Can Withdrawing Citizenship Be Justified?

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Forthcoming at Political Studies

Introduction

When can or should citizenship be granted to prospective members of states? When can or should states withdraw citizenship from their existing members? In recent decades, political philosophers have paid considerable attention to the first question, but have generally neglected the second.¹ There are of course good practical reasons for prioritizing the question of when citizenship should be granted—many individuals have a strong interest in acquiring citizenship in particular political communities, while many fewer are at risk of denationalization. Still, loss of membership in a political community is a practice with a long history that continues to take place today.

Concerns about national security have recently led several liberal democratic states to pass, strengthen or consider legislation that would empower their governments to denationalize certain persons.² At the international level, formal norms governing denationalization are vague and generally toothless, and there are no international legal norms that restrict denationalization to citizens who hold another citizenship or wish to take up citizenship elsewhere (Worster, 2009). So it is important to determine whether there are conditions under which denationalization can be morally justified and, if so,

¹ We are grateful to Hilary Charlesworth, Ryan Cox, Bob Goodin, Bob Keohane, Emma Larking, Seth Lazar, Tori McGeer, Philip Pettit, Massimo Renzo, Annie Stilz, Ana Tanasoca, Patrick Tomlin, Helen Taylor, Kit Wellman, and three anonymous reviewers of this journal for their comments on earlier versions of this article, which were presented at the Australian National University and the University of Melbourne. Work on this article was supported by the Australian Research Council, the Netherlands Organization for Scientific Research and the Research Council of Norway.
what those conditions are. We shall argue that while denationalization is ordinarily impermissible, there is a class of crime committed by citizens that may render it not only permissible, but a fitting response on the part of the state.

The Problem

The practices of denationalization and deportation have a long history. In Ancient Greece and Rome, removing people from a territory (temporarily or permanently) was employed to punish those persons who were deemed to threaten the political stability of their state (Kagan, 1961). In medieval England, felons were sometimes allowed to go into exile so long as they first confessed to having committed the crime in question (Miller, 1956). In the 18th and 19th centuries, European monarchs often chose to deal with their criminal population by deporting them to the new world (as a punishment for even the pettiest of crimes).³

The current international system treats denationalization differently, at least in theory. One of the core features of the international system is that states must generally take responsibility for their own members, even those who engage in serious criminal misconduct. But in practice, the legal norms aimed at protecting persons from loss of membership are relatively weak. Article 15 of the Universal Declaration of Human Rights (UDHR) states that ‘no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality’, but the UDHR is not a legally binding document. It gives no indication about how responsibility for protecting these rights should be allocated, nor do the subsequent covenants that were to give legal force to those rights. Of course, the 1961 Convention on the Reduction of Statelessness provides that ‘Contracting States shall not deprive people of their nationality so as to render them stateless’ (Art. 8), but to date only 63 states have ratified this convention. And, as noted
above, states are legally free to adopt legislation that permits them to denationalize citizens who hold citizenship elsewhere.

Unsurprisingly, then, citizenship withdrawal either as punishment for a crime or as a result of becoming a member of a second political community continues to be practised. Some liberal states have passed or are considering legislation that would give them the power to withdraw citizenship from citizens convicted of terrorism or crimes of a similar nature (Graham, 2004; Lavi, 2010). The United Kingdom, for instance, has recently established the power of withdrawing citizenship from any citizen with dual or multiple citizenships whose behaviour is considered ‘not conducive to the public good’.

Moreover, many states—as diverse as Azerbaijan, Japan and India—make maintaining citizenship conditional upon citizens not taking citizenship elsewhere (Blatter et al., 2009).

There are a number of reasons why contemporary states might be tempted to make use of denationalization. It can, for instance, shield states from various costs that they may wish to avoid. These include setbacks to security, political cohesion and loyalty. Denationalization facilitates deportation, which is typically a lot cheaper than incarceration, whether employed as punishment or preventive detention. States with substantial welfare provisions may also wish to free themselves from costly financial commitments. As labour migration and cross-cultural marriage increase, states may become even more concerned with the costs associated with the maintenance of citizenship by those who have not significantly contributed to the taxation pool in the past or are unlikely to contribute much in the future. In Hungary, for example, a referendum on dual citizenship in 2004 saw 31 per cent of voters opposing the extension of Hungarian citizenship to co-ethnic Hungarians living abroad, on the basis of welfare protectionism. And in the Netherlands, public concern with integration and the opportunistic use of immigration have contributed to the tightening of citizenship laws,
which went from being significantly liberal to some of the most restrictive in Western Europe (Faist et al., 2004; Engelen, 2003).

