those born in Britain, specified a 'good character' requirement for citizenship, and opened up space for future governments to redefine the 'duties' and 'entitlements' of citizenship as they desired (CARF Collective 1981). Critiqued as being immigration legislation in disguise (Sivanandan 1981), the 1981 Nationality Act was effective because it essentially extended the limits of citizenship acquisition that had been placed on postcolonials wishing to enter Britain to those who were already resident. The good character requirement was institutionalised not only in immigration legislation but in nationality legislation, effectively extending the border from the point of entry and admittance into the nation-state to a more fluid point of inclusion/exclusion encroaching into everyday life of racially marginalised communities.

As a measure, 'good character' has historically been conceived of in terms of criminality and its rising significance in relation to citizenship acquisition, refusal and withdrawal is an advancement on the growing emphasis on 'character' in asylum and immigration policy and legislation. Indeed, as a way of policing access to citizenship, assessments on character sit within the broader set of policy measures that have gradually retracted rights of refugees to settle in Britain long term and introduced a permanency to the precarious status of asylum seekers (Espinoza et al 2017). The enhancement of asylum and immigration restrictions from the late 1990s, reinvigorated through the securitisation of the War on Terror, has relied on criminalisation as a key mechanism for justifying exclusions in response to populist demands for reducing and controlling both (De Genova 2007, Fekete 2009). The inclusion of a 'Specification of Particularly Serious Crimes Order' to asylum legislation in 2004, for example, relied on a generous reading of established qualifications to asylum entitlement relating to danger and criminal threat, as set out in the Refugee Convention. Article 33 of the Convention stipulated that states must not return a refugee to 'the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion' (UN General Assembly 1951:1), *except* for when there were 'reasonable grounds' for believing such a person to be 'a danger to the security to the country', or who, having been convicted of 'a particularly serious crime' constituted 'a danger to the community' (UN General Assembly 1951:2). In 2004 the UK Government specified that 'serious crimes' included terrorism and related offences, but also 'drug offences, immigration offences, customs and excise offences, offences against the person including a wide range of sexual offences, and offences against property such as theft and criminal damage' (Joint Committee on Human Rights 2004, p.7). Similar expansive criteria on criminality were incorporated into immigration legislation for deciding applications and subsequently came to inform policy specifying the requirements for indefinite leave to remain and citizenship applications (Home Office 2008, 2013, 2017). The commitment to renew and reinvigorate the character requirement in 2009 drew on this policy legacy also placing greater emphasis on criminality compared with its invocation in previous nationality legislation. Conviction 'of any offence triable on indictment' could constitute grounds for citizenship refusal thus enabling greater scope for border control agents to deny asylum on security grounds.

Though there is no official legal definition of what constitutes ‘bad character’, the 2013 Home Office policy guidance indicated that it incorporated ‘not abiding by or respecting the law’, being ‘associated with war crimes’, not having one’s ‘financial affairs in appropriate order’, being involved in ‘notorious activities’ that ‘cast serious doubt on standing in the local community’, being dishonest with the UK Government, or having previously been deprived of citizenship (Home Office 2013). Currently behaviours such as divorce, promiscuity, drinking or gambling, eccentricity (including beliefs), and unemployment or working habits should not *normally* constitute grounds for refusal, but scale and persistence of such activities are considered potential grounds, particularly if it is a case likely to attract public or media attention. Parenting, debt, bankruptcy factor too. The guidance further stipulates that a decision maker can still refuse citizenship if they have additional doubts outside of this list and there is some flexibility in its application and interpretation (Home Office 2013, p.4). In December 2014 the Home Office included additional criteria to the list of undesirable behaviours including illegal entry to the UK, assisting illegal migration, and a lack of compliancy with immigration regulations, including working without permission (Home Office 2014).

### **The Character of Citizenship**

In her exposition of the politics of immigration control, Bridget Anderson (2013) elucidates the dialectic intrinsic to the construction of citizenship. A privileged status, citizenship is recurrently framed through its Others whether that be non-citizens, those marked as outside of the nation-state, or failed citizens, those with entitlement to legal citizenship but nevertheless cast as non-belonging. Such a thesis follows the more acute critical theory claim that it is in relation to the position of the ‘banned’, as Giorgio Agamben (1998) has termed it, those subjects categorised as the ‘exception’ and vulnerable to abandonment, that the status of the political-legal subject-citizen is continuously (re)defined and understood. While the multiple levels at which citizenship operates- as legal status, as identity marker and as a claim to sovereignty- tells us that the granting of formal citizenship is not necessarily sufficient for inclusion into the ‘community of value’ (Anderson 2013), the material freedoms and protections that are attached to formal legal citizenship and the claim-making that it enables, even as they are continuously contested and scrutinised, arguably make access to this dimension of citizenship most critical for those most marginal.

While citizenship is framed in relation to several identity markers and discursive regimes that categorise populations and determine thresholds of inclusion – namely race, gender, class-, at the structural level it is Britain’s colonial and imperial history, and so global racial formations, that have been central to shaping the design, form and nature of British citizenship (Bhambra 2015, Kapoor 2018). It is out from this genealogy that neo-colonial and contemporary imperialist politics have played a critical role in shaping not only the ideologies

attached to contemporary citizenships, but the governmentalities for policing and enforcing them (Kapoor 2018). In the postcolonial period the racialized framing of citizenship has operated at two levels: on the first, racial ideas of nativism, indigeneity and contamination continue to inform the conceptualisation of who counts as 'citizen' (Goldberg 2002); and then a second register emphasises citizenship to be contingent on the character, beliefs and behaviour of a subject (Medovoi 2012), a measure racialized both in terms of the ontological assumptions inscribed within it and through its associated attachment to criminality. It is the measure of 'character' that has become particularly acute in the context of the War on Terror and intensifying Islamophobia, perhaps unsurprisingly so since Islamophobia is particularly concerned with socially and politically constructing race through cultural markers ascribed in terms of ideological difference (Kundnani 2014).

