

REFRAMING THE WINDRUSH SCANDAL AS AN INTERNATIONAL STATELESSNESS CRISIS

EVE HAYES DE KALAF*

The 2018 so-termed ‘Windrush Scandal’ highlighted the discriminatory actions of the British State against Commonwealth migrants who, having legally settled in the United Kingdom in the post-war period, found their right to remain wrongly challenged by the Home Office. The controversy led to threats of deportation and incarceration for some, while others found they were locked out of the country indefinitely. This article examines some of the ways in which racialised and minority groups can encounter ‘statelessness-like’ experiences in their everyday interactions with the state, as well as exploring some of the far-reaching and unexpected consequences of measures that have historically attempted to limit migration from the Caribbean and the broader Commonwealth to the United Kingdom. Drawing on extensive oral history interviews conducted as part of the project ‘The Windrush Scandal in a Transnational and Commonwealth Context’, this paper argues that the Scandal provides statelessness scholars with a much-needed window into the distinct ways Global North countries have sought to prevent migrants and their descendants, many of whom see themselves as citizens, from full enjoyment of their rights. Ultimately, the author proposes that the (re)positioning of the Windrush Scandal as a crisis worthy of international attention will firmly embed the inclusion of this controversy into the field of statelessness studies, while opening new opportunities for cultural, political and legal exploration of the broader ways in which people’s claims to citizenship recognition can be thwarted, overridden or ignored by the state.

TABLE OF CONTENTS

I	Introduction	179
II	The Windrush Scandal: An International Statelessness Crisis.....	181
III	The Historical Origins of the Scandal	184
IV	Statelessness-Like Experiences of the Scandal	188
	A Richard Black Interview	189
	B Arthur Snell Interview.....	191
	C Aloun Ndombet-Assamba Interview.....	193
V	Concluding Reflections	195

I INTRODUCTION

In a welcomed opportunity to venture outside of the office in May last year, I travelled with my colleagues to the Bush Theatre in London to bear witness to the

* Research Fellow, Institute of Historical Research, School of Advanced Study, University of London. This article includes the research findings of the three-year oral history project ‘The Windrush Scandal in a Transnational and Commonwealth Context’ funded by the Arts and Humanities Research Council (‘AHRC’) (Ref: AH/V/010123/1) and hosted by the Institute of Commonwealth Studies (‘ICwS’) and the Institute of Historical Research (‘IHR’). The ethics approval for the project was obtained in 2022 by the University of London Research Ethics Committee (Approval No SASREC_2122-828-R). All participants cited provided written informed consent for the publication of their names prior to enrolment in this study. This article is based in part on a keynote address given by the author at the launch of the European Cooperation in Science and Technology (‘COST’) Action ‘History of Identity Documentation in European Nations: Citizenship, Nationality and Migration (‘HIDDEN’)’ at Maynooth University in Ireland on 21 June 2023. It includes further reflections gathered during the recent World Conference on Statelessness which took place on 26–29 February 2024 at Taylor’s University in Malaysia.

fantastically intense and brilliantly performed one-man play, *August in England*.¹ Huddled together in a makeshift living room situated within this small and intimate venue, we were ushered into the fictional home of August Henderson, a Jamaican-born man who, as the story went, had arrived in London as a young boy on his mother's passport and later travelled to the West Midlands to join his father who had settled in the country many years previously. Played by the well-known British comedian and actor, Sir Lenny Henry, August had arrived in the United Kingdom ('UK') at a time when his birth country Jamaica, along with many of its Caribbean neighbours, was transitioning towards independence.² During his moving and heartfelt monologue, it felt at times as if we were also sharing in the memories intimately tied to the actor's own lived experience of growing up as the son of Jamaicans in an industrial city: chasing girls, being the class joker and getting into mischief at school. The narrative interchanged seamlessly between these two worlds, adding to the rawness of the play and, perhaps intentionally, showed to the audience that August was ultimately just an everyday, hardworking man who had his flaws and made mistakes as we all do.³

There was, nevertheless, a much deeper and far more sinister element to this narrative. In the background, as the audience laughs and sings and drinks rum alongside August, we begin to feel an underlying sense of foreboding and fear. While the reggae and dancehall classics blast from the theatre speakers, a blurred image, difficult to make out at first, intermittently flashes on and off the screen behind August. The silent figure appears slowly, giving us a sense of unease and trepidation. As the play progresses and we learn more about August's life, his loves and his regrets, we realise that there is something else lurking in his own past, an inescapable and unsettling force is beginning to catch up with August in his present life, pushing him into an impossible situation. Out of nowhere, a single envelope falls from the ceiling of the theatre, landing at August's feet. He opens the letter and reads it out loud. Capita, a private corporation hired by the British government, informs him that he must contact the Home Office immediately as the legality of his immigration status in the UK is under review. Understandably, August, who by now has had children of his own, is confused and initially he ignores the first letter.

As the play continues, more and more envelopes begin cascading through the ceiling, invading his living space and urging him to respond. The sense of urgency is acute, but August is embarrassed and hesitant to inform his family about what is happening. After much deliberation, he reluctantly asks his daughter for help to navigate the complex, overly cumbersome, Kafkaesque demands of the Home Office. Both father and daughter, however, find the process overwhelming. The authorities are requesting that August provide them with over 40 years of tax returns to evidence each year he was earning a living in the UK. The audience

¹ Lenny Henry, *August in England* (Theatrical Performance, Co-Directed by Lynette Linton and Daniel Bailey, Bush Theatre, 18 May 2023).

² Jamaica achieved independence on 6 August 1962 with Alexander Bustamante as the country's first Prime Minister. On 31 August 1962, Trinidad and Tobago also became independent, followed by Barbados and Guyana in 1966, the Bahamas in 1973, Grenada in 1974, Dominica in 1978, Saint Lucia and Saint Vincent and the Grenadines in 1979, Antigua and Barbuda and Belize in 1981, and Saint Kitts and Nevis in 1983.

³ I visited the Bush Theatre with my colleagues Professor Philip Murphy and Dr Juanita Cox on the AHRC-funded project, 'The Windrush Scandal in a Transnational and Commonwealth Context'. The play *August in England* ran at the Bush Theatre in London from 28 April until 10 June 2023.

learns that the vital paperwork August needs to produce for the State was destroyed in a fire. At a complete loss, he realises it is impossible for him to provide the authorities with the documents they are demanding. He cannot prove that he is British and is therefore powerless to halt his imminent deportation.

Gradually, the blurred image on the screen flashing behind August becomes ever more prominent and difficult to watch. Slowly but surely, we are able to make out the identity of the figure lurking behind him. A broken man whose past has finally caught up with him, the image is that of August now sat in a deportation centre, awaiting removal to Jamaica. His life in ruins and his desperation gut-wrenching. The play ends with powerful video testimonies from the people directly impacted by the ‘Windrush Scandal’ (‘Scandal’),⁴ a major controversy that made the papers in the UK in late 2017.⁵ On the screen behind August, more and more people recount their own personal tales of horror, detailing how their lives were utterly torn apart, their sense of belonging and Britishness destroyed, and their anger at being caught up within an invisible system that made them powerless to fight the beast that is the British State.

