



**THE REPATRIATION PROBLEM: COMPARING  
AMERICAN AND BRITISH EFFORTS TO SECURE THE  
RETURN TO WOMEN AND CHILDREN FOLLOWING  
THE FALL OF THE ISLAMIC STATE OF  
IRAQ AND SYRIA (ISIS)**

**BY**

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## ABSTRACT

This independent study provides a comparative study of American and British approaches to the issue of repatriating women and children from detention camps in Northern Syria following the fall of the Islamic State of Iraq and Syria (ISIS). While the United States has been proactive in repatriating American citizens from Northern Syria, the United Kingdom has taken a much harsher stance, instead choosing to deny repatriation to most women and children, with minor exceptions. The United Kingdom has also gone as far as revoking citizenship from former British citizens, even in cases where the individual has been rendered stateless. This difference is notable, given the historically close relationship between the U.S. and the U.K., their shared democratic institutions and values, and near lock-step cooperation in the “Global War on Terror.” This research explores the underlying reasons for this divergence in approaches by undertaking a comparative study of secondary sources. It was found that the differing security contexts between the U.S. and the U.K. appeared to have the most influence over how each country approached the issue of repatriating women and children. It has also been found that while Islamophobia is prevalent in both countries,

it appears to have had a much greater effect on repatriation policy in Britain, while it does not appear to have exerted any influence on American repatriation policy.

**Keywords:** Repatriation, ISIS, United States, United Kingdom, Women and children, Security perspectives, International human rights law, Citizenship, Rights of the Child, Islamophobia.



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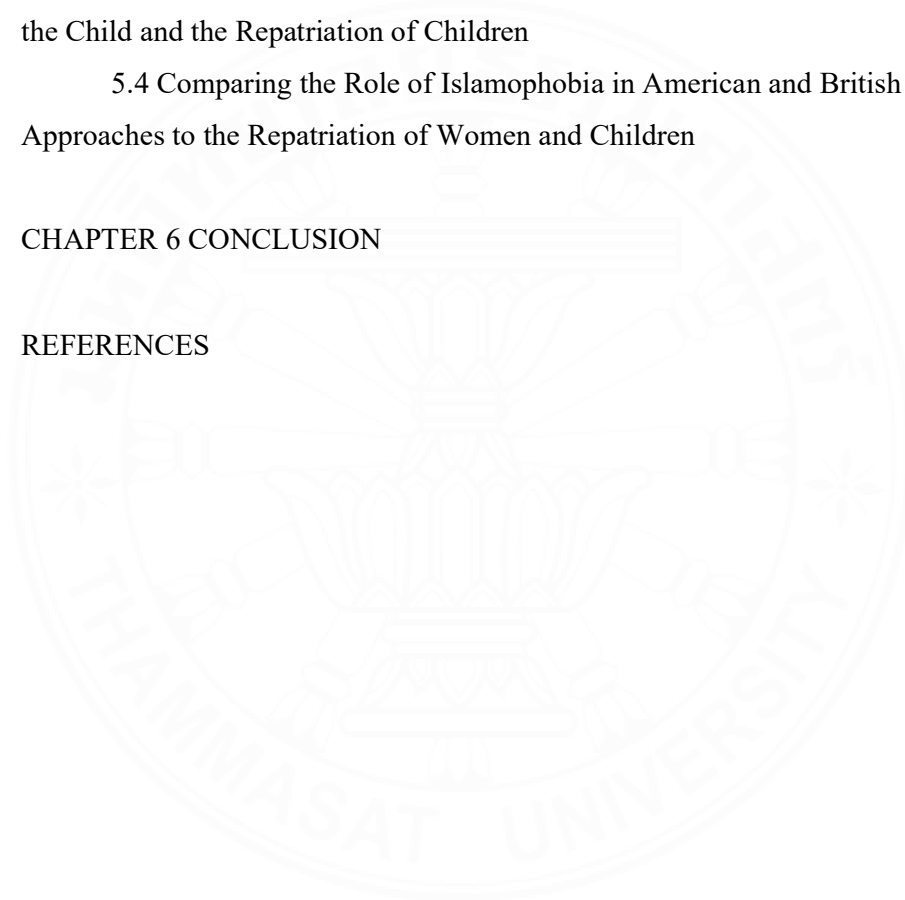
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## CHAPTER 1

### INTRODUCTION

#### 1.1 Background

Between 2014 and its final military defeat in the Spring of 2019, nearly 30,000 male fighters had travelled from outside of Syria and Iraq to join the Islamic State of Iraq and Syria (ISIS) and its self-proclaimed “Caliphate.” While most of these foreign fighters hailed from countries in the Middle East and North Africa, others had travelled from Western states, Southeast Asia and Europe (Benmelech & Klor, 2016). Hundreds of foreign women were also enticed to join ISIS, which included approximately 500 women from Western countries (Spencer, 2016; Malik, 2015). Many of these women travelled willingly, as they were attracted to ISIS propaganda and the notion that they could live in a truly Islamic society (Perešin, 2015). Others were forced or tricked by their husband or other male relatives to travel (Barrett, 2017).

Once ISIS began to lose its last swath of territory in late 2018, ISIS fighters were captured and held in detention centres, numbering approximately 8,000-9,000 as of December 2020 (Jeffrey, 2020). Meanwhile, approximately 65,000 of their family members (i.e. women and children) are being detained separately (Heimerback, 2021). The vast majority of these family members are being held in the Al-Hol camp in Northern Syria. Although it had originally been used as a refugee camp for displaced Syrians and Iraqis, in December 2018 Al-Hol saw its population balloon from 9,000 to 63,000 (Zelin, 2019). As the Islamic State began to lose its last remaining territory in Baghuz, ISIS family members fled the fighting or were captured by Kurdish forces and placed in Al-Hol (Zelin, 2019). Nearly 41,000 of Al-Hol’s residents are children under the age of eighteen (Luquerna, 2020). Of the 63,000 Al-Hol detainees, 9,000 are non-Iraqi and non-Syrian citizens, 7,000 of whom are children (Luquerna, 2020). Conditions within Al-Hol, particularly as they pertain to children, are dire. This is due to the lack of clean water, food, education, adequate shelter, or functioning sewage system (Ní Aoláin, 2020; De Azevedo, 2020). As a result, many children have died of malnutrition and disease, with an average of two children dying every week (De



Azevedo 2020; *France repatriates 51 children*, 2022). In addition, the camp has been plagued with violence, as pro-ISIS women within the camp mete out physical punishments, including murder, for un-Islamic behaviour (Vale, 2019; McKernan 2019).

Despite the squalid and dangerous conditions within these camps, many governments, particularly in the West, have resisted repatriating their citizens, including women and children. The reaction of non-Western states has been overall better than their Western counterparts, with some exceptions. Russia and many Central Asian states have either made concerted efforts or have successfully repatriated their citizens from Syria (Bagheri & Bisset, 2022). In East Asia, Malaysia and Indonesia are the two nations most affected by their citizens travelling to join the Islamic State. Approximately 100 Malaysian citizens travelled to join the group, while Indonesia saw between 800 and 1,000 of its citizens travel to join the fight (El-Muhammady & Schonveld, 2020). Malaysia has actively sought to bring home Malaysian ISIS fighters and their families (Dass & Singh, 2022). Meanwhile, Indonesia has yet to decide how to deal with its citizens being detained in Syria, while there is ongoing debate regarding women and children (El-Muhammady & Schonveld, 2020).

However, the reaction of Western states to the plight of their citizens has been overall inadequate. While the United States (U.S.) has shown a strong commitment to repatriating its citizens, they are the exception rather than the rule amongst its Western allies. In 2019, then-U.S. President Donald Trump scolded France and Germany for failing to repatriate their citizens from Syria (“Trump threatens to release IS captives”, 2019). By October 2020, the United States Department of Justice (DoJ) announced that it had repatriated all American citizens known to be held by the Kurdish-led Syrian Democratic Forces (SDF), and urged other nations, “to take responsibility for their citizens” (U.S. Department of Justice, 2020). The U.S. Secretary of State repeated this sentiment in 2021 when he urged countries, “to repatriate, rehabilitate and, where applicable, prosecute its citizens” (Wintour, 2021). Concerning children within these camps, the commander of U.S. Central Command indicated he was concerned that children within the Al-Hol camp were at risk of radicalization by pro-ISIS individuals within the camps (Wintour, 2021).

Conversely, most U.S. allies in the West have either made half-hearted efforts to repatriate their citizens, or outright refuse to seek their return. For example, despite the presence of 47 Canadian citizens in Syrian camps, 26 of whom were children under the age of six (Jones, 2020), as of September 2021 Canada had not repatriated any of its citizens, except for two children and a woman, the latter of which was immediately placed under peace bond (Burke, 2021; Bell, 2022). Canadian Prime Minister Justin Trudeau offered a somewhat flimsy rationale for Canada's lack of action on the matter by citing the inability of Canadian officials to offer any consular assistance in Northern Syria (Jones, 2020). It was not until December 2022 that Canadian authorities began the process of repatriating 19 Canadian women and children from Syria (Bronskill, 2022). Similarly, in Western Europe, France has had the largest contingent of foreign fighters travel to join the Islamic State of any country in the European Union (Barrett, 2017), but had only sought the return of women and children on a slow-moving case-by-case basis ("France repatriates 51," 2022). France only recently signalled a policy shift in July 2022 by repatriating 35 French minors and 16 mothers, with the mothers being handed over to French authorities to face judicial proceedings ("France repatriates 51," 2022).

The most commonly cited rationale for failing to repatriate citizens has been the potential threat posed to national security when these individuals return (Widagdo et al., 2021). France and the United Kingdom (U.K.) have indicated that local laws will make it difficult to pursue criminal charges against ISIS supporters (Widago et al., 2021). This is due to several reasons, including the difficulty of collecting evidence in Syria and Iraq which adheres to domestic evidentiary standards, a lack of prioritization of evidence collection for women in the Islamic State, and a poor understanding of the roles women may have held in the Caliphate (Davis, 2020). Failing to prosecute ISIS supporters is likely to be politically unpopular and would amount to "political suicide" for many leaders (Hassan, 2021; Widago et al., 2021). For example, in 2020 the issue of repatriating women and their children from Syria triggered the fall of the government in Norway, as well as a political backlash against Finland's pro-repatriation Foreign Minister (Noack, 2020; Renard & Coolsaet, 2020).

For its part, the U.K. has taken one of the harshest stances against seeking the return of its citizens from Northern Syria. Although initially non-committal on the

issue immediately following the fall of the Caliphate, the U.K. eventually refused to repatriate any of its citizens (Widago et al., 2021). The U.K. had taken steps to repatriate several British children from Syria in late 2019 (Townsend, 2019), citing the fact that the children being repatriated were orphans (Sabbagh, 2022). However, as of February 2022, approximately twenty British families are believed to still be located in detainment camps in northern Syria (Begum, 2022). It was not until October 2022 that the U.K. allowed a single British woman and her child to return to the U.K. from Syria, citing the fact that the woman was “a victim of trafficking, taken to Syria by a male relative when she was a young girl” (Sabbagh, 2022). However, as of October 2022, approximately 60 Britons, including 35 children, continue to be held in indefinite detention in Syria (Sabbagh, 2022). The U.K. has also taken the extraordinary step of revoking U.K. citizenship from dozens of individuals associated with the Islamic State (Shipman et al., 2019). The most notorious of these cases is that of former British citizen Shamima Begum, whose case will be discussed in detail below.