The policing of character as it is invoked here resonates with a deeper historical trajectory that has located and constructed race not only at the point of the 'colour line' (Du Bois 2004) in a way that relies on visual racial markers to culturally determine and hierarchize difference, but at the level of a supplementary logic that emphasises political-ideological distinction and threat, which then forms an additional discursive frame with which to read and narrate already racially marked bodies. 'Dogma-line racism', as Leerom Medovoi (2012) has termed it, periodically recurring in different historical moments and prolifically expressed in relation to the anti-Muslim racism of late, circulates around a racialized anxiety about the presumed character of a denizen that lurks beneath their outward presentation. Any attempt to suitably prove 'conversion', here in the form of accomplishing set thresholds of 'Britishness' in the form of knowledge and English language tests is always subject to some uncertainty, as their soul/character might still harbour the sin. The scrutiny of character that take places in this citizenship process continuously countenances doubt about the character of the claimant and thereupon continues to find ways in which to impugn the claimant through their past activities.

The deep and complex interconnection between race and criminalisation, long noted, plays a critical role here. In discursive terms, crime, as Angela Davis (1997:266) notes, is 'one of the masquerades behind which 'race', with all its menacing ideological complexity, mobilizes old public fears and creates new ones'. Ideological tenets of racism which associate various forms of criminality with differently racialised categories of people- asylum seekers, immigrants, Muslims, black people and people of colour – are fundamental underpinnings to processes of criminalisation. 'Mugging', 'grooming', 'terrorism' and 'gangs' are socially constructed in ways such that they become synonymous with racialized communities and cultures (Hall et al 1978, Alexander 2000, Cockbain 2013, Kapoor 2018). In conjunction, structural arrangements are put in place that have the impact of producing the material conditions for generating suspects and culprits. Racialised subjects, already marginal and vulnerable, who once entangled within the criminal justice system, symbolically work to reify the ideological notions already in circulation of the 'bogus' or 'drug-smuggling' asylum seeker, the 'illegal' or

'fraudulent' immigrant, the black gang member/drug dealer, the Muslim 'terrorist'. In the context of policing citizenship, the policy specifications which expand the scope of what constitutes bad character by way of criminalised behaviour, thus, in many ways represent the structural accompaniment to the broader ideological discourse interconnecting race in all its floating signifying forms with criminalised representations (Hall et al 1978, Gilroy 1987, Goldberg 1993).

While the framework for demarcating citizens and granting citizenship has always been deeply racialized, the supplementation of 'objective' thresholds for citizenship such as residency requirements with such 'subjective' criteria significantly expands the scope for racial sorting, normalising an imperialist system of citizenship. Analysis of the process by which 'good character' is enforced, policed and disciplined offers a novel way to think through the articulation and expression of racial governmentality in the contemporary moment for enhancing and sustaining borders and systems of exclusion.

## **Methods**

The research presented in this article comes from a larger study which has explored the shifting dynamics of race and citizenship in the context of the War on Terror through focusing on different mechanisms of exclusion and expulsion. The research has involved semi-structured interviews with individuals who have been criminalised in this context and subject to some measure of citizenship deformation in the process; semi-structured interviews with human rights lawyers and third sector advocacy organisations; content analysis of legal judgements and policy reports; and quantitative analysis of Home Office statistics on immigration and citizenship. For the purposes of this paper we draw upon citizenship statistics data published by the Home Office which are supplemented by additional data we have acquired through Freedom of Information requests. Table cz-01 which reports citizenship grants and refusals, Table cz-01qa which reports citizenship applications by country of nationality and Table cz-09 which reports 'Refusals of citizenship by reason' are all used from the published Home Office Citizenship statistics. In conjunction data were provided on refusals of citizenship on grounds of 'not good character' by country of nationality for each year between 2002 and 2011 (FOI Request 26908 25 April 2013). In order to assess the prevalence and distribution of citizenship refusals on the grounds of bad character, we were interested to calculate what proportion of total refusals were on the grounds of 'not good character' by country of national origin. Since the data on total refusals by nationality are not published routinely by the Home Office, and our requests for access to these data were denied, we have calculated expected refusals for each country of nationality by applying the overall refusal rate for each year to the number of applications received from each country. This assumes that the overall refusal rate is evenly distributed, which does pose some limits on the findings since it is quite possible (and the evidence suggests likely) that applicants from some countries would have higher rates of refusal than others.



Nevertheless, the calculation proceeds on a reasonable assumption and allows us to consider the distribution of refusals in a robust way. We have excluded countries where the number of people refused citizenship on character grounds is less than 5.

The quantitative analysis is supplemented with analysis of legal judgements on appeals against naturalisation refusal. We analyse a selection of judgements from the High Court (Administrative Court) deciding on appeals against refusals of naturalisation on character grounds but which do not constitute terrorism/national security reasons. These case judgements, obtained via a search through BAILII, include appellants from Sri Lanka, Iraq, Pakistan, China and South Africa and are made between 2012 and 2016. In addition, all open judgements on appeals against the refusal of naturalised citizenship, decided by the Special Immigration Appeals Commission (SIAC) between 2007 and 2017, are analysed using content analysis (15 in total out of over 100 judgements in the period concerning deportation, citizenship deprivation and refusal of entry issues). SIAC was established in 1997 in order to deal with immigration cases where national security/terrorism concerns are raised, and accordingly the judgements we analyse here all concern cases where some issue relating to national security has been given as part of the reason for refusal. The cases concerned 19 individuals, 17 men and 2 women. The country of origin of these individuals include Algeria, Colombia, Iraq, Iran, Turkey (including two Kurdish people), Jordan/Palestine, Pakistan, Somalia and Syria. Most had lived in the UK for many years prior to applying for naturalisation. Most of the individuals waited several years to hear back about their naturalisation decision and then some more years, in a few cases a whole decade before their appeal was heard. To support these data we draw additionally on one of our interviews with Aaden, a refugee granted indefinite leave to remain but who was refused naturalisation on character grounds. Aaden arrived to the UK from Somalia when he was 16 years old and claimed asylum. He did not appeal the decision in SIAC and is therefore not one of the 15 analysed cases.

## **Refusals of Naturalisation**

Since the early 2000s there has been a general trend of steady increase in the number of people granted British citizenship, with some reduction in grant rates since 2013 (Blinder 2017). Over the same period, between 2002 and 2016, the percentage of applications refused citizenship has fluctuated between 3% and 10%, averaging 6% and rising again to 10% in 2016. The relatively low proportion of overall refusals at this stage is in part explained by restrictions in place at earlier stages of the immigration process, which work to filter eligibility for application. Yet within this cohort of applications refused, since the mid 2000s the number of people being refused naturalised citizenship on the grounds of 'bad character' has been gradually increasing so that, after a small dip in 2014, in 2015 43%, and in 2016 44%, of people who were refused British citizenship were denied on this basis (see Figure 1). Bad character is consequently becoming the principle reason why citizenship is denied in Britain.