**Evaluating Denationalization: Two Objections**

It might be thought that an independent discussion of the conditions under which citizenship may be withdrawn is unnecessary. Couldn’t we simply identify these conditions by finding out when citizenship ought to or must be granted? If someone stands in a relation to a state such that it should grant them citizenship were they not already to have it, it might be thought that then, but only then, it would be impermissible for the state to withdraw citizenship from that person. It’s generally a mistake, however, to think in this way about the connection between rights to acquire benefits and rights to hold on to them. There are many benefits that people are morally free not to confer on others, but which they cannot easily withdraw once they have conferred them. We can more easily justify failing to invite someone to our book club than disinventing them after they have joined us. We believe that such an asymmetry also applies to the benefit of rights constituting citizenship. That is, the granting and withdrawing of citizenship each raise distinct normative issues, and it may often be the case that states may not withdraw citizenship from people who were not morally entitled to that citizenship in the first place. So while a state may lack a duty to grant citizenship to a wealthy foreign investor, once it does so it cannot denationalize her without a very strong justification.

Before we proceed, let us recognize that there are diverse conceptions of citizenship, which articulate fuller accounts of its value at the domestic level. For instance, Communitarians believe that citizenship matters primarily because it delimits the boundaries of the socio-cultural community, which in turn gives rise to a distinct moral community where special duties apply. Civic Republicans stress that citizenship is the marker of political agency, the status that determines who is morally entitled and
simultaneously obliged to take an interest in the public domain. For Social Democrats, citizenship is tied up with the enjoyment of classes of rights—civil, political and social—that they maintain are necessary for a person to be treated as a full and equal member of a society. Correspondingly, there are different ways of assessing what the loss of citizenships means.

Since it is beyond the scope of this article to defend a full conception of the value of citizenship, we shall employ a functionalist understanding. This understanding is at least compatible with a broad range of full conceptions of the value of citizenship. On the functionalist understanding, citizenship is a very important instrument for securing basic rights, including the right to continuously reside in one territory. Even Communitarians, who may not emphasize individual rights, regard the ability of individuals to remain connected to their communities as very important. We recognize that some views on citizenship may deny the functional role of citizenship endorsed above, but these are not widely accepted and our arguments are not directed towards those who endorse them.

In our view there are two main types of objection to denationalization (we shall refer to them as the first and second objections in what follows). The first objection contends that denationalization would impose undue burdens. By ‘undue burden’ we mean a cost that cannot be imposed on a person without violating her moral claims. Whether a particular burden is undue depends on both the magnitude of the cost that is imposed on a person and on facts about her behaviour. A large fine may be very costly, but whether it creates an undue burden for the person on whom it is imposed depends on whether she has done something that makes her liable to bear it (and if she is liable to bear these costs, then they do not violate her moral claims). First and foremost, withdrawing citizenship could impose undue burdens on the people who would become denationalized as a result. Second, even in those cases where a person would seem liable
to the costs that denationalization would impose on her, doing so would be disproportionate, either because it violates the moral claims of third parties or is inferior in various respects to other means of achieving the same benefits that it would afford.

The second type of objection challenges denationalization by showing that it is an inappropriate form of sanction because it treats people unfairly or unfittingly. A state can treat an individual unfairly if it treats her differently (and worse) than others arbitrarily. Suppose that A and B both violate the same norm. In this case the state may treat A unfairly if it sanctions her but not B, even though imposing the sanction on A and B would not impose undue burdens on either. In this case, the reason may be that each has a fairness-based claim to non-arbitrary treatment, and imposing the sanction on A but not B violates this claim.

A state can treat an individual unfittingly if its reaction to her conduct seems inappropriate for reasons unrelated to the magnitude of the burdens it imposes on her. For instance, we don’t typically think that it is permissible for the state to punish perpetrators with the use of torture, even if many of them would much prefer to endure a couple of days of severe torture to several years in prison. Or it may not seem a fitting response to a person’s wrongful conduct to withdraw her citizenship rather than impose a different sanction on her (such as incarceration), even if she herself would regard the loss of her citizenship as preferable to incarceration. The idea behind arguments based on unfair or unfitting treatment is that there are moral objections to sanctions such as denationalization that go beyond the particular costs individuals would bear as a result of them. Matthew Gibney, for instance, has developed an interesting fairness-based argument against denationalization that appeals primarily to egalitarian values. He argues that when we consider the importance of protecting people from the risk of becoming stateless and the egalitarian imperative of treating all persons equally within a state, denationalization becomes morally impermissible (Gibney, 2013).
In the following sections, we consider different classes of people who are at risk of being denationalized, and explore whether the two objections that we have identified are persuasive. Throughout the discussion, the focus is on rules governing citizenship withdrawal that might be instituted and upheld, not on cases where citizenship could be withdrawn from individuals in ways that contravene prior legislation, since in the latter case more general arguments based on legitimate expectations would do all the justificatory work. And finally, we focus on denationalization while assuming that denationalization either leads to deportation or may increase the risk of deportation in the future.

