

Introduction

To be a stateless individual is one of the most dreadful political fates that can befall anyone in the modern world. And the possession of an American passport particularly is profoundly valued, especially by naturalized citizens.

—Judith N. Shklar, *American Citizenship: The Quest for Inclusion*

In late November 2001, after the United States' invasion of Afghanistan, hundreds of surrendering Taliban fighters were sent to the Qala-e-Jangi prison complex near Mazari Sharif. Among the surrendering Taliban forces were Afghan Arabs who instigated a prison riot by detonating grenades they had concealed in their clothing, attacking Northern Alliance guards, and seizing weapons. The prison uprising was brought to an end after a three-day battle that included heavy air support from U.S. AC-130 gunships and Black Hawk helicopters. One American soldier was killed and nine were injured along with about fifty Northern Alliance soldiers. Between 200 and 400 Taliban prisoners were killed during the prison uprising. Among the Taliban survivors were Yaser Esam Hamdi and John Walker Lindh, who were also American citizens.

Hamdi was named in the media as the “accidental citizen” or the “second American Taliban.” The Bush administration described him as an “illegal enemy combatant” and detained him for almost three years without charging him with any crime. He was initially detained at Camp X-Ray at the U.S. naval base in Guantanamo Bay, Cuba, and was later transferred to military jails in Virginia and South Carolina after it became known that he was a U.S. citizen.

In June 2004, the United States Supreme Court rejected the U.S. government's attempts to detain Hamdi indefinitely without trial. On September 23, 2004, the United States Justice Department released Hamdi

to Saudi Arabia without charge on the condition that he renounce his U.S. citizenship.

This case has many legal aspects for study. Among them are the separation of powers among the branches of the government, the detention of noncombatant Americans, and the legality of Hamdi's "voluntary" renunciation of citizenship. Throughout this book, I locate the sociological and symbolic meanings of taking away citizenship as in the case presented above. Why do states take away citizenship from their subjects? When do states expatriate their citizens and with what justification? Should loyalty be judged according to birthplace or actions? Should it be judged at all? Above all, I ask whether citizenship and the rights associated with it can be multiple or divided. The policies of revoking citizenship will be the lens through which I examine, describe, and analyze the complex relationships among citizenship, immigration, the national logic, and ideology.

Stripping away citizenship and all the rights that come with it is usually associated with despotic and totalitarian regimes. The imagery of mass expulsion of once-integral members of the community is associated with such events as civil war, ethnic cleansing, the Holocaust, or other oppressive historical events. It is not surprising to hear that this practice was used in the past by South Africa's apartheid regime, by Germany during both world wars, by Stalinist Russia, pre-1789 France, and the Roman Empire.¹ Although related, these practices are not just a product of undemocratic events or extreme situations, but are standard clauses within the legal systems of most democratic states, including the United States. Here, both naturalized immigrants and native-born American citizens have been judged to be un-American and had their citizenship stripped away.

The recent, and continuing, "War on Terror" has made civil rights a core topic of discussion. We have been witness to the fact that citizenship, once taken for granted as inalienable, can be revoked even from native-born Americans. But the real news is that this practice has been part of American policy since the end of the nineteenth century. *Revoking Citizenship* sheds light on the current state of this practice by looking at its transformation throughout the years and across countries. Thus, the study of the revocation of citizenship simultaneously informs us about topical events (such as the Hamdi case, Patriot Act II, or Lieber-

man's terrorist expatriation act) and provides us with insight into the nature of rights in the modern world in general.

The common thread in most of the recent studies on citizenship is that immigration and naturalization processes are articulated in relation to the conception of citizenship and nationhood in any particular country.² 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. In this research study, I examine the converse of these laws—those measures that deal with legally excluding people from membership in the political community or loss of citizenship.

Of course, the formal revocation of citizenship is not the only way to curtail American citizenship. An even more widespread phenomenon is the revocation of certain citizenship rights from an American citizen. On September 30, 2011, Anwar al-Awlaki, a radical American-born Muslim cleric who became a leading figure in Al Qaeda, was killed in Yemen by a missile fired from an American drone aircraft. Assassination of an American citizen without trial might be an extreme example, but millions of Americans lose some of their citizenship rights every day. Measures include, but are not limited to, depriving convicted felons of voting rights; denial of full citizenship for children; in the past, unequal citizenship rights for women and nonwhites; racial barriers to immigration or the curtailment of some social rights—such as minimum wage or the right to unionize—for workfare workers.³ In this book, I limit the discussion of exclusion to the formal and total revocation of citizenship.