*Insert Figure 1 Here*

Within this trend, the data indicates that refusals on character grounds are unevenly distributed and some nationalities are more likely to be refused for such reasons compared with others. The data we analysed shows this uneven distribution to be the case since 2002 but we focus on data from 2006 here, two years before a significant jump in refusals on character grounds in 2008, and three years before the official policy shift in 2009. Since we calculate percentage refusals on character grounds as proportions of *expected* rates of total refusal for each country, some of the results show that more than 100% of applications from particular nationalities are refused on character grounds. While this confirms that specific percentage rates we show are to be treated with some caution, the results do indicate that the overall refusals for applicants from these countries are higher than would be expected (our denominator estimates are too low) and also suggest that a high proportion of refusals from these countries are for reasons of 'not good character'. Applicants who are nationals of Turkey, Vietnam, Kosovo, Angola, Jamaica, Rwanda, Congo, Tunisia, Algeria, Sudan, Sierra Leone, Iran, Palestine and Libya are consistently more likely to be refused citizenship on character grounds compared with the average rate. From 2008 there was a significant rise in refusing applicants from Iraq and Afghanistan and rejected applications from nationals of these countries remain high over the subsequent period.

*Insert Figure 2 Here*

It is difficult from these data to confirm why nationals of the listed countries in particular feature amongst those most likely to be refused on character grounds, but they do represent states from where a high proportion of asylum applications have come from five years or so preceding citizenship application, and countries facing civil or imperialist wars in which Britain has had a direct or indirect role and post/colonial relationship. One of the justifications for refusing citizenship on character grounds, as noted above, refers to 'deception and dishonesty' in any liaison with a state department, a sufficiently broad criterion that can encompass a range of actions and behaviours. The caseworker guidance notes indicate it refers to attempts to enter the country using false or misleading documents and/or attempts to gain access to public and social services which one's immigration status prohibits against (Home Office 2013). Since the onslaught of legislative restrictions against asylum make it near impossible to arrive as an asylum seeker 'legally', without incurring some kind of legal infraction (Schuster 2011), and the exclusion from or limited access to basic services such as healthcare and housing mean transgression becomes a necessity for most to survive (Schuster 2011), it is quite possible that the measure of 'deception and dishonesty' offers a way to exclude from British citizenship large numbers of individuals who have arrived via the asylum route. Though denial of citizenship by naturalisation does not mean the right of

residency is retracted it does maintain a position of precariousness for those refused, restricting freedom of movement for those with no viable passport and preserving a sustained possibility for deportation at future dates.

### **From 'Deception and Dishonesty' to 'Crimes against Humanity'**

The alluded connection between refusal of naturalisation on the grounds of 'not good character' and arrival to Britain via the asylum route is supported in the data from legal judgements, which shed more detailed light on the way in which character has come to be institutionally expressed and articulated. In the majority of the judgements we examined decided by the High Court and by SIAC, the individuals who were contesting the refusal of their citizenship had arrived in Britain as asylum seekers.

Within these cases decisions to refuse citizenship on the basis of the applicant being 'not of good character' largely fell into one of two broad categories. The first encompass contraventions of administrative regulations which set the parameters for recognition, acceptance and desirability. Such reasons might include issues with or inconsistencies in the completion of immigration paperwork, fines or minor misdemeanours such as convictions for speeding. The second, and that more frequently invoked, incorporate histories of political associations or affiliations with state or non-state actors identified as either being terrorist organisations, 'war criminals' or engaged in 'crimes against humanity'. Both, in different ways, work to sustain and enhance structured racialized systems of exclusion, marginalisation and precariousness as they operate through immigration and border control.

In the first set of cases, denial of citizenship on grounds of administrative irregularity and minor criminalised infractions operates as part of the sustained criminalisation of immigration which has involved the merging of the two sets of judicial systems (criminal and administrative) and legal apparatus (criminal and immigration law). In a number of the cases we analysed, the reason for refusal of citizenship was premised on discrepancies in administrative documentation. Xue Zhen Cao arrived in the UK seeking asylum from China in 2003, granted refuge and eventual indefinite leave to remain in 2010 (Xue Zhen Cao v Secretary of State 2015). A two year discrepancy in her date of birth as it was recorded on two separate documents – her birth certificate from China had stated her date of birth as 3<sup>rd</sup> December 1985 and her solicitors had recorded her date of birth on her indefinite leave application as 3<sup>rd</sup> December 1983 – led to a refusal to transfer her indefinite leave to remain stamp onto her newly acquired passport from China when it was eventually acquired in 2010 (in her appeal it was noted that her poor English had inhibited her from checking the application made by solicitors). Her subsequent attempt to apply for citizenship was then refused on these same grounds, where the Home Secretary stated this to be 'a deliberate attempt to mislead government' and was 'not satisfied' that the good character requirement had been met (Xue Zhen Cao v Secretary of State 2015).

In the case of Poloko Hiri, a Botswanan national who served as a member of the British military as a citizen of the British commonwealth, he was denied citizenship because of a speeding infraction which resulted in a fine and points on his licence (Poloko Hiri v Secretary of State 2014). In December 2011 he learned that the Government of Botswana was "rigorously enforcing" the Foreign Enlistment Act 1980, which made it a criminal offence to act in the military service of another country, without the permission of the President and that he would be at risk of prosecution and lengthy imprisonment if he returned to Botswana. Shortly after he applied for naturalized British citizenship and was refused on character grounds, on account of his speeding infraction. As the tenets of crimmigration are extended into the framework of citizenship (Aas 2011), the obstacles which inhibit the granting of secure residency status are given greater permanency, working to restrict access to rights and entitlements for denizens.

