

END
THE
HOSTILE
ENVIRONMENT

**THE EMBEDDING OF
STATE HOSTILITY**
A background paper on
the Windrush Scandal

FRANCES WEBBER

Additional research by Anya Edmond-Pettitt

The embedding of state hostility

'The UK Home Office hostile environment policy is a set of administrative and legislative measures designed to make staying in the United Kingdom as difficult as possible for people without leave to remain, in the hope that they may "voluntarily leave".' *Wikipedia*

'It is wilfully misleading to conflate the situation experienced by people from the Windrush generation with measures in force to tackle illegal immigration and protect the UK taxpayer.' *Home Office, June 2018*

'This is not a glitch in the system; it is the system. [They have] violated no law. It is the law that is violating [them].' *Gary Younge, April 2018*

What exactly is the hostile environment? How did it happen that people who thought they were British were told they were illegal immigrants? Who are the illegal immigrants that the hostile environment was designed to catch? How did a person's immigration status become such a life-defining issue, and the term 'illegal immigrant' change from a regulatory issue into a badge of criminality? Who decides who is a 'good' immigrant and who a 'bad' one – and are we, if we accept these distinctions, helping to perpetuate the hostile environment? These

are some of the questions thrown up by the Windrush scandal.

On 17 April 2018, prime minister Theresa May stood up in parliament and apologised for the treatment of Caribbean pensioners who had been rendered jobless, homeless, destitute and unable to access hospital treatment for cancer after a lifetime living, working and paying taxes in Britain. Some had been detained, some deported. Some had died without hearing her apology.

But there has been no apology for the policies which were directly responsible for their treatment; quite the reverse. What had happened to this group, the 'Windrush generation', was presented as a series of unfortunate mistakes in the application of legitimate and necessary measures for the protection of the British public from illegal immigration.

Finally, though, the voices of those whose lives have been blighted by 'hostile environment' policies are being heard – not only those of the Windrush generation, but others who have been unheard until now: children born in the UK, entitled to citizenship but unable to afford the fee to register; women married to British men who have left after domestic violence; people who have overstayed visas to care for sick relatives, or through inability to

CONTENTS

1. The hostile environment	4	7. Who are the 'illegals'? Slipping into illegality	21
2. The Windrush scandal	6	8. The new numbers game	25
3. The roots of the hostile environment	9	9. The retreat from universal human rights	26
5. The 'bad immigrant': race, class and immigration	15	10. Resistance	28
6. The role of the media	19		

afford rocketing visa fees, or through sheer inadvertence – all these and others who have found themselves denied and excluded, perhaps detained and deported as ‘bad immigrants’, ‘illegal immigrants’.

This background paper takes a historical perspective, demonstrating how the good immigrant/ bad immigrant dichotomy, and the term ‘illegal immigrant’, have been deployed and weaponised by politicians at different times. We show how the roots of some hostile environment policies can be traced back several decades – but it is the Cameron and May governments which, by building up a complete set of interlocking policies of denial,

exclusion, surveillance and enforcement, have turned all foreigners into a suspect population and our society into a nation of border guards, establishing state xeno-racism and nativism as central to government policy.

While the change of name, from ‘hostile’ to ‘compliant’, is a tacit acknowledgement of the state racism informing the policies, much more is needed to dismantle the edifice – but a start has been made, as some of those tasked with implementing the policies – doctors and social workers, landlords, teachers and even some Border Force officials – come forward to denounce them.



1. The hostile environment

A number of policies came together to create the 'hostile environment':

- » making access to most of the necessities of life dependent on immigration status, and shifting the burden of proof to those seeking jobs, benefits, housing and other services, who must prove entitlement, rather than requiring the Home Office to disprove it;
- » requiring providers of jobs, benefits, housing and other services to check immigration status of all applicants, and data sharing between the Home Office and many other agencies;
- » aggressive immigration policing.

Necessities of life

Those without permission to be in the UK cannot:

- » **Work** legally: they can be arrested, charged with illegal working and have their wages confiscated
- » access **means-tested benefits**
- » access **social housing** or **homeless persons housing**
- » legally rent **private rented housing**
- » embark on further or higher **education**
- » access non-emergency **hospital treatment** if they cannot pay the full fees (150 percent of cost)
- » have a **bank account**, making renting property impossible
- » legally **drive**: they can be arrested for driving whilst unlawfully in the UK
- » **marry**: marriage may be investigated, postponed or stopped on suspicion that it is an 'immigration marriage'

It is for the person seeking employment, welfare benefits, housing (social or private), hospital treatment, enrolment on a course, a driving licence, marriage, a bank account – to

produce evidence of their entitlement to be in the UK, to work, etc.¹

Conscripted into immigration enforcement

The following people must check (and in some cases record) the immigration status of those to whom they provide benefits or services:

- » employers, who can be fined £20,000 per unauthorised worker, or imprisoned for up to five years for employing such a worker knowing or reasonably believing them to be unauthorised;
- » civil servants dealing with benefits;
- » local authority housing and benefits officers and social workers, who have a duty to notify the Home Office of unauthorised applicants;
- » private landlords, who can be fined or imprisoned for up to five years for accommodating someone without permission to be in the UK;
- » colleges and universities with international staff or students, who can be fined etc as employers and have their sponsorship licence withdrawn for lax controls on international students;
- » NHS hospital staff;
- » Bank and building society managers
- » The Driver and Vehicle Licensing Agency (DVLA)
- » Marriage registrars, who have a duty to notify the Home Office of 'suspicious marriages'.

Additionally, the Home Office is entitled to demand, and routinely receives, information

¹ Other groups apart from undocumented migrants are not entitled to work, eg, visitors, most asylum seekers, college students. University students may work only ten hours per week in termtime.

on suspected 'immigration offenders' from other government agencies including the police, Department for Work and Pensions (DWP), Her Majesty's Revenue and Customs (HMRC), NHS Digital and the Department for Education.

Immigration officials are 'embedded' in the DVLA, in a number of police custody suites and in some local authority housing and children's departments.

Aggressive policing

The abject failure of Operation Vaken, the billboard van hired by the Home Office in 2013 to broadcast the message 'Go Home! Or face arrest!' to irregular migrants, has obscured the thousands of immigration raids routinely taking place all over the country:

From 1993 to 2009 the number of **immigration enforcement officers** in the country grew from 120 to 7,500;

» Many thousands of enforcement visits or **raids**, involving several officials, take place annually;

» Immigration officers have conducted controversial immigration status **checks** at London tube stations;

» Immigration officers have all the **powers** of arrest, search of persons, use of force, search of premises, seizure of potential evidence, of vehicles and documents that police have, without most of the safeguards against abuse.

» Although **detention** is 'a last resort' according to Home Office policy, around 27,000 people, including thousands of survivors of torture or trafficking, vulnerable and mentally ill people, are detained annually for immigration enforcement, most for days or weeks but some for months or years. At least half are released, lending weight to the belief that detention is unnecessary, arbitrary and responds to Home Office targets rather than a real need to detain. Despite strong campaigning and parliamentary pressure, governments have consistently refused to introduce a time limit for detention, opting out of the EU maximum of 18 months.

2. The Windrush scandal

Awareness of the 'Hostile Environment' only became widespread when it was revealed, in April 2018, that over the past few years, thousands of elderly British or 'virtual British' residents, mainly from the Caribbean, who came to the UK as children before 1973 with or to join parents, were finding themselves treated as 'illegal immigrants' and fired from jobs, denied welfare benefits, housing and health care, and made homeless and destitute. Some were detained, some deported, others refused entry to the UK when they tried to return from visits to family in the Caribbean.

Why? The evidence they showed officials of their right to be in the UK was not accepted, and they were deemed illegal entrants or overstayers.

What did they need to prove? Either that they were British citizens, or that they had indefinite leave to remain in the UK.

Why couldn't they prove they were British? They would have lost UK & Colonies citizenship when Caribbean colonies became independent in the 1960s. Although those living in Britain had the opportunity to register as British citizens after nationality law changed in the 1980s, many would not have realised that they needed to; as Commonwealth citizens, their passports would still have described them as 'British subjects', although this status gave them no rights.