## 1.2 Research Question

Scholars have previously noted that the U.S. and U.K. hold vastly different views regarding the repatriation of women and children from Syria (International Crisis Group, 2019). This difference is notable, given the particularly close relationship between the U.S. and the U.K. Both countries publicly note that they “have no closer ally” than the other, and have the “world’s strongest bilateral defence and security partnership” (U.S. Department of State, n.d.-b; U.K. Ministry of Defence, 2021). Britain has also acknowledged that its “pre-eminent defence and security relationship [is] with the U.S.” (Blount, 2013), while also acting in near lock-step with the U.S.-led “global war on terror” by enacting strong anti-terror laws (Honeywood, 2016). However, the U.S. and U.K. are more than merely strong military allies. Both countries share fundamental traits that extend beyond enduring defence and political ties. Along with their shared democratic institutions and independent judiciaries, each country has experienced historical struggles for citizenship rights amongst various marginalized groups that sought to acquire equal legal standing. While the level of expansion of social rights varies between the U.S. and the U.K., the protection of civil and political rights in both countries is nevertheless “a bedrock institution” (Landman, 2007). The

collaboration and mutual support between the U.S. and the U.K. since the mid-19th century has also led to both countries being leaders in the construction of international law across a variety of policy areas, most notably that of international human rights (Landman, 2007). The U.S. and the U.K. are not merely heavily allied countries but share broadly comparable democratic institutions and involvement in constructing the international human rights order.

This raised the question of why these countries have taken such opposing positions toward the repatriation of their own citizens from Syria. While this discrepancy had previously been noted, to date there had not been a fulsome examination of precisely why the U.S. and the U.K. have taken such different approaches to the same issue. Research on the issue of women and children detained in Northern Syria had instead focused on the potential security threat posed by women who joined ISIS (Spencer, 2016; Davis, 2020; Barrett, 2017), the illegality of failing to repatriate women and children under international human rights law (Hare-Osifchin, 2021; Widago et al., 2021), the additional obligations states have to repatriate children under international human rights law (Ní Aoláin, 2020; Renard & Coolsaet, 2020; Bagheri & Bisset, 2022; Luquerna, 2020; Houry et al., 2019), the political risk of repatriating women associated with ISIS, particularly in Western Europe (International Crisis Group, 2019), and the role of gender and Islamophobia in influencing Western public opinion against repatriating women from Syria (Martini, 2018; Jackson, 2021). However, there had not been a detailed examination of precisely which variables have led the U.S. to abide by international humanitarian law in this matter, while the U.K. does not.

The primary question that this independent study sought to answer is, in comparing the U.S. to the U.K., precisely which variables can best explain their different applications of international humanitarian law to the issue of repatriating women and children from Northern Syria? And amongst these variables, which one exerts the greatest effect on the issue of repatriation? In order to answer the question of why these countries have taken such opposing positions toward the repatriation of their citizens, this independent study undertook a comparative study of the U.S. and the U.K. as it related to the repatriation of women and children from Northern Syria by identifying potential variables which can best explain each country's differing positions

on this issue, as well as which variable appears to exert the greatest effect on the differing outcomes. Based on the available literature on the subject of detained women and children, several variables were identified as having the potential to explain the difference in approaches. These potential variables were identified as the difference in each country's national security context, differences in each country's approach to international humanitarian law such as the right to citizenship or the rights of the child, and the role of Islamophobia and depictions of Muslim women in news media in each country.

In assessing which of these variables had the greatest effect on repatriation, it was found that the differing security contexts between the U.S. and the U.K. appeared to have the most influence over how each country approached the issue. This was due in part to the American assessment of the long-term impacts of leaving citizens abroad in Northern Syria, as well as the relative ease of convicting women associated with ISIS. In comparison, their British counterparts are more focused on the short-term security threat associated with allowing British women and children to return, as well as the difficulty of convicting women for terrorist offences in the U.K. Conversely, each country's approach to international humanitarian law (IHL) as it concerns the right to citizenship and the rights of the child do not appear to influence how each country has handled repatriation. For example, the U.K. has pursued a much more hardline approach to the revocation of citizenship than the U.S., despite the fact that the concept of citizenship became securitized and contested in both the U.S. and the U.K. following the 9/11 and 7/7 attacks. Similarly, a comparison of each country's approach to the rights of the child shows that the U.K.'s repatriation policy overwhelmingly neglects the rights of British children despite the fact that it is a signatory to the UN *Convention on the Rights of the Child* (CRC). Meanwhile, the U.S. is the only country that has not signed the CRC, yet it advocates for a repatriation policy that is far more likely to ensure the child's best interests. Finally, while Islamophobia became widespread in both countries following the 9/11 and 7/7 attacks, it appears to have had a much greater effect on repatriation policy in Britain, while it does not appear to have exerted any influence on American repatriation policy.

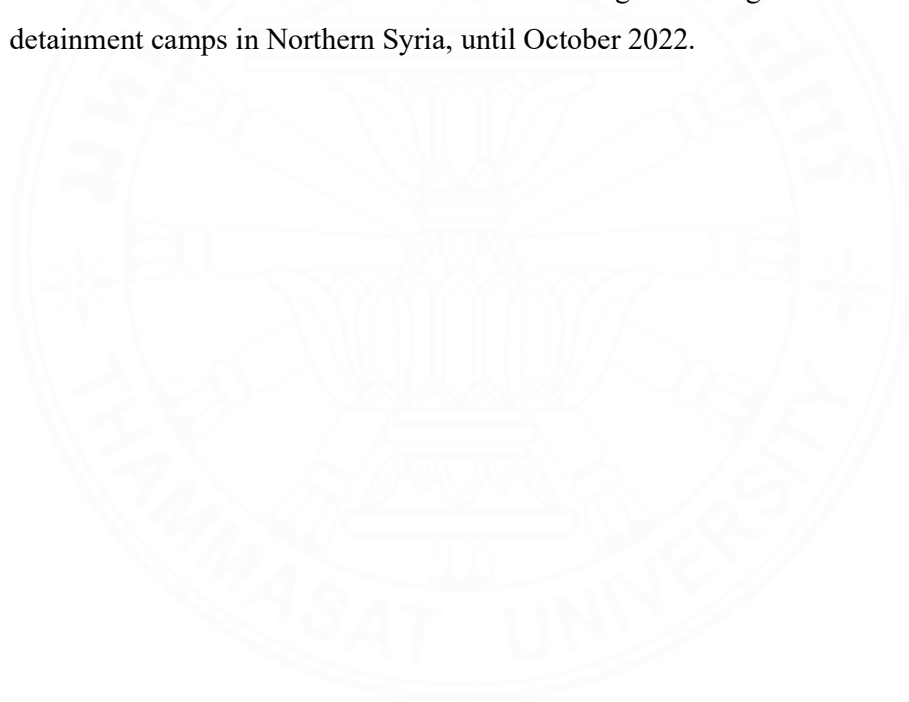
## **CHAPTER 2**

### **SCOPE & METHODOLOGY**

This comparison study focused on the U.S. and the U.K. for two reasons. First, despite the fact that dozens of countries have been affected by this issue, the vast differences in legal structures and laws, security services, cultural perceptions, levels of democracy and observance of international human rights law amongst the affected states make it nearly impossible to examine and compare their various foreign policy approaches in a systematic manner. Second, as noted above, the U.S. and the U.K. are not only heavily allied but are similar in several fundamental respects, particularly in relation to each country's status as Western, liberal democracies with independent judiciaries based on the rule of law. Therefore, the divergent positions these two countries took toward repatriating their own citizens presented an intriguing paradox. While the U.S. has been relatively quick to secure the return of its citizens and has vocally reprimanded its allies in Western Europe for failing to do the same, the U.K. has taken a harder line against repatriating its citizens, and in doing so violates international humanitarian law. Therefore, the objective of this study was to ascertain the reasons for this significant discrepancy.

Similarly, this study focused on the return of women and children associated with ISIS, rather than male members of ISIS. This is primarily due to the fact that male members of ISIS overwhelmingly acted as combatants within the Islamic State, and as such, represent a more tangible national security threat. As combatants, men may also be liable to face criminal charges concerning war crimes, crimes against humanity, or terrorism-related offences. Women, on the other hand, represent a more nebulous security threat as non-combatants within the Islamic State. While admittedly some women have played a more active role in the group, many women were little more than housewives for their husbands who fought on behalf of ISIS (Hare-Osifchin, 2021). Therefore, the threat these women pose to their host nations is debatable. As for children, international human rights law is unequivocal that the failure to repatriate children is a violation of not only their right to citizenship, but their rights as stipulated under various international agreements and covenants concerning the rights of the child.

This comparative study has been executed by undertaking a qualitative analysis of secondary sources, such as peer-reviewed journal articles, edited academic books, grey literature such as government press releases, public statements by U.S. and U.K. officials, and published works by recognized international governmental and non-governmental organizations. This included databases such as JSTOR, Academic Search Ultimate, Scopus, SAGE Journals, and Research Gate for peer-reviewed literature. Grey literature such as press releases, interviews and news articles were retrieved using LexisNexis and Google News, while INGO publications such as UN declarations were retrieved using the UN Official Documents System. Search criteria included the keywords ISIS, ISIL, Daesh, or Islamic State, as well as women, children, minors, citizenship and repatriation. The period under analysis fell from December 1st, 2018, when ISIS-associated women and children began fleeing to Al-Hol and other detainment camps in Northern Syria, until October 2022.



## **CHAPTER 3**

### **FINDINGS: COMPARING U.S. AND U.K. CONTEXTS AND APPROACHES**

In order to assess the influence of the identified variables on each country, this study is structured by using a side-by-side comparison between the U.S. and the U.K. of how each of the above-noted variables identified during the previous literature review affects the country's repatriation policy: As such, the findings are outlined below by providing a comparison between the following variables: a) American versus British security contexts, b) American versus British approaches to citizenship, c) American versus British approaches to the rights of the child, and d) the potential role of Islamophobia in influencing each country's repatriation policy.

#### **3.1 The American Security Context**

Following the September 11th attacks in 2001, the U.S. became a significantly harder target for religiously-motivated extremist groups. While Al Qaeda had once prioritized direct attacks against the United States and the West, the American focus on bolstering their counterterrorism and intelligence capabilities allowed them to successfully disrupt and prevent terror attacks, forcing the threat from the global jihadist movement to shift in new directions (Zimmerman, 2021). As the U.S. eventually became a harder target to attack directly, ISIS leader Abu Bakr al Baghdadi instead prioritized the "near war" in Muslim-majority states in the Middle East over the "far war," seeking to inspire, rather than direct, attacks in the West (Zimmerman, 2021). As such, neither Al Qaeda nor ISIS has been able to successfully direct an attack against the U.S. homeland since 9/11 (Bergen et al., 2017). Rather, the U.S. experienced several attacks by individuals or small groups who had no known direct link to ISIS or its online networks, but who were instead "inspired" by ISIS propaganda to commit acts of violence (Bergen et al., 2017). The most lethal of these "inspired" attacks was the June 2016 mass shooting in Orlando, Florida by Omar Mateen, an individual who had pledged allegiance to ISIS, which killed 49 people at a nightclub catering to the gay



community (Bergen et al., 2017). As outlined below, this is in contrast to Europe and the U.K., which have experienced attacks directed by ISIS Core or close affiliates (Bergen et al., 2017).