At the same time the multiple assumptions in operation which underpin the process, policy stipulations and decision justifications for those denied citizenship on 'not good character' grounds in relation to political affiliations or associations of applicants further a different, but equally significant, set of racialized positions, assumptions and rationalisations. The policy guidance for denying naturalisation for reasons of bad character specifies as one set of grounds for refusal 'involvement' or 'association' with 'war crimes, crimes against humanity or genocide'. Analysis of the actions or behaviours of the individual cases where applicants have been labelled in these terms reveals a more complex story that illustrates both the positing of a unilateral framing of global political violence that elevates the 'West' above 'the rest' and the impossibility of being able to redeem one's character when read in this racialized context.

Dariush Amirifard's story is illuminating here. Conscripted to perform compulsory military service in Iran in 1998, Amirifard was assigned to work as a prison guard where his duties involved escorting prisoners to their execution and where he was a regular witness to torture (Dariush Amirifard v Secretary of State, 2013). His mental health declined as a result and after a year, suffering from depression he absconded. When he was subsequently found and arrested, he was sentenced to military detention for one month, and ordered to undertake an additional four months of conscription. He served half of his military detention before he was given an amnesty.

After 21 months of military service, he was guarding a section of the prison which contained mainly university students detained without trial. When he refused an order to shoot at them, he was threatened by the prison chief, and beaten with a rifle (Dariush Amirifard v Secretary of State, 2013, s.6.6). He managed to escape and eventually made his way to the UK. The reason provided by the Home Office for the refusal of his citizenship stated that he had 'spent a significant period of time working for the Iranian Jail Organisation and it is considered that

[he] were a valued and committed supporter of the regime' (Dariush Amirifard v Secretary of State, 2013, s.13). When his lawyers asked for a review of the decision they were informed that the Secretary of State had 'serious doubts' about Dariush's character 'due to his association with crimes against humanity' (Dariush Amirifard v Secretary of State, 2013, s.19).

Though the Home Secretary did not dispute the Claimant's contention that he 'did not actively participate in human rights abuses', she did conclude that he was 'involved in and associated with' such abuses having been "directly responsible for taking prisoners to their execution", and being 'witness' to the torture of political detainees (Dariush Amirifard v Secretary of State, 2013, s.20).

While such a rationalisation illuminates the constricted nature of the lens through which stark contingencies and extenuating circumstances are evaluated and recognised, there is also an additional point concerning temporality at play in the decision-making process that bases and refuses citizenship on past activities. Not only in Amirifard's case, but in others too, the past is reviewed to sometimes reveal a fatal transgression by the reckoning of the British authorities, but this transgression remains permanent in form. In this sense the rendering of citizenship, when bestowed upon the racially othered figure, only recognises purity, and this purity is not a current condition (what you are doing now) but is also read into the past. The reading and institutionalization of character in this way not only opens up a wide space for enabling citizenship refusal – in many cases where citizenship applications are made by individuals who arrive in the UK via the asylum route there is always the possibility of a background issue relating to some political violence that would not by such standards be considered 'pure' in form – it cements an impossible threshold for non-white denizens, and so augments a racialized construction of citizenship.

Such racially charged dimensions, manifested in terms of group association, are evident too in cases where citizenship refusal on the grounds of being 'not of good character' has been justified in terms of being in the interests of national security.

### **Refusing Citizenship on National Security Grounds**

SIAC decisions are made by three state-selected judges and no jury. The court hears evidence in a mixture of open and closed sessions and decisions can largely be set out in closed judgements but the accompanying open judgements are published on the SIAC website. In the closed sessions appellants and their lawyers are not allowed to see the evidence against them but instead they are assigned a (security cleared) special advocate to represent them, and with whom they are not permitted to communicate once the advocate has been privy to the evidence against them (Kapoor 2018). There had been few deportation cases dealt with

by SIAC before September 2001 but the number of cases escalated significantly post 9/11 (Kapoor 2018).

Analysis of these judgements also indicate the extensive reach of 'character' for deciding applications on citizenship. Sometimes a mark against character related to a direct association with a political organisation identified as 'extreme', irrespective of whether this was past or present. This included being politically involved in a wide range of groups with different ideologies including political parties, resistance groups or anti-regime political factions. Individuals denied under the criteria of bad character include cases of people who were politically active in, or in other ways associated with, such diverse movements as the Iraqi National Congress (INC), the Somalian Al-Shabaab, the Revolutionary Armed Forces of Colombia (FARC), The Kurdistan Workers' Party (PKK) and the Groupe Islamique Armé (GIA). The direct association also included those who were not necessarily part of any movement but for example engaged in preaching 'anti-Western views' (FM v Secretary of State 2015) and making public statements that were 'of an Islamist extremist nature' (AHK and Others v Secretary of State 2013).

The extensive reach of 'not good character' here included 'extremist views' that were not spoken, but implied. One SIAC judgement stated that it considered extremist views 'whether those views are overt or covert' (MSB v Secretary of State 2016, s.59), implying that the thoughts of an individual, where, as the Home Office noted, 'the applicant harboured extremist views and in that silent sense, supported the extremist organisation' (MSB v Secretary of State 2016, p.14) were also to be considered, exemplifying a version of the dogma-line racism in practice that Medovoi (2012) alludes to.

However, the second, and more prominent, reason for 'not good character' citizenship refusals in national security related cases concerns indirect associations. This proceeds on the basis of guilt by association and affects those identified as being connected to others who are considered of 'bad character', here known to security services and/or linked to terrorism-related activity. Resonating with other forms of collective criminalisation, such as Joint Enterprise laws (Williams and Clarke 2016) which operate on the basis of guilt by association, this set of reasonings, whether in the past or the present, come to form the majority of naturalisation refusal cases dealt with by SIAC.

When a person seeking naturalisation completes the application form they are asked to answer three questions regarding involvement in criminal, terrorist or extremist activity, referring to their active association. The third question: "Have you engaged in any other activities which might indicate, that you may not be considered a person of good character?" is considered to be a 'catch-all' question (MNY v Secretary of State 2016). In the case of *AQH*, the Home Office clarified this last question 'was not merely focused on whether the applicant had engaged in terrorist or extremist activity, but was wide enough to encompass association

with terrorists or extremists' (AFA v Secretary of State 2016, s.46). The implication of such a rationale is to effectively expand the scope of who can be criminalised and so refused citizenship on such character grounds. In the case, *ARM v Secretary of State*, the appellant was deemed of bad character because of his association with Abu Qatada. The link was partially made using a newspaper article that pointed to the connection. Despite the magazine later withdrawing this statement and issuing a correction, the article was nevertheless used as evidence (*ARM v Secretary of State* 2016, p.9).