If they weren't British, were they still entitled to be here? Commonwealth citizens settled in the UK since before 1973 were entitled to indefinite leave to remain.

So didn't the Home Office have records showing when they arrived? No, the landing cards they arrived on were destroyed, and the Home Office appears to have kept no other relevant

records – although shipping companies' ledgers, recently found stored at the National Archive, will help many prove their arrival date.

Why did the Home Office reject the evidence they presented? Officials demanded four pieces of documentary evidence for each year of claimed residence. Some later claimed they were not allowed to accept other forms of evidence. National insurance and tax records were often rejected, as were personal testimonies and those of friends and neighbours. Often, schools and GP surgeries attended in the 1950s or '60s had closed and attendance records lost.

How many people are affected? The Migration Observatory calculates that around 57,000 Commonwealth-born long residents have not formalised their status in the UK, of whom an estimated 15,000 are from Jamaica, and 13,000 from India. In August, a Home Office analysis of 12,000 cases found 164 people wrongly detained and/ or removed – the analysis does not indicate how many had lost jobs or become homeless.

Some of those affected are:

- » **Michael Braithwaite:** born 1952, arrived in the UK from Barbados 1961, has worked continuously since leaving school, has three British children and five grandchildren, was fired from his job as a special needs teaching assistant in 2017.
- » **Anthony Bryan:** born 1957, arrived in UK 1965, worked for over forty years as painter and decorator, has sons and grandchildren in the UK, lost his job when Capita wrote saying he was illegally in the UK and his employer could be fined for employing him; he spent three weeks in detention and officials broke down his door and arrested him for deportation in 2017.

- » **Melvin Collins:** born 1946, retired youth worker, stranded in Jamaica since he went for a visit in 2015 and his passport with an indefinite leave stamp was taken by an official at Gatwick airport. He was not allowed to return, and remained destitute as his UK pension was stopped.
- » **Trevor Ellis:** born 1947, arrived UK 1958, was threatened with deportation after arrest for a motoring offence in 2014.
- » **Judy Griffiths:** born 1955, arrived in UK 1962, stopped from working in 2015 as 'illegal immigrant'.
- » **Hubert Howard:** born 1957, arrived 1960 from Jamaica, was unable to go to his mother's funeral as his application for a British passport was refused; lost his job with Peabody Trust in 2012.
- » **Desmond and Trevor Johnson,** brothers born 1960 and 1961, in UK since 1971. Desmond was unable to return to the UK after returning to Jamaica in 2001 for his father's funeral and to look after his mother, and was unable to see his daughter for 16 years. Trevor, a widower with two British-born daughters, was told by Capita he could not work or claim benefits in 2014, and the family was destitute, relying on food banks and sometimes begging for two years until the Home Office accepted evidence confirming his long residence.
- » **Renford McIntyre:** born in 1954, arrived from Jamaica in 1968, has worked for 48 years as an NHS driver and a delivery man, was fired in 2014 as he could not produce documents evidencing his right to remain, his local authority refused to help with housing or benefits, leaving him homeless; the Home Office rejected evidence of tax-paying over 40 years.
- » **Sarah O'Connor:** born 1961, arrived in UK from Jamaica 1967, has four British-born children, lost job in computer shop after sixteen years in 2017 and was challenged by Benefits Agency to prove entitlement to benefits.
- » **Tony Perry:** born 1956, arrived in UK 1959, refused passport 2001 as 'not British'.
- » **Elwaldo Romeo:** born in Antigua 1955, arrived in UK 1959, has worked here for more than 40 years, has held a British passport, owns his own home in London, has two adult British children and five British grandchildren, receives a letter in March 2018 telling him he is 'liable to be detained' as a 'person without leave'.
- » **Gladstone Wilson:** born 1956, arrived in UK 1968. Could not go to his mother's funeral in 2014 and was stopped from working and had his security guard's licence revoked.
- » **Paulette Wilson:** born 1957, arrived from Jamaica 1968, has a daughter and granddaughter born here, worked for 34 years as a cook, including in House of Commons restaurant, was told in 2015 she had no leave to be here, was detained for a week in 2017 for deportation.

How did the scandal come to light? In 2014, the Legal Action Group (LAG) published *Chasing Status: The 'surprised Brits' who find they are living with irregular immigration status*, citing (among others) case studies of long-resident Commonwealth citizens. As law centres and clinics, CABx, migrant support organisations and Commonwealth high commissioners became aware of more and more cases, and came up against a brick wall at the Home Office, they began to turn to the media. The *Guardian's* Amelia Gentleman began reporting the cases in 2017, and in April 2018 MPs and an unprecedented intervention by the Caribbean high commissioners forced an apology from Theresa May and home secretary Amber Rudd, who resigned after misleading parliament over removal targets.

What has happened since?

- » The home secretary announces a 'Lessons Learned' review in May 2018.
- » In June, the Home Affairs Select Committee tells the government urgently to set up a hardship fund for those in financial difficulty.
- » A compensation scheme is set up, but new home secretary Sajid Javid is accused of demanding non-disclosure agreements in exchange for speedy compensation, and of seeking a cap on compensation and a minimum threshold for claims, to save public money and administrative costs.
- » An inquiry into the detention of two Windrush victims, Paulette Wilson and Anthony Bryan, by the joint parliamentary committee on human rights, finds both suffered 'total violation' of their rights as a result of 'systemic failure' at the Home Office, with no credible explanation for officials ignoring clear and consistent evidence of lawful stay.
- » By the end of July, according to the immigration minister, 2,272 Windrush victims have received papers confirming their right to stay, and 1,465 have been granted British citizenship, with fees waived.
- » Despite a promise that a dedicated task-force would resolve cases in two weeks, five months later many have not received papers and are still destitute, unable to work and homeless, or with rent arrears mounting, blacklisted by credit agencies and unable to open a bank account or get a mobile phone contract, and some of those wrongly deported are still stuck in Jamaica.
- » In September, immigration minister Caroline Nokes tells parliament that 'This Government do not intend to remove our compliant-environment policies; we believe that they provide an important part of our suite to address illegal immigration.'
- » In November, the home secretary reveals that at least eleven wrongly deported Windrush victims died before their situation could be remedied.

3. The roots of the hostile environment

1. Policing the undocumented: a brief history

Being forced to live on the margins of society, to work illegally, with all its attendant risks of abuse and exploitation, or to starve, beg, steal, at constant risk of being dragged off to detention and forced deportation: how is it that a stamp on a passport has become so determinative of a person's life?

Enforcement has always been a part of immigration controls, but it assumed increasing political importance as the term 'illegal immigrant' was weaponised by politicians and the media from the 1970s on, as a vital ingredient of the 'bad immigrant' stereotypes to be used against unwanted migrants.

As the term became a badge of criminality rather than a pure regulatory issue, undocumented migrants began to be treated as real criminals and security threats, and ever more legislative, policing and technological resources were deployed against them. The whole edifice of immigration control of non-EU nationals has come to be built around detecting and removing those without permission (in strong contrast with the soon-to-be-dismantled system for regulating the admission and stay of EU nationals, which was built around rights of free movement).

Until 1968, those entering the UK illegally could only be deported if they are caught within 24 hours of arrival – extended to 28 days in 1968.

» **1971:** Immigration Act gives police powers to search for and arrest illegal entrants and overstayers in private homes

and workplaces, and the time limit for catching those entering illegally is lifted. Illegal entrants are summarily removed. Deportation of Commonwealth citizens who overstay or commit offences is allowed, with an exemption for those living in the UK for five years if they arrived before 1973 (when the Act came into force).

» **1970s:** an illegal immigration intelligence unit is set up within the Home Office to investigate allegations of illegal stay. Police begin to carry out 'fishing raids' on ethnic businesses, conduct marriage visits to see if couples are cohabiting, and prosecute overstayers. After a Moroccan student is arrested on the steps of the registry office on the day of her marriage in 1978, the Registrar General says it is customary to report suspected illegal immigrants to the Home Office. (*Guardian*, 19 June 1978, cited in *The Thin End of the White Wedge*, Manchester Law Centre, 1980)

» **1993:** A new dedicated immigration detention centre opens at Campsfield, near Oxford, with 200 beds. With only 120 immigration officers working in enforcement, police play the main role in arrests and deportations. Joy Gardner dies during her arrest for deportation, bound and gagged with thirteen feet of sticky tape round her nose and mouth. The public outrage at her death makes police unwilling to continue in immigration enforcement.

