Windrush Scandal: Postcolonial Authoritarian Racism and its Reflection in Contemporary British Immigration and Nationality Law

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Abstract

In the aftermath of World War II (WWII), the United Kingdom (UK) government actively encouraged immigration from Caribbean commonwealth countries (the Windrush generation) to address the severe labor shortages. Initially welcomed to contribute to post-war reconstruction of Britain, the Windrush generation has experienced systemic injustices in the UK's nationality and immigration legal system since their arrival which continues to this day. The Windrush generation now even finds itself exposed to the threat of deprivation of citizenship rights. In this context, this article aims to study the link between the Windrush scandal and the postcolonial authoritarian racism within contemporary British nationality and immigration laws. It also highlights the extent to which the current legal framework perpetuates the discriminatory practices and policies against the coloured immigrants. To reach its conclusion, this article employs a doctrinal research methodology which involves a survey of primary and secondary sources on this issue such as statutes, regulations, official reports, policy documents, government publications and scholarly articles. Through a survey of all these sources, the article concludes that the mistreatment of the Windrush generation represents a continuation of the systemic injustices faced by the coloured immigrants generally in the UK. More particularly, the combination of racist legislative policies and fluctuating opinion on immigration provides a perfect storm to allow for these system issues to continue and disregard the basic human rights of the victims of the Windrush scandal and other coloured immigrants.

Keywords: *Windrush scandal, nationality, British, immigration, racism, colonialism, authoritarianism.*

Introduction

The Windrush generation, consisting of individuals who migrated to the UK from Caribbean nations between 1948 and 1971, derives its name from the first wave of Caribbean immigrants who arrived in the UK after World War II. Initially welcomed to contribute to post-war reconstruction and to bolster the social and economic growth of Britain (Akala, 2018). This generation found themselves exposed to the threat of deportation, incarceration, and denial of essential access to rights and services. Accordingly, the Windrush scandal illuminates the marginalized and racially stratified experiences endured by immigrants under the country's nationality laws. The Windrush scandal also serves as a stark reminder of the enduring authoritarianism embedded within the British legal system to this day, stemming from its colonial past. Close examination of

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this scandal exposes significant flaws and inequalities in the nation's immigration and citizenship systems.

In light of this, it is crucial to study the historical context that led to the Windrush scandal in depth, with particular focus on the legal rights of the coloured ethnic minorities and the state's recognition – or denial – of their citizenship. Thus, this essay will bring together discussion of colonial histories with present legalization processes for critical examination on the fragility of British citizenship for Windrush victims.

Theoretical Framework - Authoritarianism

To understand the Windrush scandal and its deep rooted impacts, it is crucial to understand the theoretical framework of authoritarianism as the scandal took place within the broader context of authoritarianism.

In contemporary democratic societies, the presence of authoritarianism runs deep, stemming from historical norms. This gives rise to a hierarchical system that governs communities subjected to class subjugation throughout the 20th and early 21st centuries. This system consists of a top-down approach, resulting in formal or informal oppression experienced by targeted groups, which are typically based on gender and race. Raden argues that authoritarianism has historically been linked to entrenched biases, both theoretically and empirically (Raden, 1994). Further research consistently highlights that authoritarianism significantly fuels prejudice, particularly against groups that are not considered as part of the dominant social majority (Brandt & Reyna, 2014). As a result, these authoritarian stances lead to ongoing influence in British immigration and nationality law. The initial understanding of authoritarianism in the UK must firstly be outlined, before its direct influence in law, culture, and more specifically the Windrush Scandal in Britain, can be identified.