In the same case, in 2016, following challenges to the secrecy around the decision-making process, the Home Office disclosed guidance issued to caseworkers for considering applications where an individual is thought to have association with individuals or groups that are considered 'extremist' (*ARM v Secretary of State* 2016). According to a witness statement, there is 'Closed Home Office guidance entitled Chapter 6 Terrorism' that has, since September 2009, guided case workers on how to assess 'association by an appellant with extremists.' (*ARM v Secretary of State*, p.30). The guidance instructs that in a case when a person has associations with 'such individuals' yet is unaware of their background or activities, they must 'cease that association' once they find out about it.

One of our interviewees, Aaden, was refused citizenship on these grounds, due to his association with others who were identified to be extremist. Aaden had begun attending different talks at diffident mosques in his local area, as part of his own reengagement with his faith and joined a local football team linked to one of the mosques. It was his association with others through the football team that led to his naturalization refusal. He was only made aware that his associates were regarded as being suspicious once he had been refused naturalisation.

In the case of one of the female applicants (*MNY v Secretary of State* 2016), her main association to an Islamic extremist was through her friend, who was the girlfriend of someone who had engaged in terrorism-related activity. Other cases involving women who we interviewed as part of the project reveal the gendered nature of the process where women are made guilty by association through family and marriage. In such cases the guidance instructing case workers which states the applicant should indicate they 'ceased such association as soon as they became aware of the background of these individuals' (*ARM v Secretary of State* 2016 p.32) is near impossible to achieve when associations are based on family connections.

The issue of temporality that plays out in the broader immigration cases is consistent in the way it manifests itself in national security cases. In cases where association had ceased some time ago such as in the cases of HN's past political activism in Colombia (*HN v Secretary of State* 2015), SA's past association with the PKK (*SA v Secretary of State* 2016) or AQH's past expressed support of Islamic Courts in Somalia (*AQH v Secretary of State* 2016), the Home

Office nevertheless based their decision on ‘the activities both past and present’ as is often the standard phrase used in letters of citizenship refusal sent to individuals (see *MNY v Secretary of State* 2016).

The Home Office guidance goes on to suggest caseworkers look for ‘suggestions’ that the applicant may have signalled ‘their implicit approval of the views and nature of these individuals’ extremist activities/background’. Here another point connected to the issue of temporality is at play since the caseworker is urged to review how long the association with an ‘extremist’ person may have lasted, noting the ‘longer the association, the more likely that the applicant is aware of/approves of the activities and views’ (*ARM v Secretary of State* 2016, p.31). In the cases of women married to men deemed to be ‘extremist’, an implicit approval might simply be the fact of their marriage. The longer the couple have been married, the more she is assumed to approve of her partner’s activities.

While past transgressions and present/past associations are cemented in the decision-making process around character the point that Medovoi (2012) makes about having to continuously prove one’s ‘conversion’ is materialised in the state demands around surveillance, which requires that suspect communities (Hillyard 1993) continuously prove their ‘good character’. The guidance to caseworkers suggests that where there are concerns related to terrorism, those seeking to become British citizens should also demonstrate a willingness to engage in everyday policing of the people around them. The guidance states that a person might be able to satisfy the good character requirement if they ‘presented strong evidence of choosing such associates with the aim of trying to moderate their views and/or influence over others’ (*ARM v Secretary of State*, p.8). By the same logic applications should be refused if the applicant associated with individuals who had ‘extremist views’ but did not show evidence of a willingness to engage in moderating their views.

The emphasis on community self-policing is further expressed and elaborated upon through SIAC judgements in relation to appellant interactions with MI5. In a number of the SIAC cases individuals who were refused talked of several ways in which the MI5 were implicated in their naturalisation refusals. AQH said in a witness statement that ‘he does not know why he did not satisfy the requirement of good character but believed that it was linked to his refusal of working for the MI5’ (*AQH v Secretary of State* 2016). Another (MSB) argued that the evidence relating to his character were obtained by the Home Office through informants in the community. Aaden too was informed by security services that British citizenship would be made available if he agreed to work for them.

## **Conclusion**

Managing citizenship through an assessment of ‘character’ functions as a way of sustaining the racialized dynamics of the nation-state, creating a durability to the precarious status of ‘non-citizens’ whilst also enhancing the armory of disciplinary practices available to the state



for potential use against ‘failed citizens’. The character threshold constitutes a new set of restrictions and constraints upon the life and opportunities of the non-white denizen.

Where Britain’s colonial and imperial history has been critical for shaping access to citizenship as a privileged legal status, it is contemporary race and imperialist politics, materialised in terms of immigration and counter-terrorism policing, that shape the borders, boundaries and qualifications to citizenship in the present. While discourses of nativism and indigeneity remain an underlying thread that inform nationalist ideas of belonging and are institutionalised through immigration policy and whose citizenship is always in question, the supplementary logic of character and associated notion of criminality are becoming increasingly critical to materialising racialized exclusions, creating additional thresholds to bar against non-white denizens.

Though there are specific ways in which the assessment of character is invoked against different cohorts of immigrants and asylum seekers, the flexibility and expansive nature of criminalisation attached to the concept paves the way for an enduring shift in hegemonic political narratives of what citizenship is or ought to be. Since the sin that is harboured (Medovoi 2012) within these transgressive subjects can be related to ‘deception or dishonesty’ in the immigration process, the political violence of the context from which they have sought refuge in Britain, or indirect associations with others deemed to be of ‘bad character’, the stipulations for redemption emphasise the need to continually prove moderation of oneself as well as the views or behaviours of others. Citizenship is much more starkly presented not as an unconditional entity, but a privilege continuously open to reassessment. The mobilisation of character readings in these ways not only opens up a wide space for enabling citizenship refusal, it also cements an impossible threshold for non-white denizens, and so augments a racialized construction of citizenship.