» **1999-2006:** Successive Acts give immigration officers more powers of arrest, search and use of force, to enable them to act independently of police in operations against undocumented migrants, and at least 1,600 more detention places are

- created with the opening of four immigration detention centres.
- » **2008:** The UK Border Agency is formed, with 7,500 enforcement officers organised into 70 local teams in six regions encouraged to compete in raids and arrests. Thousands of raids are carried out on homes and workplaces annually, with officers often wearing stab vests and using force.
 - » **2011:** Prime minister David Cameron urges the public to report suspected illegal entrants to the Border Agency to 'reclaim our borders and send illegal immigrants home'.
 - » **2012:** Operation Nexus, a new partnership between the Home Office and the Met police (later including other police forces), is launched to check criminal suspects' immigration status and to enable easier deportations.
 - » **2013:** The Home Office launches Operation Vaken, to frighten undocumented migrants into leaving the UK, with billboard vans saying 'Go Home or face arrest' sent into mixed neighbourhoods. At the same time, immigration officials are posted at London tube stations to perform immigration 'spot checks', which campaigners say involve racial profiling.
 - » **2014:** The Immigration Act:
 - introduces 'deport first, appeal later' provisions for those facing deportation from the UK;
 - changes the definition of persons who can be removed from the UK so as to include those born in the UK but without leave to remain, and their family members;
 - gives the Home Office a veto over immigration bail;
 - covertly abolishes the exemption from removal for long-resident Commonwealth citizens;
 - abolishes all immigration appeals except those against decisions denying refugee or human rights protection;
 - strengthens the presumption that deportation is in the public interest and limits the discretion of judges to allow appeals on family life grounds;
 - allows naturalised British citizens with no other nationality to be deprived of citizenship;
 - strengthens immigration officers' and private escorts' powers of search, seizure and use of force.
 - » **2016:** The Immigration Act extends the 'deport first, appeal later' provisions to those facing administrative removal from the UK (as overstayers, refused asylum seekers or illegal entrants).

2. Starving them out

'As to there being no obligation to maintain poor foreigners ... the law of humanity, which is anterior to all positive laws, obliges us to afford them relief, to save them from starving.' (*R v Inhabitants of Eastbourne (1803)*), quoted by Lord Justice Brown in *R v Social Security Minister ex parte JCWI and B (1996)*

'There was a time when the welfare state did not look at your passport or ask why you were here ... immigration status was a matter between you and the Home Office, not the concern of the social security system.' (Lord Hoffmann in *Westminster Borough Council v National Asylum Support Service (2002)*)

Deportation is expensive. The Tories under Cameron and May realised that it is much cheaper to make life impossible for the people they did not want, so they would deport themselves. They were not the first to align eligibility for public services and immigration

status, but they extended and completed the process, flaunting its hostile intent and seeking to recruit civil society in the mission of ridding the country of 'bad immigrants'.

But exclusion from public services on the basis of immigration status requires an elaborate network of data sharing and enforcement mechanisms, which we see being built in parallel with exclusionary rules.

The first links between receipt of public services and immigration status are made in the 1970s:

- » **1975:** Applicants for National Insurance numbers (NINO) are required to produce evidence of identity such as a passport.
- » **1978:** Slough borough council offers a homeless woman married to a foreign man a loan to leave the country rather than rehouse her, in what its leader admits is a 'repatriation scheme'.
- » **1979:**
 - The *Guardian* reveals that the Department of Health and Social Security (DHSS) has issued a circular to hospital administrators, 'Gatecrashers', saying that they should check patients' immigration status, and indicating a close relationship with the Home Office;
 - The Department of the Environment issues guidance to local authorities asking them to cooperate with the Home Office where a person using local services (housing, social services etc) appears to be an overstayer or illegal entrant;
 - A number of boroughs refuse to house homeless immigrants, and Hillingdon 'dumps' a Zimbabwean refugee on the steps of the Foreign Office.

In the 1980s and 90s, the Tories bring in more checks, and exclusions from benefits, and the first employer sanctions (although rarely used):

- » **1980:**
 - The Social Security Act makes it a criminal offence for the sponsor of a family member entering the UK to fail to abide by an undertaking to support them;
 - DHSS instructions to caseworkers reveal that the Home Office is notified of benefits claims by people subject to immigration control.
- » **1982:** NHS regulations introduce the first charges for hospital treatment for overseas visitors. They are rarely collected as NHS staff do not want to make the checks.
- » **1984:** Regulations require universities and colleges to check students' connection with and residence in the UK.
- » **1985:** Regulations exclude most non-EU students from housing benefit, requiring local officers to check their immigration status. Campaigns against internal controls start in London boroughs such as Hackney, and in Manchester.
- » **1987:** Staff at over 100 job centres are told to ask claimants to identify their ethnicity when they register.
- » **1988:**
 - Camden and Hammersmith councils refuse to house homeless immigrant families, arguing that by leaving their countries they have made themselves 'intentionally homeless';
 - The Immigration Act for the first time makes long-resident Commonwealth citizens and their families subject to the 'no recourse to public funds' rule;
 - Regulations require Department of Social Security officials to check the

immigration status of claimants in the UK for less than five years and to report receipt of benefits to the Home Office.

- » **1991:** Asylum claimants are required to produce Home-Office issued documents, often delayed by months, in order to receive benefits.
- » **1993:**
 - The Court of Appeal rules Department of Environment guidance that immigration status is irrelevant to housing 'wrong and misleading', and new DoE guidance obliges housing departments to make inquiries about immigration status and to report suspicions to the Home Office;
 - The Asylum and Immigration Appeals Act puts into law the right of local authorities to investigate the immigration status of those applying for housing if they have reason to believe applicants are asylum seekers, and limits housing obligations to them.
- » **1996:**
 - Criminal penalties are introduced for employers who recruit undocumented workers;
 - Migrants and asylum seekers are excluded from local authority homeless persons' housing. Refused asylum seekers are excluded from all support.

New Labour (1997-2010) completes the exclusion of migrants from welfare benefits and social housing, begins the process of removing discretion from the immigration rules, pours resources into an enforcement network based on biometric controls and data sharing, conscripts employers, colleges, marriage registrars and other civil society actors into immigration policing, and allows fees for immigration applications to be set at commercial levels:

- » **1999:** The Immigration and Asylum Act:
 - provides for an information exchange network between police, Home Office, customs and crime databases, replacing *ad hoc* arrangements;
 - allows the Home Office to demand information on tenants from property owners and managers;
 - requires marriage registrars to report 'suspect' marriages.
- » **2000:** Non-EU migrants are excluded from non-contributory benefits (from 1999, destitute asylum seekers are provided with no-choice accommodation and minimal support in 'dispersal areas').
- » **2002:** The Nationality, Immigration and Asylum Act:
 - gives the Home Office powers to demand information from the Inland Revenue (now HMRC), local authorities, employers, other state agencies, to trace suspected illegal residents and unauthorised workers;
 - provides for biometric information (eg, fingerprints, iris features) to be taken from applicants for visas and from those in the UK seeking to extend their stay;
 - denies all support to refused asylum seekers without children.
- » **2002:** The ban on asylum seekers working is made permanent.
- » **2004:** The Home Office is given powers to set immigration and nationality fees at commercial rates.
- » **2005:** Asylum seekers who have waited for a year or more for their claim to be determined are permitted to work.
- » **2006:** Employer sanctions (introduced in 1996 but rarely used) are strengthened, with employers required to check and copy specified documents before recruiting, to avoid stiff penalties.

- » **2008:** Biometric residence cards are introduced for non-EU migrants coming to the UK for more than six months, under the Identity Cards Act 2006 (the provisions for ID cards for British citizens are repealed by the coalition in 2010).
- » **2009:**
 - The ban on support for refused asylum seekers is extended to families with children who fail to report for removal;
 - The points-based system is introduced for students, requiring universities and colleges to send regular reports to the Home Office on their attendance and progress. Laxity leads to suspension or withdrawal of sponsorship licence.