II THE WINDRUSH SCANDAL: AN INTERNATIONAL STATELESSNESS CRISIS

Alongside my colleague Dr Juanita Cox, I have spent the past two years collating the viewpoints and perspectives of a range of people directly involved in the Windrush Scandal,⁶ via in-depth oral history interviews with campaigners and activists, church leaders, charities, UK and Caribbean High Commissioners, British government and Home Office representatives, journalists, legal specialists, NGOs, museum and heritage officials, academics, writers, artists and others.⁷ Our project, which explored the historical origins of this significant moment in British history, included extensive archival research in Barbados, Jamaica, Trinidad and Tobago and the UK, as well as close collaboration with colleagues at the Black Cultural Archives, the University of the West Indies (‘UWI’) and the Barbados Museum & Historical Society. What emerged from this body of work were the devastating accounts of citizenship deprivation, loss of documentation and legal status, as well as the seemingly endless battles with the Home Office by individuals trying to (re)obtain or formalise their citizenship status.⁸ The interviews contribute to a growing body of evidence, highlighting the devastating intergenerational consequences of a scandal that continues to impact not solely persons originating from the Commonwealth — the ‘Windrush generation’ — but

⁴ Guy Hewitt and Kevin Isaac, ‘Windrush: The Perfect Storm’ (2018) 67(2&3) *Social and Economic Studies* 293.

⁵ Amelia Gentleman, “‘I Can’t Eat or Sleep’: The Woman Threatened with Deportation after 50 Years in Britain”, *The Guardian* (online, 29 November 2017) <<https://www.theguardian.com/uk-news/2017/nov/28/i-cant-eat-or-sleep-the-grandmother-threatened-with-deportation-after-50-years-in-britain>>, archived at <perma.cc/EQZ3-FBCV>.

⁶ ‘The Windrush Scandal in a Transnational and Commonwealth Context’ was a three-year oral history project funded by the AHRC. Principal Investigator: Professor Philip Murphy, Co-Investigator: Dr Rob Waters, Researchers: Dr Juanita Cox and Dr Eve Hayes de Kalaf.

⁷ For an online oral history archive which includes over 60 recorded interviews and transcripts on the Windrush Scandal, see ‘The Windrush Scandal in a Transnational and Commonwealth Context’ (Web Page, 2024) <<https://windrushscandal.org/>>, archived at <perma.cc/PN3C-3VES>.

⁸ For an overview of some of these interviews, see Juanita Cox, ‘When Home Is a Hostile Environment: Voices of the Windrush Generation and Their Descendants’ (2024) 1(1) *Black Histories: Dialogues* 1, 9.

also their UK-born children. The Scandal therefore is emblematic of the evermore creative ways in which states are challenging the right of their own migrant-descended nationals and their families to access citizenship through the weaponisation of homegrown registration practices.⁹

The Windrush controversy highlighted the serious systemic failings of a state administration that, in an attempt to harden its stance against ‘illegal’ immigration, directly discriminated against its own citizens; persons who had arrived from the Commonwealth between 1948 and 1971 and had the right to live, work and settle in the country.¹⁰ To date, the Scandal has impacted an estimated 57,000 people,¹¹ the vast majority of whom were elderly people of colour. Approximately eighty people were forcibly detained, incarcerated and expelled from the country as a direct result of these discriminatory measures.¹² At the time, the Scandal was directly linked to the actions of the former Conservative Prime Minister Theresa May (2016–2019) who, as Home Secretary in 2012, took the decision to implement a ‘really hostile environment’ for unlawful immigrants in the UK.¹³ This hostile environment, however, not only targeted immigrants but also affected ‘Caribbean-born, retirement age, long term British residents’.¹⁴ An integral component of this policy was the decision to block the access of people identified as living in the country ‘illegally’ to employment, housing, healthcare, state benefits, pensions and other public and financial services.¹⁵ These heavy-handed policies also impacted people who had worked in the UK for several decades, many of whom only discovered that the government was disputing their right to remain when they were blocked from accessing government services, lost their jobs and/or began to receive letters from the Home Office threatening them with deportation.

-
- ⁹ Lindsey N Kingston, ‘The Weaponisation of Citizenship: Punishment, Erasure, and Social Control’ in Tendayi Bloom and Lindsey N Kingston (eds), *Statelessness, Governance, and the Problem of Citizenship* (Manchester University Press 2021). See also Natalie Brinham’s new book *Citizenship and Genocide Cards: IDs, Statelessness and Rohingya Resistance in Myanmar* (Routledge 2024) for oral histories on the use of registration practices to produce statelessness. See also Eve Hayes de Kalaf, *Legal Identity, Race and Belonging in the Dominican Republic: From Citizen to Foreigner* (Anthem Press 2021).
- ¹⁰ The British Nationality Act 1948 recognised this group as British subjects with the right to live and work in the United Kingdom: *British Nationality Act 1948* (United Kingdom). For an overview of literature on the history of the Windrush generation, see Zig Layton-Henry, *The Politics of Immigration: Immigration, ‘Race’ and ‘Race’ Relations in Post-war Britain* (Blackwell 1992); Rob Waters, *Colonized by Humanity: Caribbean London and the Politics of Integration at the End of Empire* (Oxford University Press 2023); Randall Hansen, *Citizenship and Immigration in Post-war Britain: The Institutional Origins of a Multicultural Nation* (Oxford University Press 2000).
- ¹¹ House of Commons Home Affairs Committee, *The Windrush Compensation Scheme* (House of Commons, Paper No 204, Fifth Report of Session 2021–2022) 5 <<https://publications.parliament.uk/pa/cm5802/cmselect/cmhaff/204/report.html>>, archived at <perma.cc/QE5D-MTPK>.
- ¹² Tendayi Bloom, ‘When Migration Policy Isn’t about Migration: Considerations for Implementation of the Global Compact for Migration’ (2019) 33(4) *Ethics and International Affairs* 481, 490.
- ¹³ James Kirkup and Robert Winnett, ‘Theresa May interview: “We’re Going to Give Illegal Migrants a Really Hostile Reception”’, *The Telegraph* (online, 25 May 2012) <<https://www.telegraph.co.uk/news/0/theresa-may-interview-going-give-illegal-migrants-really-hostile/>>, archived at <perma.cc/53PE-8HHB>.
- ¹⁴ Amelia Gentleman, *The Windrush Betrayal: Exposing the Hostile Environment* (Guardian Faber Publishing 2019) 199.
- ¹⁵ Guy Hewitt, ‘The Windrush Scandal: An Insider’s Reflection’ (2020) *Caribbean Quarterly* 66(1).