Overall, U.S. authorities assess that ISIS detainees pose a greater threat to the United States and its allies if they are left in the custody of the Kurdish SDF, and hence should be repatriated and prosecuted domestically. One reason for this assessment is the Kurdish SDF's capacity to effectively control the detainees in their custody. In the absence of any formal agreement among the affected nations on how to deal with ISIS detainees, the Kurdish-led authorities in northern Syria have adopted their own strategies for dealing with foreign detainees. While Syrian nationals will often be transferred to local ad hoc counter-terrorism courts, known as the People's Protection Courts, the Kurdish authorities have not prosecuted any foreigner accused of ISIS membership (Houry et al., 2019). Their position is that foreigners are a burden, and they are a "legal and logistical challenge. As much as possible, we try to contact their countries usually through the civilian administration. We are ready to hand them over. But many countries do not want to take them back" (Houry et al., 2019, p. 62). U.S. authorities have noted that the Kurdish forces guarding ISIS detainees are strained, particularly at the Al-Hol camp, and cited this as an additional rationale for nations to repatriate their citizens (Noack, 2019). The Americans fear that the Kurdish-run detention camps were at risk of seeing an increased number of escapees, or that the Kurdish guards would be overrun, was noted in 2019 when then-U.S. President Trump warned his European counterparts that "The U.S. does not want to watch as these ISIS fighters permeate Europe, which is where they are expected to go" (Noack, 2019, para. 2). The strain placed on Kurdish forces only increased in October 2019 when Turkey, fearful of Kurdish SDF fighters amassing near its southern border, invaded northern Syria and forced the SDF to divert fighters away from the detention camps to stall the Turkish incursion (Mogelson, 2020).

U.S. officials have also voiced concerns that allowing individuals to remain in detainment camps, particularly children, runs the risk of spreading ISIS' message and indoctrinating more individuals to their cause, allowing the group to survive and propagate as a terrorist entity despite the loss of its territory in Iraq and Syria. At its height, ISIS recognized the value of children to the group's cause and invested in its

young members, catering to their needs and potential (Van der Heide & Alexander, 2020). ISIS viewed the indoctrination of children as a strategic and long-term investment that would continue to promote ISIS ideology (Mulroy et al., 2020). While female children were often sexualized by the group, ISIS viewed male children as tools to promote terrorism (Alsaleh, 2019). These so-called “Cubs of the Caliphate” were indoctrinated in ISIS ideology and trained as potential fighters and suicide bombers (Alsaleh, 2019). ISIS is estimated to have indoctrinated and trained approximately 1,100 children as “Cubs,” many of whom were believed to have come from outside of Syria and Iraq (Mulroy et al., 2020). Minors already living within the Caliphate were often recruited by ISIS to engage in activity on behalf of the group using multiple incentives, such as family pressure, offering an escape from family problems, a desire for social status, or religious indoctrination (Alsaleh, 2019). Despite the fall of the Caliphate and the deaths of many of its members, the threat of children being indoctrinated into ISIS ideology has not abated. A large segment of female detainees within the Al-Hol camp has maintained “fanatical” pro-ISIS views (De Azevedo, 2020), and have resorted to increasing levels of violent punishments within the camps for infractions such as immodest attire, expressing anti-ISIS views, and engaging with aid-workers, lawyers, or journalists (Vale, 2019). As of August 2019, at least two women were reportedly murdered by radical female detainees within Al-Hol (McKernan, 2019). The continued presence of pro-ISIS ideologues within the Al-Hol camp, combined with the poor living conditions and lack of formal educational resources for children within the camp, has raised fears that children will be particularly vulnerable to being radicalized while they remain in Al-Hol, and that the longer they remain, the less likely the potential for them to be de-radicalized upon their return (Alsaleh, 2019).

The U.S. has cited the potential radicalization threat within Al-Hol as one of the motivating factors for demanding that countries repatriate their citizens. Circa October 2022, Army Gen. Michael “Erik” Kurilla, the commander of U.S. Central Command, noted that the Al-Hol camp “is a literal breeding ground for the next generation of ISIS...ISIS seeks to exploit these horrific conditions” (Kube & Lee, 2022, para. 9). American authorities have voiced specific concerns that the thousands of children in Al-Hol are especially vulnerable to being recruited by ISIS or forced to join

(Kube & Lee, 2022). Recognizing the long-term security threat posed by leaving detainees, particularly children, in the Al-Hol camp, the current Biden administration has proactively sought to assist countries in repatriating their citizens. For example, the Biden administration is offering other countries support for repatriating their citizens, such as helping verify detainee identities, providing advice about rehabilitation and deradicalization, talking through legal challenges and offering logistical support, such as transporting Al-Hol residents out of northeast Syria on U.S. military aircraft (Kube & Lee, 2022).

In terms of its capacity to handle repatriating its citizens, the United States also had relatively fewer foreign fighters to contend with in comparison with the U.K. Approximately 300 Americans travelled to join ISIS, in comparison with approximately 850 Britons (Cook & Vale, 2018). Therefore, there is less burden placed on American national security and law enforcement resources to track, investigate or potentially prosecute returnees (Cook & Vale, 2018). Given that a fraction of those who travelled were female (an estimated 1 in 7) (Bergen et al., 2015), along with the fact that many, if not the majority of, Americans are believed to have died in Iraq and Syria (Wright, 2019), the U.S. has fewer cases of female returnees to process in comparison to their European counterparts. The U.S. has successfully prosecuted multiple American returnees, including women. For example, American citizen Allison Fluke-Ekren was sentenced to 20 years in prison for organizing and leading an all-female military battalion in Syria on behalf of ISIS (U.S. Department of Justice, 2022). Former Indiana resident Samantha Elhassani was sentenced to six and a half years in prison after being convicted of financing terrorism, further to Elhassani having travelled to join ISIS in 2015 with her husband and brother-in-law (Hassan & Green, 2020).

It should be noted that the U.S. faces fewer legal challenges than many other governments in prosecuting people associated with ISIS and obtaining stiff penalties for individuals found to have been a member or provided support to the group, thanks in part to American anti-terror laws whereby even travelling to ISIS territory as a trailing spouse is considered a criminal act (International Crisis Group, 2019). Additionally, the U.S. enjoys great flexibility in the use of intelligence as evidence (Manget, 2006). Since the 9/11 attacks in 2001 and the enactment of *The Patriot Act*, the barriers between law enforcement and intelligence collection, and the use of

intelligence information as evidence and vice versa, have been eroded. The U.S. government's attempts to address terrorism after 2001 have been a multi-pronged approach involving the intelligence community, law enforcement agencies, diplomatic corps, and military entities (Manget, 2006). "There is very little call (if any) that a wall should be maintained or resurrected between law enforcement and intelligence activities. In fact, just the opposite is the case. Every major recent review of U.S. intelligence policy and organization has called for increased information sharing, unity of command and control, and removal of barriers to joint and complementary action among U.S. government departments and agencies. The wall is gone" (Manget, 2006, p. 420). American authorities, therefore, have more information at their disposal to assist in the prosecution of returnees.

### 3.2 The British Security Context

Britain has a long history of attempting to counter terrorist activities. While the term 'terrorism' was not formally defined under British law, legal limits to civil liberties intended to curb "subversive" activities were first codified in the 1700s, while the 20th century saw various legal attempts to curb the Irish Republican Army's "terror offensive" in the United Kingdom via the *Prevention of Violence Act* (1938) and later the *Prevention of Terror Act* (1974) (Honeywood, 2016). Following the September 11th attacks in 2001, the U.K. quickly updated its *Terrorism Act* (2000), and following the 7/7 London attacks of 2005, a "litany" of anti-terror laws were introduced in the U.K. which human rights commentators immediately "denounced as draconian and ill-balanced due to their wide-reaching capabilities and the potential for such laws to encroach on civil liberties, including the right to privacy and freedom of speech" (Honeywood 2016, p. 29).

In contrast to the American experience which saw individuals inspired by ISIS ideology commit attacks, Europe and the U.K. have experienced terror attacks that were attributed to individuals or groups either trained and directed by ISIS Core, or a close affiliate. This includes the November 2015 attacks in Paris which killed 130 people and the March 2016 attacks in Brussels which killed 32 (Bergen et al., 2017). In May 2017, a British citizen killed 22 people in Manchester, England after he detonated a bomb at an Ariana Grande concert. Two years prior in 2015, the perpetrator of the

Manchester attack had met in Libya with members of ISIS' Battar Brigade, which had also played a key role in planning the 2015 Paris attacks (Bergen et al., 2017). Attacks in Europe have not only been perpetrated by men directly associated with ISIS. In 2016, three French women were arrested outside of Paris after a failed attempt to bomb Paris's Notre Dame Cathedral. One of the women had been engaged to two French extremists, both of whom had undertaken ISIS-inspired attacks within France (Chrisafis, 2016).

Unlike the U.S., the U.K.'s opposition to repatriating its citizens stems partly from the fundamental belief that former members of ISIS pose less of a threat to the U.K. if they are left abroad in Syria (International Crisis Group, 2019). British authorities have not only taken a hard political line against the repatriation of its citizens, but they have also sought to codify their opposition to seeking the return of British citizens. For instance, as the foreign fighter phenomenon became a more pressing issue circa 2014, Britain took additional steps to prevent the travel and return of British citizens seeking to travel abroad to Syria and Iraq in support of the Islamic State. In 2015, the *Counter-Terrorism and Security Act* received royal assent, which provided several measures aimed in particular at individuals seeking to join the Islamic State (Honeywood, 2016). The *Counter-Terrorism and Security Act* permitted British authorities the right to, among other measures, obtain Temporary Exclusion Orders (TEO) against British citizens. A TEO allowed the British government to prevent anyone suspected of engaging in terrorism from returning to the United Kingdom for a period of up to two years, and the TEO could be renewed once the two-year period had expired (Counter-Terrorism and Security Act, 2015). This provision not only runs the risk of imposing statelessness on British citizens but also risks subjecting Britons to torture and mistreatment by regional authorities and security services, thereby contravening the U.K.'s obligations under the *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Honeywood, 2016, p. 40).