The Tory- Lib Dem coalition (2010-15) removes legal aid and appeal rights from migrants, continues the process of removing discretion from the immigration rules; extends the conscription of civil society actors as immigration officials to banks and the DVLA, and to private landlords through the 'right to rent' pilot; excludes everyone not settled in the UK from free hospital treatment; and allows immigration fees to rocket:

- » **2010:** Asylum seekers waiting over 12 months for their claim to be decided may work only in 'shortage occupations'.
- » **2012:** The requirement for biometric residence cards is extended to refugees and people settled in the UK.
- » **2013:** Legal aid is removed for advice and representation in immigration cases unless they are challenging a refusal of asylum, detention, or potential removal to a situation of torture, persecution or war.
- » **2014:** The Immigration Act:
 - introduces the 'right to rent' provisions, which require private landlords to perform immigration checks on

- prospective tenants and to refuse tenancies to those unable to prove their right to be in the UK, and penalising those who fail to. The provisions are piloted in the West Midlands;
- prohibits banks and building societies from opening current accounts for those in the UK without permission;
- extends the categories of people from whom biometric information can be required, to include applicants for citizenship, and those 'liable to be detained';
- requires DVLA to refuse driving licences to those without the right to be in the UK, and provides for the revocation of undocumented migrants' licences;
- makes marriage more difficult if one party is not British, an EU national or Swiss, strengthens the duties of those conducting marriages to report suspicions to the Home Office and creates a detailed protocol for the investigation of possible 'immigration' marriages;
- introduces a 'health levy' for those with limited leave, following regulations restricting free NHS non-emergency hospital treatment to those with permanent resident status (indefinite leave to remain).

- » **2015:** A formal agreement is reached whereby the Department for Education (DfE) provides the Home Office with details of up to 1,500 children and their families each month to help trace undocumented migrants.

The Tories (2015 -) continue the process of removing discretion from the immigration rules, require NHS staff to check immigration status and to charge those ineligible for free treatment 150 percent of treatment costs; require schools to ask for schoolchildren's nationality and country of birth; introduce a nationality question into criminal courts' questioning of defendants; extend the 'right

to rent' nationally, create criminal offences of driving, working and letting property, demand more checks by banks:

- » **2016:** The Department for Education (DfE) adds nationality and country of birth questions to the schools census, claiming the information is for resource purposes.
- » **2016:** The Immigration Act:
 - extends the 'right to rent' provisions across the UK and creates a new criminal offence of letting property to someone without permission to be in the UK;
 - creates new criminal offences of illegal working and driving while in the UK without leave;
 - makes prosecution of those employing unauthorised workers easier by replacing the requirement of knowledge by 'reasonable belief' that the employee may not work in the UK;
 - doubles the civil penalty for employers inadvertently employing undocumented migrants to £20,000 per worker;
- requires banks to perform quarterly immigration checks on all customers, and to close accounts on demand by the Home Office.
- » **2017:**
 - An agreement with NHS Digital comes into force, allowing the Home Office to access thousands of patients' details for the purpose of immigration enforcement;
 - MPs make 68 calls to the Home Office enforcement hotline to report people attending their surgeries for help with their immigration status;
 - Defendants in criminal courts are obliged to give their nationality, as well as their name, date of birth and address, in open court, information which is retained whether they are convicted or acquitted;
 - NHS charging regulations require NHS staff to check eligibility for all non-urgent hospital care, including ante-natal and maternity care, to charge ineligible patients 150 percent of the treatment cost, and to report non-payment to the Home Office.

5. The 'bad immigrant': race, class and immigration

The Windrush generation may belatedly be finding themselves feted as national treasures – as Christian, God-fearing, hardworking immigrants who made a huge contribution to the NHS and to British life – even as many of them remain destitute, homeless, jobless, or stuck in Jamaica because of their treatment by the Home Office – but as post-war colonial and Commonwealth citizens, encouraged to come to rebuild the UK, work in its factories and man its essential services, they found institutional as well as popular racism in their way.

'Bad immigrant' stereotypes of criminality and illegality were deployed against black and brown Commonwealth citizens, first to restrict their numbers and then, as governments turned from the Commonwealth to Europe as a source of labour, to keep them out. Later, these stereotypes, interwoven with new ones – 'bogus', 'scrounger', 'terrorist' – were extended to other groups including asylum seekers from Africa, Asia and the Middle East, and eastern European Roma, to justify their exclusion and deportation – and finally, to bar the door to all except the global elite.

Black and brown Commonwealth citizens

- » **1960s:** Popular racism against south Asian and Caribbean immigrants is whipped up by right-wing politicians and the press, leading to the first immigration controls against Commonwealth citizens in 1962, followed by further controls in 1965 and the denial of entry to UK citizens of Asian origin in 1968 on their expulsion from East Africa. Politicians gain popularity by expressing extreme racist sentiments: Peter Griffiths wins a parliamentary seat on the slogan 'If you want a...
- neighbour, vote Liberal or Labour'; Enoch Powell sanctifies racism with his 'Rivers of Blood' speech
- » **1970s:** As the 'numbers game' continues and the far Right makes electoral gains, Commonwealth immigration for settlement is replaced by the temporary labour system of work permits, available only for the highly skilled and highly qualified, while accession to the EU gives European workers free movement rights, and Margaret Thatcher says the numbers of 'New Commonwealth' immigrants were making people 'really rather afraid that this country might be rather swamped by people with a different culture', so 'we do have to hold out the prospect of an end to immigration'. Jamaicans are stereotyped as criminals; south Asians as 'illegal immigrants'. The 'virginity testing' scandal erupts at the revelation that medical officers at Heathrow are checking women arriving from the Indian sub-continent as fiancées.
- » **1980s:** South Asian children seeking to join parents in the UK are X-rayed to determine bone age because the Home Office refuses to accept their stated age; the Commission for Racial Equality investigates Home Office practices for race discrimination; the British Nationality Act creates six types of British citizenship, with only the first, British citizens, entitled to live in the UK, and removes automatic citizenship by birth in the UK (*ius soli*); up to two-thirds of husbands from the Indian sub-continent are refused permission to join wives in the UK under the 'primary purpose' rule; the first visa requirements are imposed on Commonwealth citizens, in response to

the arrival of Tamils fleeing pogroms in Sri Lanka; and long-resident Commonwealth citizens and their families are made subject to the 'no recourse to public funds' rule for the first time.

- » **1993:** All the passengers making a Christmas visit to Britain on a charter flight from Jamaica are refused entry.
- » **2000s:** Commonwealth citizens from African, Caribbean and Asia form the main targets of the 'foreign national offenders' 'scandal', in which a campaign by the Right and the press against 'human rights for criminals' forces the resignation of a home secretary and leads to legislation imposing mandatory deportation for an ever-increasing range of offences and a 'good character' test for citizenship applying to ten-year-olds, and the introduction of prisons set aside for foreign offenders to enable easier deportation.
- » **2010s:** As the press and Right's campaign against human rights continues, Operation Nexus, prison-building agreements with Nigeria and Jamaica and 'deport first, appeal later' all make deportation easier, while the exemption from removal for long-resident overstayers from the Commonwealth is quietly abolished.

Asylum seekers

As asylum seekers began arriving in numbers from Africa, the Middle East and South Asia, the UK, in common with other European states, took measures to stop them arriving, justifying their 'fortress building' by castigating the new arrivals as 'bogus', 'economic migrants' (a term of abuse when applied to poor people), 'scroungers' 'cheats', 'criminals' and 'terrorists'. Amplified by the media, these stereotypes 'trickled down' and hardened into a culture of disbelief of asylum claims by officials, and of 'xeno-racism' against Roma fleeing skinhead violence in eastern Europe. Unremitting media

hostility led to the very term 'asylum seeker' becoming a term of abuse.

