Dr Nisha Kapoor, Lecturer in Sociology, University of York – written evidence (CCE0225)

1. I am an academic who has studied recent shifts in citizenship law and policy as it impacts on racially marginalized populations, with a particular focus on the impact of the securitization agenda as it has been enforced through immigration control and counter-terrorism initiatives. My academic research on this and related topics has appeared in peer-reviewed academic journals, books and public media platforms.

2. The research I have been carrying out, as part of an ESRC funded project, has involved investigating the growing insecurity of citizenship in the context of the War on Terror with a particular focus on different forms of citizenship denial, withdrawal and deprivation and their racial dimensions. The premise here is that much can be learned about the nature of citizenship from an examination of the experiences of those who are excluded from it.

3. In light of this, I centre my comments here on analysis of data capturing different dimensions of citizenship refusal and withdrawal. The policing of citizenship and reasons provided by the Home Office for its denial has implications for the way in which citizenship comes to be understood and experienced for members of resident minority ethnic communities who are disproportionately affected by these measures.

4. The research has thus far indicated a number of important findings that are deeply concerning. Ann Gross, Director of Special Needs, Disadvantage and Character Policy in the Department for Education, has indicated in earlier evidence to the Committee that Government policy on citizenship education expects schools to promote fundamental British values of ‘democracy, rule of law, individual liberty and mutual respect and tolerance for people of different faiths and beliefs’. My research, however, indicates that many of these principles and values are not adhered to in the decision-making processes for granting citizenship. This not only compromises the sentiment behind those principles per se, it also sends a message out to racially marginalised communities that there are hierarchies of citizenship, with the threshold being higher for some than others. This in turn has potential for increasing levels of alienation and negatively impacting on senses of belonging amongst minority communities.

5. To elaborate, I would like to raise with the Committee a number of issues arising from one of the current requirements for citizenship, namely the ‘good character’ requirement. The broad policy underpinning this criteria has allowed for an ever expansive scope for denying citizenship. While the quantitative data I have examined points to the disproportionate targeting of people with certain nationalities, the qualitative analysis indicates quite starkly how the criminalisation of immigration constrains future possibilities of citizenship. Individuals can be denied naturalised citizenship on the basis of honest mistakes made when completing asylum application documentation, or for the political views or affiliations that caused them to seek asylum and refuge in the first place.
Minor convictions, such as for driving misdemeanours, can also result in the refusal of naturalisation.

6. Analysis of interview data and legal judgements for cases where individuals have been refused citizenship on national security grounds (another dimension that constitutes ‘not good character’), shows that in multiple cases individuals are designated to be of ‘not good character’ because of political beliefs they might hold, because of individuals they are suspected of associating with (which might include family members) and because they have refused to cooperate with and work for the intelligence and security services, acting as undercover agents within suspect communities (typically Muslim communities). While the policing and criminalisation of divergent political beliefs contravenes the very principles of democracy and liberty, ‘respect for people of different faiths and beliefs’, a value that the Government ostensibly seeks to encourage, is disregarded in this process.

Naturalised Citizenship and the Character Requirement

7. Within unsuccessful applications for British citizenship, being of ‘not good character’ has come to represent the principle reason for refusal over the last ten years. Since 2008 the number of people being refused naturalised citizenship on the grounds of ‘bad character’ has been gradually increasing so that, after a small dip in 2014, in 2015 43%, and in 2016 44% of people who were refused British citizenship were denied on this basis. It is consequently becoming the principle reason why citizenship is denied in Britain.

8. The good character requirement for citizenship was revised in 2009 as part of broader immigration-citizenship reforms brought in under Gordon Brown (Borders, Citizenship and Immigration Act 2009). The Brown Government’s ‘Path to Citizenship’ strengthened a notion in development for some time that citizenship was something to be ‘earned’. The 2009 enhancement centred around a staged process that would involve demonstration of contribution to social and economic life in a number of ways as well as proving a certain degree of assimilation. Sufficient knowledge of life in the UK and the English language would need to be demonstrated alongside exemplifying that one was of reputable ‘character’, a requirement that encompassed multiple considerations including previous criminal convictions and suspected criminality but also civil society contributions such as paying taxes and community engagement. Though the character requirements have long been part of legal provisions for citizenship, policy changes brought in at this time introduced a stricter test, adding a further dimension to a shift in the administration of citizenship that was already underway.

9. Though there is no official legal definition of what constitutes ‘bad character’, the 2013 Home Office policy guidance indicated that it incorporated ‘not abiding by or respecting the law’, being ‘associated with war crimes’, not having one’s ‘financial affairs in appropriate order’, being involved in ‘notorious activities’ that ‘cast serious doubt on standing in the local community’, being dishonest with the UK Government, or having previously been deprived of citizenship (see Home Office 2013 Nationality Policy Guidance and Casework Instruction, Chapter 18, Annex D: The Good Character Requirement).
of immigration control’ and contravening immigration regulations were added to this list in 2014. Currently behaviours such as divorce, promiscuity, drinking or gambling, eccentricity (including beliefs), and unemployment or working habits should not normally constitute grounds for refusal, but scale and persistence of such activities are considered potential grounds, particularly if it is a case likely to attract public or media attention. Parenting, debt, bankruptcy factor too. The guidance further stipulates that a decision maker can still refuse citizenship if they have further doubts outside of this list (Home Office 2013, p.4).