Even beyond TEOs, the U.K. has taken the drastic step of revoking citizenship from former British nationals detained in Syria. In the case of the detainee and former dual British-Canadian citizen Jack Letts, the U.K. government revoked his British citizenship in 2019 due to Letts' membership in ISIS, forcing Letts to rely on his Canadian citizenship to seek a path out of Kurdish custody ("Jihadi Jack,' stripped

of U.K. citizenship”, 2019). In 2018, the U.K. also removed the citizenship of Alexandra Kotey and El Shafee Elsheikh, two of a group known as the “Beatles” by their captives, who are now being held by the United States (Dworkin, 2019). However, in the case of detainee Shamima Begum, the revocation of her British citizenship in 2019 on national security grounds has rendered Begum entirely stateless (“Who is Shamima Begum”, 2021). It should be noted, however, that the U.K. is not alone in resorting to revoking citizenship from former nationals detained in Syria. In 2016, the U.S. revoked the passport of Alabama-born Hoda Muthana, who currently resides in Al-Hol with her son. Rather than revoking Muthana’s citizenship as the U.K. did Begum’s, the U.S. took the unorthodox position that Muthana had never been an American citizen in the first place, noting that Muthana’s citizenship was in question given her father’s potential status as a Yemeni diplomat at the time of her birth in the U.S. (Shaub, 2019). However, it would appear that Muthana’s case is more similar to that of Letts, Kotey and Elsheikh in that each may still claim citizenship outside of the U.K., while Begum remains without citizenship entirely. The U.K. and U.S. approach to citizenship rights and the cases of Hoda Muthana and Shamima Begum will be explored below in greater detail.

So why do British authorities see a greater threat in repatriation? First, British authorities have noted that individuals who were not only drawn to ISIS’ message but also remained within the Caliphate as it fell are likely to represent some of the group’s most radicalized and committed elements. Alex Younger, the former Director of the British Secret Intelligence Service (SIS/MI6) noted that returnees “are likely to have acquired the skills and connections that make them potentially very dangerous” (Dworkin, 2019, p. 6). This view was also held in relation to female ISIS members. While women may have initially been viewed as victims of male relatives or recruiters, the attitude toward them, particularly in Europe, became hardened as less sympathetic (Houry et al., 2019). After 2016, women were found to have participated in ISIS-inspired attacks in Europe, leading European security officials to reassess the role of women in the Caliphate, noting that they were not limited to being housewives, with some participating in recruitment (Houry et al., 2019).

Additionally, while the U.S. saw long-term peril in leaving children in detention in Syria, the U.K. appears to take a more short-term view of the threat. As

ISIS began to disseminate images of its “Cubs of the Caliphate” and “soon-to-be child martyrs” engaged in combat training and suicide operations, many outsiders’ perceptions of these children shifted from that of victims to predators, with the view that ISIS had turned these children into “gullible ideologues” who would undertake terrorist violence on behalf of the group (Alsaleh, 2019). U.K. authorities have voiced concerns about the ideological commitment and skills British children would have acquired while living in Syria and Iraq under the Caliphate, and whether they constitute a potential threat (Alsaleh, 2019).

Regarding the likelihood of prosecuting British ISIS returnees, it would appear that the U.K. enjoys a similar legal milieu to that of their American security and intelligence counterparts when it comes to sharing intelligence with law enforcement agencies and prosecutors. After decades of living in a serious threat environment, British national security, law enforcement and legal authorities have developed a “relatively transparent and seamless model of cooperation” to migrate intelligence to evidence for enforcement and prosecutorial purposes, so much so that it is the standard practice in the U.K. for law enforcement agencies to share all terrorism-related information with MI5 (Murray & Huzulak, 2021).

Nevertheless, unlike their American counterparts, the U.K. authorities still face considerably more hurdles in successfully prosecuting British returnees, an effort that becomes even more difficult when prosecuting women who largely acted as non-combatants. The issue does not seem to necessarily stem from the inability to use classified information in prosecuting female returnees. Rather, it appears to be the fact that, despite British anxieties around the security threat posed by women previously associated with ISIS, current U.K. anti-terror legislation imposes much lighter sentences on those who have provided support to terror groups, rather than engaging directly in violent activity on behalf of the group. Notwithstanding the issues of evidence collection or using intelligence information, male fighters who have committed offences like torture, murder and sexual violence could theoretically be prosecuted and imprisoned long-term in their home countries (International Crisis Group, 2019). While the U.K. has revised its anti-terror laws to allow prosecution for less serious terrorist offences, such as providing material support or membership, these often come with shorter custodial sentences and can be more difficult to prove



(International Crisis Group, 2019). Given that women were generally barred from combat roles under ISIS and were more likely to engage in activities such as fundraising, propaganda and recruitment (Barrett, 2017; Hare-Osifchin, 2021), women in the U.K. may face very little, if any, time in prison for their membership or activities in support of ISIS (International Crisis Group, 2019). Given the above-noted concerns regarding women as hardened ISIS ideologues, the failure to prosecute female returnees and impose stiff custodial sentences on them appears to be a decidedly problematic proposition for the U.K. authorities.

### **3.3 American Approaches to Citizenship and International Humanitarian Law (IHL)**

One of the most contentious issues concerning the repatriation of detainees and their children concerns the rights of citizenship and the state's right to revoke citizenship from former nationals. Given the above-noted difficulties some countries face in pursuing criminal prosecutions of returning ISIS members, many affected states are turning to more administrative avenues to reprimand these individuals (Paulussen, 2021). The revocation of citizenship rights by Western democracies in recent decades represents a grievous erosion of the right to be secure in one's citizenship, a principle which has been a cornerstone of the postwar European liberal political order, and of the international community's commitment to IHL (Weil & Handler, 2018). Indeed, the right to citizenship is arguably one of the most crucial human rights. In *The Origins of Totalitarianism*, Hannah Arendt famously argued that citizenship "is the right to have rights" (Arendt, 1951/2017; Paulussen, 2021). Critics of "denaturalization" powers note that any such process to revoke citizenship is deeply problematic, as it creates two classes of citizenship, where foreign-born individuals are treated differently than U.S.-born citizens since foreign-born individuals can have their citizenship revoked (Semotiuk, 2018).

Scholars have debated at length about what responsibilities are associated with the legal status of citizenship, a debate that has become even more pressing in the post-9/11 American and British context (Herzog, 2011). The notion of "citizenship" and what rights it confers on an individual is often articulated in relation to the



conception of citizenship and nationhood in any particular country. That is, “the regulations responsible for the entrance into and inclusion of new members in the national community are dependent on the understanding of who should belong to the national ‘we’ and who should not” (Herzog, 2011, p. 78). The very definition of “citizenship” is highly contested, and often has competing and contradictory meanings ranging from “a purely legal/bureaucratic term, to an indicator of status, a form of identity, a normative desideratum, or a set of practices” (Herzog 2011, p. 79). Citizenship is also a constantly changing institution, contingent on historical struggles and contested by various political organizations regarding both the access to it and the type of privileges and obligations it entails (Herzog, 2011; Novak, 2022).

In the post-9/11 security environment, the terms of citizenship were re-centred around public security in the U.S. (Masters & Regilme, 2020). Inevitably, the reconceptualization of American citizenship capitalized on fears and insecurities regarding terrorism, using “us vs. them” and “with us or against us” rhetoric to legitimize the of breaching basic human rights (Regilme, 2018). With the erosion of human rights in post-9/11 America, citizenship became “weakened” as due process rights were similarly diminished (Jarvis & Lister, 2013). Citizenship continued to be a highly contested concept during the Trump administration. Early policies in the Trump administration targeted citizenship issues, such as instituting a travel and immigration ban on countries with large Muslim populations, eliminating birthright citizenship for some groups and supporting Immigration and Customs Enforcement (ICE) raids (Novak, 2022).

With the ascendancy of ISIS circa 2013-2014, both the U.S. and the U.K. sought to expand their government’s ability to revoke citizenship. In the case of the U.S., American citizens must renounce their citizenship in order to have it officially revoked or have been found to have committed fraud during their immigration process (U.S. Citizenship and Immigration Services [USCIS], n.d.). However, certain actions may also be considered to constitute a renouncement of American citizenship, such as committing an act of treason against the U.S. or voluntarily serving in the armed forces of a foreign state engaged in hostilities against the United States (U.S. Department of State, n.d.-a). In 2014, as citizens from multiple foreign countries were travelling abroad to Syria and Iraq to join ISIS, politicians in the U.S. proposed new legislation,

under the *Terrorist Expatriation Act* and later as the *Expatriate Terrorists Act*, that sought to expand the government's ability to strip citizenship from terror suspects (Sykes, 2016). Senator Ted Cruz, in support of the *Expatriate Terrorist Act*, sought to frame citizenship as conditional on conduct by arguing that joining ISIS constituted a deliberate renunciation of American citizenship (Sykes, 2016). Cruz argued that "congress should make fighting for or supporting ISIS an affirmative renunciation of American citizenship" (Cruz, 2014, para. 6). However, the *Expatriate Terrorists Act* was not passed (Sykes, 2016). Therefore, while the U.S. currently possesses the ability to revoke citizenship, the process is difficult and contemporary examples of the denaturalization of American citizens are rare (Asad, 2020).

As noted above, with specific reference to female ISIS members, the U.S. has successfully revoked citizenship from one woman, American-born Huda Muthana. In fact, Muthana is the only American citizen to have lost their citizenship further to their affiliation with ISIS (Benton & Banulescu-Bogdan, 2019). In 2014, Muthana left her home in Alabama at the age of 20 to join ISIS and later had a child with one of its fighters (Laughland, 2023). Muthana and her young son are currently detained at Camp Roj in Northern Syria (Laughland, 2023). Muthana was accused of voicing "enthusiastic support" for the group on social media by calling on Americans to join the group and carry out attacks in the U.S., although Muthana claims that her phone was confiscated following her arrival in Syria and that the tweets had been sent by other ISIS supporters (Laughland, 2023). In 2016, the Obama administration revoked Muthana's American citizenship (*Alabama Woman Who Joined IS*, 2023). Given the narrow set of circumstances under which the U.S. government can revoke citizenship, U.S. officials argued that Muthana had in fact *never* been an American citizen, a move that constituted "a rare revocation of birthright citizenship" (*Alabama Woman Who Joined IS*, 2023). The State Department argued that Muthana's citizenship was void and that her U.S. passport had been issued in error because her father was living and working in the U.S. as a diplomat on behalf of Yemen prior to her birth (Kennedy, 2019). For families of diplomats, citizenship isn't automatically conferred on babies born in the U.S. because of diplomatic immunity (Kennedy, 2019). The Trump administration maintained the same stance as the Obama administration and barred Muthana from returning to the United States (Laughland, 2023). In January 2022, the

U.S. Supreme Court declined to consider Muthana's lawsuit seeking the right to re-enter the United States, leaving Muthana and her son stranded in Northern Syria for the foreseeable future (Laughland, 2023).

Critics of the U.S. government's treatment of Muthana describe the situation as setting a "terrifying" precedent for American immigrants (Calamur, 2019). "Immigrants have prized American citizenship because, among other things, it accords their U.S.-born children the same rights and opportunities as other native-born Americans. It also offers the protection of the rule of law that their home countries sometimes lack. Muthana's case illustrates how illusory those protections could be" (Calamur, 2019, para. 8).