**Mono-citizenship**

Consider first the case of a state withdrawing citizenship from a person who holds citizenship in that state only, and who is not guilty of serious misconduct. It seems clear that the costs that this would impose on her would be quite significant. At present, states enjoy more or less complete discretion when it comes to determining whether non-citizens can enter their territory, how long they can stay, and whether or not they can seek paid work. Were a person not to possess citizenship anywhere, there would be no state under an international obligation to ensure that she could legally reside, work and raise her family without fear of deportation. In fact, an important reason why the costs associated with loss of citizenship can be so high is that citizenship is an important instrument for securing a person’s occupancy rights (Stilz, 2013). Following Anna Stilz, we shall understand occupancy rights as moral rights that protect persons’ interests in maintaining their relationships and advancing their life projects in the place where those projects and relationships have previously been developed and pursued. Imposing the risk of deportation on residents of a territory undermines their occupancy rights.
Another reason why rendering someone stateless would impose significant costs on them is that citizenship is very often a precondition for various other rights, including rights to political participation. The International Covenant on Civil and Political Rights, for instance, specifies that it is *citizens* who possess rights ‘to take part in the conduct of public affairs’ and ‘to have access, on general terms of equality, to public service in his state’. So even if denationalized persons manage to avoid deportation, they are likely to encounter significant legal barriers when attempting to travel, enrol their children in school, access health services, purchase property and engage in other forms of commercial activity (Southwick and Lynch, 2009). We take it that imposing such burdens on innocent persons cannot be justified.

Now let us consider a different case. There are some people who could be rendered stateless who might be protected from bearing some of the costs that typically accompany denationalization. Some people possess citizenship in only one state, but hold permanent residency status elsewhere. And although permanent residents ordinarily enjoy many of the same benefits as citizens of the state, they would still suffer the negative consequences of denationalization. In particular, residency rights can be easily lost through criminal conduct, so it would be naive to think that they were protected robustly against the risks faced by stateless people without residency rights, as discussed earlier.

It might be argued that, were someone to have their citizenship withdrawn by their state of citizenship, the community where they enjoyed permanent residency would be morally obliged to grant them citizenship. If this were so, then perhaps they would no longer be vulnerable to the risk of such harms, in which case the costs of denationalization might not be particularly high. Whether this is true will depend on other factors, including the extent to which they would lose the capacity to advance any life plans that are tied to their original state of citizenship. If they were also deported
after losing citizenship, this cost could be significant indeed. And given that the state of permanent residency would have broad discretion in deciding whether or not to grant citizenship, there would be no guarantee that the denationalized person would in fact obtain a new citizenship in the future. When it comes to ordinary people who are innocent of serious misconduct, withdrawing citizenship from them cannot withstand the first objection.

But could states permissibly denationalize people guilty of serious misconduct when this would render them stateless? Such people might be viewed as having done things to cause them to lose or forfeit many of the claims that they would ordinarily have on their state. Correspondingly, the burdens on these individuals (identified above) may not seem undue, even if they are significant.

Of course, even if imposing the costs of statelessness upon them would not exceed the costs that they can permissibly be forced to bear (an assumption that we shall later question), it might be impermissible for other reasons. That is, withdrawing citizenship from people who would be rendered stateless could also significantly affect third parties. For example, there are those that depend upon or have special ties to the person whose citizenship would be withdrawn, such as spouses and children. Apart from ceasing to enjoy emotional ties with friends and family members, a person who loses citizenship as a result of serious misconduct may also perforce lose the capacity to advance any life plans that are tied to her state of citizenship, especially when denationalization is followed by deportation or a significant risk of it. As mentioned earlier, citizenship protects a person’s occupancy rights, and does so more robustly than permanent residency status alone. This is not to say that those who move or are forcibly moved abroad are incapable of starting and pursuing new life projects once they reach their new destination. But we should not make the mistake of downplaying the moral
significance of the involuntary loss of connections with much of what gives meaning to people’s lives.¹¹

Doesn’t ordinary punishment of serious misconduct sever such connections? To some degree it does. However, while we might imprison people so that they no longer pose a threat to the community (and in the hope that they can be rehabilitated), this is usually consistent with permitting them to receive visits from family members, to listen to the local radio, to converse with inmates in their own language, and to engage in other familiar activities. There are all sorts of relationships and projects that inmates can continue to engage in so long as they are kept imprisoned in their own country, and we assume (although we cannot argue for this here) that they have a moral claim to continue to pursue them in some measure even while imprisoned.

In contrast, the person who has her citizenship withdrawn and is subsequently deported is typically removed from the site of many if not all of her life plans.¹² And even those who are not deported may live in reasonable fear that they will be, as well as encountering other obstacles to their pursuit of their located life plans. But it would be a mistake to assume that this sort of argument could rule out citizenship withdrawal from all wrongdoers. After all, it is plausible that justified prison sentences might well do more to disrupt certain kinds of life plans than loss of citizenship would. So if there is something wrong with denationalization in such cases, it must be for other reasons than articulated in the first objection.