I was motivated to write this journal article after recently returning from an invigorating five days in Malaysia at the World Conference on Statelessness.¹⁶ The aim of this large global gathering was to bring together campaigners, NGOs, academics, legal specialists and creatives as well as persons with lived experiences of statelessness.¹⁷ On the last day of the Conference, I sat and listened with interest to a presentation given by the lawyer, writer and activist Fahad Ansari of the London-based human rights organisation, CAGE International.¹⁸ Ansari noted that, historically, cases of statelessness in the UK had remained relatively low. In the statistics that he presented, from 1915 until 1948, 287 British subjects had been deprived of their nationality. From 1949 until 1972, 10 Citizens of the UK and Colonies ('CUKCs') had lost their status.¹⁹ Most surprisingly, between 1973 and 2003, not one single incident of citizenship deprivation had been reported in the country.²⁰ Ansari recounted that over the past two decades, however, the UK had augmented its powers to implement increasingly draconian policies to intentionally deprive persons of their British citizenship if deemed to pose a threat to the State.²¹ I witnessed those present gasp when they learned of the case of Shamima Begum. In March 2024, Begum had lost an initial bid to challenge the forcible removal of her British citizenship at the Supreme Court due to the terrorist-related activities she became involved in as a fifteen year old child.²² Ansari argued that the actions taken by the British State to strip individuals, including children, of their nationality evidences how the country is creating a 'second tier of citizenship among [its] Muslim and immigrant communities'²³ who are facing greater scrutiny and ill-treatment. Ansari's talk provided an important overview of the registered cases of statelessness in the UK to date, an illustration of how the British State has increasingly attempted to use the force of the law to remove the citizenship of its own nationals.

I was surprised then when the Windrush Scandal, arguably the most egregious example of citizenship deprivation in living memory in the country, was not mentioned at any point during the presentation. It struck me that the audience members, a select international group of statelessness experts, were seemingly unaware of the existence of the Scandal, its significance and far-reaching impact in the UK and across the Commonwealth. In an attempt to address this knowledge

¹⁶ The 2024 World Conference on Statelessness took place from 26–29 February 2024 at Taylor's University in Kuala Lumpur, Malaysia. The Institute on Statelessness and Inclusion, Nationality for All and Development of Human Resources for Rural Areas Malaysia organised the event.

¹⁷ See Institute on Statelessness and Inclusion, *The 2024 World Conference on Statelessness Agenda* (Web Page, 2024) <<https://www.institutesi.org/pages/conference2024>>, archived at <perma.cc/2P39-AX3J>.

¹⁸ Fahad Ansari, 'Citizenship Stripping' (Panellist, Recording Transcript, 2024 World Conference on Statelessness, 27 February 2024).

¹⁹ *ibid.*

²⁰ Fahad Ansari, *From Second Class British Citizenship to None* (Policy Briefing, SOAS University of London, 27 January 2022).

²¹ Ansari (n 18).

²² Jacqueline Howard, 'Shamima Begum Loses Initial Bid to Challenge Citizenship Removal at Supreme Court', *BBC News Online* (online, 26 March 2024) <<https://www.bbc.co.uk/news/uk-68655130>>, archived at <perma.cc/ZMC6-UFXJ>.

²³ CAGE International, 'CAGE International Speaks at Global Conference on Statelessness in Malaysia to Highlight UK's Draconian Citizenship Deprivation Policy' (Press Release, 4 March 2024) <<https://www.cage.ngo/articles/cage-international-speaks-at-global-conference-on-statelessness-in-malaysia-to-highlight-uk-s-draconian-citizenship-deprivation-policy>>, archived at <perma.cc/P585-ERHY>.

gap, and to explore how the Windrush Scandal can help inform modern-day debates on statelessness, this article will show how complex changes to legislation, particularly since the introduction of the 1962 *Commonwealth Immigrants Act* ('1962 Act'),²⁴ formed part of a strategised effort to curtail movement from the Commonwealth and racially police the boundaries of Britishness, with the direct intention of preventing Black and Asian Britons from full acceptance and integration as citizens.²⁵ I argue that the implementation of these measures has resulted in the emergence of 'statelessness-like' experiences that not only mirror or emulate the lived experiences of stateless persons, but also expose at their very core a far more complex backdrop to the ways in which a broad range of people have struggled to renew documentation or obtain formal recognition as British nationals.²⁶ By (re)positioning the Windrush Scandal as a statelessness crisis worthy of international attention, this article illustrates the multitude of ways in which the British State has historically prevented persons across the Commonwealth from entering and settling in the UK. The build-up to and the fallout from the Scandal presents scholars with an opportunity to 'broaden [...] what it means to be made stateless'.²⁷ Instead of looking to traditional, legally defined frameworks where statelessness is evident, we consider other more hidden and potentially less obvious modes of active, and sometimes insidious, measures that can create and exacerbate statelessness-like experiences, before ultimately restricting racialised and minority groups and their families from exercising their rights. As we will see, the inclusion of this Scandal in statelessness crises debates opens up considerable opportunities for deeper consideration of the possible policy, legal and cultural implications for this case, as well as a closer exploration of the ways in which the controversy itself can help to inform, shape and enrich not only the field of statelessness but also the communities that we serve.

III THE HISTORICAL ORIGINS OF THE SCANDAL

After the Second World War, the British State actively recruited persons from the Commonwealth to live and work in the United Kingdom.²⁸ 76 years ago, on 22 June 1948, HMT *Empire Windrush* arrived at Tilbury Docks in London with over 800 Caribbean passengers. At the time of its arrival, any person born in the UK or its colonies was classified a CUKC.²⁹ The *British Nationality Act 1948* converted the old imperial concept of 'British subject' into that of 'Commonwealth citizen', meaning that '[r]ights of entry and residence in Britain continued to follow an imperial scheme after 1948 and were extended to all British citizens and

²⁴ *Commonwealth Immigrants Act 1962* (United Kingdom).

²⁵ Gurminder K Bhambra, 'Superdiversity: On the Need for History' in Laurence Lessard-Phillips, Anna Papoutsi, Nando Sigona and Paladia Ziss (eds), *Migration, Displacement & Diversity: The IRiS Anthology* (Oxford Publishing Services 2023); Rieko Karatani, *Defining British Citizenship Empire, Commonwealth and Modern Britain* (Frank Cass Publishers 2003) ch 1.

²⁶ For a recent exploration into the possible definitions and categorisations of stateless populations, see Bronwen Manby, 'Schrödinger's Citizenship: Framing Perspectives for the Resolution of Statelessness' (2024) 6(1) *Statelessness and Citizenship Review* 5.

²⁷ Agnes Woolley, 'Topographies of Exclusion: Refugees, Windrush, and the Politics of Space in Recent British Film' (2023) 38(2) *Wasafiri* 76, 76.

²⁸ Layton-Henry (n 10); Waters (n 10); Hansen (n 10).

²⁹ Karatani (n 25) ch 4.