Authoritarianism can be seen to fuel prejudice as it manifests thorough concentrated power structures and repression, existing both within formal state structures such as China, Egypt, Hungary, Russia, and Singapore, and within segments of society. For instance, this can be seen in Apartheid-era South Africa and the Southern United States where governments enforced white supremacy (Chua, 2019). Similarly, Masters & Regilme's research on postcolonial authoritarianism embedded in British citizenship regulations asserts that agents of the British government exhibit authoritarian tendencies through actions such as revoking citizenship and depriving people of color, such as Shamima Begum, of their constitutional rights (Masters & Regilme Jr, 2020). They particularly draw attention to the ways in which the "war on terror" following September 11, 2001, has influenced governments to disregard citizens' demands for human rights (Masters & Regilme Jr, 2020). As they write, narratives emphasizing fear and the prevalence of terrorism strengthen the state's control over minority populations, often targeting Muslim women who wear veils. The case of Shamima Begum exemplifies the continued persistence of colonial notions within the modern British state, eroding individual liberties for a stated concern for collective national security.

In addition to the ongoing examination of authoritarian influence on British politics and society, it is imperative to acknowledge the pervasive and connected influence of neoliberalism as a dominant ideology shaping the country's public policies. The onset of neoliberalism is commonly associated with the election of Margaret Thatcher as Prime Minister in 1979, characterized by her agenda of privatization, welfare cutbacks, and the concentration of wealth through dispossession. Throughout Thatcher's tenure, the state increasingly subjected many working-class individuals and communities to overt forms of coercion. In the past decade, this trajectory has culminated in what some describe as an authoritarian turn (Davey & Koch, 2021). Although Britain is not typically deemed to be an authoritarian nation, we can see that, even prior to Margaret Thatcher's rule,

authoritarian influences stem from Britain's colonial era where illiberal practices heavily influenced political and social biases. The perception that white England was the dominant nation who ruled over others filtered home where political policies have historically imposed far tougher legislation on immigrants, regardless of their right to remain in the UK. These historic influences can be seen to continually influence British Immigration and Nationality law, as can be seen with recent Home Office policies, such as the Rwanda stance, implemented by Priti Patel and Suella Braverman.

In line with this, it has been suggested that the persistence of dominant culture and its impacts on social marginalization are further strengthened when the idea of dominance is understood to be aligned with neoliberal and colonial values (Poirier et al., 2022). Chacko also argues that, not only has neoliberalism fostered the rise of authoritarian protectionism across various nations, including the UK, but it has also promoted and consolidated conservative social hierarchies based on gender (patriarchal social structures), race (an understanding of history rooted in social evolutionary concepts where the Christian West is perceived as the pinnacle of enlightenment) and class (by facilitating anti-democratic governance and the concentration of wealth and power in the hands of a privileged few) (Chacko, 2023). The combination of neoliberalism and authoritarianism values have also established a hierarchical division between "developed" and "underdeveloped" cultures, a binary which reinforces a belief in the superiority of white Western civilization (Cornelissen, 2020). It is not controversial to highlight the consequential impacts of neoliberalism in the furtherance of social exclusion of marginalized groups, which include the coloured migrations, in the UK, although the general impact of neoliberalism on migration needs further investigation. This influence can further be extended where Davey & Koch argue that the proliferation of coercive tactics in people's daily lives is a direct outcome of the British state's transition from welfare-oriented policies to neoliberalism, notably through the implementation of austerity measures.

As highlighted by Davey and Koch (2021), the top-down imposition of legal compulsion within sectors such as the criminal justice system, social safety net, social housing, and capital markets accentuates the disproportionate impact of such measures on vulnerable populations, including the working class, women, and people of color. Indeed, as Elwageeh et al. conclude, the economic policies in favor of free markets and globalized capitalism have unavoidably worsened social conflicts over wealth disparity, impoverishment, and informality. Gross-Wyrtzen and Gazzotti (2020), through their postcolonial studies on the "curious relationships" between liberalism and authoritarianism in Moroccan governance, suggest that an authoritarian structure can enable a state to enforce illiberal migration policies. This argument underscores the relations between neoliberalism, authoritarianism, and the perpetuation of social inequalities based on gender, race and class, which ultimately are reflected in British immigration policies.