### **3.4 British Approaches to Citizenship and International Humanitarian Law (IHL)**

Much like the U.S., the U.K. reoriented its citizenship laws following the 7/7 London attacks in 2005 and viewed citizenship with consideration of security implications (Masters et al., 2020). This also resulted in the curtailing of human rights in the name of security, as successive British Prime Ministers David Cameron, Theresa May, and Boris Johnson, as well as their respective Home Secretaries, spoke on the need to swap human rights with security (Masters et al., 2020). Britain has become the "outlier" amongst Western democracies, even in the post-9/11 security environment, in pursuing denaturalization at a much higher rate than other Western countries. While the U.S. has pursued denaturalization in rare instances, since 2006 the U.K. has revoked the citizenship of at least 373 Britons, at least 53 of whom have had alleged links to terrorism. This is more than the total number of revocations by Canada, France, Australia, and the Netherlands combined (Weil & Handler, 2018). Prior to 9/11, revocation powers had not been used in the UK since 1973 (Sykes, 2016). In fact, Britain has revoked citizenship from more people than any other country besides from Bahrain in the past decade (Institute on Statelessness and Inclusion, 2022). In 2014 the U.K. approved legislation specifically aimed at individuals who had travelled to Syria and Iraq that allowed the Home Secretary to strip citizenship from terror suspects and prevent them from returning to their native countries (Sykes, 2016). These powers were

successfully passed as part of the Immigration Act, which enabled the government to revoke citizenship in some cases, even if it results in statelessness (Sykes, 2016).

The U.K.'s willingness to render an individual stateless violates several fundamental principles of IHL. While under international law, states have the right "to determine under its own law who are its nationals," IHL provides for the right to a nationality and the right not to be arbitrarily deprived of their nationality (Institute on Statelessness and Inclusion, 2022). For example, Article 15 of the *Universal Declaration of Human Rights* expressly states that everyone has the right to a nationality and that no one shall be arbitrarily deprived of their nationality nor denied the right to change their nationality (United Nations, 1948). Therefore, in determining who constitutes a citizen, states are obligated to ensure that domestic laws on the acquisition, loss or denial of citizenship are consistent with the general principles of IHL (United Nations High Commissioner for Refugees, 2004).

The UK Government's current position on British citizenship is that it "is a privilege, not a right," according to the Home Office briefing on the proposed changes to the 2014 law, implying that citizenship carries with it an expectation of loyalty to the state, and makes citizenship more broadly conditional on good behaviour (Sykes, 2016). British citizenship is also entangled with popular notions of what it means to be "British." Britain has embedded notions of hierarchical human rights through the concept of "Britishness," an attribute that has become unattainable to anyone who does not fit the dominant gendered and racialized archetype of a "true" British citizen. (Masters et al., 2020). Perhaps unsurprisingly, critics have noted that the U.K.'s denaturalization efforts in recent years have been aimed almost exclusively at Muslims, mostly of South Asian heritage (Sidiqqe, 2022). In their 2022 report on British denaturalization, the Institute of Race Relations (IRR) commented, "The message sent by the legislation on deprivation of citizenship since 2002 and its implementation largely against British Muslims of South Asian heritage is that, despite their passports, these people are not and can never be 'true' citizens, in the same way that 'natives' are. While a 'native' British citizen, who has access to no other citizenship, can commit the most heinous crimes without jeopardizing his right to remain British, none of the estimated 6 million British citizens with access to another citizenship can feel confident in the perpetual nature of their citizenship" (Sidiqqe, 2022, para. 4-5). Interestingly,

research on state approaches to repatriation has found that the countries which pursued unconditional repatriation were generally younger states (founded after 1991) in the Balkans and Central Asia, the possible explanation being that younger countries, such as Kosovo and Uzbekistan, are still attempting to define their national identities and would therefore have broader and perhaps looser conceptions of citizenship (Stenger, 2022). This strongly contrasts with the highly entrenched and racialized concept of “Britishness.”

As noted above, with specific reference to female ISIS members, the U.K. took the extraordinary measure of revoking British citizenship from Shemima Begum. In 2015, Begum travelled from the U.K. to Syria as a teenager and has now effectively been rendered stateless by the U.K.’s decision to revoke her citizenship (*Who Is Shamima Begum*, 2021). In defending their position, the British Home Office argued that Begum would not be rendered stateless, as she is eligible for Bangladesh citizenship via her parents, despite Begum having never visited the country or held a Bangladeshi passport (Sanchez, 2021). However, the government of Bangladesh has indicated that Begum is not a Bangladesh citizen and will not be welcome in the country, instead noting that “the British government is responsible for her,” leaving Begum to face indefinite detention in Syria by Kurdish forces (Sanchez, 2021). British Home Secretary Sajid Javid has since stated that he would not “hesitate to prevent” the return of Britons who travelled to Syria to join the Islamic State, and by the 20th of February 2019, the Home Office had notified Begum’s family that her British citizenship would be revoked (*Shamima Begum*, 2019; Schwartz, 2019). Begum became the first-ever British woman stripped of her citizenship on national security grounds (Masters et al., 2020). Now 23 years old and confined to Camp Roj in Northern Syria, Begum had three children while in Syria, all of whom have since died (Topping, 2023). As of January 2023, Begum’s lawyers continue to challenge the U.K.’s decision, arguing that as a 15-year-old at the time of her departure from Britain, Begum should be considered a victim of child trafficking and sexual exploitation (Topping, 2023; Weaver, 2022). Begum’s case illustrates the extraordinary lengths the U.K. government resorted to in order to prevent the return of British ISIS affiliates from Syria. Along with ignoring IHL principles on the right to citizenship, the Begum case is an example of how citizens from marginalized backgrounds, such as racial, ethnic and religious

minorities, see their welfare and human rights brushed aside by a state security-oriented approach to citizenship (Masters et al., 2020).

### **3.5 American Approaches to the Rights of the Child and the Repatriation of Children**

While the universal standard for human rights was enshrined by the United Nations in the 1948 adoption of the *Universal Declaration of Human Rights*, the universal rights of children are specifically protected under the UN *Convention on the Rights of the Child* (CRC), adopted in 1989, which recognizes the particular dependence and vulnerability of children (UNICEF, 2023). The CRC was later complimented by the *Optional Protocol on the Involvement of Children in Armed Conflict* (2002), which seeks to protect children from recruitment and use in hostilities (UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 2023). However, international recognition that particular care needs to be extended to children has existed prior to 1989, as it has been stated in the *Geneva Declaration of the Rights of the Child* (1924) and the *Declaration of the Rights of the Child* (1959), as well as within various statutes and instruments of specialized agencies and international organizations concerned with the welfare of children (UN Office of the High Commissioner of Human Rights, 2023). The articles listed in the CRC are meant to follow four core principles of the convention; Children's right to non-discrimination, the best interests of the child, children's right to survival and development, and the right of children to, when capable and given due weight in accordance with their age and maturity, express their own views freely in all matters affecting them (UNICEF, 2019a). In the context of children currently detained in Northern Syria, several CRC articles are relevant. First, Article 1 of the CRC states that "a child means every human being below the age of eighteen years." As such, any individual under the age of 18 in a conflict zone must be viewed as a victim, rather than as a combatant, and must be afforded special protections (Ní Aoláin, 2020). Article 6 of the CRC states that "States Parties recognize that every child has the inherent right to life (...) States Parties shall ensure to the maximum extent possible the survival and development of the child." Further to this, Article 37 states, "No child shall be subjected

to torture or other cruel, inhuman or degrading treatment or punishment (...) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.” There is no doubt that the poor conditions within the camps in Northern Syria, particularly within Al-Hol, violate children’s right to life and survival, while the lack of access to food, clean water, shelter, basic sanitation, as well as their exposure to violence, illness and premature death would doubtless qualify as cruel and inhuman punishment (Ní Aoláin, 2020). Continued detention in Northern Syria, without the prospect of release or repatriation, clearly violates a child’s right against arbitrary detention “for the shortest appropriate period of time.” Clearly, the failure of states to repatriate children constitutes a gross violation of the fundamental rights and protections extended to children under the CRC and other applicable statutes. The CRC emphasizes that children are children first and foremost, not child soldiers, child refugees, child terrorists or “ISIS children” (Korhonen & Halme-Tuomisaari, 2022).

Interestingly, the U.S. is the only country which has not ratified the CRC (UNICEF, 2023). Although the U.S. participated in the drafting process of the CRC and became a signatory in 1995, the U.S. Senate proved to be highly hostile toward ratification (Kilbourne, 1999). American opposition to ratifying the CRC is concentrated primarily among conservative Christian organizations which view the CRC as a “dangerous attack on parents’ rights in the United States,” an interpretation of the CRC which is based on a general misunderstanding among these groups on several articles of the CRC (Kilbourne, 1999). More recently, the issue of border migration has further impeded the potential ratification of the CRC in the U.S. In 2018, the U.S. was heavily criticized by the UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein, further to the Trump administration’s policy of deliberately separating children from their parents who had been found crossing the southern border illegally, resulting in the separation of thousands of children from their parents (Galbraith, 2018). Al Hussein condemned the deliberate separation of migrant children from their parents, a clear violation of Article 9 of the CRC, and encouraged the U.S. to finally ratify the CRC in order to ensure the fundamental rights of all children (Galbraith, 2018). However, to date, this has not come to fruition.



While the U.S. remains the only country which has not ratified the CRC, American authorities have been vociferous in their demands that countries repatriate children. This appears to stem more from long-term American security concerns, rather than seeking to uphold children's rights and protections. As noted above, the U.S. has cited the security risk presented by allowing children to remain in camps such as Al-Hol. Given the horrible conditions within the camp and their ongoing exposure to extremist ideologues within the camp, allowing children to remain in detention risks their indoctrination into ISIS ideology and potential recruitment by remaining elements of the group (Kube & Lee, 2022).

### **3.6 British Approaches to the Rights of the Child and the Repatriation of Children**

Unlike the U.S., in December 1991 the British government ratified the CRC (Lansdown et al., 1996). By ratifying the CRC, the U.K. agreed that public bodies must consider the best interests of the child when doing anything that affects children (Equality and Human Rights Commission (UK), 2023). However, the UK has been criticized for its ongoing non-compliance with the CRC, although Scotland and Wales have shown higher levels of compliance than England and Northern Ireland (Gray, 2022). The U.K.'s overall inability to fully comply with the CRC is attributed to a lack of political will and low prioritization of children's rights, as well as resource barriers (Gray, 2022). Like the U.S., the U.K. government's asylum policy and handling of illegal immigration often fail to uphold the principles of the CRC. Investigations into the Home Office's handling of child migrants have found that its institutional practices often violate the rights of children, particularly those of unaccompanied minors who account for approximately 10% of asylum seekers who arrive in the U.K. each year (Campbell, 2020). Practices such as interviewing children shortly after they have been intercepted by the police when they are exhausted and disoriented, or using the initial asylum screening interview to obtain information to decide the child's claim rather than assess the child's needs clearly subordinates the "best interests" of the child to immigration control (Campbell, 2020).