Commonwealth citizens'.³⁰ In March 1961, then British Prime Minister Harold Macmillan (1957–1963) travelled to the West Indies on a visit that left Caribbean leaders, including Dr Eric Williams — who upon independence in 1962 became the first Prime Minister of Trinidad and Tobago (1962–1981) — somewhat perplexed. Williams claimed that at no point during their trip had he or his regional counterparts received any indication from British government representatives that they were planning to introduce new legislation to curtail immigration from the region. Grantley Herbert Adams, inaugural Premier of Barbados (1953–1958) and leader of the short-lived West Indies Federation (1958–1962), wrote directly to Macmillan in protest. He called the introduction of the proposed *Commonwealth Immigrants Bill* a 'dark day in the history of Britain'.³¹ Outlining the concerns of Caribbean ministers regarding the government's decision to control Commonwealth immigration, and displeased that the requests from Caribbean leaders to hold a conference to discuss the proposal had been ignored, Adams forewarned of the dangers of restricting the mobility of Caribbean migrants:

It is particularly disturbing that although still legally described as citizens of the United Kingdom and Colonies, the people of the West Indies should, even before the final attainment of independence, be subjected to hostile and discriminatory legislation to deprive them of their historic rights to move freely into Britain.³²

The introduction of the *1962 Act* was in many ways inevitable despite the dissatisfaction expressed by Caribbean leaders. Racial tensions were high, and when it was read for a second time in the British Parliament on 16 November 1961, politicians in Westminster argued that it was entirely unsustainable and impractical for one-quarter of the world's population to remain legally entitled to live in the UK.³³ The *1962 Act* replaced British subjecthood with Commonwealth citizenship. This recognised that persons born in the UK, or persons who held a UK or Republic of Ireland issued passport and the dependants included in their passports, had the right to enter and remain in the country. It also acknowledged that CUKCs residing in the country or travelling to join their spouses or parents had the right of free access.³⁴ At the crux of what would later become the Windrush Scandal, many people from the Caribbean had entered the country on a parent's passport yet had no way of evidencing their arrival date through documentation of their own. This was compounded by the fact that it was not compulsory for Commonwealth citizens who had settled in the UK before 1973 (the date the *Immigration Act 1971* came into force) to register their settled

³⁰ Ian Sanjay Patel, *We're Here Because You Were There: Immigration and the End of Empire* (Verso 2022) 4–6.

³¹ Letter from Grantley Herbert Adams to Harold Macmillan, 'The West Indies Cabinet Memorandum: Control of Migration into the United Kingdom', 29 November 1961, archived at The West Indies Federal Archives Centre, University of the West Indies, Cave Hill Campus.

³² *ibid.*

³³ Parliament of the United Kingdom of Great Britain and Northern Ireland, House of Commons, *Parliamentary Debates, Commonwealth Immigrants Bill Vol 649* (16 November 1961) (RA Butler) <<https://hansard.parliament.uk/commons/1961-11-16/debates/be2be54a-6786-4426-86df-72a6f183a482/CommonwealthImmigrantsBill>>, archived at <perma.cc/49PR-T6NF>.

³⁴ Karatani (n 25) ch 4.

status.³⁵ Many simply had not applied for a British passport because they settled in the UK and never travelled again. The subsequent *British Nationality Act 1981* required that at least one parent evidence their British citizenship or their legal settlement in the country so that they could pass this status onto their children.³⁶ This legislation had an overwhelming impact on children born to Commonwealth parents, specifically persons who had assumed that they were British but had never formally approached the State to register. By the 1980s, Commonwealth and Irish citizens were informed that they would have to apply for naturalisation if they wanted to acquire British citizenship.³⁷ The children of non-British parents would no longer be born as citizens, although the government assured those already settled in the country before this date that their rights would not be affected.³⁸ As archival evidence from the 1980s highlights, grassroots organisations participated in public meetings and organised rallies to protest the passport raids taking place at people's workplaces and homes.³⁹ At the same time, the government increasingly demanded that members of the Caribbean community produce passports for inspection at hospitals, in schools and even at the bank.⁴⁰ The Secretary of State maintained the power to strip citizenship from persons naturalised under the *British Nationality Act 1981*.⁴¹ Yet the authorities continued to reassure people that registration was not compulsory. When Saint Kitts and Nevis became the last former British Caribbean colony to gain independence on 19 September 1983, a public announcement in the community newspaper *The Caribbean Times* reassured UK-based Kittians that they would still retain their British citizenship and they would not be required to formally register this status:

If you have ever lived in the UK for five years and had been settled here before 1 January 1983, you are now a British citizen. At independence, you will also become a citizen of St Kitts [and] Nevis. You will not lose your British citizenship. You do not have to apply for either citizenship, or do anything about it.⁴²

To learn more about what was happening in the years building up to the Scandal, I spoke with Jennifer Housen, a barrister-at-law in England and Wales and attorney at law in New York and Jamaica, and one of the legal experts who contributed to our project. Long before news of the Scandal became front page news, Housen had become deeply concerned about the complaints she was receiving from individuals of Caribbean origin who had settled in the UK yet were finding they were being blocked from returning to the country after a short visit or a holiday to Jamaica. Compelled to act, Housen took it upon herself to tour the

³⁵ See *Immigration Act 1971* (United Kingdom). See, for example, Luke de Noronha, 'Deportation, Racism and Multi-Status Britain: Immigration Control and the Production of Race in the Present' (2019) 42(14) *Ethnic and Racial Studies* 2413; Nadine El-Enany, *(B)Ordering Britain: Law, Race and Empire* (Manchester University Press 2020); Rob Waters, 'Small Boats, Border Incredulity, and the Hostile Environment in Britain, 1967–1978' (2024) 98(2) *History Workshop Journal* 27.

³⁶ *British Nationality Act 1981* (United Kingdom) s 3 ('*British Nationality Act*').

³⁷ This material was gathered through research of *The Caribbean Times* archived at the George Padmore Institute: <<https://www.georgepadmoreinstitute.org/archive/>>, archived at <perma.cc/QX32-AWMJ> ('George Padmore Institute Archive').

³⁸ *British Nationality Act* (n 36) s 1.

³⁹ George Padmore Institute Archive (n 37).

⁴⁰ *ibid.*

⁴¹ *British Nationality Act* (n 36) cited in Wendy Williams, *Windrush Lessons Learned Review* (Independent Review Report, No HC 93, 19 March 2020) 56.

⁴² 'Saint Kitts and Nevis: Citizenship after Independence', *The Caribbean Times* (London, 9 September 1983) 8 archived at the George Padmore Institute Archive (n 37).