Considering this, the relationship between authoritarianism, neoliberalism, and populism can be explored, highlighting the direct influence on British society. Grewel considers the relationship between authoritarianism and populism, specifically examining the concept of authoritarian patriarchy and its connection to nations of safety and the security state (Grewal, 2022). Stuart Hall's analysis of authoritarian populism in 1980s Britain offers valuable insights into the political landscape of the time. During this period, Britain experienced significant social and economic transformations, which were accompanied by the rise of right-wing populist movements and the consolidation of Thatcherism. Hall's analysis sheds light on the ideological underpinnings and strategies employed by these populist movements. Hall further argues that authoritarian populism in 1980s Britain was characterized by a rhetoric that appealed to the anxieties and insecurities of the working class and marginalized groups. Populist leaders, such as Margaret Thatcher, tapped into public sentiments by promising to address concerns related to immigration, crime, and

national identity. This rhetoric aimed to create a sense of unity among a diverse range of supporters, while simultaneously reinforcing social divisions and inequalities.

Drawing on Stuart Hall's analysis of authoritarian populism, Grewal argues that moral panic surrounding race and criminality provided opportunities for the implementation of control mechanisms, particularly in regulating sexuality and criminalizing individuals deemed as threats to heteronormativity. Grewal emphasizes that the growth of security as a primary justification for state authority has amplified the populism stemming from this moral panic. This dynamic allows for the control of marginalized groups, perceived as threats, while enabling others to embrace the notion of a security state. National security is only one reflection of public opinions raised under populism that contributes to the formation of authoritarian governance. Masakure (2018), in their discussion on the power preservation of ruling class in Zimbabwe, argue that the capacity for ideological domination by governing elites' intended to furtherance national unification and the balance of coercion and approval as the major causes of the persistence of authoritarianism (Masakure, 2018).

Indeed, the legitimacy of authoritarianism often relies on public approval, and it is in this realm that the interplay between populism and authoritarianism comes into focus. Scholars have coined terms such as "populist authoritarianism" (Tang) or "responsive authoritarianism" (Stockmann and Luo, 2019) to describe regimes that maintain stability by garnering strong support from the population and demonstrating a high degree of responsiveness to public input. The concept of "hyper-responsiveness" refers to the continuous need for the ruling party or state to actively and consistently address public opinion. In contrast to democracies, where elected officials have a guaranteed mandate until the next election, in populist authoritarian regimes, sustained responsiveness is essential (Schroeder, 2018). While Tang's notion of populist authoritarianism elucidates the significance of ongoing responsiveness to public sentiment as a justification for authoritarian rule, this framework may not be the most suitable for evaluating the political climate in the UK. Despite its imperfections, the UK is an electoral democracy. Consequently, responsiveness cannot be regarded as the sole domain of governance. It is thus more appropriate to characterize the interaction between authoritarianism and populism within the context of British immigration and nationality policy as "authoritarian populism." This concept recognizes that an authoritarian style of governance is shaped by populist sentiments, without negating the democratic foundations of the UK although it should be subjected to further research.

Specifically, the UK's burgeoning authoritarianism is also linked to a populist demand for control. Beaumont's investigation delves into the role of historical allusions, particularly to World War II, in shaping public sentiments against the European Union (EU) during Brexit (Beaumont, 2017). The study contends that the collective memory of the war, centered around the pursuit of sovereignty and the desire to escape control from Brussels, has constructed a Eurosceptic narrative that sits uneasily with the UK's EU membership. Nigel Farage, the former leader of the UK Independence Party, notably employed Second World War iconography during his campaign, portraying Brexit as a "great escape" from the EU. While attributing pro-Brexit sentiment to the populist demand for regaining control is widely acknowledged, it is crucial to consider how this call for control interacts with authoritarianism, contributing to the consolidation of a more authoritarian climate within the UK. In fact, Stevens, in his discussion of Brexit, asserts that individuals with strong authoritarian predispositions are more susceptible to normative threats (Stevens & Banducci, 2020). These threats include a perceived loss of legitimate authority, a lack of social consensus, challenges to established authorities, and a perception of growing societal division. The rise of the UK Independence Party (UKIP), the leading advocate for Brexit, serves as a compelling example of the interrelation between authoritarianism and populism. UKIP exhibited many of the key characteristics of populism: nativism, with a special animus against Muslim immigrants; nationalism, leading to hostility

towards Scottish and Welsh independence; cultural traditionalism; and authoritarianism. This confluence of traits reveals how authoritarianism and populism often intersect within political movements.