Denationalization seems inappropriate even if the cost it would impose would be less than that permissibly imposed through other forms of punishment—it may not withstand some form of the second objection. Consider how in punishing misconduct through ordinary criminal procedures, we still acknowledge that the inmate is part of the political community.¹³ Part of the point of punishment is precisely to bring perpetrators back into the community where they can pick up their life projects. In punishing
wrongdoers within the state, we simultaneously assert their membership in the political community and in so doing, help enable them to pursue the projects and relationships that have always given meaning to their lives. (Although we punish outsiders too, our communication with them is different, since they are deported immediately afterwards (or are supposed to be) (Duff, 2001).)\textsuperscript{14} Denationalization severs or significantly lessens the political bond between person and state, rather than affirming it, as ordinary punishment does. For this reason, it seems a fitting response only if the person upon whom it is imposed has done something to warrant that particular sort of treatment. Merely engaging in conduct that is seriously wrong does not seem to meet this condition.

We will return to this point later.

So far, our discussion puts us in agreement with the claim that statelessness provides a weighty reason to deny the permissibility of denationalization (Aleinikoff, 1986). But how about cases of dual or multiple citizenships?

\textit{Multiple Citizenships}

Cases involving the denationalization of people who have dual or multiple citizenships are more challenging. It cannot be said that a state withdrawing citizenship from these people would mean that there was \textit{nowhere} they could legally reside. Nor would it mean that there was nowhere where their basic rights are protected.

Still, there may be a relevant difference between dual citizens who become denationalized because one of their states of citizenship unilaterally withdraws citizenship from them and those who take up citizenship in one country knowing that they will lose their existing citizenship as a result. It might be argued that in the second case, denationalization is simply a result of a choice they voluntarily make. Still, it may be unfair to place people in the position of choosing between retaining their existing citizenship and taking up another, especially if their life plans spread across both political
communities. Forcing the choice of being a citizen of either A or B may impose undue costs on a person, in which case the state could be viewed as placing them in a coercive choice situation. We take the reasons we adduce to show that withdrawing citizenship can be unjustified to apply to this case as well, while recognizing that the first case is also problematic for other reasons.

Now, within the category of dual or multiple citizens, there are individuals for whom denationalization would be obviously problematic. These are people whose other citizenship is in a state that is either unwilling or unable to protect their basic rights. Insofar as we think that citizenship is important because it identifies the primary duty bearer of protecting persons’ basic rights, then being a citizen of a state that is either unwilling or unable to protect such rights is of limited value. The situations of people who are citizens of such states may be a great deal more precarious than the situations of those who are stateless—compare a stateless person legally residing in the United Kingdom with a citizen of Somalia, for example.

Generally, of course, a person’s rights can justifiably be restricted when they engage in certain kinds of wrongdoing. For a time, at least, they can justifiably lose their rights to move about freely, to participate politically, and so on. But there are other rights that cannot be routinely lost. If being denationalized and deported to North Korea in effect means being at high risk of death, torture or starvation, or being subject to prosecution without minimally adequate representation or procedural safeguards, then it seems likely that the state withdrawing citizenship would be enabling (and complicit in) serious wrongdoing. Most importantly, denationalization would in this case seem a disproportionate measure by the state, since it had the option to prosecute and potentially punish the person through its regular criminal procedures.

What of people who would not be rendered stateless, and who hold citizenship in a second state that is both willing and able to protect their basic rights in case they
were to have their citizenship withdrawn elsewhere? It cannot be denied that the costs to such people of losing their citizenship would ordinarily be much less than the other classes of people that we have so far discussed.

Recall, however, that the loss of citizenship goes far beyond the loss of a passport. By removing a robust claim that the person has against deportation, denationalization represents the loss of secure access to the site of many of her overall life plans. Indeed, when the state withdraws citizenship as a form of punishment, the individual affected may no longer be able to pursue her professional goals, sustain valued personal relationships, or engage in religious, cultural and political activities that are of critical importance to her.

Of course, individuals who engage in serious misconduct can be imprisoned. But while imprisonment affects the inmate’s right to freedom of movement, and can therefore make it hard to maintain personal, religious, political and cultural ties, she still retains a strong connection to the site of some of her overall life plans. Once she has served her sentence, she is free, more or less, to pick up her life where she left off. Denationalization can radically undermine this possibility. Now, there may of course be some people who lack such connections to their country of nationality. And with respect to such (probably quite rare) people, appealing to these ‘emotional costs’ if they were to be deported may not appear so compelling. This would mean that there might be particular people who have engaged in serious misconduct for whom citizenship withdrawal would not impose undue cost. And although we have said that withdrawing citizenship may either lead to deportation or carry the risk of deportation, this risk may not be very great in some cases. Consequently, we do not believe that considerations of cost alone could support a blanket moral prohibition on withdrawing citizenship from those who hold more than one citizenship, and who would be deported to a country that
is both willing and able to secure their basic rights. That is, such a practice could potentially withstand the first objection.¹⁵

Matthew Gibney has developed a novel version of the second objection that supports the blanket moral prohibition on denationalization. He writes:

> If one accepts that it is illegitimate for a state to denationalise an individual if it would make them stateless (and there are good liberal reasons for recognising this principle), then denationalization can only be used against dual nationals. Yet making dual nationals alone subject to the power violates the principle that all holding citizenship should have an equal status (Gibney, 2013, p. 653).