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## References

- AA v Secretary of State (2015) Special Immigrations Appeals Commission, SN/10/2014.
- Aas K.F (2011) 'Crimmigrant' bodies and bona fide travelers: Surveillance, citizenship and global governance. *Theoretical Criminology*. 15(3): 331-346.
- AFA v Secretary of State (2016) Special Immigrations Appeals Commission, SN/56/2015.
- Agamben G (1998) *Homo sacer: Sovereign power and bare life*. Stanford: Stanford University Press
- AQH v Secretary of State (2016), Special Immigrations Appeals Commission, SN/46/2015.
- ARM v Secretary of State (2016), Special Immigrations Appeals Commission, SN/22/2015.
- Alexander C (2000) *The Asian Gang: Ethnicity, identity, masculinity*. London: Berg.
- AHK and Others v Secretary of State (2013) EWHC 1426 (Admin), Royal Courts of Justice.
- Anderson B (2013) *Us and Them? The Dangerous politics of Immigration Control*. Oxford: Oxford University Press.
- Bhambra G (2015) Citizens and Others. The Constitution of Citizenship through Exclusion, *Alternatives: Global, Local, Political*, 40(2): 102-114.
- Blinder S (2017) 'Naturalisation as a British Citizen: Concepts and Trends', *The Migration Observatory*, Oxford, 18 July 2017.
- Byrne B (2017) Testing Times: The Place of the Citizenship Test in the UK Immigration Regime and New Citizens' Responses to it. *Sociology* 51(2): 323-338.
- Cockbain E (2013) Grooming and the 'Asian sex gang predator': the construction of a racial crime threat, *Race and Class*, 54(4): 22-32.
- Cao v Secretary of State for the Home Department (2015) EWHC 286.
- CARF Collective (1981) Background: British Racism. *Race & Class*, 23(2-3): 232-244.
- Dariusz Amirifard v Secretary of State for the Home Department (2013) EWHC 279.

Davis A.Y (1997) Race and Criminalization. Black Americans and the Punishment Industry. In Lubiano, W (ed.) *The House that Race Built*, New York, NY: Vintage Books, 264-279.

De Genova N (2007) The production of culprits: From Deportability to Detainability in the aftermath of Homeland Security, *Citizenship Studies*, 11(5): 421-448.

Du Bois W. E. B. (2004) The Negro and the Warsaw Ghetto. In: Zuckerman, P (ed.) *The Social Theory of W. E. B. Du Bois*, Thousand Oaks, CA: Pine Forge Press, 45 – 46.

Espinoza M.V, Sandelind, C and Ghráinne, B. N (2017) “Safe return review” refugee policy: counter-productive and morally indefensible, *LSE British Politics and Policy Blog*, 25 May 2017. [www.blogs.lse.ac.uk/politicsandpolicy/safe-return-review-refugee-policy/](http://www.blogs.lse.ac.uk/politicsandpolicy/safe-return-review-refugee-policy/)

Fekete L (2009) *A suitable enemy: Racism, migration and Islamophobia in Europe*. London: Pluto Press.

FM v Secretary of State (2015) Special Immigrations Appeals Commission, SN/2/2014.

Gilroy P (1987) *There ain't no black in the Union Jack. The cultural politics of race and nation*. New York: Routledge.

Green D MP (2009) HC Public Bill Committee Debate, col.132, 16 June 2009.

Goldberg D.T (1993) *Racist Culture: Philosophy and the Politics of Meaning*. Oxford: Wiley.

Goldberg David. T. (2002) *The Racial State*. Oxford: Wiley.

Hall S, Clarke J, Critcher C, Jefferson T and Roberts B (1978) *Policing the Crisis: Mugging, law and order and the state*. Hong Kong: The MacMillan Press Ltd.

Hillyard P (1993) *Suspect community: People's experiences of the Prevention of Terrorism Act*. London: Pluto.

HN v Secretary of State (2015) Special Immigrations Appeals Commission, SN/9/2014.

Home Office (2008) *The Path to Citizenship. Next Steps to reforming the Immigration System, Government Response to Consultation*, London: Home Office.

Home Office (2013) *Nationality Policy Guidance and Casework Instruction. Chapter 18, Annex D: The Good Character Requirement*, Version 4.0, London: Home Office.

Home Office (2017) 'General Grounds for Refusal. Section 4 of 5: considering leave to remain', London: Home Office.

House of Commons (2009) Borders, Citizenship and Immigration Bill [Lords] Deb, 16 June 2009, c132.

Joint Committee on Human Rights (2004) *The Nationality, Immigration and Asylum Act 2002 (Specification of Particularly Serious Crimes) Order 2004. 22<sup>nd</sup> Report of Session 2003-2004*. HL Paper 190 HC 1212.

Kapoor, N (2018) *Deport, Deprive, Extradite: 21st Century State Extremism*. London: Verso.

Kapoor, N & Narkowicz K (2017) Unmaking citizens: passport removals, pre-emptive policing and the reimagining of colonial governmentalities. *Ethnic and Racial Studies*, DOI: 10.1080/01419870.2017.1411965.

Kundnani A (2007) *The End of Tolerance*. London: Pluto Press.

Lentin A, Titley G (2011) *The Crises of Multiculturalism: Racism in a Neoliberal Age*. London: Zed Books.

McGhee D (2009) The paths to citizenship: a critical examination of immigration policy in Britain since 2001. *Patterns of Prejudice*, 43(1): 41-64.

Medovoi L (2012) Dogma-Line Racism: Islamophobia and the Second Axis of Race. *Social Text* 30, 2(111): 43-74.

MNY v Secretary of State (2016) Special Immigrations Appeals Commission, SN/53/2015.

MSB v Secretary of State (2016) Special Immigrations Appeals Commission, SN/41/2015.

Osler A (2009) Testing citizenship and allegiance: Policy, politics and the education of adult migrants in the UK. *Education, Citizenship and Social Justice* 4(1): 63-79.

SA v Secretary of State (2016) Special Immigrations Appeals Commission, SN/24/2015.

Schuster L (2011) Turning refugees into 'illegal migrants': Afghan asylum seekers in Europe. *Ethnic and Racial Studies*, 34(8):1392-1407.

Sivanandan A (1981) From resistance to rebellion: Asian and Afro-Caribbean struggles in Britain. *Race & Class*, 23(2-3):111-152.

Tyler, I (2013) *Revolting Subjects: Social abjection and resistance in neoliberal Britain*. London: Zed Books.