The discussion on authoritarianism in Britain can be summarized as being defined by colonialism and the desire for ongoing sovereignty. The core of authoritarianism and populism has always been separation and exclusion: separating the upper-class from the lower-class (authoritarianism), separating them from us (populism), and excluding the vulnerable from the mainstream. Authoritarianism and populism intersect with one another in relation to colonialism, where the colonial matrix of power has always been underpinned by racism, to construct a de facto racially hierarchical legal structure in the postcolonial era. Developing a precise understanding on the actual linkage between authoritarianism and populism helps to contextualize the public sentiment in the UK with regards to the influence on British immigration and nationality law, specifically leading into the Windrush Scandal.

Methodology

In this article, a doctrinal research methodology is employed, centering on the examination and analysis of primary and secondary legal sources. These sources encompass statutes, case law, regulations, official reports, policy documents, and government publications, all of which are crucial for interpreting and understanding the subject matter. In addition, secondary sources like scholarly articles from authoritative journals have also been relied upon in support of the propositions and arguments advanced in this article.

Results and Discussion

Based on a close survey of the primary and secondary literature on this issue, several results can be arrived at. In particular, this research highlights that there is a direct link between the British nationality laws, racial authoritarianism and the colonial period. A detailed discussion on the same follows below.

British Nationality Law, Racial Authoritarianism, and the Colonial Era: A Direct Link

Although formal colonial occupation has now come to an end, its wide-reaching effects are still felt daily and continue to exert influence on immigration and nationality legislation in modern-day Britain. The historical evolution of British nationality law since the colonial era can be explored to show how it developed to the pinnacle point highlighted by the Windrush Scandal. Notably, the subconscious bias developed from the perception that "white" Britain was to rule over others, provides the basis for immigration policies that unjustly turn away immigrants.

A critical example of this is seen with citizenship deprivation, something which is encompassed as a crucial point in the Windrush Scandal. In their thought-provoking analysis of postcolonial authoritarianism and citizenship deprivation, Shahid & Turner provide a useful perspective in their discussion of Assam, India (Shahid & Turner, 2022). They raise a critical point regarding the limitations of current research into citizenship deprivation, which often takes a Eurocentric standpoint and fails to acknowledge the underlying causative factors of white supremacy and colonialism. Shahid and Turner (2022) underline the need to situate the issue within a broader political and global context, and maintain that exile, hardship and displacement are recurring realities for many populations worldwide. By examining the Assam case study, Shahid and Turner (2022) highlight the interconnectedness of citizenship denial, power dynamics, ethnicity and imperialism. The violence of exclusion and dispossession is thus not isolated, but rather part of a wider pattern of authoritarian authority that sets the parameters of what

constitutes acceptable citizenship (Shahid & Turner, 2022). Moreover, they shed light on the inherent instability and susceptibility to exploitation of racial classifications. There is, they stress, a critical need to consider historical circumstances in any discussion of citizenship denial, which must account for the contact zones of capitalism, tyranny, and postcolonial processes. Considering Shahid & Turner's discussion, this paper aims to fulfill this by considering the historical circumstances of the Windrush scandal and how it reflects upon the present.

The interconnectedness of British colonialism with racism is not an isolated phenomenon. Rather, it is deeply rooted in the governance of nationality and immigration under authoritarian British rule during the colonial era and throughout the subsequent age of decolonization. Over this trajectory, racism has become an implicit rationale embedded within British legislation on nationality and immigration. Goodfellow (2022) argues that the preservation of a white, dominant identity was a central objective of the British Empire, which shaped the evolution of British citizenship laws. Goodfellow highlights the significance of key moments in the development of British citizenship laws, such as the years 1948, 1981, and subsequent amendments to the Citizenship Acts (Goodfellow, 2022). These legislative changes established a hierarchical structure for citizenship that systematically disenfranchised non-white citizens and reinforced the notion that British identity was reserved exclusively for white individuals.