- » **1980s:** Visa requirements are imposed to stop what ministers describe as a 'flood' of Sri Lankan Tamils coming to the UK, as the *Times* describes them as economic migrants and Britain continues to train and arm the Sri Lankan military; in response to the arrival of 57 Tamil asylum seekers without visas, the Carriers' Liability Act is rushed through parliament, to penalise airlines and ships for bringing in passengers without visas, whether or not they are refugees.
- » **1991 to 2005:** there are 512 references to 'bogus asylum seekers' by MPs and peers in House of Commons and House of Lords debates (Imogen Tyler, cited in John Grayson, 'The shameful "Go Home" campaign', IRR News, 22 August 2013).
- » **1990s:** Compulsory fingerprinting is introduced for asylum seekers, justified by reference to 'fraudulent multiple claims'; asylum seekers are excluded from local authority homeless housing and from benefits after Peter Lilley's populist speech at the 1995 Tory party conference; home secretary Michael Howard introduces a 'white list' of safe countries and curtails appeals; only two of 1,495 applications from Nigerians are granted, despite a military coup and brutal suppression of dissent; and the Commission for Racial Equality is so concerned about racist election campaigning that it brokers a 'race pledge' whereby major parties agree not to play the 'race card'.
- » **1997-9:** After New Labour wins the election, a media onslaught on New Labour's 'soft' asylum policies leads home secretary Jack Straw to abandon a 'sanctuary by stealth' strategy, and to pledge that 'the government will deal with bogus asylum seekers'. After the *Dover Express* complains that 'we are left with the backdraft of a nation's human sewage and no cash to wash it away',

and the *Daily Mail* presses the attack with headlines such as 'Kosovo-on-sea, Devon', 'Suburbia's Little Somalia'; 'Good life on Asylum Alley', 'They can't find my dying granny a bed but they open the wards for gipsies', the government brings in a system of cashless support and no-choice accommodation away from the south-east, the National Asylum Support Service (NASS), described as 'enforced destitution', and a 'white list' of 'safe' countries.

- » **2000s:** New Labour discovers that appeasement of the right-wing media doesn't work – their onslaught continues with headlines like 'Britain's had enough', 'Time to kick the scroungers out', 'We need deportations on a huge scale' which create a self-fulfilling spiral of anger and popular racism (see 'Media lies fuel racism', CARF 55, Apr-May 2001). Fifty-eight dead asylum seekers are discovered in the back of a lorry, and Straw calls for a rethink on the right to asylum; the Race Relations Act, amended to include police and other public services, exempts race discrimination in immigration control, and officials stationed at Prague airport question Roma passengers and deny them boarding on flights to the UK. The 'race pledge' is torn up in the 2001 election, as William Hague says England is becoming a foreign land and Michael Heseltine attacks 'asylum cheats, bogus claims, phoney asylum seekers', and Labour as a 'soft touch' (see Grayson, 'The shameful "Go Home" campaign'); home secretary Blunkett says he will 'blitz asylum cheats' who 'swamp' British schools, and introduces the 'detained fast-track', with a refusal rate of 99 percent, and legal presumptions of adverse credibility in asylum decisions. Housing and support are denied to refused asylum seekers.
- » **2010s:** As refugees flee Syria, ministers describe rescue operations in the Mediterranean and volunteers helping in the Calais camps as a 'pull factor' and

provide warships to help destroy smugglers' boats and funding for walls and fences against Calais stowaways but decline participation in the EU's refugee relocation scheme, with press stories like 'This is how the BBC is spending your money: Songs of Praise filmed in migrant camp', 'Free hotel rooms for the Calais stowaways' and '7 in 10 Calais migrants come to UK', only briefly suspended as the photograph of toddler Alan Kurdi's body provoked a wave of sympathy in September 2015.

Muslims

Anti-Muslim tropes began appearing in the press as long ago as the 1980s, but the 'race riots' and 9/11 gave the respectable cover of anti-terrorism and 'community cohesion' to virulent racialised anti-Muslim expression, and informed immigration measures:

- » **2000s:** Internment for 'suspected foreign terrorists' who cannot be deported, introduced after 9/11, is abandoned in favour of a policy of deportation to torturing states from whom diplomatic assurances of 'no torture' are agreed, after the House of Lords rules internment unlawful and discriminatory, while control orders (later renamed TPIMS) and the Prevent counter-terrorism strategy disproportionately impact on Muslim communities. Becoming British is made more difficult, with English language and life tests (then extended to applications for settlement), as losing citizenship is made easier; Muslims are disproportionately questioned under anti-terror laws on arrival and departure, some lose British citizenship while abroad and cannot return.
- » **2010s:** English language tests are extended to visa applicants including those coming to join spouses or partners in the UK; new counter-terror laws allow British passports to be seized and citizens to be banished for up to two years; and Prevent becomes a statutory duty for public bodies.

Eastern Europeans

The arrival of Roma from eastern Europe, first as asylum seekers in the late 1990s, then as EU nationals since the accession of eastern European states to the EU in 2004 and 2014,² engendered the same relentless media and political campaign of hostility as did the arrival of settlers from South Asia and the Caribbean forty years earlier. In 2004, the press warned of '1.6 million gypsies ready to flood in': 'The Roma gypsies of Eastern Europe are heading to Britain to leech on us. We don't want them here'. 'Gypsies: you can't come in!' (see Arun Kundnani, 'The media war against migrants: a new front', [IRR News](#), 21 January 2004). The Right has accused eastern European economic migrants of undercutting British workers' wages and of 'benefit tourism', and governments have responded by removing benefits and restricting residence rights:

- » **2004-9:** UKIP wins 16 percent of the vote in the European elections, and social security regulations are amended to exclude EU nationals from specified benefits; prime

minister Gordon Brown's reference to creating 'British jobs for British workers' at the 2008 party conference is taken up by oil and construction workers striking against the use of European workers to fill their jobs.

- » **2010s:** After another racist election campaign, the new Tory-Lib Dem coalition starts to deport eastern European rough sleepers in the UK for over three months with no job, or prospect of work. Media scare stories lead to prime minister Cameron announcing yet more restrictions to deal with 'scroungers' and 'benefit tourists', causing Council of Europe human rights commissioner Nils Muiznieks to condemn the 'shameful rhetoric' of politicians who 'treat Bulgarian and Romanian citizens like a scourge'. Rough sleeping is defined as a 'misuse of EEA rights' allowing removal, and at least 700 EU rough sleepers, many with jobs, are detained and deported before the High Court rules the policy unlawful in December 2017.

² Bulgaria and Romania joined the EU in 2007 but media hostility to more migration made the UK government defer free movement for their citizens to 2014.

6. The role of the media

1. The right-wing media

The creation and intensification of the hostile environment were driven in large part by constant hostile media scaremongering on 'illegal immigration'. The brief history of scapegoating above demonstrates the importance of the media in creating and inflaming the public concern it claims to respond to. Sometimes it seems that (as Corporate Watch argues in *The media-politics of the hostile environment*) there is no immigration policy as such, beyond responding to, or pre-empting, media 'concerns'. In this field perhaps more than any other, the racist Right sets the agenda through the anti-immigrant, anti-asylum media.