UK extensively, speaking with community organisations, church groups and High Commission representatives to advise the Caribbean community about the validity of their legal status and to address any potential issues before heading overseas. This included the advice to travel with a UK rather than a Jamaican passport so that people could re-enter the country as citizens. Housen outlined her concern that the term ‘Windrush’ and the focus on immigration into the country was an unhelpful way to frame the problem, specifically because those affected by the Scandal were British citizens with, as she stated, the indisputable right to abode in the UK. She made it very clear that this was not an immigration issue, but a struggle over the right to citizenship recognition:

We keep saying Windrush and using the term Windrush. But even when we talk about Windrush, it is boxed into a compartment that says, people who came here and their rights were taken away. But it’s not. It’s people who legitimately had citizenship or the right of abode. British people! ... To talk about Windrush in a particular sort of vacuum is to misunderstand the inherent rights of citizenship and abode that these people had. That is what Windrush is. Windrush is not somebody coming. These people had an inherent right ...⁴³

During the interviews I conducted with former Home Office officials, however, it became increasingly evident that the government had taken no responsibility for fact-checking or searching existing databases, such as education or employment records, to corroborate claims to state membership.⁴⁴ Glyn Williams, the former Director General for Policy and Strategy in the Border, Immigration and Citizenship system at the Home Office, told me that ‘the mindset... was not to help people’.⁴⁵ Instead, the Home Office firmly placed the responsibility upon individuals to collate the documentation they needed to evidence their citizenship. For some, this seemingly innocuous request was anything but a minor inconvenience. It required the provision of State issued documents, pay slips, tax returns and proof of entry into the country dating back over a 40 or 50 year period. The demands the State placed upon individuals to provide evidence of their legal status contrasted greatly with their earlier arrival in the country when such requirements were minimal.⁴⁶ As we have seen in the case of Saint Kitts and Nevis, people were informed at the time that they did not have to take any additional steps to regularise their status as UK citizens. This lack of formality was problematised further by the fact that the UK still has no official national identification system, with its original national ID card discontinued following the

⁴³ Interview with Jennifer Housen (Eve Hayes de Kalaf, Oral History Project, ‘The Windrush Scandal in a Transnational and Commonwealth Context’, 27 September 2022) <<https://windrushscandal.org/jennifer-housen-interview/>>, archived at <perma.cc/5F9Y-HFMU>.

⁴⁴ See interview with Glyn Williams, former Director General for Policy and Strategy in the Border, Immigration and Citizenship system in the Home Office: Interview with Glyn Williams (Eve Hayes de Kalaf, Oral History Project, ‘The Windrush Scandal in a Transnational and Commonwealth Context’, 1 August 2023) <<https://windrushscandal.org/glyn-williams-interview/>>, archived at <perma.cc/K33F-ZVUA> (‘Interview with Glyn Williams’). See also interview with Tony Smith, the former Director General of the UK Border Force who worked with the Home Office for 40 years: Interview with Tony Smith (Eve Hayes de Kalaf, Oral History Project, ‘The Windrush Scandal in a Transnational and Commonwealth Context’, 5 December 2022) <<https://windrushscandal.org/tony-smith-interview/>>, archived at <perma.cc/57NX-8RXX>.

⁴⁵ Interview with Glyn Williams (n 44).

⁴⁶ Mike Slaven, ‘The Windrush Scandal and the Individualization of Postcolonial Immigration Control in Britain’ (2021) 45(16) *Ethnic and Racial Studies* 49, 49–50.

Second World War.⁴⁷ When the news of the Scandal broke, Professor Verene Shepherd, Director of the Centre for Reparation Research at the University of the West Indies ('UWI'), made it very clear that the actions of the British State were, in her view, wholly motivated by racism and deeply rooted in labour exploitation and the country's colonial past, stating:

We need to face the fact that British society demonstrates anti-black racism and that we are living in a neo-colonial space. We are living with former colonisers who are reluctant to face up to their wrongs and who still maintain a view that black people are dispensable; that they can benefit from the fruits of their labour and discard them.⁴⁸

IV STATELESSNESS-LIKE EXPERIENCES OF THE SCANDAL

In this section, we will examine the stories of three people who all equate their understanding of the Scandal with experiences akin to statelessness. The first interviewee, Richard Black, shares the anguish and confusion he faced after travelling to visit his wife's family in Trinidad and Tobago in the 1980s. Black, who had lived in London since he was a young child, became an overstayer when he decided to extend his holiday. Shortly before his visit on 22 February 1979, his birth country, Saint Lucia, became independent. According to Black, his UK issued Home Office passport expired while he was in Trinidad, leaving him without valid documentation to return home. In alignment with the established rules of the time, High Commission staff instructed Black that he would have to approach the authorities of his country of birth to instead obtain a passport from them. This deeply unfortunate chain of events resulted in a dispute with staff at the British High Commission in Trinidad over the validity of Black's assumed status as a British national. He told me: 'I can remember going to the British High Commission and being told that I'm no longer British'.⁴⁹ When the Windrush Scandal erupted, it was directly linked to the implementation of the government's hostile environment policy. Black's case, however, is useful in marking how, years prior to this, the British authorities with the assistance of their overseas consulates were already actively preventing individuals from renewing their UK issued passports, effectively stopping them from re-entering the country. Black claims that these actions, which were widely reported in the UK media after news of the

⁴⁷ In the mid-2000s, the Labour party had introduced the *Identity Cards Act* in an attempt to reintroduce a national system for ID but this was eventually repealed in 2011: *Identity Cards Act 2006* (United Kingdom). See Edgar A Whitley and Gus Hosein, 'The Proposed National Identity Scheme for the United Kingdom', *Global Challenges for Identity Policies. Technology, Work and Globalization* (Palgrave Macmillan 2010) 96. See also Colin Yeo, 'How did the Citizenship and Immigration Status of the Windrush Generation Change Over Time?', *Free Movement* (online, 22 June 2023) <<https://freemovement.org.uk/a-short-guide-to-the-legal-position-and-history-of-the-windrush-generation/>>, archived at <perma.cc/W8W7-DS62>.

⁴⁸ Verene Shepherd, 'Pay Up Now — Time to Confront Britain on Reparation, Says Professor', *The Gleaner* (online, 15 May 2018) <<https://jamaica-gleaner.com/article/lead-stories/20180516/pay-now-time-confront-britain-reparation-says-professor>>, archived at <perma.cc/GAT8-D3XE>.

⁴⁹ Interview with Richard Black (Eve Hayes de Kalaf, Oral History Project, 'The Windrush Scandal in a Transnational and Commonwealth Context', 10 November 2023) <<https://windrushscandal.org/richard-black-interview/>>, archived at <perma.cc/QTJ2-3MXN>.

Scandal made the headlines, effectively blocked him from returning home for four decades.⁵⁰

In the second interview, I speak with former UK High Commissioner to Trinidad and Tobago Arthur Snell (2011–2014), who recounts the problems he faced when he first tried to register his son as a British national. One might assume that a senior diplomat would be in the ideal position to acquire State issued paperwork as proof of citizenship. Nevertheless, Snell, who in 2018 publicly denounced that the British Home Office had rendered his son stateless,⁵¹ shared his frustrations and disbelief about his difficulties in securing a British passport for his child. Despite his significant level of privilege, influence, contacts and financial security, High Commissioner Snell still found the registration of his son overly cumbersome and arduous, highlighting the difficulties that many British citizens have encountered when trying to register the birth of a child while overseas.

The final interview, conducted with the former Jamaican High Commissioner Aloun Ndombet-Assamba (2012–2016), provides us with an opportunity to examine some of the unintended and profoundly concerning consequences of the hostile environment upon members of the Caribbean community living in London. Ndombet-Assamba was in post when Theresa May's Conservative government began ordering vans to circulate the streets, threatening immigrants with the message that they should 'Go Home'. She recalls how many people went into hiding during this particularly frightening period, illustrating the important role that fear played in exacerbating tensions and creating confusion within communities. At the time, people were being subjected to immigration raids, with landlords provided increased powers to verify people's immigration status by requiring tenants to produce British passports to confirm their legally settled status in the country.⁵² This series of events resulted in the emergence of disturbing stories about some people attempting to renounce their Jamaican citizenship, in the mistaken belief that this would in some way protect them from state aggression and ensure that they appeared more British to the authorities.