With specific reference to children currently detained in Northern Syria, the U.K. has continued to follow policies which are in non-compliance with the principles of the CRC. The stated policy of the British government with respect to the repatriation of British children is that it will facilitate the return of unaccompanied or orphaned children on a case-by-case basis and subject to national security concerns (Allen, 2021). This policy not only subordinates the best interests of the child and their right to life and survival to national security interests, but it is also a clear violation of Article 9 of the CRC against the deliberate separation of children from their parents. The fact that the U.K. has articulated a willingness to repatriate unaccompanied or orphaned children perhaps illustrates the fact that British authorities have fewer concerns with repatriating the children themselves, and are rather more focused on the larger implications of allowing the return of children in the company of their mother. The Kurdish SDF will not permit the separation of children from their mothers against the mother's wishes, therefore it is highly unlikely for a child to be repatriated without their parent unless they have been orphaned (Bagheri & Bisset, 2022). Repatriating children may therefore represent a "Pandora's box" for authorities, whereby the mothers of children within Syrian detention camps are considered to have been radicalized, potentially constituting a threat to the receiving state (Bagheri & Bisset, 2022). Hence why, as noted above, the few British children to be repatriated from Syria have been orphans (Sabbagh, 2022).

The rights of the child not only apply to minors who were born to British citizens while living within the Caliphate or while in detention. The rights of the child are also applicable to British citizens who travelled to join the Islamic State while under the age of 18. Under IHL, girls under the age of 18 who travelled to join could arguably be classified as child soldiers (Bisset, 2019). Many girls under the age of 18 travelled to join the Caliphate after being radicalized and recruited through the internet and social media, with the result that many were sexually exploited as "wives" of Islamic State fighters and often bearing multiple children (Bisset, 2019). Under Article 39 CRC and Article 6 of the *Optional Protocol on Children in Armed Conflict*, states should approach children who commit crimes while associated with armed groups as victims, with a focus on restorative justice and social reintegration (Bisset, 2019).

The legal status of children becomes more complex when individuals who had travelled to join the Islamic State as minors, but subsequently turn 18 while in

custody, with the result that the international legal protections extended to children cease to apply once they reach adulthood (Bisset, 2019). This is illustrated by the case of Shamima Begum. Her lawyer has highlighted that Begum was 15 years old when she left the U.K. after being subjected to extensive propaganda and later subjected to sexual exploitation. Begum was “persuaded, influenced and affected with her friends by a determined and effective [ISIS] propaganda machine (...) [Begum was] recruited, transported, transferred, harboured and received in Syria for the purposes of sexual exploitation” (Weaver, 2022). Begum, who lived the majority of her time under the Islamic State as a child, is now 23 years old and therefore no longer falls under any of the legal regimes protecting children, despite the fact she could be considered to have fallen under the definition of a child soldier (Bisset, 2019). While they may have side-stepped the issue by revoking Begum’s citizenship, the U.K. will still have to grapple with the fate of children without dual nationality who were born to British citizens within the Islamic State (Bisset, 2019).

### **3.7 The Role of Islamophobia in America Approaches to the Repatriation of Women and Children**

The term “Islamophobia,” defined as “an unfounded fear of Islam. . . [and therefore] fear or dislike of all or most Muslims” was first coined fairly recently in 1997 (Ali, 2012). While the rise of Islamophobia, particularly in the U.S., is strongly associated with public reactions to the 9/11 attacks in 2001, the roots of anti-Muslim sentiments pre-date 2001. In the 1980s and 1990s, Orientalist tropes which had previously focused specifically on “Arabs” as the archetypal Other had begun to widen and compass Muslims as a whole (Ali, 2012). That is to say, in the 1990’s Islam, rather than “Arabness,” became the primary target of “Othering.” It was around this time that theorists such as Samuel Huntington and Bernard Lewis published highly-publicized and provocative essays (*The Clash of Civilizations* and *The Roots of Muslim Rage*, respectively) which depicted Islam as highly traditionalist and regressive, and therefore antithetical to Western secularism and modernity (Ali, 2012). Following the 9/11 attacks in 2001, the “Othering” of Muslims in the U.S. was cemented by fierce anti-Muslim rhetoric from segments of the American public and authorities alike. Those

who promoted Islamophobia in the U.S. in the aftermath of the 9/11 attacks, including bloggers, right-wing politicians, and conservative religious leaders, managed to convince a large portion of the American public that Muslims are a serious threat to the existing American political establishments, and even the West writ large (Mohiuddin, 2015).

By the time the Islamic State declared its Caliphate in 2014, anti-Muslim sentiment had not only become firmly established amongst a large portion of the American public but was even exacerbated under the Trump administration. Within a week of taking office, President Trump issued an executive order banning entry to the U.S. by travellers from many predominantly Muslim countries, as well as declaring that “Islam hates us” (Patel, 2017). The staunchly anti-Muslim rhetoric of President Trump and many of his advisors did not represent a sudden about-face in American political discourse, but rather “an amplification and extension of practices and policies that became par for the course in post-September 11 America. President George W. Bush built, and President Barack Obama allowed to stand, national security laws and policies that treat American Muslims as suspects, subjecting them to widespread surveillance and preemptive prosecution” (Patel, 2017). This climate was aggravated by attacks and attempted attacks within the U.S. that were perpetrated by individuals claiming allegiance to ISIS, such as the 2016 mass-shooting attack at the Pulse nightclub in Orlando, Florida which killed 49 people (Zambelich, 2016).

Although the U.S. has strongly urged its allies to repatriate its citizens from detention in Northern Syria, President Trump also expressed strong suspicions about refugees displaced by the Syrian conflict, which stemmed from his conviction that those fleeing ISIS might actually be adherents of the group, and part of a strategy to build a secretive ISIS paramilitary force in the West (Cole, 2018). Notably, it is the proliferation of Islamophobia in the West which is cited as one of the primary reasons for individuals being radicalized by a group such as ISIS. Anti-Muslim rhetoric and discrimination against Muslim immigrants in particular often facilitate Muslims’ lack of integration into many Western countries (Mitts, 2019). One of ISIS’ most distinctive recruitment strategies was its extensive use of social media, so much so that security and intelligence agencies found it difficult to keep track of the group’s online footprint (Mitts, 2019). It was via this vast social media network that ISIS was able to capitalize

on the feelings of alienation of many young Muslims living in the West, by offering forums which allowed these individuals to interact with others who had already been radicalized or to explore extremist content on the Internet (Mitts, 2019). By offering an online community, ISIS offered a sense of belonging and identity to Muslims who previously felt isolated in the West (Mitts, 2019). For Western Muslim women in particular, it was found that the motivation to travel and join ISIS stemmed from feelings of social and cultural alienation, as well as feelings of uncertainty living as a Muslim in a Western country, as well as the perception that the international Muslim community was being violently persecuted (Saltman & Frenett, 2016). For example, American citizen Hoda Muthana became an adherent to ISIS' ideology after opening a Twitter account and interacting with ISIS supporters before she eventually travelled to Syria to join the group (Hall, 2015).

With respect to repatriating women and children from Northern Syria, feminist scholarship has noted the gendered and racialized dynamics which play a role in discussions of women associated with the Islamic State (Stenger, 2022). Traditionally, anti-Muslim discourse has often infantilized Muslim women while racializing and demonizing Muslim men (Stenger, 2022). Women associated with ISIS are often characterized in popular media as "ISIS Wives," "Jihadi brides," or "ISIS Widows," despite the fact that they often played a larger role within the Islamic State, such as recruiting, fundraising and propaganda (Davis, 2020). Combining the terms "women and children" of ISIS, or simply referring to both groups as "family members" of ISIS fighters is also frequent, illustrating how Muslim women's agency in terrorist activity is often minimized by equating their mental capacity and criminal liability to that of children (Davis, 2020). However, in evaluating the threat posed by female ISIS detainees, media depictions often veer between "active security threat" to "duped victim" (Cook & Vale, 2019). Research into media narratives surrounding female returnees in Morocco and Tunisia found that in countries where women were described as victims, the emphasis was on rehabilitation, while countries which characterized women as a threat emphasized criminal justice responses (Stenger, 2022). For example, among the seven countries which repatriated their citizens from Syria unconditionally, detainees were presented as victims in need of rehabilitation, with women specifically being shown in news media as mothers holding their children (Stenger, 2022).

Interestingly, despite the explosion of anti-Muslim sentiment in the U.S. following the 9/11 attacks and subsequent incidents such as the Pulse nightclub attack, there is nearly no discussion of the role of Islamophobia in the context of American approaches to repatriation. While there is an overall acknowledgement that Islamophobia plays a role in the erosion of citizenship rights for Muslim Americans, creating “second-class” citizenship (Ali, 2012), there does not appear to be any analysis of the role it may play in the U.S. approach to the repatriation of women. Even with respect to former U.S. citizen Hoda Muthana, there does not appear to be any discussion in available indices of the role anti-Muslim sentiment may have played in the loss of her American citizenship.

### **3.8 The Role of Islamophobia in British Approaches to the Repatriation of Women and Children**

Similar to the U.S., Islamophobia existed in the U.K. prior to the 9/11 and London 7/7 attacks in 2005, but it was made worse by these incidents. The London 7/7 bombings have been cited as a major event in shaping relations between Muslims and non-Muslims in Britain, as the discovery that the perpetrators were British-born Muslim men served to compound reactions to the 9/11 attacks (Hussein & Bagguley, 2012). In the years since the 7/7 attacks, British Muslims have become “securitized,” as they are increasingly viewed as a security threat by British politicians, media and non-Muslims (Hussein & Bagguley, 2012). A 2021 survey found that Muslims were the U.K.’s second “least liked” group, behind Gypsy and Irish Travellers, with 25.9% of the British public feeling negatively toward Muslims, 9.9% of which characterized themselves as feeling “very negative” toward Muslims (Jones & Unsworth, 2021). British Muslims are the most targeted group for hate crimes in the U.K., with the Home Office reporting that there had been a 42% increase in anti-Muslim hate crimes from 2021 to 2022, a development which critics attributed to the rise of far-right extremism in recent years (Kartal, 2022). Prejudice is also frequently directed at Muslim women specifically. Along with facing penalties in the labour market, women in the U.K. who are visibly Muslim, i.e. wearing the *hijab*, *niqab* or other forms of Islamic veils, tend to be targeted the most with hate crimes in the UK (Ganesh & Abou-Atta, 2016).