He supports his argument by drawing a parallel between legislation that would permit the denationalization only of dual citizens with that permitting different treatment of naturalized and non-naturalized citizens. Both forms of discrimination are invidious, he claims, because they treat one class of people as inferior citizens. Note first that, if correct, Gibney’s argument would show only that egalitarian states would be under an obligation to grant citizenship on an unconditional basis. It does not provide reasons (such as those offered above) why non-egalitarian states should not feel compelled to withdraw citizenship from dual nationals. But there is a deeper objection to this argument. As Gibney recognizes, treating people with equal concern does not mean treating them equally. Indeed, equal concern may require treating people unequally in certain circumstances.

There is no morally relevant difference between naturalized and non-naturalized citizens. Withdrawing citizenship from one group would leave them vulnerable in much the same way as withdrawing citizenship from the other group would. But that is not the case when it comes to people who would be rendered stateless by denationalization and those who would not. That one group would still enjoy the benefits of citizenship elsewhere is a very relevant difference between them and those who would be rendered
stateless. It means the burdens the first class of persons would be likely to bear as a result of denationalization would be very different from those likely to be borne by the second class of persons. Note that there are other differences in the rights possessed by different classes of citizens. The foreign-born children of some US and UK citizens, for instance, are automatically entitled to citizenship in their parent’s country, while others are not, depending on whether the parent has spent significant periods as an adult in their country of citizenship. And the US rule of *jus sanguinis* does not extend to the third generation. Neither of these inequalities in treatment seems unreasonable, since the amount of time spent in the country appears a reasonably good proxy for determining whether the parents have located life plans there.

In our view, then, arguments asserting blanket moral prohibitions against denationalizing citizens with dual or multiple citizenships on the basis of the two objections are unconvincing. But how broad should state discretion be? In the next section, we explore some of the most salient arguments in favour of denationalization and show that they fail to make a convincing case for this practice. Later, we give an account of the conditions under which denationalization can indeed be justified.

**Standard Justifications for Denationalization**

One reason offered in support of denationalization of multiple citizens is that citizens cannot remain politically committed to more than one state of citizenship, due to divided loyalty. Consequently, it is argued that the state should be at liberty to withdraw citizenship from those who have entered into a political relationship with another state (Huntington, 2004; Renshon, 2005). However, arguments used to denationalize expatriates can be used with equal force to denationalize resident citizens. After all, a great many resident citizens are consumed by their non-political objectives, and exercise their political agency (should they chose to do so) only on days when elections are held,
often without being well informed about the relevant political positions that distinguish the candidates. Moreover, some resident citizens are not economically active and pay no taxes, whereas dual citizens living abroad may pay tax on property, send remittances back to their families and, in some states, pay income tax.

If non-residency were a very good proxy for lack of political or economic contribution to the state, such exclusions could perhaps be justified. But arguments in favour of denationalizing citizens living abroad will prove too much unless they appeal directly to the fact of residence. And even the lack of current residency can be a problematic basis for denationalization once we realize that some resident citizens spend much time travelling and working abroad, whereas some citizens residing abroad are frequently visiting friends and family or doing business in their country of citizenship.\(^{16}\)

Another objection is that those who hold citizenship in a state in which they do not reside will have a say in decisions that do not affect them. This arguably violates what might be called the all-and-only-those-affected principle—that all those affected by a political decision should have the opportunity to influence it, while all those unaffected lack a moral claim to exercise the relevant degree of influence.\(^{17}\) There is also a related objection that those who live abroad are not subjected to the laws they have helped to shape.\(^{18}\)

The principles underlying these arguments are contentious, and it is unclear how they apply to the case at hand. Surely many citizens residing overseas will be affected by political decisions in their home countries (especially if, but not only if, they plan to return to that country in the future). Let’s assume, however, that these principles are sound and would affect the claims of dual citizens living abroad. We still do not believe that they provide good grounds for permitting the state to withdraw citizenship. Rather, such arguments could justify temporary suspension of some political rights of citizens (e.g. those who are living abroad and have clearly signalled their desire to continue to do
They support making some political rights conditional on both residence and citizenship, thereby rendering citizenship no longer sufficient on its own for full enfranchisement.