A *Richard Black Interview*

Born in Saint Lucia, Richard Black settled in London as a young boy. In the 1980s, he was unable to return to the UK after travelling to Trinidad and Tobago on an extended family visit.⁵³ Shortly after his birth country of Saint Lucia became independent in 1979, Black's UK Home Office issued passport expired. When he

⁵⁰ Zahra Warsame, 'Windrush Scandal: Victim on 38-Year Battle to Return to the UK', *Channel 4 News* (online, 9 September 2021) <<https://www.channel4.com/news/windrush-scandal-victim-on-38-year-battle-to-return-to-the-uk>>, archived at <perma.cc/D5AQ-XRS2>; Nadine White, 'Windrush Scandal Victim Richard Black to Return to UK after 38-Year Exile', *The Independent* (online, 29 April 2021) <<https://www.independent.co.uk/news/uk/home-news/windrush-scandal-victim-richard-black-b1839324.html>>, archived at <perma.cc/3K9M-5ATR>.

⁵¹ Caroline Davies, "'Not British Enough": Ex-High Commissioner's Baby Denied UK Passport in 2011', *The Guardian* (online, 25 April 2018) <<https://www.theguardian.com/uk-news/2018/apr/25/arthur-snell-high-commissioner-baby-denied-uk-passport-2011>>, archived at <perma.cc/6UNE-HRN5>.

⁵² George Padmore Institute Archives (n 37).

⁵³ Interview with Richard Black (Juanita Cox, 'Nationality, Identity and Belonging: An Oral History of the 'Windrush Generation' and Their Relationship to the British State, 1948–2018', 27 May 2020) <<https://windrushscandal.org/richard-interview/>>, archived at <perma.cc/25D9-LWVR>.

tried to renew his paperwork, the British High Commission informed him that he was no longer eligible for recognition as a British citizen and that he would instead have to approach the Saint Lucian authorities for his travel documents. Notwithstanding, Black had no way of reaching the Saint Lucian High Commission or accessing this documentation from Trinidad. During our interview, Black describes his shock at learning that he was not British and the devastating impact this experience had on his own personal circumstances and mental health:

[Eve Hayes de Kalaf ('EHdK')] So you spend a few years in Trinidad with your wife, with her family. When do you realise that there's an issue?

[Richard Black] Well, the passport has expired now. So, I need to go to the British High Commission and speak to somebody there. And then it all becomes clear to me because then they explain to me. I am no longer British. Saint Lucia gained independence on 22 February 1979 ...

[EHdK] Can you remember what year they told you that? You went on holiday to Trinidad in 1983?

[Richard Black] I can't remember the exact year but that would have been ... that would have been just before or just around ... I had travelled with the passport to the States to meet my other in-laws ... But when that happened, I can remember going to the British High Commission and being told that I'm no longer British.

[EHdK] Can you remember who you saw? Was it a receptionist? Did someone come down and speak to you? Do you know who it was? What did they say to you specifically?

[Richard Black] Well, Saint Lucia basically gained independence in 1979. 22 February. And, as a result, I needed to get a Saint Lucian passport or a Trinidad and Tobago passport.

[EHdK] And Trinidad became independent on 31 August 1962. So that was already independent.

[Richard Black] But there was no way I could get a Trinidad and Tobago passport. Saint Lucia has no High Commission or anybody in Trinidad that I could speak with.

[EHdK] Did you try and contact the Saint Lucian High Commission?

[Richard Black] I was stunned. I was emotionally a wreck. I can remember and saying to her, "What am I going to do now?" And I can remember the guy said, "Well, you know, get in touch." I didn't even have the slightest idea. And I want to say this. And I'm not ashamed of saying it. Intellectually, not mature. I was just, basically, forgive me if I get emotional because I'm starting to remember the negatives. Right? And I was a wreck. I didn't know what to do. I was 29 at the time.

[EHdK] Did you share this story with anybody? We're in the mid-80s.

[Richard Black] I talked to my wife who was in Trinidad. I'm saying this is what people are going to say. So, she said, "Well, you need to go back and see if you could talk to somebody else." So, I went back after a couple of weeks. I swallowed my pride and went back because I was treated like, you know, dog mess. And I

could see the smirk. I didn't know what it was at the time but now I could relate. I'm a lot brighter now, I'm a lot smarter now. So, I can relate to people's look. How they look at you, right? And I'm seeing this person tell me, "It hasn't changed. You still have to get in touch with the Saint Lucian people and they will get your passport. You're not British. You're not British." And that was said in such a way that I understood it, not because I was smarter but because of the hurt I felt at the time.⁵⁴

The impact on Black, who was unable to return to his family in the UK for almost four decades, was devastating. For many years, he became homeless. He lost contact with his children and lived as a vagrant on the streets of Trinidad and Tobago's capital, Port of Spain. His mother also died while he was in Trinidad but he was unable to return to the UK to attend her funeral, a situation that angered him greatly. Black placed the blame for his financial difficulties, emotional turmoil, ill health and subsequent divorce at the hands of the staff working at the British High Commission. In April 2024, following substantial media interest in his story, Black was eventually able to return to London after receiving legal assistance to apply to the Windrush Compensation Scheme.⁵⁵ He arrived in London on a recently issued Saint Lucian passport which contained the right to indefinite leave to remain for the UK. In accordance with existing legislation, however, Black will still be expected to (re)apply for the British passport he lost over 40 years ago. The British State is yet to formally recognise Black as a UK citizen and he will still be expected to naturalise to (re)obtain his status should he ever choose to settle in the country.

B *Arthur Snell Interview*

In this second interview, former Trinidad and Tobago High Commissioner Arthur Snell recalls how the Home Office had initially refused to issue his son with a British passport. This decision, Snell argues, rendered his son stateless and prevented his family from leaving Trinidad with their newborn child. Although Snell's son was never really at risk of remaining statelessness, his experience is important as it evidences how even individuals of significant social standing and political influence were still not immune to experiencing bureaucratic problems when trying to obtain documentation or when registering their children as British citizens. As Snell told me:

[Arthur Snell] While I was working in Trinidad, my son Edward was born. He was born in 2011. Going back to the issues I was talking about with immigration and other matters. Lots of people would expect that the British Embassy or British High Commission would issue a birth certificate. If you're a Brit but you're born overseas you would go to your embassy and get the birth certificate. But that wasn't something we did. So, at the time of his birth Edward had a birth certificate issued by the Trinidad and Tobago government which, you know, just like any other person born in that country. I was aware at the time of the challenges that British citizens born overseas were increasingly getting in proving their right to have a passport ... [My son] had his Trinidad birth certificate. Both of his parents — myself and my wife — both born in Britain. Both of our parents were also born in Britain.

⁵⁴ Black (n 49).