- » A Migration Observatory study in 2013 finds that the *Daily Mail* and the *Daily Express* used 'illegal' before 'immigrant' in over ten per cent of articles about migration between 2010 and 2012. (*Guardian*, Aug 2013)
- » The attack on judges who acknowledge migrants' human rights, with headlines like 'He has Aids and convictions for drugs and violence. But the asylum seeker has a human right to be in Britain, says a judge. And what's more he can't even be named' (Mail, 25 October 2000) and 'Human right to sponge off UK: 3,200 foreign criminals, failed asylum seekers can't be kicked out because of right to family life' (Mail, June 2011), intimidates immigration judges, who fear 'naming and shaming' if they allow deportation appeals on family life grounds, according to lawyers, and results in unjustified separation of families.
- » In April 2013, following a years-long campaign by migrant groups in the US, Associated Press, the largest news agency in the world, drops the use of the phrase 'illegal immigrant', explaining that it labels people rather than describing their actions, dehumanises and causes offence.
- » In October 2013, under the heading 'True scale of European immigration', the *Sunday Telegraph* reports: 'An EU study has found 600,000 unemployed migrants living in Britain'. The European Commission says this is a 'gross and totally irresponsible misrepresentation of the facts': the figure includes 'older school children, students, retired, disabled, those taking time off work to bring up children'. It points out that 43 percent of Britain's working age population is 'non-active' but 'no one would seriously claim there were 12 million people unemployed in the UK'. ([Jon Danzig, EU Rope, Oct 2013](#))
- » In April 2015, [Zeid Ra'ad Al Hussein](#), UN Human Rights Commissioner, attacks the UK's media coverage as 'extremist', describing a 'vicious circle of vilification, intolerance and politicisation of migrants ... Asylum seekers and migrants have, day after day, for years on end, been linked to rape, murder, diseases such as HIV and TB, theft, and almost every conceivable crime and misdemeanour imaginable in front-page articles and two-page spreads, in cartoons, editorials, even on the sports pages of almost all the UK's national tabloid newspapers.' Many of the stories are 'grossly distorted' and some are 'outright fabrications'.
- » Award-winning journalist Liz Gerard's [Chart of Shame](#), shown at the Migration Museum exhibition *No Turning Back: Seven migration moments that changed Britain*, displays all the front-page stories on immigration in 2016 in the form of a bar chart, shocking visitors with the amount of coverage and its derogatory and hostile

nature. In her 'The press and immigration: reporting the news, or fanning the flames of hatred?' ([SubScribe](#), September 2016) she reports that the Sun ran 120 negative news stories and opinion pieces on immigration between January and June 2016, when it had a headline 'Racists shame Britain'.

- » What does it take for the media regulator to act? More than 200,000 people demand far-right columnist Katie Hopkins' sacking after her comparison of migrants with cockroaches in 'Rescue boats? I'd use gunships to stop migrants' in 2015 – but a complaint to the Independent Press Standards Organisation ([IPSO](#)) is rejected on the grounds that 'migrants as such are not a group that can be discriminated against' and the editors' code does not cover giving offence.

2. Social and liberal media

The liberal media (*Guardian* and *Independent*) generally run more sympathetic stories on individual cases, but even the *Guardian's* Windrush reporting, a rare example of sustained campaigning journalism, steers clear of a direct attack on the policies of the hostile environment.

According to Emily Dugan ('The Home Office has created a secret process to solve immigration cases that generate negative headlines', [Buzzfeed](#), 31 August 2018), in 2017, home secretary Amber Rudd introduced a 'rapid-response' unit to deal quickly with people wrongly refused leave or citizenship whose cases are highlighted in social media campaigns, with staff told to use discretion and waive rules. Lawyers complained of a 'two-track' system where outcomes depend on getting publicity; 'In some cases, clients have been waiting five years or more to speak to someone at the Home Office, and then their case is solved 24 hours after publicity'. Ironically, the speed with which cases receiving publicity are resolved by the Home Office means that systemic problems are not addressed.

7. Who are the 'illegals'? Slipping into illegality

The Windrush migrants were not illegally in the UK, but their treatment exemplifies the Hostile Environment in practice as the government intends it to work against those illegally in the UK. The loss of jobs, homes and bank accounts, the denial of benefits and hospital treatment including ante-natal provision, the destruction of the ability to live in society, or even to exist at all, is what is intended against undocumented migrants. It is intended that they go 'home'. But can they? If not, why not? And who are the people who are the real targets of the Hostile Environment?

They include:

- » People born in the UK, for whom it is home, who are unable to register as British citizens because they can't afford the fees;
- » People brought to the UK as children, who were unaware of their irregular status for many years and have no real connection with their 'home' country;
- » People wrongly refused asylum or human rights protection, who risk persecution, torture or death if they are returned to their home country;
- » People trafficked to the UK or brought in as domestic servants, who have escaped but risk re-trafficking or punishment if returned 'home';
- » People who have left abusive relationships but have been refused permission to stay under the domestic violence rules because they cannot produce the correct sorts of evidence;
- » People who cannot get permission to stay under the rules because they don't earn enough, but whose remittances are vital to support families at home;
- » People refused asylum who have entered relationships and have British-born children at school here;
- » People who have overstayed a work or study visa through illness or accident, or because they fell in love, got pregnant, lost their job or unexpectedly ran out of funds;
- » People ineligible to stay but who need to support, or need the support of, UK-based parents, children or other relatives.

All of the above might be people who 'need leave to be in the UK but do not have it', with no rights to work or rent, have a bank account, drive or access hospital care, liable to be detained and removed. It has become extremely easy to slip into illegal status. Here are some of the ways people find themselves slipping into illegality:

Legal channels for entry and stay have been made impossibly narrow:

- » Visa requirements and carrier sanctions, imposed since the 1980s, force refugees to use **illegal means** to get here. Resettlement programmes admit only a few thousand refugees (the UK has accepted around 12,000 Syrian refugees from camps in Lebanon and Jordan since 2015); others wanting to come here because of family, language or cultural ties must travel illegally – either using forged documents or being smuggled.
- » Legal economic migration is limited to those with a large amount of money to invest, or with highly marketable skills and qualifications under the **points-based system** introduced in 2009.
- » Legal **family migration** for non-EU nationals, particularly for elderly parents and grandparents and for adult children, has become virtually impossible since rule changes in 2012;

- » Two-year **post-study work** visas for international students graduating from British universities are abolished in 2012, since when graduates have only four months to leave the UK.
- » A rule giving **domestic workers** a route to settlement and the right to switch employer was abolished in 2012, and although the right to switch employer was reinstated in 2016 the maximum permitted stay is six months, making the right meaningless.

Immigration rules, regulations and requirements are impossibly complex:

- » Since 2010 there have been 5,000 changes to the immigration rules, which now run to 373,000 words in total, as well as two major Acts of parliament and numerous sets of regulations. It is not surprising that people don't know what their status is or what to do.

People are stuck in limbo with no legal status:

- » People refused asylum who can't be expected to go home are given **no status**. Until 2003 'exceptional leave to remain' was granted in this situation, but this was abolished, and 'humanitarian protection' (for victims of war or people who might be tortured or subjected to the death penalty) and 'discretionary leave' (for people needing to stay in the UK for medical or other exceptional reasons) are granted far less frequently, leaving many refused asylum seekers irremovable but without leave to remain.
- » Legal changes mean that **children born in the UK** who do not get automatic citizenship (because neither parent is British or settled in the UK), previously permitted to stay, are liable to be detained and removed.
- » **Removal of appeal rights** against wrongful refusal to extend leave means no legal

status for those seeking to overturn decisions through administrative review, further representations or judicial review, leaving them vulnerable to detention and removal.

- » Concessions such as the **seven-year** rule (allowing families with children in the UK without leave for over seven years to regularise their status), the **fourteen-year** rule (for those without children) and the **ten-year** rule (allowing those in the UK legally to settle after ten years) have been abolished, and replaced by a rigid, narrow 20-year threshold under which settlement takes a further ten years.

Study in the UK, settlement and citizenship are increasingly affordable only to the wealthy:

- » **2018:** It is revealed that the Home Office makes up to 800 percent profit in some cases, and a Home Affairs Committee review reveals that the department made £800 million from fees in six years.
- » **Fees are set at commercial levels,** meaning that:
 - British-born children who are eligible for citizenship (because a parent gets settled status or because they have lived here for ten years) face fees of over £1,100, with no waiver for those who cannot afford the fee, preventing them from registering; an estimated 120,000 children who have grown up in the UK are unable to afford the fees to register as citizens;
 - Someone seeking to regularise under the 20-year rule will have to spend £2,000 every 30 months and £2,389 for settled status – a total of over £10,000 (including the health levy);
 - Workers and students bringing families from outside the UK must pay a full adult fee for each child, from 2014, costing a family with two children over £3,000 pa (including the health levy);

- A British or settled person seeking to bring a parent or other adult dependent relative to settle in the UK will need to pay £3,250 for a settlement visa for them.
- » Since 2011, **students** at colleges have been unable to work in the UK, while university students may work only ten hours a week during term-time.
- » Rule changes mean that people on work visas earning less than £35,000 pa are no longer entitled to settle in the UK, and may not stay for more than six years.
- » **Family reunion** rights are subject to income. Rule changes prevent families of British citizens or others settled in the UK from joining them unless the sponsor earns over £18,600 pa, £22,400 for a partner and child and £2,400 for each additional child, making it tempting to come as visitors and overstay.
- » Rule changes in 2012 mean that all categories of people with leave to remain in the UK have a condition imposed of **'no recourse to public funds'**. A promised review in 2017 to assess the impact of the condition on struggling families has not materialised.