It would be a mistake to treat citizenship as interchangeable with political participation or to assume that each person has a right to full voting rights, regardless of their circumstances. There may be a conceptual connection between citizenship and rights of political participation, but it is not a simple one. Many citizens (prisoners, for example) lack rights of political participation. This practice is questionable, but it does not seem ruled out by the meaning of the concept of citizenship. Indeed, prisoners in the US and UK are still properly considered US and UK citizens. Instead, by making political rights conditional on residence, states could preserve the widely held idea that adult citizens residing within the state should be automatically enfranchised (or at least adult citizens not imprisoned), without simultaneously assuming that those residing abroad should be denationalized.

Even if citizens with dual or multiple citizenships can discharge their political obligations in two or more states without much difficulty, might they nevertheless be in a position to claim benefits from a state that they are not doing their fair share to support? For instance, citizens with dual or multiple citizenships might be able to claim extra benefits from social programs, while at the same time failing to contribute their fair share to maintaining them. Or they might be able to ‘double-dip’ by taking advantage of the provisions in both of their states.

Some citizens with dual or multiple citizenships probably free-ride on the contributions of their fellow citizens in this way, and dual/multiple citizenship may well result in some duplication of social services. But it is not at all clear that the appropriate response to this would be to withdraw citizenship from those who hold more than one citizenship. Such opportunistic misuse of state benefits can be addressed (and probably
largely avoided) through an institutional framework where services and taxation are tied to both citizenship and residence. If there is a requirement that the enjoyment of social services be linked to residence, tax evasion and the duplication of services become more difficult. Bilateral and multilateral international agreements can also help decrease the risk of tax evasion or the duplication of services by dual citizens or citizens with multiple citizenships.\textsuperscript{20} Such measures may involve cost, but there is no reason why such costs could not be borne in some measure by these individuals, given that it is their dual or multiple citizenships that create the need for additional regulatory apparatus. And of course it is entirely appropriate for the state in which a person is a citizen to punish her (proportionately) insofar as she attempts to obtain (or accept and knowingly keep) benefits to which she is not entitled.

These measures may not altogether eliminate the risks of this sort of abuse of the state’s welfare and tax system, but it is not clear how serious a problem that would really be. People fall victim to free-riding and other forms of misconduct all the time. The question is how to respond to it effectively and fairly. Would the risks of such misconduct justify eliminating the prospects for multiple citizenship altogether? This seems a disproportionate response to such risks, given the availability of other measures that could reduce their incidence. It would prevent many people who would reliably comply with their obligations in different states from enjoying citizenship rights in more than one country. And given that many people do have life plans located in more than one state, then there is a strong presumption in favour of reliably securing their membership in these communities.

\textbf{Justifying Denationalization}

Let us now take stock. We have argued that the two objections to denationalization fail to support a blanket moral prohibition of this practice. Nevertheless, we have also
suggested that the arguments advanced in favour of denationalization are not very convincing. So under what conditions is denationalization morally permissible?

There are circumstances of citizenship withdrawal that are not only unlikely to impose undue burdens, but where it might seem a fitting response to the conduct of the person denationalized. In particular, this may be true of individuals acting alone or as a collective who have committed very serious crimes of a political nature and who have done so with the active encouragement, active assistance or culpable passivity of another state. (That is, another state must have intentionally, recklessly or negligently facilitated these crimes, whether by actively participating in them or failing to prevent them).

For the purpose of this essay, we’ll define serious political crimes as crimes where the perpetrator intentionally violates (or actively conspires to violate) the most basic rights of civilians (ie., rights to life, liberty, freedom from torture and degrading treatment, etc.) in order to achieve political goals or communicate political messages. Admittedly, this definition is not precise enough to neatly categorize all crimes as political or non-political, but it is sufficient to distinguish clear-cut cases of political crimes (and surely it is on such crimes that any policies of denationalization should focus, rather than on crimes of unclear status.)

Let us illustrate the way our criteria would work to prohibit or permit denationalization through some examples:

(1) Suppose that a group of Australian–Indonesian dual citizens explode a bomb in the Sydney Opera House during a concert, killing and injuring hundreds of people. Now imagine that al-Qaeda claims authorship of the crime, justifying it on the basis that Australia has become an enemy of Islam by supporting the USA in Iraq and Afghanistan. After some investigation, the Australian authorities discover that these terrorists received their training in Indonesia and that the Indonesian government, though well aware of their activities, negligently failed to act to prevent them.

We think that the perpetrators in this case would be liable to denationalization because i) they have committed a very serious crime that violates the basic rights of many people
with the intention of communicating a political message, ii) through its negligence, the Indonesian government made itself liable to bear the costs associated with receiving these individuals should they be denationalized by Australia, iii) Indonesia can be reasonably expected to protect the basic rights of those denationalized, which means that Australia would not be complicit in wrongdoing by returning them there. Things would be different, on our account, if the perpetrators were citizens of Australia only. Denationalizing the perpetrators in that case would leave them without reliable protection of their basic rights.