Evidence substantiates the political agenda behind the preservation of British "whiteness" within nationality law and immigration policy. A leaked home Office document, which was never intended to be seen by the public, provides a compelling illustration of this motivation. The report, commissioned by the Home Office in the wake of the Windrush scandal, was leaked to the Guardian after repeated attempts by the government to prevent its publication. Its contents reveal a striking revelation: that the origins of the "deep-rooted racism of the Windrush scandal" lie in the fact that "during the period 1950-1981, every single piece of immigration or citizenship legislation was designed at least in part to reduce the number of people with black or brown skin who were permitted to live and work in the UK" (Amelia, 2022). It is noteworthy that during her campaign in 1979, Margaret Thatcher made statements characterizing black individuals as a threat to British cultural and social values (Adeyeri & Ogunniyi, 2016). On another occasion, Thatcher also expressed sympathy for white fears of being swamped by foreign cultures (Unsworth, 1982). Since then the administration of immigration laws have been with unprecedented vigor and rigidity, and the Nationality Act has redefined citizenship according to criteria which have been widely condemned as racist (Unsworth, 1982). It is important to recognize that these restrictive principles regarding nationality laws and immigration have been upheld not only by the Conservative government but also by successive Labour administrations, emphasizing the cross-party consensus on these policies since the colonial era. Accordingly, Kealey rightly notes that all immigration nationality law passed in the UK between 1950 and 1981 was specifically designed to restrict the entry and settlement of persons with a black or dark complexion as they came from former colonies (Kealey, 2023). Together, these findings bring to light the pressing need for the UK government to confront and rectify institutional racism within its policies.

The construction of nationality laws and immigration policy in the UK has seen the institutionalization of racism, a phenomenon that was present from the outset. Initially, all individuals born within the British empire were considered British subjects, implying a sense of equality amongst them. However, as migration into the UK increased, populist concerns regarding "the dangers of multi-racialism", "the strangeness of the habits and beliefs of coloured people", and public health issues such as "the strange diseases brought by immigrants" (Carson, 1976) began to emerge. Even proponents of neoliberalism such as Friedrich Hayek advocated for immigration controls to safeguard Western culture and its liberal principles, despite Hayek's desire to limit the state's legislative power (Chacko,

2023). Indeed, in addition to public demand for migration control, popular hostility to coloured immigration which emerged that time was characterized not only by racial discrimination, but also by sporadic violence (Adeyeri & Ogunniyi, 2016). The race riots in Notting Hill and Nottingham in 1958, for example, served to reinforce arguments for even more stringent immigration legislations, with the increasing black migrant population increasingly viewed as a problem in need of a solution (Adeyeri & Ogunniyi, 2016). In fact, nativism is not uncommon in state-building in a post-colonial setting. In Hundle's investigation on the contributing factors in shaping Ugandan citizenship and the related violence, he explores how the mechanisms of postcolonial patriarchal nativism has strengthened the nativist dichotomy between "African indigenous" and "Asian immigrant" (Hundle, 2019).

In consolidating this prevailing anti-immigration sentiment, the enactment of the Commonwealth Immigrants Act 1962 marked a significant turning point. This legislation aimed to abolish the right of British subjects, who were not citizens of the United Kingdom and Colonies, to live in the United Kingdom if they were not born there nor held a United Kingdom passport. In effect, this act introduced immigration control measures for the first time. However, the Act went further by excluding citizens of the United Kingdom and Colonies through a redefinition of "United Kingdom passport". The Act stipulated that this referred only to a passport issued by the Government of the United Kingdom, excluding passports issued by any part of the Commonwealth outside the United Kingdom. This departure from the broader practices observed in many other countries is noteworthy. While other nations typically draw a simple classification between citizens (with the right to reside) and non-citizens (without the right to reside), Britain instead opted for a more complex classification system to determine which group of citizens were permitted to enter the United Kingdom.