⁵⁵ Nadine White, 'Windrush Scandal Victim Returns to UK after 40 Year Exile in Caribbean', *The Independent*, (online, 15 April 2024) <<https://www.independent.co.uk/news/uk/home-news/windrush-scandal-returns-uk-passport-b2528841.html>>, archived at <perma.cc/3MV2-D3K2>.

And, of course, I was a British High Commissioner. So, I couldn't be more British really if I tried.

[EHdK] And the birth certificate doesn't come with Trinidadian nationality.

[Arthur Snell] Exactly. It's just evidence that he was born in a certain time and place. Then I filled in the relevant forms, sent them off to Washington. And I will add, at this time it's important to say there was no special channel ... I just had the normal passport application system that anyone else would have had. I would have a reference number like anyone else that theoretically you could look up and go on a call to get information. But as lots of people know, those information lines are hugely unhelpful and very expensive. So, in that sense I was like any other applicant. And I waited. There was a slight nervousness because we had a planned trip that we needed to make and obviously he had no passport — I think it was so his grandparents could see the new baby — it would not be possible to travel if he didn't have his passport. And then we got the response that his application had been rejected. And you can imagine, you know, that at first, I thought, well, there must be some kind of mistake ... He was probably four weeks old or something. Four or five weeks old.

[EHdK] Effectively, if I may, your son was rendered stateless?⁵⁶

[Arthur Snell] He was exactly rendered stateless. What's interesting about this is that I had lots of Trinidadian friends. As you can imagine, as a High Commissioner I had a lot of networks at high levels. I had Trinidadian government ministers say to me, "Oh, well, get him to apply for a Trinidad passport". And I was seriously considering that. Trinidad is a country that confers nationality on anyone born there, a bit like America. However, there are certain exceptions, which are completely reasonable. And one of those exceptions is if you are the child of a diplomat.

[EHdK] And that, just for our listeners, is pretty standard practice for diplomats around the world. If you're a diplomat and you have your child overseas, the logic is that the child cannot [receive nationality].

[Arthur Snell] Yes, which is completely logical. He was there because his father was serving another state. There's no reason that Trinidad should take him on as one of their citizens ...

So what happened was, I had a son who was stateless. We obviously had to reschedule our trip. I did what all other passport applicants end up doing is going down this desperate road of trying to figure out well what's the problem here? What is wrong with this application? Why is this person not eligible? Eventually, and this is where clearly it did make a difference. I was the British High Commissioner. Eventually, I was able to figure out who in Washington I could talk to, or email, at least. I don't think I was ever given a phone number. Someone told me, "Well, we think you need to provide further details of you and your wife's nationality, to confirm that he's eligible". I continue to think that's absolutely absurd because how

⁵⁶ Before this interview took place, Snell, an outspoken critic of the Windrush Scandal, had publicly declared to the British media in 2018 that the British State had rendered his son stateless, hence why this question was posed during the recording. See May Bulman, 'British High Commissioner's Baby Son Denied a UK Passport after being Born in Trinidad', *The Independent* (online, 25 April 2018) <<https://www.independent.co.uk/news/uk/home-news/windrush-latest-british-high-commissioner-arthur-snell-son-uk-passport-denied-citizen-a8321056.html>>, archived at <perma.cc/A5FA-QTCN>.

could you possibly appoint someone to the position of British High Commissioner if you didn't think that they were British? That's just meaningless. And we had already demonstrated that we were both born in Britain and were clearly of British citizenship. Nevertheless, I jumped through the various hoops that were required of me.⁵⁷

High Commissioner Snell was acutely aware that his case was far from the norm. He made it very clear that his son's experience of becoming temporarily stateless and the minor inconveniences he and his family had faced were in no way comparable to the atrocious hardships encountered by others directly affected by the Scandal. Clearly, Richard Black and Arthur Snell each had very different experiences: the former a Black man, born in Saint Lucia, who was left stranded and destitute in Trinidad and prevented from renewing his British passport; the latter a white senior diplomat with access to the financial and legal means to prevent his son from remaining stateless. Both Black and Snell were nevertheless forced against their will into a battle with the British authorities to obtain documentation. Both were unable to leave Trinidad until they were issued with the passports they needed to return to the UK. In the case of Snell, it is also necessary to highlight that if even the British High Commissioner had struggled to register his own child, it raises the important question of how many individuals, especially British citizens of colour, were being actively discouraged or blocked from renewing or obtaining their documentation because of the significant financial, bureaucratic and legislative obstacles standing in their way.

C *Aloun Ndombet-Assamba Interview*

In this final interview, the former Jamaican High Commissioner Aloun Ndombet-Assamba (2012–2016) presents the experiences of individuals who, post-Scandal, found themselves tricked by fraudsters who convinced them to renounce their Jamaican nationality to appear 'more British' to the authorities. She recounts how she was aware of some Jamaicans now settled and living in London who had been taken in by hoaxers. Their attempts to destroy paperwork and denounce their ties to Jamaica, albeit unnecessary and futile, are illustrative of the overwhelmingly negative impact of the hostile environment on 'illegal' foreign migrants as well as the confusion and fear it has generated within and beyond Caribbean communities:

[Ndombet-Assamba] There were warnings from then. I don't recall what it would have been in the 1980s. But in my time in the UK I could see it coming, because of what was being said and what I had read in the news. And when I listened to people speak, I knew what the Home Office was saying. But more importantly, they had these vans with notices on the sides of the vans going around ... And so let me tell you. I spoke about it every opportunity that I had. When I was speaking to the Jamaican community. When I came home to Jamaica, I would be invited by different churches to speak to say to Jamaicans who have family in the UK ... you need to regularise your status.

[EHdK] ... Did you see those vans with your own eyes?

[Ndombet-Assamba] Yes, I saw those vans with my own eyes. I was there when things started changing ... At the beginning, people kept saying that it doesn't relate

⁵⁷ Interview with Arthur Snell (Eve Hayes de Kalaf, Oral History Project, 'The Windrush Scandal in a Transnational and Commonwealth Context', 24 June 2022) <<https://windrushscandal.org/arthur-snell-interview/>>, archived at <perma.cc/LZ99-GRCM>.

to me. They're not talking about me because we are British. We came here on a British passport, or our parents came here on a British passport, or we were born here. But they never regularised their status in the UK.

[EHdK] What mechanisms would have been in place for them to do that?

[Ndombet-Assamba] You'd have had to apply to the Home Office. Everything had to go through the Home Office and the Home Office had different locations. I remember. Let me give you an example of something that started to happen. I began to hear about people renouncing their citizenship.

[EHdK] Their Jamaican citizenship?

[Ndombet-Assamba] Yes, their Jamaican citizenship, believing that they could now, having renounced their citizenship, go to the Home Office and apply for UK citizenship.

[EHdK] So these were people of Jamaican descent, or Jamaicans who had travelled to the UK, who believed they were British to the extent that they renounced their Jamaican nationality?