Let us now turn to a second case:

(2) Suppose that a group of Afghan–Jordanians hijack an airplane and hit a business centre in Amman, killing thousands of people. Now imagine that the Jordanian government manages to track other Afghan nationals involved in the operation and discovers that the Afghan government was behind it (motivated by the belief that Jordan’s policies are there to serve the West’s interests in the Middle East).

In this case, our account would prohibit denationalization. While it is true that the perpetrators in this case committed a very serious political crime, and that the Afghan government made itself liable to receiving these individuals (by actively recruiting and training them), the fact that Afghan is considered by the international community to be a failed state puts the individuals involved at high risk of having their most basic rights violated. Jordan has a responsibility to avoid placing persons in such a precarious situation: hence it must not denationalize and deport them to Afghan.

These examples suggest that there are certain kinds of serious political crimes committed against legitimate states that could render denationalization an appropriate response on the part of that state. It bears repeating, however, that another state must make itself liable to receiving the denationalized person and be reasonably expected to protect her basic rights. But what exactly gives rise to liability on the part of another state? We take it that what makes them liable is that they have already granted citizenship
to the person in danger of losing citizenship elsewhere and that they have shown serious
disrespect to the interests of the legitimate state that was victimized through this person’s
misconduct (by actively contributing to or culpably failing to prevent the crime in
question).

But what makes it permissible to impose the cost of withdrawing citizenship on
the individual in such cases? When an individual intentionally violates the most basic
rights of her fellow citizens by committing a serious political crime in a way that is
enabled by the conduct of another state, her fellow citizens would have legitimate reason
to argue that she cannot meaningfully hold citizenship in the state that has been
victimized. Indeed, what the perpetrator takes to be active political engagement
elsewhere (i.e., attacking her state of citizenship with the implicit or explicit authorization
of another state, or its negligent disregard) conflicts with what her fellow citizens can
reasonably require of her at home (e.g. refraining from violating their basic rights).

We argued above that the assumption that people could not meaningfully hold
multiple citizenships was implausible. We should operate with a presumption that dual or
multiple citizenships do not prevent or seriously undermine the possibility of
engagement of the right sort with each political community. However, the dual citizen
who engages in serious political crimes against legitimate state A, with the authorization,
encouragement, or as a result of the negligence of state B, on the other hand, demonstrates
that she cannot meaningfully hold citizenship in state A. The serious and political nature
of the crime is what makes the severing of the political bond with her by the state seem
not only a proportionate response, but also a fitting one. We noted above that
wrongdoers do not ordinarily act in ways that justify their expulsion from the political
community to which they belong. However, those who have engaged in political violence
of the sort described in our examples have themselves strongly communicated their
disassociation from this community through their actions. And if they are prepared to
carry out such acts of serious political violence, then they have no grounds for complaint if the community chooses to banish them. They have already, in effect, self-excluded.

Before we conclude this discussion, let us summarize our case in favour of denationalization. We have argued that when some conditions are met, it could become morally permissible for an individual to be denationalized by one of her countries of citizenship. We have suggested that the conditions are as follows: First, she must commit a severe crime of a political nature against that state. Second, her denationalization must affect a second state that has no complaint against receiving her (because it has already granted citizenship to her and because it has authorized or is directly implicated in the wrongs committed by her). Third, the receiving state can be reasonably expected to protect her basic rights.

Conclusion
There are two different questions that can be raised regarding citizenship withdrawal. There is the moral question of whether there are conditions under which it could be permissible to withdraw citizenship. To this question, we have answered in the affirmative. But there is also the further question of whether states ought to enact institutional arrangements that permit states to withdraw citizenship. To be sure, these questions are related. If we were unable to conceive of conditions under which a state could permissibly withdraw citizenship from its members, this would settle the question against enacting institutional arrangements that would give states the legal right to do so. But they are nevertheless distinct. While we have argued there are circumstances under which states could be justified in withdrawing citizenship, we shall argue in this section that institutionalizing such a right would be problematic, all things considered.

The major concern is that states might abuse their right to withdraw citizenship by passing legislation that fails to meet the conditions specified above. An example of
this, as Gibney has pointed out, is the UK’s Immigration, Asylum and Nationality Act of 2006, which gives the Home Secretary power to withdraw citizenship from dual citizens whose behaviour is considered ‘non-conducive to the public good’.\textsuperscript{21} While this legislation protects individuals against statelessness and does not discriminate against those who have been naturalized (dual citizens born on British soil are just as vulnerable to denationalization as those born elsewhere), it is not clear that it meets the first and third of our conditions. While we believe that only those implicated in serious political crimes can in principle be subject to citizenship withdrawal, the UK legislation is so vague that it could potentially be used ‘preventively’ to include people who have not yet committed crimes. Indeed, it seems that a fervent admirer of al-Qaeda with a history of severe mental illness could be at risk of denationalization.\textsuperscript{22}

We have also noted that the possession of a second citizenship is not sufficient for protecting the basic rights of persons should this second citizenship be in a state that is generally incapable or unwilling to perform certain functions. By focusing on the formal dimension of citizenship, the UK legislation does not adequately protect persons from being deported to a country that could not be expected to reliably protect their most basic rights. In order to strike the right balance between the moral right of communities to punish individuals who have committed the most serious kinds of political crimes and the rights of individuals to have their basic rights protected, we must not only guard against statelessness, but also against allowing persons to find themselves in conditions that are morally akin to statelessness in terms of the insecurity of basic rights it engenders.