Nevertheless, the Immigration Act of 1971 formalized the differential treatment of citizens establishing a new "right of abode" for some citizens but not for others. This legislation reinforced the requirement of proven patriality as a prerequisite for entry into Britain, mandating that immigrants lacking British patriality possess a work permit subject to annual review. In practice, the 1971 Act eventually stripped black Commonwealth immigrants of their settlement rights, thereby paving the way for the institutionalization of racist immigration controls. By 1971, the once foundational guarantee of British citizenship promised to the citizens of all Commonwealth countries had diminished (Adeyeri & Ogunniyi, 2016). When the British Nationality Act of 1981 finally scrapped the old UK and Colonies citizenship as well as British subject status, it automatically conferred the new status of "British citizen" on white individuals, and often only conditionally on black and Asian residents. Crucially, the discussion on differential treatment in British immigration and nationality law solidifies itself in the Windrush example, where "legal" British citizens were never given their rightful citizenship as a result of unconscious bias and embedded racism.

Politics and Governance in Immigration and Nationality Law

The history of colonialism and authoritarian influence combines with the political climate surrounding immigration policy in the UK, leading to complex and contentious stances, characterized by a range of perspectives and debates (Boswell, 2008). Immigration has long been a divisive issue in British politics, with various factors influencing the discourse and shaping policy decisions (Geddes et al., 2020). One key factor is the impact of public sentiment and concerns about immigration. Throughout the years, public opinion on immigration has fluctuated, influenced by factors such as economic conditions, national security, cultural identity, and political rhetoric (Boswell, 2008; Geddes et al., 2020). There have been instances where immigration has been portrayed as a threat to jobs, wages, and public services, leading to calls for stricter controls and tougher immigration policies (Brochmann & Hammar, 2020). These concerns have often been intertwined with debates around national identity and a perceived need to protect

British values and traditions, upholding the central idea of sovereignty that stems from Britain's colonial past.

Political parties have responded to public sentiment and sought to address immigration in their policy platforms. The issue has been a focal point of election campaigns, with parties adopting different positions to attract voters. Conservative governments, for example, have emphasized the need for tighter immigration controls and tougher border security. On the other hand, opposition parties have advocated for more inclusive approaches, highlighting the contributions of immigrants to society and calling for more compassionate and fair immigration policies. The political climate has also been influenced by international events and obligations (Fankhauser et al., 2020). Factors such as the European Union (EU) membership and the freedom of movement within the EU have shaped immigration policies in the UK. The Brexit referendum in 2016, which resulted in the decision to leave the EU, had a significant impact on the immigration debate (Fankhauser et al., 2020). It raised questions about the future of EU immigration and the desire for more autonomy in determining national immigration policies.

Furthermore, political ideologies play a significant role in shaping the political climate surrounding immigration policy. In line with the above, conservative ideologies often prioritize national sovereignty, control, and economic considerations, which can lead to a focus on stricter immigration regulations (Lahav & Courtemanche, 2012). Conversely, progressive ideologies tend to emphasize inclusivity, diversity, and the recognition of migrants' rights, advocating for more compassionate and open immigration policies. The political climate surrounding immigration policy in the UK has also been influenced by international obligations and commitments, such as the United Nations' conventions on refugees and human rights (Lahav & Courtemanche, 2012). These frameworks provide a legal and moral context within which immigration policies are developed and implemented. Balancing national interests, public sentiment, and international obligations has been a complex challenge for policymakers. It is clear that the debates surrounding immigration policy have often been polarized, with competing narratives and interests at play which are reflected by the public sentiment and political narratives at the time. Political discourse has sometimes also been characterized by divisive rhetoric, leading to increased polarization and the stigmatization of certain immigrant groups. This has had implications for social cohesion and community relations, all of which can be seen throughout the course of the Windrush Scandal.