[Ndombet-Assamba] But it couldn't happen that way. There is a section in our Constitution that speaks about renouncing a Jamaican citizen and you have to apply to the government to renounce your citizenship. And there is a process. But somehow, and I am going to say this, it was really bad but there were a group of notaries public, in particular, in Croydon because I've seen those documents [...] which they called 'renunciation of citizenship' and they charged people like £500 to do it. And let me tell you, they used language like 'herein after' and 'wherein before' and put on this red seal and all of that. And let me tell you. It meant absolutely nothing, and people were duped into paying them money to produce that document.

[EHdK] That's desperately sad what you're just telling me because people were not only essentially being given documents that had no value. Renouncing a citizenship that actually they couldn't do. I think the saddest thing in this is thinking that meant they would somehow then be British.

[Ndombet-Assamba] That somehow having renounced their Jamaican citizenship, then the British would accept them. So, the tone and the words that I started using in my speeches to the Jamaican communities is that this is not how it is done. You have to apply to the Home Office once you satisfy the requirements to become a citizen. You do not need to renounce your Jamaican citizenship because Jamaica allows dual citizenship. And Jamaica would never agree to a Jamaican renouncing their citizenship unless they had become the citizen of another country, of course, because then they become stateless.⁵⁸

In this final interview, we see how some people in the Jamaican community sought nefarious and questionable means to achieve recognition as British citizens, arguably placing themselves in vulnerable situations by destroying their own documents in an attempt to erase any bureaucratic trace of their own connections to Jamaica. Although these actions had no legal basis and were ultimately futile,

⁵⁸ Interview with Aloun Ndombet-Assamba (Eve Hayes de Kalaf, Oral History Project, 'The Windrush Scandal in a Transnational and Commonwealth Context', 15 September 2022) <<https://windrushscandal.org/aloun-ndombet-assamba-interview/>>, archived at <perma.cc/U6ZY-5JMH>.

the implementation of the hostile environment nevertheless led to some people attempting to detach themselves from any association with their country of birth in the belief that this would help them to achieve greater recognition as British citizens. This example shared by High Commissioner Ndombet-Assamba exposes some of the unintended consequences created by a hostile policy that, while seeking to identify undocumented migrants and overstayers, also spread fear and confusion across legally settled communities. All three interviews highlight the challenges, frustrations and confusions that have emerged from the enforcement of legislative changes and policies to renew documentation, register a birth or provide evidence of settlement in the country.

V CONCLUDING REFLECTIONS

Windrush is a momentous scandal, one that holds a mirror up to the actions of the British State, highlighting the horrors of postcolonial citizenship regimes and their strategic aim to historically block Commonwealth-born people from enjoying their full status as citizens. The Windrush Scandal is, however, typically excluded from broader discussions on statelessness precisely because it fails to fit within the discursive and legal parameters of the field. The political and legal theorist Tendayi Bloom recognises that part of this problem lies in the application of the language used to defend the use of policies that subject citizens to some types of migration controls:⁵⁹

The potential for such extreme outcomes for people who are clearly not migrants ... raises more fundamental questions about such policies. For example, it problematises the legitimacy of such exclusions from state society even when people clearly are migrating or have recently migrated. It raises the possibility that, even in seemingly straightforward cases, exclusions of this sort are controlling something other than migration.⁶⁰

As I have argued in this article, there needs to be space within and beyond the statelessness framework to accommodate discussion on the ways in which states, and global infrastructures more broadly, can actively prevent citizens from returning or blocking their access to citizenship. Though this may not lie strictly within the legal definitions of statelessness, the wounds left by the Scandal call for far deeper reflection.⁶¹ In June 2024, I was fortunate to co-present with Dr Mike Slaven at the conference ‘Losing, Retaining, Reclaiming the Citizenship of the Former Colonial Power: Comparative Perspectives from 1945 to the Present’, which explored how colonial powers such as France, the Netherlands, Portugal, Britain and Spain have all historically shifted the goalposts of fairness when it comes to formally acknowledging the status of their own migrant-descended citizens.⁶² At the very least, the positioning of the Windrush Scandal as a statelessness crisis worthy of greater attention allows us to consider this major controversy as part of a far broader, much-needed global debate on the truncation

⁵⁹ Bloom (n 12) 483.

⁶⁰ *ibid* 493.

⁶¹ Williams (n 41) 139.

⁶² Eve Hayes de Kalaf and Mike Slaven, ‘The Windrush Scandal’ (Panellists, Conference: Perdre, conserver, retrouver la nationalité de l’ancienne puissance coloniale: Perspectives comparatives des années 1945 à nos Jours [Losing, Retaining, Regaining the Nationality of the Former Colonial Power: Comparative Perspectives from 1945 to the Present Day], 18 June 2024).

of citizenship. The incorporation of the Global North as central players in the strategic erosion of these rights will bring new possibilities to identify synergies, develop suitable methodologies, and explore comparative and interdisciplinary approaches.

For over a decade, I have worked as a researcher on statelessness, during which time I have had the immense privilege of meeting with individuals who have generously shared their struggles in evidencing their right to citizenship.⁶³ What certainly became clear to me over the course of this research journey was the lacuna in the discourse on migration and statelessness, concerning how states can actively manufacture the foreignness of their own nationals via the strategic manipulation of laws and bureaucratic processes.⁶⁴ Therein lies the power of the statelessness-like experiences explored in this article. As we saw from the play *August in England*, these narratives have not only deepened our understanding of the Scandal, but they have also informed and inspired a rich variety of cultural expression, literature and art emerging as a vehement critique of postcolonial citizenship regimes.⁶⁵ This can also lead to new opportunities for Windrush campaigners, artists and members of the Caribbean diaspora to work in solidarity with a supportive community of scholars, grassroots activists and practitioners, all of who are, in their own and diverse ways, contributing to the fight against statelessness.

⁶³ Eve Hayes de Kalaf, 'Making Foreign: Legal Identity, Social Policy and the Contours of Belonging in the Contemporary Dominican Republic' in Gibrán Cruz-Martínez (ed), *Welfare and Social Protection in Contemporary Latin America* (Routledge 2019) 107; Eve Hayes de Kalaf, 'A New Expression of Dominicanidad: The Dominican ID Card, Technology and Race' in Jacqueline Jiménez Polanco and Ernesto Sagás (eds), *Dominican Politics in the Twenty First Century: Continuity and Change* (2023).

⁶⁴ Michelle Foster and Jade Roberts, 'Manufacturing Foreigners: The Law and Politics of Transforming Citizens into Migrants' in Catherine Dauvergne and Simon Fraser (eds), *Research Handbook on the Law and Politics of Migration* (Edward Elgar 2021) 224.

⁶⁵ See Woolley (n 27). See also the Virtual Museum of Caribbean Migration and Memory (VMCMM) and the exhibition *The Enigma of Arrival: The Politics and Poetics of Caribbean Migration to Britain* as explored by Kaye Hall and Natalie McGuire in their chapter 'Co-Curating Memory: Deconstructing the Silences around Caribbean Migration to Britain' in Karen Brown, Alissandra Cummins and Ana S González Rueda (eds), *Communities and Museums in the 21st Century: Shared Histories and Climate Action* (Routledge 2024) 198.