



**Middle East
Research Institute**

www.meri-k.org

Policy Brief

5 May, 2019. Vol. 4, No. 31

The Denial of Identity Cards to Islamic State Affiliates: a Recipe for Renewed Radicalisation?

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Many of the Islamic State associated women and children now live in camps inside Iraq and are denied identity cards, including birth and death certificates. These practices violate national and international laws and are likely to contribute to future radicalisation and renewed violent extremism. Iraq must develop clear policies in line with its democratic constitution.

The right to a nationality and possession of identity papers are basic human rights, enshrined in numerous universal declarations. The United Nations' Sustainable Development Goals further aim to 'provide legal identity for all, including birth registration by 2030.'ⁱ Nevertheless, acquisition of identity papers, particularly for refugees and internally displaced persons (IDPs), remains a major challenge worldwide and rarely comes to the fore. In the Middle East, this challenge has become acutely exacerbated and attracted considerable attention after the recent liberation of Islamic State¹ (IS)-occupied territories and the capture of IS-associated (and/or affiliated) members, including women and children.ⁱⁱ

Stripping Shamima Begum, one of the global faces of IS affiliates, of her citizenship by the United Kingdom's Home Secretary left her stateless in a refugee camp in Syria.ⁱⁱⁱ Begum was born in the UK and held no other passport, whereas her parents are of Bangladeshi

¹ Also known as Islamic State of Iraq and the Levant (ISIL), Islamic State of Iraq and Syria (ISIS), Da'esh.

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heritage.^{iv} Begum is only one of hundreds of European nationals, and thousands of refugees and IDPs, who are currently held in camps in both Syria and Iraq for their association with IS. They are denied their identity cards and consequently their nationality on their affiliation or suspected affiliation to IS.^v Such denials are considered a violation of Article 15 of the Universal Declaration of Human Rights, which states: ‘1. Everyone has the right to a nationality; 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.’^{vi}

In Iraq

As of 28 February 2019, there are still 1.75 million people residing in IDP camps throughout Iraq,^{vii} with the majority being located in the Nineveh, Duhok and Erbil governorates.^{viii} An additional influx of more than 26,000 Iraqi refugees, currently held in the *Al Hol* camp in North East Syria, are also expected to be returned.^{ix} The overwhelming majority (82%) of these refugees are women and children, and the Government of Iraq (GoI) has announced its intention to repatriate them all.^x However, the Iraqi authorities are known to have denied these IS-associated IDPs the security clearance necessary to obtain identity cards and other documents required for the acquisition of birth or death certificates, attending school or traveling.^{xi} Moreover, the Norwegian Refugee Council has recently confirmed this in a report, stating that ‘an estimated 45,000 displaced children in camps are missing civil documentation and may face total exclusion from Iraqi society.’^{xii} Consequently, these women and children are denied their rights to full citizenship as well as nationality.

Security Concerns vs. Legal Concerns: Two Separate Issues

The Iraqi government and Parliament are apparently working on developing policies in relation to the fate of IS-associated women and children, but to date no clear policies have been formally developed with regards to the awarding of identity cards. The government of Iraq maintains that there are ‘valid security concerns that IS members, sought for serious crimes, should not be able to get fake identity documents.’^{xiii} These are fully understandable from the national security point of view. However, by prolonging uncertainty, or denying all IS-associated IDPs national identity cards, the Government of Iraq is violating several national and international laws.²

² In addition to the laws that will be mentioned, the 1961 Convention on the Reduction of Statelessness exists. This convention has however not been signed and ratified by Iraq. It states that ‘a Contracting State may retain the right to deprive a person of his nationality [...] [when this person] has conducted himself in a manner seriously prejudicial to

For example, Article 19 point 8 of the Iraqi Constitution states that: *‘Punishment shall be personal.’*^{xiv} This means that when someone is proven to be guilty, this does not put guilt on his or her family members. Article 18 of the Constitution expresses: *‘First: Iraqi citizenship is a right for every Iraqi and is the basis of his nationality; Second: Anyone who is born to an Iraqi father or to an Iraqi mother shall be considered an Iraqi. This shall be regulated by law; Third: A. An Iraqi citizen by birth may not have his citizenship withdrawn for any reason. [...].’*^{xv}