The analytical move of shifting the focus of the academic study of citizenship from inclusionary to exclusionary practices is more than an empirical innovation. From a theoretical perspective, scholars of citizenship have traditionally discussed two issues. On the one hand, many have asked who is allowed to join each state and become a full citizen. While the study of the recruitment of new members to the nation-state stands at the foundation of cutting-edge research on citizenship, the investigation of the notion of annulment or revocation of citizenship is usually ignored. On the other hand, scholars have questioned what rights and responsibilities are associated with the legal status of citizenship. I suggest that there is another element of citizenship that we should study. That is, we should investigate the meaning of the tie between the

individual and the state, the social and cultural assumptions behind it, and the social order that citizenship represents. Can citizenship be transferred, removed, divided, or be multiple?

The myth of a tight fit between the perceived ethnic, religious, cultural, or political borders of nationality and the territorial borders of the nation-state has always been challenged by population movement and conflicting citizenship laws. Expatriation can be seen as an attempt to regulate and enforce the national world order. In this book I use the concept of “national world order” to describe the hegemonic geopolitical perception that the world is divided to distinct national entities. The practice of taking away citizenship was mainly introduced to eliminate dual citizenship, which poses great difficulty for the national logic. That is, regardless of the particular type of citizenship, multiple allegiances threaten the comprehensiveness of the national ideal. In order to trace the emergence of this practice, I will follow the discussions of it in the United States.

Until the second half of the twentieth century, the United States shared with other countries the national ideal that accepted the transfer of national allegiance, and indeed its birth involved asserting the necessity of that transfer, but a suspicion of divided national loyalty persisted. Thus, the United States enacted grounds for expatriation in order to regulate the exclusivity of nationality. The U.S. case is significant as this practice goes side by side with (and sometimes in opposition to) one of the core American political values—the idea that citizenship should be voluntary and contractual. This book shows that this political idea can turn in some circumstances from making the individual safer to threatening him or her, when the contract is questioned by the state. I argue that the practice of expatriation is contingent on particular political or practical circumstances (such as military conflicts, immigration needs, consular dilemmas, and changing international norms).⁴ However, expatriation has usually been initiated in order to regulate the national world order and the national logic that accompanied it.

U.S. laws, international treaties, consular correspondences, and legislative debates regarding states’ rights to revoke citizenship and citizens’ privileges to renounce the same citizenship show that these rights are dependent on the national logic. As stated previously, it is the same national logic that prohibits dual or multiple citizenship.

Whether citizenship is understood as a coherent worldview, or whether it is seen as a more-or-less integrated bundle of variegated practices and policies (typically generated in different periods and under distinctive circumstances), the concept of citizenship is tied to the national logic.

The United States may be the best case study of the policy of revocation of citizenship. In contrast to totalitarian regimes that tend to denationalize their opposition and have few legal barriers against this action, I expected that the constitutional-democratic political institutions in the United States would have positioned it as the least likely state to strip away citizenship.⁵ Hence, by studying the revocation of citizenship in the American context, I can clarify and test accepted hypotheses and generate new theoretical propositions regarding the relation between citizens and the state.

In the United States, taking away citizenship has been justified on the grounds that the citizen has transferred his or her national allegiance. Changing citizenship has been central to American political philosophy from the American Revolution (when settlers were to be allowed to make the break with England) until today. Individual behavior and attitudes (in contrast to ascriptive belonging) were much more likely to appeal to Americans as a valid reason for taking away citizenship. Thus, although expatriation policies appeared in the United States only at the end of the nineteenth century, the investigation of this concept should start earlier, with the unique conception of the linkage between the individual and state formulated by the American colonists.

Looking at expatriation laws, I argue that the policy of taking away citizenship is an attempt to regulate and enforce the national world order. The practice of taking away citizenship was introduced largely to eliminate dual citizenship, which poses a great challenge to the national logic that assumes full loyalty to one's nation-state. Throughout the book, we will look at the initiation of expatriation policies in the United States. Indeed, I found that the United States was suspicious of divided national loyalty and established grounds for expatriation in order to regulate the singularity of nationality. However, we will also see that since the 1950s, the United States began, *de jure* and sometimes *de facto*, to reduce the usage of this practice. This book explains this process as well.

I show that the United States did not restrict its expatriation policies because it suddenly accepted multiple national allegiances. Accommodating dual citizenship, which is tolerated in the United States, is not directly related to a specific ideology but is a practical response to changing domestic and international laws; to national stresses such as rebellion, immigration, or military conflicts; or to the impossibility of regulating exclusive national allegiance in the globalized world. The first two historical phases of citizenship (non-changeable and single citizenship) can be traced to two complementary philosophical stages (biological and contractual citizenship) and are related to institutional changes (from monarchies to republics). However, accepting dual citizenship fits only a speculative philosophy that imagines a cosmopolitan world.