British Islamophobia toward Muslim women specifically has major repercussions for women who are currently detained in Syria. As noted above, feminist scholarship on the subject of Islamophobia has highlighted how Muslim women are often characterized as lacking agency or mental capacity. Alice Martini (2018) undertook an examination of reporting pertaining to “jihadi brides” in three of the leading British broadsheets from June 2014 to May 2017 and found that specific words were often used in relation to women detainees, mainly “lured,” “enticed,” “used” or “groomed.” These words were almost always used in a passive voice, such as “[women] lured by ISIS,” “young Muslim girls from around the world have been enticed to join ISIS,” “victims of grooming” and “British women being used by ISIS to incite acts of terror at home” (Martini, 2018). Women associated with ISIS were usually depicted as victims of Muslim male terrorists who *did* exercise their agency, as these women were “groomed” by male fighters as a pedophile might, again underlining how these women are infantilized by the British press (Martini, 2018). Women were also characterized by “supernatural” metaphors which described them as having been “mesmerized,” “under the spell,” or “entranced” by an ISIS fighter and/or with the idea of joining the Islamic State, or that migrating to ISIS territory rendered someone as “monstrous” or even “demonic” (Jackson, 2021). It was also found that British broadsheets placed an overemphasis on the physical appearances of British women who had travelled to join ISIS. Women were variously described as “poster girls” while reporting often focused on the woman’s physical appearance, usually accompanied by photos of the subject in Islamic garments such as *niqab* or *burqa* as a visual tool to depict both their radicalization and their role as oppressed “prisoners” and “victims” of both ISIS and Islamic culture (Martini, 2018). Their travel to join the Islamic State was characterized as a “betrayal” of Western generosity, reinforced by the Neo-Orientalist idea of the superiority of the West and the inferiority of Islamic culture (Martini 2018, p. 25).

The representation of “jihadi brides” in British media has severe repercussions for women detained in Northern Syria. Characterizing women associated with ISIS as lacking in agency and vulnerable to radicalization created homogenizing and dehumanizing representations that structured the scope of possibilities for responding to the problem of repatriation (Jackson, 2021). The result was that, as ISIS and the phenomenon of “jihadi brides” gained traction in the UK media, both the British

public and policymakers hardened their attitude toward women who chose to join the conflict in Syria and Iraq. For example, in 2015 when Shamima Begum and two friends left Bethnal Green to join ISIS, the Metropolitan Police assistant commissioner assured the public that the three girls would not be treated as terrorists if they returned to the UK, yet four years later Begum would be rendered stateless by the UK government (Jackson, 2021). In another example, British citizen Sally Jones had travelled to Syria in the company of her young son, Jojo Jones, in order to marry prominent ISIS fighter, Junaid Hussein. In 2015, Hussein was killed via a US drone strike which successfully caught him on the rare occasion when he was not accompanied by Jojo Jones, whom Hussein frequently used as a human shield. Yet two years later in 2017, Sally Jones was killed by a CIA drone strike near the Iraqi/Syrian border in the company of Jojo Jones, who was 12 years old at the time. That is to say, in the span of two years, the extrajudicial killing of a British minor alongside his mother had become an acceptable outcome to British authorities (Jackson, 2021). Even Jojo himself was described by a British broadsheet as “gone forever, *transformed* beyond recognition by his evil mother [Sally],” a characterization which implied that Jojo had become something monstrous and less than human (Jackson, 2021). The increasingly hardline treatment of British “jihadi brides” and even their children was a result of homogenizing representations of these women which served to collectively dehumanize them and legitimize their annihilation (Jackson, 2021).

An analysis of social media posts pertaining specifically to Shamima Begum found that popular narratives concerning gender and terrorism informed the overwhelmingly negative perception of Begum being articulated online. In a similar vein to ISIS women being depicted as either “duped victims” or “active security threats,” Begum was often demonized as being “unapologetic and provocative,” thus failing to fulfill the role of the “good victim” who was duped or coerced into the role of “jihadi bride” because she had instead rationally chosen violence (Evans & da Silva, 2021). Interestingly, Begum is rarely discussed in the context of victimhood and is in fact granted agency by a majority of the British public, but in doing so she is therefore overwhelmingly viewed as a security threat and undeserving of British citizenship (Evans & da Silva, 2021). As a result, the British public overwhelmingly supports the treatment that Begum received from the British government. A July 2020 survey of



British adults found that 70% of those surveyed felt that the U.K. made the right decision in stripping Shamima Begum of her British citizenship (*Shamima Begum*, 2020).

The massive unpopularity of repatriating women associated with ISIS, and the particular animosity expressed by the British public against Shamima Begum, no doubt registers with British lawmakers and politicians. As noted above, the British security services are not confident that they will be able to secure convictions for ISIS supporters, as bringing these women home and subsequently failing to prosecute them would be politically unpopular and would amount to “political suicide” for many leaders (Hassan, 2021; Widago et al., 2021). This is especially true for a figure like Shamima Begum, who has little support from the British public to see her citizenship reinstated or that she be allowed to return to the U.K.





## CHAPTER 4

### SUMMARY OF FINDINGS

In comparing the American and British security contexts, overall each country takes a very different position on the threat posed by female detainees if they are to return to their host country, or if they are to be left abroad. This is despite the fact that both the U.S. and the U.K. have pursued similarly aggressive anti-terrorism regimes and allowed greater flexibility in information sharing amongst law enforcement and security agencies in recent decades. As outlined above, while the Americans see a greater threat in allowing female detainees and their children to remain overseas, British authorities see a greater threat in allowing these individuals to return. The U.S. appears to be more focused on the long-term security implications of leaving ISIS detainees in detention camps, while the U.K. appears to be more focused on the short-term security implications of allowing British women and children to return from Northern Syria. American authorities also appear better able to prosecute female returnees and obtain stiff custodial sentences than their British counterparts, who are operating under legislation that imposes much shorter sentences for individuals who provided peripheral support to ISIS, a category of activity that is much more likely to apply to female rather than male returnees.

In terms of comparing U.S. and U.K. approaches to international humanitarian law (IHL), both the U.S. and U.K. experienced a fundamental shift in their approaches to citizenship, as the post-9/11 security environment saw citizenship become re-centred around national security concerns. Yet when it comes to the issue of revoking citizenship, the U.S. operates under a much stricter legal framework when seeking to revoke American citizenship from women associated with ISIS, as opposed to the U.K. which views citizenship as a “privilege” rather than a right. The U.K. operates under much broader powers which allow the U.K. to revoke citizenship and even render an individual stateless, even though this directly violates several articles of IHL. In relation to each state’s approach to the rights of children, the U.S. is the only country which is not a signatory to the *UN Convention on the Rights of the Child*, due in part to sovereignty concerns by domestic special interest groups and its treatment of

child migrants. Yet despite this, the U.S. nevertheless urges its allies to repatriate children from Northern Syria, a position which inadvertently supports many principles of the CRC. Unlike the U.S., the U.K. is a signatory to the CRC, yet British authorities have failed to protect the fundamental rights of children due to their overall refusal to seek the repatriation of minors.

Finally, in comparing the potential role of Islamophobia in their approaches to repatriation, both the U.S. and the U.K. show similar patterns in terms of the history of anti-Muslim sentiment in each country, as both experienced a marked upsurge in Islamophobia following the 2001 9/11 attacks and the 2005 7/7 attacks. However, there is more acknowledgement in the U.K. of the role that Islamophobia has played in the government's approach to repatriation, while there is almost no discussion of how the same phenomenon has influenced American approaches.



## **CHAPTER 5**

### **ANALYSIS OF FINDINGS**

#### **5.1 Comparing American and British Security Contexts**

In comparing the security milieu of both countries, it is apparent that the U.S. appears to be far more focused on the long-term security consequences of leaving citizens abroad in Northern Syria than their British counterparts. One factor is the American assessment that the Kurdish authorities running the detainee camps lack the capacity to maintain security within the camps, leading to fears that there will be an increase in escapees able to leave Northern Syria and permeate the West without detection. However, an even greater factor is the American assessment specific to the repatriation of children from camps such as Al-Hol. Namely, leaving children to grow up in detainee camps greatly increases the probability that they will be indoctrinated and radicalized by ISIS ideology, no doubt worsened by the extremely poor living conditions within the camps. As noted above, U.S. officials have specifically cited the fear that camps such as Al-Hol are “breeding grounds” for the next generation of ISIS as children in the camps are continually exposed to violence and pro-ISIS ideology. Conversely, U.K. authorities see a much more immediate threat in returning detainees to Britain. Not only are female detainees who remained behind in the Caliphate considered to represent some of the group's most radicalized elements, but British officials have characterized children who lived under ISIS as “gullible ideologues” who are willing to undertake violence on behalf of the group. This divergence in the U.S. and U.K. threat assessments may be partially the result of increased target-hardening and counter-terrorism efforts undertaken by the U.S. since 2001 whereby it has managed to withstand attacks directed by ISIS core, unlike the U.K. which has experienced domestic attacks linked directly to the group, such as the 2017 Manchester Arena attack. This is not to say the U.K. hasn't engaged in a similarly intense level of anti-terrorism capacity building as the U.S., but that there may be a perception among authorities that the U.K. remains more vulnerable to domestic attacks directed by ISIS or similar groups, while U.S. authorities may feel more confident in their ability to thwart an attempted direct attack on the American homeland.

Comparing the U.S. and U.K. security contexts also reveals that while each country enjoys a similar legal milieu when it comes to sharing intelligence with law enforcement agencies and prosecutors, the U.S. appears to have a greater capacity to monitor or imprison female returnees than the U.K. This may partially be due to the number of women who are currently detained in Syria. Compared to the number of British citizens who travelled to join ISIS, significantly fewer Americans travelled to Syria and Iraq, of which only a fraction were women, and even fewer survived the Caliphate's collapse. Perhaps more importantly, anti-terror laws in each country differ significantly with respect to the prosecution of activities characterized as support to, rather than direct participation in, terrorism. The U.S. operates within a legal regime whereby prosecutors are able to obtain more severe custodial sentences for women associated with ISIS, even though they were not involved in combat on behalf of the group. For example, American citizen Samantha Elhassani was sentenced to six and a half years in prison after being convicted of financing terrorism, despite not having been directly involved in ISIS combat operations. In contrast, although U.K. anti-terror laws allow prosecution for the less serious terrorist offences that are more likely to apply to British female detainees, these often come with shorter custodial sentences. Given the assessment by British authorities that women associated with ISIS represent a serious security threat to the U.K., there would appear to be a discrepancy between the perceived threat posed by female returnees and the legal remedies available to mitigate the threat.

## **5.2 Comparing American and British Approaches to Citizenship and International Humanitarian Law (IHL)**

Following the 9/11 attacks in the U.S. and the 7/7 attacks U.K., the concept of citizenship became highly contested. As the terms of citizenship became re-defined, it became a highly securitized concept, as it became re-centred around public safety and security. Each country reconceptualized citizenship in a way that exploited the public's fear of terrorism, by using polarizing rhetoric that emphasized "us vs them." Citizenship is enshrined in IHL as one of the most crucial human rights, and both the U.S. and the U.K. are signatories to the *Universal Declaration of Human Rights* which asserts that

everyone has the right to a nationality and that no one shall be arbitrarily deprived of their nationality nor denied the right to change their nationality. Yet despite this, there have been attempts in both the U.S. and the U.K. to erode and weaken citizenship rights, as well as expand their respective government's ability to revoke citizenship.

However, it is interesting to note that despite the fact that each country saw an overall weakening of due process and citizenship rights in the aftermath of 9/11 and 7/7, there have been different outcomes with respect to their approaches to citizenship and denaturalization of ISIS detainees. While both the U.S. and the U.K. maintain the ability to revoke citizenship, the U.K. pursues denaturalization at a much higher rate than the U.S. or any other Western country. Meanwhile, attempts by U.S. policymakers to expand the ability to revoke American citizenship in response to the ISIS foreign fighter phenomenon have failed. When revoking citizenship from ISIS associate Hoda Muthana, American authorities took the novel approach of arguing that she had never been an American in the first place (despite previously having been issued an American passport). Rather than framing the issue as Muthana "losing" her American citizenship, it was argued that it was never there in the first place. Nevertheless, revocations of American citizenship remain incredibly rare.