Colonialism, Racism, Authoritarianism, Politics and Governance within the Windrush Scandal

Following World War II, the UK government actively encouraged immigration from Caribbean countries to address the severe labor shortages that arose in the post-war period (Andrews, 2018). This initiative resulted in a substantial influx of migrants from the Caribbean to the UK between 1948 and 1970, with nearly half a million people making the journey, which was later referred to as the "Windrush generation". To be precise, since the 1948 British Nationality Act had made citizens of the entire British Commonwealth, the Windrush generation, the already legal British citizens before arrival to the UK, were technically not immigrants (Akala, 2018). Since the Windrush generation arrived with invitation and had been encouraged to consider Britain as their home and the cultural and political hub of "their" empire, they were ill-prepared to encounter a perception of Britishness that segregated them based on racial and cultural differences (Evelyn, 2013). Many of them found themselves excluded from work and became unskilled labor despite their relatively high level of education and skills, landing on a lower job status than they had in the Caribbean (Evelyn, 2013). These experiences of social marginalization explained why the post-war immigrants stressed that the higher wages in the UK's job market could not compensate for the discrimination that they had endured.

While economic contributions of these post-war immigrants cannot be understated, the implications of the Windrush scandal on UK citizenship legislation have yet to receive adequate research attention, as highlighted by Ring's discursive analysis of media portrayals of the scandal (Ring, 2020). To gain a comprehensive understanding of the Windrush issue and its ramifications, it is essential to explore not only the economic contributions and social integration of these migrants but also the legal frameworks and rights that underpin their presence in the UK. Originally, as citizens of the United Kingdom and the Colonies, they were recognised as British subjects by virtue of having been born in a British colony. Under the British Nationality Act, they were granted legal status and the right to settle in the UK. They neither needed, nor were given, any documents upon entry to the UK, nor following changes in immigration laws in the early 1970s. Many working-age adults and children from the Caribbean traveled to join their parents or grandparents, often without their own passports. However, in 2017, dozens of Commonwealth residents, mostly of the Windrush generation, faced unjust imprisonment, expulsion and the denial of their legal rights due to a lack of documentary evidence of their settled status (Akram, 2023). This series of events is now generally known as the Windrush Scandal.

The High Court decision in R (Vanriel and Tumi) v. the Secretary of State for the Home Department [2021] EWHC 3415, which determined that the Home Secretary violated both Windrush claimants' fundamental freedoms by adamantly refusing to acknowledge their status as British citizens, represents a recent development in this area (Brown, 2021). Evidently, this decision underlined the Home Secretary's power to waive the provision of the British Nationality Act 1981 that an individual must be present in the UK for five years prior to filing a naturalization application. The Court determined that failing to utilize this discretion constituted a violation of the plaintiffs' entitlements to have a life of their own and their constitutional protection against discrimination, as stated in Brown's article (Brown, 2021). The stance of the Home Office in this instance is one that clearly encompasses the influence of Britain's colonial pastas the Windrush claimants' were undoubtedly not considered to be "British" enough to warrant a right of citizenship, despite this being a legal and fundamental right of those citizens.

The existence of this discrimination, which eventually resulted in the Windrush Scandal, raises an important question: why did such discrimination occur in the first place? Many academics trace the roots of the Scandal to British colonial history and its legacy. While Cox focuses on the legal dimensions and inadequacies of defining citizenship, other scholars suggest that colonialism resulted in severe societal consequences rather than mere legal inadequacies (Cox, 2022). De Noronha (2021), for example, emphasizes the need to address not only legal reforms but also wider societal attitudes and systemic issues to ensure justice and equality for the Windrush generation (De Noronha, 2021). For example, the marginalization experienced by many immigrants at this time undermined the development of a sense of belonging during their process of settlement. The distinction between "belonging" and "not belonging", according to Healy, is not merely based on official membership, but also by the feeling of belonging, the development of which is adversely impacted by social marginalization. The Windrush scandal is cited as an illustration of "not belonging," in which long-time citizens had their official membership of belonging (i.e., citizenship) abruptly revoked by the government, turning them into "illegalized non-citizens" (Vincent, 2022). "Not belonging" is also directly related to instances where official membership belonging is not contested, but a feeling of belonging and obvious identification by others of belonging are either missing or only partially present. Another instance of 'not belongingness' can be seen among the Kurdish immigrants to the UK from Turkey among the other immigrant groups. Kesici (2020) highlights that because the Kurdish immigrants (from Turkey) consist primarily of first-generation movers (who arrived mostly as asylum seekers) who co-exist with other immigrant populations that have a good number of second/third generation movers, the Kurds suffer a more disadvantageous position among the immigrant community in

specific, and the host country in general. In other words, the Kurds experience a sense of 'non belongingness' and discrimination on an even deeper level than the other immigrants in the UK.