Williams P, Clake B (2016) *Dangerous Associations: Joint enterprise, gangs and racism*, *Centre for Crime and Justice Studies*  
<https://www.crimeandjustice.org.uk/publications/dangerousassociations-joint-enterprise-gangs-and-racism>

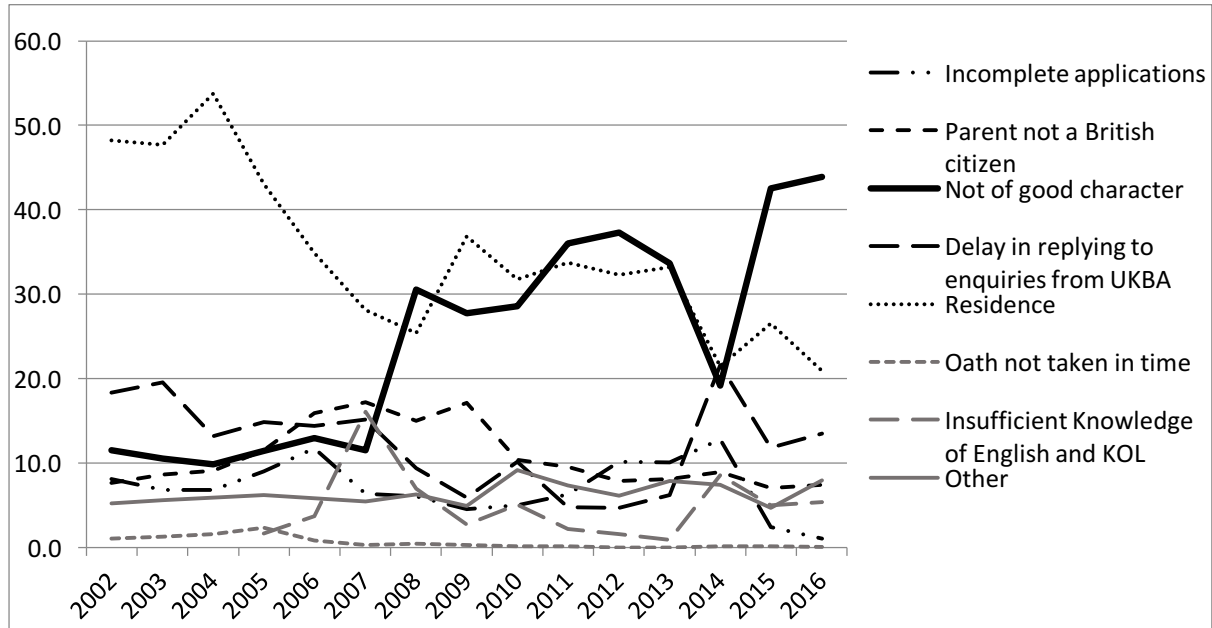
Woolas P. (2009) HC Public Bill Committee Debate, col.135, 16 June 2009.

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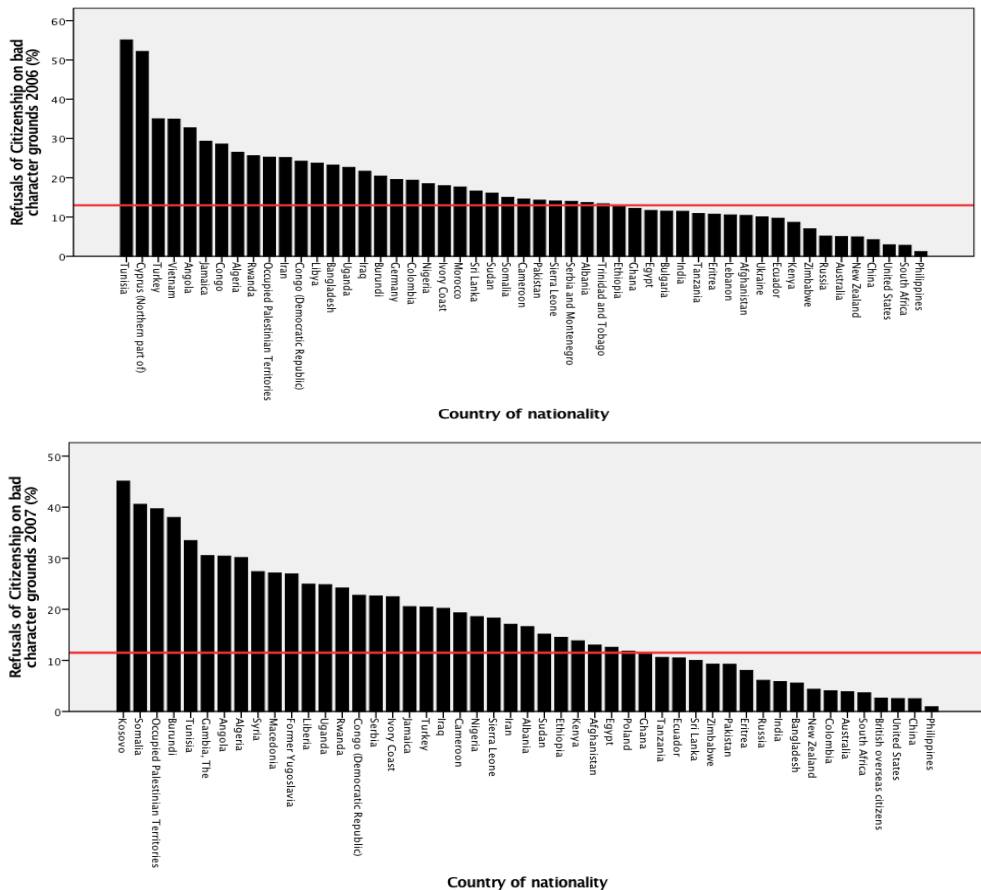
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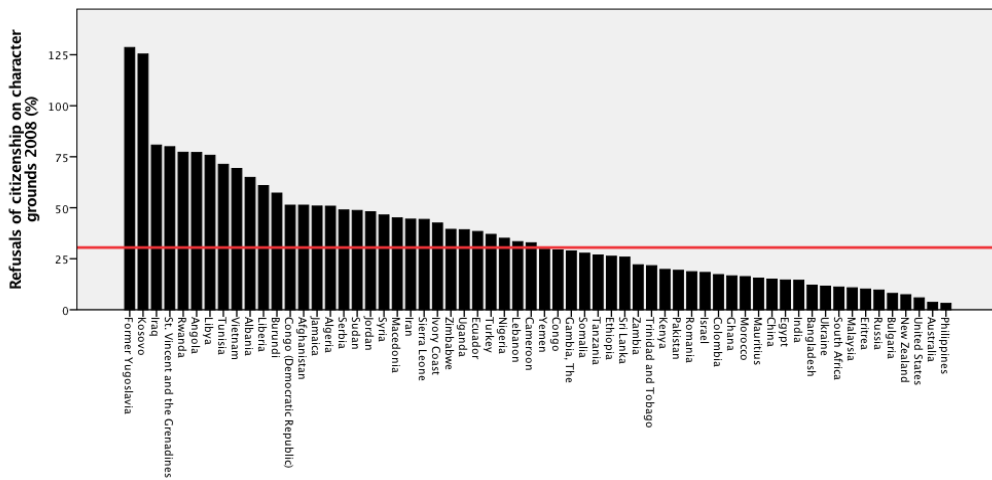
**Figure 1: Reasons of Refusal for Naturalised Citizenship 2002-2016**