People unable to leave the country are expected to live in destitution:

- » Asylum seekers housed by the Home Office are required to **live on** £35-37 pw for years, waiting for their claim to be determined (just over half the level of jobseekers' allowance, to cover everything except housing and bills), and although they may seek work once they have waited a year or more, they are restricted to 'shortage occupations' (requiring specialist skills and qualifications).
 - » Refused asylum seekers who cannot leave the UK may be housed by the Home Office
- and may obtain cashless support equivalent to asylum support, but many receive no support, and all are banned from working.
- The loss of appeal rights makes many people vulnerable to removal although they should not have been refused:***
- » From 2014, thousands of students have been accused of cheating in language tests, forced to leave courses and told to leave the country;
 - » From 2010, homeless EU nationals rounded up by the Home Office have had identity documents confiscated, preventing them from obtaining work, and illegally removed for alleged 'misuse of EU free movement rights'
 - » Strict requirements for specified documentary evidence has seen refusal of settlement rights for women entering on spousal visas who have suffered domestic violence have doubled between 2012 and 2016;
 - » From 2016, highly skilled migrants in particular have been refused settled status and ordered to leave under immigration rule para 322(5), which brands them undesirable 'in the light of character, conduct or associations or ... a threat to national security', for making minor amendments to tax returns, despite being accepted as honest mistakes by tax authorities.

The criminal law is over-used and new criminal offences have been created, and conviction can easily result in deportation:

- » Asylum seekers arriving on false passports are still prosecuted and imprisoned for using false documents despite a 1999 ruling that their prosecution breaches the Refugee Convention.
- » Working without authorisation (eg, when in the country as an asylum seeker or

- language student) is a criminal offence, both for the worker and for an employer who has reasonable cause to believe the worker is unauthorised (since 2016). The worker's wages can be confiscated.
- » Driving while in the UK without permission is a criminal offence since 2016, and drivers can be asked to produce evidence of immigration status.
 - » Letting property to someone without permission to be in the UK is a criminal offence since 2016.
 - » Knowingly employing someone without authorisation is a criminal offence since 2006, and the requirement of knowledge was replaced by reasonable belief in 2016.
 - » Officials routinely retain key documents, needed to prove entitlement to work, rent, study, drive etc, for months or years.
 - » In 2010, thousands of old landing cards recording immigrants' arrival details are destroyed.
 - » In May 2018, the Home Office is accused of 'shambolic incompetence' as the immigration minister says she has had no time to investigate the apparently improper use by officials of 'bad character' immigration rules to refuse settled status to migrants who innocently amended tax returns, despite being aware of the issue since January.
 - » Ignorant assumptions about how people behave, what motivates them and their ability to recall dates and past events accurately, inform Home Office decision-making, and disbelief of migrants is the default attitude.

The adverse effects of all the measures described above are multiplied by the legendary incompetence and ignorance of Home Office officials.

- » Home Office officials routinely lose thousands of files and documents, including irreplaceable original documents such as passports, birth certificates and educational certificates, with deeply damaging consequences, and compound their errors by denying receipt. The Home Affairs Select Committee (HASC) and the Independent Chief Inspector of Borders and Immigration (ICIBI) issue repeated rebukes, to no avail. In one inspection, 150 boxes of unopened correspondence from applicants, lawyers and MPs are discovered in a Liverpool immigration office.
- » Only two percent of adverse decisions are overturned on administrative review (an internal process conducted by Home Office officials), which replaced appeals (heard by independent judges, who overturned a third to half of Home Office decisions) in all except asylum and human rights issues.
- » In those cases still attracting a right of appeal, if its decisions are overturned, the Home Office routinely appeals to the Upper Tribunal, where it loses three-quarters of the cases. The further appeal adds another year to the wait for status for asylum or human rights applicants, during which they may not work.

8. The new numbers game

In the 2000s, immigration policy was about managing migration for the benefit of the economy, rather than simply cutting numbers. New Labour's 'managed migration' policies included the points-based system based on youth, qualifications and earning power, the preferential treatment of graduates and highly skilled migrants, the setting up of an advisory committee to list 'shortage occupations' for which migrant workers were needed, and the introduction of fees set at commercial levels.

The 2010 election saw huge media scares on 'foreign workers flooding Britain', 'taking yet more jobs', with the *Mail* and *Express* claiming '92 per cent of new jobs go to foreigners' and the BBC asking 'Is Britain Full?' The Tories' use of the 'immigration scare' during the election led to the post-election Tory-LibDem Coalition government setting itself an impossible and absurd target for cutting migration, which has manifested itself ever since in a scattergun approach in which anything goes provided it cuts the numbers – an attitude which encourages the culture of refusal at the Home Office and leads to the massive injustices of Windrush.

- » **2010-16:** The coalition government says it will cut net migration 'to the tens of thousands'; imposes a cap on work and student visas, abolishes students' post-study work visas, restricts colleges which can sponsor students, tightens immigration rules to require people joining partners in the UK to speak English and minimum income requirements to enjoy family life and for settlement.
- » **2016 on:** Hundreds of highly skilled migrants are accused of bad character for amending tax returns and told to leave the UK; the pledge to bring net immigration down to the tens of thousands is renewed as Theresa May moves from home secretary to prime minister.

New Labour first introduced targets for removal – Tony Blair famously said he wanted the numbers of refused asylum seekers removed from the country to exceed the numbers of new asylum seekers coming in – and beefed up voluntary returns schemes, which went hand in hand with the measures making life more difficult for those without status. Both were maintained and tightened by the Home Office and the government under Theresa May.

- » **2015:** An inspection report shows a Home Office target of 12,000 voluntary departures, a 60 percent increase over the 2014 target.
- » **2018:**
 - In the wake of home secretary Amber Rudd's denial that removal targets exist, a letter from her to Theresa May, dated January 2017, is leaked in which she says she wants to increase enforced removals by at least ten percent, and a letter to her from immigration enforcement reveals a target of 12,800 in 2017/18. Lucy Moreton of the ISU union reveals that a 'net removal target of 8,337 appeared on posters in regional centres', and staff say the targets create huge pressures;
 - It is revealed that the government contract with Capita for the removal of migrants without permission to stay includes bonuses for exceeding the contractual quota, while the PCS union calls for an end to the practice of rewarding immigration officers with cakes for making the most arrests.

9. The retreat from universal human rights

Seventy years after the Universal Declaration of Human Rights, and despite the UK's adherence to a long list of human rights Conventions and Charters, and its own Human Rights Act, the foundational principle of the universality of human rights is disappearing, overtaken by the stance that in the field of migration, there are no rights, only privileges, to be enjoyed only by the 'deserving'.