10. While the framework for demarcating citizens and granting citizenship has always been deeply racialized, the supplementation of ‘objective’ thresholds for citizenship such as residency requirements with such ‘subjective’ criteria significantly expands the scope for racial sorting. Analysis of Home Office Citizenship statistics supports this, indicating an uneven distribution of citizenship refusal by nationality.

11. The data indicates that refusals on character grounds are unevenly distributed and some nationalities are more likely to be refused for such reasons compared with others. The data shows this uneven distribution to be the case since 2002, but I focus on data from 2006 here (see Figure 1), two years before a significant jump in citizenship refusals on character grounds in 2008, and three years before the official policy shift in 2009. I have calculated percentage refusals on character grounds as proportions of expected rates of total refusal for each country. Consequently, some of the results show that more than 100% of applications are refused on character grounds. While this indicates that specific percentage rates I show are to be treated with some caution, the results do indicate that the overall refusals for applicants from these countries are higher than would be expected (the denominator estimates are too low) and still suggest that a high proportion of refusals from these countries are for reasons of ‘not good character’. Applicants who are nationals of Turkey, Vietnam, Kosovo, Angola, Jamaica, Rwanda, Congo, Tunisia, Algeria, Sudan, Sierra Leone, Iran, Palestine and Libya are consistently more likely to be refused citizenship on character grounds compared with the average rate. From 2008 when there was a jump in the use of this measure so there was a significant rise in refusing applicants from Iraq and Afghanistan and applications from nationals of these countries remain high over the subsequent period.

12. It is difficult from these data to confirm why nationals of the listed countries in particular feature amongst those most likely to be refused on character grounds but they do feature as states from where a high proportion of asylum applications have come from five years or so preceding citizenship applications, countries facing wars in which Britain has had a direct or indirect role and/or post/colonial relationship.

13. One of the justifications for refusing citizenship on character grounds, as noted above, refers to ‘deception and dishonesty’ in any liaison with a state department, a sufficiently broad criterion that can encompass a range of actions and behaviours. The caseworker guidance notes indicate it refers to attempts to enter the country
using false or misleading documents and/or attempts to gain access to public and social services which one’s immigration status prohibits against. Since the onslaught of legislative restrictions against asylum make it near possible to arrive as an asylum seeker ‘legally’, without incurring some kind of legal infraction, and the exclusion from or limited access to basic services such as healthcare and housing mean transgression becomes a necessity for most to survive, it is quite possible that the measure of ‘deception and dishonesty’ offers a way to exclude from British citizenship large numbers of individuals who have arrived via the asylum route. Though denial of citizenship by naturalisation does not mean the right of residency is retracted it does maintain a position of precariousness for those refused is maintained, restricting freedom of movement for those with no viable passport and preserving a sustained possibility for deportation at future dates.

14. An examination of legal judgements in the High Court where individuals have appealed against refusals of their applications for naturalisation shows that citizenship is often refused on the basis of the roles individuals played in the regimes they were fleeing from and on the same basis that they were granted asylum. Asylum applications from Sri Lanka, for example, have been at persistent levels over recent years as a result of the civil war there. In some cases, refusals of citizenship of applicants from Sri Lanka have been on the basis of their association with either the army or rebel groups, both of which have formed legitimate reasons for seeking political asylum.

15. In another case, citizenship was refused to a Botswanan national who had served in the British army (as part of the Commonwealth) on the basis of a driving conviction.

16. In one case a discrepancy in the applicant’s date of birth on two different forms (a typo of one number) was the given reason for her refused application.

17. The power to refuse citizenship on character grounds was extended to children from aged 10 in 2010. 415 children aged 10-18 were refused citizenship on character grounds between 2010 and 2014, 25 of whom were 10-13, 95 of whom were aged 14-15 and 300 aged 16-17. There is little detail on the reasons for these refusals but it is somewhat problematic to assume that the full ‘character’ of a person has been formed by such a young age.

18. Refusal of citizenship on character grounds is sometimes framed in terms of the applicant being suspected of engagement in terrorism-related activity. While there is a broad range of political groups that have been designated as problematic, refusal on this basis can also include those who are not necessarily part of any movement but, for example, engaged in preaching ‘non-Western views’ or who made public statements that were regarded to be ‘of an extremist nature’. This seems to contradict some of the democratic principles being lobbied for, such as freedom of speech and expression.
19. The second, and more prominent, reason for citizenship refusals based on national security bad character concerns associations with others deemed to be suspicious. This affects those who know people who are considered to be of bad character, such that there is a pattern of guilt by association- knowing someone deemed to be of bad character means you can also be labelled in such terms. This reasons underpins most of the justifications for refusing citizenship on character grounds when the specific reason is related to national security or suspicion of terrorism-related activity.

20. The consequence of this wide definition of ‘not good character’, with its use and application in this way, is to further racialize the concept of citizenship, disproportionately excluding and marginalising some minority ethnic communities, particularly those who are likely to have arrived in the UK via asylum routes and Muslim communities, already alienated by experiences of exclusion and Islamophobia.

Figure 1 – Percentage of People Refused Naturalised Citizenship on Grounds of Bad Character by Country of Nationality