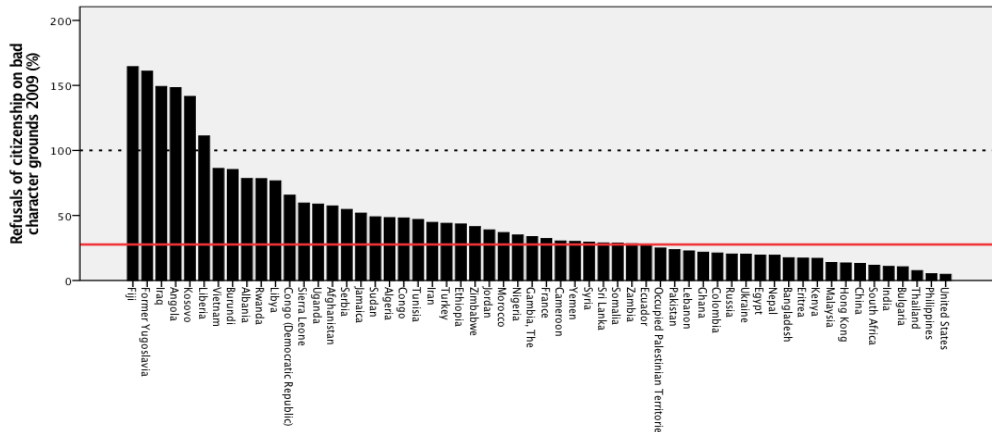
Source: Home Office Citizenship Tables: cz\_09. Refusals of Citizenship by Reason

**Figure 2 – Percentage of People Refused Naturalised Citizenship on Grounds of Bad Character by Country of Nationality**

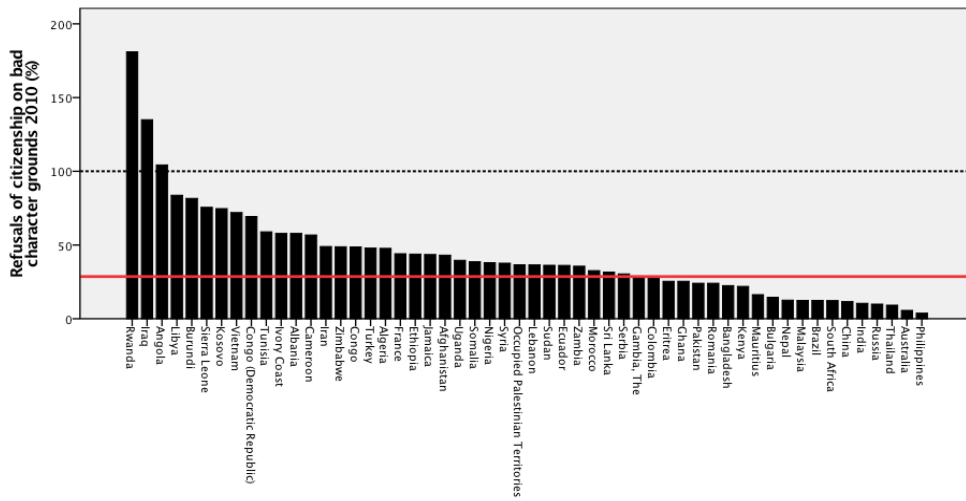




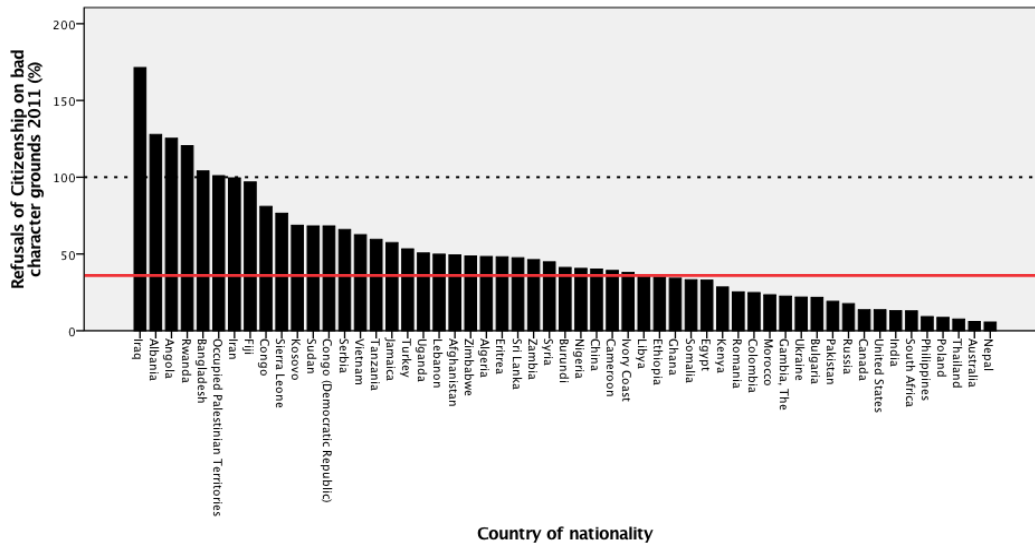
Country of nationality



Country of nationality



Country of nationality



Source: Home Office Citizenship Table cz-01qa-Citizenship Applications by Country of Nationality 2016; Home Office FOI Response 26908, 25 April 2013.