In the first chapter, I introduce the theoretical foundations of the study of citizenship and its revocation. Why is citizenship fundamental for possessing rights? What happens when citizenship is taken away, and what are the differences and similarities between the various conceptions of modern citizenship? In this addressing these questions, I place the revocation of citizenship into a sociological framework as well as comparative-historical context.⁶

What is the difference between citizenship and pre-modern political memberships? In the second chapter, I present the philosophical ideals and the practical considerations that brought Americans to construct a different conception of citizenship from that of the British “motherland.” This individualistic new citizenship regime allows and even encourages the transfer of citizenship in some instances. Individual autonomy is one of the pillars of legal attempts in the United States to hold the individual responsible to the national order.⁷ However, I argue that while those concerns brought about the right of renunciation, they did not change the national ideal of exclusive citizenship.

The third chapter is devoted to the initiation of expatriation laws in the United States. Since the Civil War, the United States’ policy has fluctuated between different (and sometimes opposing) principles and forms of expatriation. This book seeks to unify and find pattern in history, as well as recognizing a diversity of causal factors. Although the American political philosophy that led to the separation of the American colonies from Britain accepted the transfer of national allegiance, representatives of the American state were suspicious of

divided national loyalties. In presenting the reader with the complete list of bills introduced regarding the loss of citizenship, I argue that the United States enacted grounds for expatriation in order to regulate the exclusivity of American nationality.

The policy of expatriation was influenced and sometimes dictated by international relations between the United States and both its allies and its enemies. The fourth chapter follows those considerations by looking at the treaties the United States signed regarding expatriation. I found that while some of the expatriation policies were constructed in response to the ideology of exclusive national allegiance, others were overturned as practical responses to the state's immediate needs in the international arena (mainly in respect to military efforts). Protecting the national order is vulnerable to other, nonmilitary exigencies, and this accounts for much of the complexity of the history of the legislation and the conversation around it.

In the fifth chapter, I present the initial practical dilemmas that led the Department of State to adopt the policy of exclusive nationality. Letters and circulars exchanged between Washington and the consulates around the world show the need for a concrete and coherent policy regarding expatriation both before and after the legislation of the expatriation acts in Congress. I show how the actual concerns of diplomatic and consular officers shaped the practice of expatriation. This is not to say that the national world order is ultimately generated from the ground up, but that the details of its regulation in war and peace and different economic and ideological circumstances are how the national world order is regulated and performed. A constant supply of boundary issues does not undermine the order generating them.

The sixth chapter brings to the fore the current American perspective on taking away citizenship. Several decisions of the Supreme Court have shifted the benchmark for stripping away citizenship. In the past, the policy of expatriation was mainly introduced as a punishment for un-American activities. Even though the cases are few and in a sense marginal, high publicity cases can reinforce an ideology of belonging; through them, a message and a warning is sent out about what it means to be a good citizen. Since the late 1950s, special emphasis has been placed on the intent behind expatriation. Citizenship can be revoked only after the state shows there was a voluntary intent to relinquish this

status. Chapter 6 thus reveals the conflicting political and philosophical ideals that govern this approach.

Following the Supreme Court rulings and the ensuing legislative changes, the State Department appointed the Board of Appellate Review to oversee the department's expatriation decisions. The goal was to detect whether the Department of State had satisfied the burden of proof that the appellant's expatriation act was performed with the intent to relinquish United States citizenship. In the seventh chapter, I follow the board's decisions since 1980 and show that while the board's deliberations do incorporate the idea of intent, it also continues to uphold the principle that nationality should not be divided. As will be seen, the real-world motives of individuals did not so easily fit into a rigid scheme of voluntary allegiance as defined by bureaucracy and the courts.

In practice, the United States has abandoned the ideal of undivided national membership. Although all current and past administrations officially oppose dual citizenship, millions of Americans have multiple national identities, and the United States tolerate this situation. The eighth chapter discusses recent developments in the policy of expatriation in light of the War on Terror. By looking at several proposals for new expatriation laws, I present the reemergence of the idea of the exclusiveness of national belonging, which applies even to native-born Americans and even when it contradicts the Supreme Court's rulings.

In the ninth chapter, I argue that the practice of taking away citizenship was mainly introduced to eliminate dual citizenship, a status that potentially undermines the national logic that assumes full loyalty to one's nation-state. Indeed, I found that in contrast to the novel American political philosophy that embraced the transfer of national allegiance, the United States continued to be suspicious of divided national loyalty and established grounds for expatriation in order to regulate the singularity of nationality. However, since the middle of the twentieth century, the practice of expatriation has been gradually eliminated. The United States began to tolerate dual citizenship. While the legal ruling on this issue is absolute, the sociological perception that national allegiance ought not to be divided still lingers.