The concern here is not only that states might pass legislation that is open to misuse and misapplication, but that the international political environment is such that the plight of the stateless has not yet been properly addressed by a global migration regime (and is unlikely to be tackled in the near future). Given that protections against
becoming stateless are very limited and that protections for those rendered stateless are minimal, any legislation that would permit denationalization seems quite risky. This risk may not be worth taking given that the legitimate concerns of states can seemingly be addressed in other ways. Until we have international agreements and institutions that can ensure that all individuals have access to at least one citizenship in a country that is both capable of and willing to perform the requisite political functions, the safer course would be for states to continue to punish those convicted of political crimes in the same fashion that it punishes all others and resist using their power to denationalize.

1 Matthew Gibney (2013), whose views on withdrawing citizenship we discuss in detail, is the notable exception.
3 Ekirch (1985) relates the story of a pregnant British woman who was banished in 1772 for having stolen bacon and a mess of soup.
4 For a good discussion of the UK case, see Gibney, 2013.
5 These were people who referred to the costs of social benefits and public goods when justifying their decision. See Kovács, 2006.
6 For a related discussion, see Carens, 2008.
8 They may also lack basic documentation (i.e., a birth certificate) and this can disempower them significantly when interacting with government (Goldston, 2006).
9 While it is true that in some states, citizens and non-citizens have their basic rights violated to a similar degree, it is still the case that lacking citizenship typically makes persons even more vulnerable to rights violations.
10 On the importance of enjoying goods robustly, see Pettit, 2012.
11 This is not peculiar to withdrawing citizenship. The same is true of withdrawing residency rights: see Carens, 2008.
12 It might be objected that such arguments would not reach people who believe that capital punishment can be justified. After all, killing someone also removes them from the site of their life plans. Our discussion assumes that some basic rights (such as the right to life) are inalienable, and so it operates with the assumption that the death penalty is morally impermissible.
13 Not always entirely, of course. Jurisdictions that practise permanent felon disenfranchisement, for example, do not. In our view, these practices of punishment are questionable, though not always unjustifiable, for just this reason, thought we cannot argue for this here. For discussion, see Lippke, 2001.
14 This does not commit us to the view, defended by Duff and others, that punishment should never be a way of excluding people, since the very point of punishment is to restore membership in the community. Rather, with respect to many crimes, it seems appropriate to punish in ways that are oriented towards eventually restoring membership in the community to the person on whom it is inflicted.
Of course there is reason for concern, as a practical matter, about the ability of state bureaucrats charged with determining the significance of the connection between a person and her country of citizenship (it is easy to imagine cases in which the lack of such connections would be wrongly supposed, rather than proven, with discriminatory and harmful effect). Given the subjective dimension of emotional ties, we might have reason to endorse a blanket legal prohibition on denationalization of people in this class, even if we cannot endorse a moral one. We return to this issue later.

For those who argue that dual citizenship does not necessarily hinder political participation, see Guarnizo et al., 2003; Spiro, 1997; Blatter, 2011. For the opposite view, see Staton et al., 2007. Note that although Staton et al. conclude that dual nationals ‘are less connected to the American polity’ than their peers (p. 480), this still does not answer the question as to whether they are connected to a sufficient degree.

This principle—distinct from the all-affected principle—is formulated in Goodin, 2007. For discussion of related principles, see also Miller, 2009.

For arguments that would support this view, see Lopez-Guerra, 2005.

Though it seems that this practice is quite rare: see Fix and Laglagaron, 2002.

The standard rule, under double-taxation agreements, is that residents (whether citizens or not) pay their tax first and foremost to their country of residence.

Cf. Gibney, 2013. The only safeguard for those who are denationalized by the Home Secretary is that they are given an automatic right of appeal. For those who have their UK citizenship withdrawn on the basis on national security concerns, their appeal goes to the Special Immigration and Appeals Court, which is not bound by the standard rules of evidence and transparency.

Discussing the Bill in the House of Lords, Lord Filkin called attention to how this legislation would prevent future misconduct while also providing extra sanction for those who engaged in treason and subversion even if they had not been convicted of a crime: see Gibney, 2013, p. 648.


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