Furthermore, Iraq has ratified the Geneva Conventions I-IV that embody international humanitarian law (IHL) in 1956. Article 33^{xvi} of the Fourth Geneva Convention stipulates that *‘no protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.’* Depriving women and children from their documentation because of association with, or suspected affiliation to, IS constitutes a form of unlawful collective punishment.^{xvii} The right to an identity and nationality applies equally to children and adults. Article 8 of the UN Convention on the Rights of the Child declares: *‘1. that States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference. [...].’*^{xviii}

It is therefore of paramount importance for the Iraqi Government to uphold the rule-of-law, and grant all IDPs (not just women and children) their national identity cards, irrespective of the nature of their association with IS. This is not to say that the government should stop vetting them for security purposes. Indeed, it is of utmost importance to check whether they are the persons they claim to be, investigate possible IS affiliation, and put those affiliated on trial. Nonetheless, withholding identity cards has no place in this process, and might even lead to renewed forms of marginalisation of individuals and sections of the population with inevitable consequences, such as further radicalisation and violent extremism in the long term.^{xix}

the vital interests of the State.’ This may however only be done by a Contracting State when the person concerned is provided with ‘the right to a fair hearing by a court or other independent body.’ Since Iraq is not a party to this Convention, it will not be taken into account. Additionally it is questionable whether Iraq currently has the capacity to realise the processes for fair hearings by courts or other independent bodies in which evidence is presented.

Convention on the Reduction of Statelessness, UNHCR, 1961, 11-12, https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf.

Article Citation: van der Wolff, A. (2019) *The Denial of Identity Cards to IS Affiliates: a Recipe for Renewed Radicalisation?* MERI Policy Brief. vol. 4, no. 31.

The views expressed in this publication are those of the author and do not necessarily represent the views of MERI.

ⁱ Nicholas Oakeshott et al., "Empowering Refugees and Internally Displaced Persons through Digital Identity," UNHCR Blog, June 27, 2018, accessed March 15, 2019, <https://www.unhcr.org/blogs/empowering-refugees-internally-displaced-persons-digital-identity/>.

ⁱⁱ "Iraq: Families of Alleged ISIS Members Denied IDs," Human Rights Watch, February 25, 2018, accessed March 12, 2019, <https://www.hrw.org/news/2018/02/25/iraq-families-alleged-isis-members-denied-ids>.

ⁱⁱⁱ Kevin Rawlinson and Vikram Dodd, "Shamima Begum: Isis Briton Faces Move to Revoke Citizenship," The Guardian, February 19, 2019, accessed March 15, 2019, <https://www.theguardian.com/world/2019/feb/19/isis-briton-shamima-begum-to-have-uk-citizenship-revoked>.

^{iv} Rawlinson and Dodd, "Shamima Begum: Isis Briton Faces Move to Revoke Citizenship."

^v "Iraq: Families of Alleged ISIS Members Denied IDs," Human Rights Watch.

^{vi} "Universal Declaration of Human Rights," United Nations, accessed March 15, 2019, <https://www.un.org/en/universal-declaration-human-rights/>.

^{vii} "Iraq Mission Displacement Tracking Matrix," IOM Iraq Mission, accessed March 12, 2019, <http://iraqdtm.iom.int/DtmReports.aspx>.

^{viii} "Iraq Mission Displacement Tracking Matrix."

^{ix} "National Protection Cluster Minutes of Meeting (14 March 2019)," 6, https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/2019_03_14_npc_mom.pdf.

^x "National Protection Cluster Minutes of Meeting," 6.

^{xi} "Iraq: Families of Alleged ISIS Members Denied IDs," Human Rights Watch.

^{xii} "New Report: 45,000 Children May Become Stateless in Post-IS Iraq," NRC, accessed May 01, 2019, <https://www.nrc.no/news/2019/april/new-report-45000-children-may-become-stateless-in-post-is-iraq/>.

^{xiii} "New Report: 45,000 Children May Become Stateless in Post-IS Iraq," NRC.

^{xiv} *Iraq's Constitution of 2005*, PDF, Constituteproject.org.

^{xv} *Iraq's Constitution of 2005*, PDF, Constituteproject.org.

^{xvi} *IV GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR OF 12 AUGUST 1949*, United Nations, August 12, 1949, http://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf.

^{xvii} "Iraq: Families of Alleged ISIS Members Denied IDs," Human Rights Watch.

^{xviii} "Convention on the Rights of the Child," OHCHR, accessed March 15, 2019, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

^{xix} *Eighth Report of the Secretary-General on the Threat Posed by ISIL (Da'esh) to International Peace and Security and the Range of United Nations Efforts in Support of Member States in Countering the Threat*, 4, PDF, United Nations Security Council, February 1, 2019.