Conversely, the U.K. has aggressively pursued the revocation of citizenship rights from multiple individuals associated with ISIS. Additionally, measures contained in The *Counter-Terrorism and Security Act*, aimed specifically at individuals seeking to join ISIS, allow British authorities the right to obtain Temporary Exclusion Orders (TEO) against British citizens. This not only undermines their right of return embedded in universal citizenship rights but also risks exposing Britons to torture and mistreatment by regional authorities and security services in Syria and Iraq. While American policymakers failed to expand the U.S. government's ability to revoke citizenship, the U.K. successfully passed legislation under the 2014 *Immigration Act* which allowed the Home Secretary to revoke British citizenship from terror suspects and prevent their return to the U.K., even in cases where revocation would result in statelessness. As we have discussed, U.K. authorities took the extraordinary step of revoking British citizenship from Shamima Begum, a move which has left Begum stateless. Begum's case illustrates not only the lengths to which the British government will go to prevent the return of women from ISIS territory but also the belief by

authorities that British citizenship is a privilege, not a right. Ultimately, it is not known why the U.S. and U.K. have such different outcomes with respect to the revocation of citizenship, and perhaps this is a question that deserves more inquiry.

### **5.3 Comparing American and British Approaches to the Rights of the Child and the Repatriation of Children**

It is interesting to note that while the U.S. remains the only country which has not ratified the *Convention on the Rights of the Child (CRC)*, with respect to the repatriation of children from Northern Syria it is doing far more to secure the rights of children than the U.K., which *has* ratified the CRC. This is not to necessarily say that the U.S. has an overall better track record when it comes to respecting the rights of the child in comparison to the U.K. The Trump administration's policy of separating children from their parents who had been found crossing the southern border illegally is evidence enough that the U.S. does not always adhere to the principle of protecting the best interests of the child. Yet the U.S. has been one of the leading countries to demand the repatriation of children to their home countries. However, rather than framing the repatriation of children as a human rights issue, American authorities have instead focused on the security implications of leaving children in detainee camps such as Al-Hol. While officials have highlighted the poor living conditions for children within Al-Hol, it is the potential for these conditions to "breed" the next generation of ISIS that appears to have American security officials worried, rather than the harm being done to the children in and of itself.

For its part, the U.K. has ratified the CRC, yet its approach to repatriating children from Northern Syria has been lacking. As noted above, the U.K. has pursued the repatriation of children on a case-by-case basis, with only British orphans being permitted to return to Britain. Similar to the U.S., the U.K. view the repatriation of children through the lens of security concerns. Yet, as discussed above, the U.K. and U.S. assessment of the security threat posed by children differs greatly. While the U.S. sees long-term peril in allowing these children to remain abroad, the U.K. sees a more immediate threat in allowing them to return, particularly if it means they will be accompanied by their mother. The revocation of Shamima Begum's citizenship by the

U.K., despite the fact that she was a child at the time she left to join ISIS, is evidence of the particularly hardline approach that the U.K. is taking toward the repatriation of children. In theory, as a signatory to the CRC, the U.K. might be expected to show a greater interest in respecting the best interests of the child, yet this does not appear to be the case. This would suggest that each country's approach to the rights of the child does not affect each country's approach to the repatriation of women and children, and rather it is security concerns that underlie the U.S. insistence that children need to be returned to their home countries, and the U.K.'s insistence that most need to be kept away.

#### **5.4 Comparing the Role of Islamophobia in American and British Approaches to the Repatriation of Women and Children**

In both countries, while Islamophobia existed prior to the 9/11 and 7/7 attacks, it was made exponentially worse following these events. In the U.S. the anti-Muslim attitudes that erupted following the 9/11 attacks were only further reinforced by the Trump administration's executive order to ban travel from predominantly Muslim countries, as well as other anti-Muslim remarks made by Trump and his officials. The overall erosion of citizenship rights for Muslim Americans created "second-class" citizenship and the alienation of Muslims in the U.S. was cited as a contributing factor in the radicalization of young people such as Hoda Muthana who travelled to join ISIS. Meanwhile, in the U.K., British Muslims became securitized following the 7/7 attacks and were repeatedly characterized by British politicians and non-Muslims as a threat to British security. As noted above, by 2021 over a quarter of the British public reported that they viewed Muslims negatively, while British Muslims are the most targeted group for hate crimes in the U.K. Anti-Muslim sentiment is frequently directed toward women, who face penalties in the U.K. labour market and are also frequently targeted with hate crimes. Undoubtedly, anti-Muslim sentiments are at the forefront of the demonization of Shamima Begum and the belief that she is undeserving of British citizenship.

It is curious, then, that Islamophobia appears to strongly influence how the British public views the subject of repatriating women associated with ISIS, while it

does not appear to have the same influence in the U.S. This is evidenced by the fact that there is little to no mention in American media or among officials of the unpopularity of repatriating women, nor that repatriation would amount to “political suicide” as it would in the U.K. It is not immediately clear why this would be the case. Similar to their approaches to citizenship, each country has seen an upsurge in Islamophobia following the 9/11 and 7/7 attacks, yet Islamophobia appears to be a factor influencing the issue of repatriation in one country and not the other. It is possible that the American authorities, as well as the American public, feel confident that the threat posed by ISIS returnees can be contained by the country’s legal and security apparatus. Or perhaps Islamophobia is more embedded and virulent in the U.K. than in the U.S., a question that is beyond the scope of the current discussion. Nevertheless, it is notable that Islamophobia appears to exercise a greater influence on the repatriation issue in the U.K. than it does in the U.S.





## **CHAPTER 6**

### **CONCLUSION**

It is assessed that the answer to the research question posed at the outset of this independent study is that the most important variable which influences the British and American approach to repatriation is the difference in security contexts between the two countries. This appears to be due to a number of factors. First, the U.S. is more focused on the long-term security consequences of leaving citizens abroad, while the U.K. is focused on more short-term and immediate concerns surrounding allowing women and children to return to the U.K. Second, the U.K.'s security concerns surrounding women is due in part to the fact that it has experienced domestic attacks from members of ISIS "core," while the U.S. has successfully thwarted attacks on the American homeland since 9/11. Third, U.S. law enforcement and security agencies are able to obtain harsh custodial sentences for supporters of ISIS, a category which women are far more likely to fall into. While in the U.K., the prosecution of ISIS supporters is likely to be much more difficult, and the ability to obtain long-term custodial sentences is unlikely. There is therefore a fear that allowing these women to return from Northern Syria, after years of being hardened by ISIS ideology, will create a domestic security threat that U.K. security services are unable to cope with. Fourth, related in part to the role of Islamophobia, the inability to obtain convictions for former female ISIS members will likely prove politically unpopular. While this study did address the fact that the U.S. has a greater capability than the U.K. to secure convictions for women who may have provided support to ISIS, it did not seek to provide a side-by-side comparison of U.S. and U.K. anti-terrorism legislation, nor did it attempt to explain the reason for this divergence in legal approaches, which is believed to be outside the scope of this study. Additionally, this study did not directly compare American and British counter-terrorism capacities, such as the ability of each country's security and intelligence community to monitor ISIS returnees, which may also impact the security context.

Additionally, it would also appear that Islamophobia has a greater influence on the issue of repatriating women in the U.K. than it does in the U.S. Despite the fact

that it is present in both countries, Islamophobia appears to make the prospect of repatriating women from Northern Syria extremely unpopular in the U.K., while in the U.S. there is little objection. This calls into question how British Islamophobia differs from American Islamophobia, why anti-Muslim sentiment in Britain exerts enough political pressure on politicians that they adamantly avoid the repatriation of British women from Syria, and why the practise of making a former British citizen stateless is accepted by a significant portion of the British public. This study did not attempt to discern how Islamophobia differed between the U.S. and the U.K., nor did it attempt to explain how anti-Muslim sentiment became a significant factor with respect to British repatriation, but not in the U.S. It is not immediately apparent why this is the case, although the differences between U.S. and U.K. Islamophobia and dynamics of how it influences politicians in both countries may be a subject deserving of further inquiry in order to better understand how this issue affects repatriation policy in both countries.

In comparing the other variables potentially influencing the U.S. and the U.K., it is assessed the other identified variables did not appear to explain the difference in each country's repatriation policy. First, the concept of citizenship became securitized and contested in both the U.S. and the U.K. following the 9/11 and 7/7 attacks. In the U.S., citizenship became a highly contested and "weakened" concept, while the U.K. took a similarly hardline approach whereby British citizenship became "a privilege, not a right." Yet while both countries saw citizenship become a securitized concept, the U.K. has pursued more draconian citizenship policies than the U.S. in response to the ISIS repatriation issue, such as the use of Temporary Exclusion Orders (TEO) to prevent the return of British citizens, as well as the expansion of legislation that permits the revocation of British citizenship even in cases where an individual would be rendered stateless. Meanwhile, attempts by American lawmakers to pass legislation in response to the ISIS foreign fighter threat which would permit U.S. authorities to render an individual stateless had failed. The case of Hoda Muthana's loss of American citizenship appears to be an exception rather than the norm with respect to American repatriation efforts. It should be noted that this study did not attempt to account for the variation in American and British approaches to citizenship, such as why the U.K. is more willing than the U.S. to render an individual stateless, nor did it

explore why American lawmakers were reticent to expand the ability to revoke American citizenship in response to the foreign fighter issue.

In comparing each country's approach to the rights of the child, it is also assessed that this variable did little to explain the difference between U.S. and U.K. policy approaches. While the U.S. is the only country in the world which has not ratified the CRC, it has pursued a repatriation policy that is far more likely to ensure the best interests of the child are met by removing them from the damaging environment of Al-Hol, even if this policy appears to be motivated more by its security concerns than human rights concerns. Meanwhile, the U.K., although it is a signatory to the CRC, has pursued a policy which overwhelmingly neglects the rights of the child. In theory, the U.K.'s status as a signatory to the CRC would render the U.K. *more* amenable than the U.S. to uphold the rights of the child, rather than less so. In fact, the U.S. has cited the threat to children and the risk of ongoing indoctrination by ISIS as one of the primary reasons why states should repatriate their citizens. It should, however, be noted that the U.S. stance on the issue of repatriating children from Syria should not be seen as representative of the overall American position on the protection of children. The recent policy of the Trump administration to separate children from their parents at the southern border is evidence that this concern for children only applies in certain situations. The U.S. position toward children in Northern Syria appears to be based more on the potential long-term security threat posed *by* children at risk of ISIS indoctrination if left in the detention camps, rather than being based on concerns around the threat posed *to* children. In this case, U.S. advocacy for the repatriation of children is a secondary by-product of their primary concern with long-term security implications, rather than a concern for children's welfare specifically.

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