Hostile environment measures exemplify this retreat from universality in human rights:

- » The 'right to rent' provisions breach the right to adequate housing without discrimination, which is recognised in the Universal Declaration on Human Rights (UDHR) Art 25 (as an integral part of the right to an adequate standard of living), and in Art 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Homelessness and destitution impair human dignity and physical and mental integrity (protected by Art 1 UDHR, Arts 3 and 8 of the European Convention on Human Rights (ECHR) and Arts 1 and 3 of the EU Charter of Fundamental Rights (EUCFR)).
- » The denial of free hospital treatment to those in need on the basis of immigration status, and measures which deter people from seeking medical treatment, violate the right to the enjoyment of the highest attainable standard of physical and mental health without distinction of race, religion, political belief or social or economic condition, a right reflected in the 1946 Constitution of the World Health Organisation, in Art 25 UDHR and in Art 12 ICESCR. They also violate the right to physical and mental integrity recognized in Art 8 ECHR and Art 3 EUCFR.
- » Employer sanctions, the ban on work for asylum seekers and others, and the criminalisation of work, breach the right to work recognised by Art 23 UDHR, and enshrined in Art 6 ICESCR and Art 15(1) EUCFR.
- » Measures deliberately depriving anyone of the means of life breach Arts 9 and 11 ICESCR (right to social security and to an adequate standard of living), and may also constitute inhuman and degrading treatment contrary to Art 5 UDHR, Art 3 ECHR and Art 4 EUCFR.
- » Measures which deter parents from sending children to school breach the right to education without discrimination, recognised by (inter alia) Art 26 UDHR, Arts 13 and 14 ICESCR, Protocol 1 Art 2 ECHR, Art 14 EUCFR and Art 28 UN Convention on the Rights of the Child (UNCRC).
- » Data sharing, particularly obtaining patients' and schoolchildren's details, disproportionately interferes with rights to privacy (Art 8 ECHR) and data protection (Art 8 EUCFR).
- » High fees preventing migrants from regularising their status interfere with rights to private life protected by Art 8 ECHR and Art 7 EUCFR.
- » Measures restricting family life interfere with the right to respect for family life, protected by many human rights instruments including UNCRC and Art 8 ECHR, permitted only if it is lawful and necessary in a democratic society for public safety, the prevention of crime, the protection of the rights of others etc.

» Immigration raids, aggressive policing and indefinite detention violate rights to liberty, proclaimed as a peculiarly British fundamental right and value by judges, and

also seen as fundamental in the UDHR and the ECHR; and to freedom from inhuman and degrading treatment.



Global Justice Now

10. Resistance

Migrant and refugee groups, anti-racist and rights groups, churches, unions and others have been active fighting internal controls, enforced destitution and the good immigrant/bad immigrant dichotomy for decades. A network of detainee support groups and anti-deportation campaigns crosses the country and protests around immigration detention by detainees as well as supporters, and anti-deportation protests and actions, are too regular and frequent to be included below.

- » Early protests include local authorities adopting 'No passport checks' policies (Newham is the first, in 1982); civil servants taking industrial action to halt a scheme to record the ethnic origin of unemployed people (1986); conferences such as 'No collaboration with internal controls' and 'Communities of Resistance' (1989), campaigns such as 'No Pass Laws Here'; the Committee for Non-Racist Benefits; the sanctuary movement; marches of workers, many undocumented, following immigration raids in Hackney, Chinatown and elsewhere; marches and protests against anti-asylum legislation; campaigning by [Kalayaan](#) for domestic workers' rights which leads to regularisation for many who have left exploitative and brutal employers and overstayed.
- » **2000s:** The [No One is illegal](#) group calls for the defence of 'immigration outlaws' and the abolition of racist immigration controls; a campaign for 'earned regularisation' for undocumented migrants, launched in 2006 by civil society groups and unions, becomes part of the LibDem manifesto, but is dropped when the party enters the coalition government in 2010.
- » 2010s: Refugee and migrant support, and many rights groups including [Merseyside](#)

[Refugee Support Network](#), [Refugee Survival Trust](#), [Jesuit Refugee Service \(JRS\)](#), [Maternity Action](#), the [Platform on Forced Labour and Asylum](#), the [Children's Society](#), [Doctors of the World](#), [Dignity for Asylum Seekers](#), [Still Human Still Here](#) (now [Asylum Matters](#)), the [No Recourse to Public Funds Network](#) (NRPF) highlight the impact of tighter controls on vulnerable groups such as refused asylum seekers and young people growing up undocumented in the UK; others such as [Statewatch](#) highlight the dangers of increasing data exchange. Councils including Glasgow, Sheffield and Bristol condemn forced destitution and 'hostile environment' policies.

After the Windrush revelations:

- » **2018:** April:
 - [Let us Learn](#), a campaign group formed by young people growing up in the UK and unable to afford university or regularisation, protest outside Downing Street at fees, wearing T-shirts proclaiming them 'Young, gifted and blocked';
- » May:
 - London mayor Sadiq Khan calls for the 'astronomically high fees' for citizenship for children to be scrapped and announces research on how the immigration restrictions of the past decade have affected Londoners;
 - A public campaign led by [Against Borders for Children](#) (ABC) results in the Department for Education dropping the nationality and country of birth questions from the schools census;
 - Campaigning by medical professionals and activist groups including [Docs not Cops](#) leads to the suspension of the NHS data sharing agreement with the Home

- Office after the parliamentary Health and Social Care Select Committee condemns it;
- Hundreds protest the Windrush scandal outside the Home Office, and public outrage leads the new home secretary to tell banks to suspend checks on the status of new and existing customers until he is 'more comfortable we have it right';
 - MPs launch a campaign against the use of 'bad character' rules against highly skilled migrants innocently amending tax returns;
 - Heads, children's and migrants' rights campaigners urge the government to review the 'No recourse to public funds' policy which denies poor children free school meals.
- » June:
- The parliamentary Joint Committee on Human Rights begins an inquiry into the treatment of Paulette Wilson and Anthony Bryan, two of the Windrush generation affected by hostile environment policies;
 - As MPs and campaigners call for 'obscene' fees for immigration and nationality applications to be reduced, the ICIBI announces an inquiry into the level and rationale of fees and their impact;
 - The campaign group [Universities Resist Border Controls](#) launches a survey to see how institutions respond to the requirements for surveillance of students and to prepare a united opposition;
 - NHS organisations campaign to lift the cap on medical visas;
 - The Christie Hospital in Manchester formally challenges a Home Office decision that a refused asylum seeker with metastatic breast cancer is ineligible for free NHS treatment;
- » July:
- [JCWI](#) is granted permission for a judicial review of the Right to Rent policy;
 - The [All-African Women's Group](#) demands the right to work for asylum seekers awaiting decisions, saying that one in ten of those they support is medically trained.
- » August:
- The home secretary announces a three-month suspension of data-sharing between the Home Office and the tax, vehicle licencing and work and pensions agencies for people over thirty;
 - Chinese restauranteurs strike and march to protest immigration raids and strict rules restricting recruitment, following similar actions in 2007 and 2013;
 - Twenty doctors awarded medals for their work fighting Ebola in Sierra Leone return them in protests at the hostile environment in health.
- » September:
- [Global Justice Now](#) launches a campaign 'MPs not border guards', announcing that 100 MPs have pledged not to report migrants who seek their help.
- » October:
- Twelve MPs (no Labour or Tories) sign an Early Day Motion applauding the return of the Ebola medals and calling on the government to end borders between health workers and patients;
 - [Lesbians and Gays Support the Migrants](#) and Brighton Pride organisers launch a petition urging British Airways not to profit from deportations, following Virgin's announcement that it will not take a new deportations contract.
- » October:
- [Amnesty International](#) sends observers to the trial of the Stansted 15, anti-deportation activists who stopped a

- deportation flight in 2016, on charges of endangering airport security;
 - A Conservative MP puts forward a private member's bill to give Chagossians British citizenship as grandchildren of ejected islanders face deportation from Britain;
 - The [Residential Landlords Association](#) demands that EU citizens in the UK after Brexit are given documentary evidence of their right to stay, to avoid another Windrush scandal;
 - Over 100 refugee and asylum support groups, faith groups, trade unions and businesses launch the [Lift the Ban](#) campaign, demanding the right to work for asylum seekers;
 - [Medact](#) and Docs Not Cops organise a day of action against the hostile environment in health.
- » November:
- The [Permanent Peoples' Tribunal](#) puts the hostile environment on trial in a public hearing in London, with an international panel of jurors hearing testimony from unionists, campaigners, members of migrant rights and solidarity groups;
 - Following a legal challenge by [Migrant Rights Network](#) and [Liberty](#), NHS Digital announces the termination of its data sharing agreement with the Home Office.

**INSTITUTE OF
RACE
RELATIONS**

2-6 Leek Street,
London WC1X 9HS

T +44 (0)20 7837 0041
F +44 (0)20 7278 0623
E info@irr.org.uk
W www.irr.org.uk
TW @IRR_News
F IRRnews

Cover image: © Global Justice Now | Design: Sujata Aurora/Gratuitous Graphics