The existence of this discrimination most importantly provides us with an undeveloped understanding of British politics and governance. While many academics trace the roots of the Windrush Scandal to British colonial history and its legacy, there is little focus on the present implications of such scandal. Notably, while Cox focuses on the legal dimensions and inadequacies of defining citizenship, other scholars suggest that colonialism resulted in severe societal consequences rather than mere legal inadequacies (Cox, 2022). De Noronha (2021) further emphasizes the need to address not only legal reforms but also wider societal attitudes and systemic issues to ensure justice and equality for the Windrush generation. For example, the marginalization experienced by many immigrants at this time, and to this day, undermined the development of a sense of belonging during their process of settlement.

Altogether, the feeling of not belonging, marginalization, and racism highlights the relational dynamics between these groups and mainstream population. In fact, it can be argued that these relational dynamics and the sovereignty felt by "white" England is a result of the notions that are deeply rooted within British politics, which ultimately contributes to the fostering of anti-immigration sentiment. In fact, Privara et al. (2019) drew attention to racism in the workplace and employment discrimination against immigrants in the UK. Peng (2020) argues that anti-immigration attitudes act as a contributing factor in shaping anti-immigration policies. The Windrush Scandal presents a contradictory stance: the anti-immigration policies could be seen to harbor the anti-immigration sentiment seen within Britain. Despite Peng's position that public support influences the hostile environment immigration policies, the Windrush scandal was something that occurred initially behind the scenes of the public, where rightful British citizens were stripped of their citizenship in a way that encompassed political sentiment, as opposed to popular opinion. Although the endorsement of such policies by the public can demonstrate the prevalence of anti-immigration sentiment in some cases, it seems that the colonial and authoritarian past of Britain has rather embedded itself into British politics in a way that creates systematic bias and racism, flowing down into policymakers.

Although D'Angelo's analysis delves into the fundamental sentiment that played a role in the unfolding of the Windrush Scandal (D'Angelo, 2023). The primary characterisation of authoritarianism as a systematic concentration of political power and a top-down approach to social control is something that the Windrush Scandal can be seen to highlight. D'Angelo argues (2023) that the Home Office's mishandling of applications, which created an environment conducive to errors, exposed a pervasive culture of skepticism and negligence. While some may say that this is a result of societal pressures, it seems to be more compelling to suggest that this pattern of behavior within the Home Office reflects a broader structural inattention and carelessness towards racial issues, aligning with the presence of institutional racism within the governance of immigration and nationality law. As above, this institutional racism is something which resulted in those impacted by the Windrush Scandal to suffer from the impacts of the UK's past.

Additionally, the institutionalization of racialized governance extends beyond day-to-day administration and encompasses the formal implementation of anti-immigration ideas through racially biased legislation. Kane points to the enactment of the Immigration Act of 1971 as an example, for which the British government selectively determined which Commonwealth citizens were eligible for British citizenship, effectively stripping the Windrush generation of their citizenship rights (Kane, 2022). This race-based exclusionary approach, as argued by Kane, highlights the discriminatory policies and practices targeting immigrants of color (Kane, 2022). Further shedding light on the consequences of these changes, Slaven (2022) explores the long-lasting effects of shifts in

UK officials' interpretive attitudes towards immigration regulation. Firstly, the adoption of the hostile environment policy as a logical response to reduce immigration numbers became the norm, reflecting the concept of "everyday bordering". Secondly, the increased emphasis on individual control resulted in heightened requirements for personal paperwork, which contributed to the "illegalization" of Windrush victims. Lastly, the focus on individualism shifted attention away from "race relations" and the impact of immigration on the community. These observations highlight the multifaceted nature of racism throughout historical individuation processes and the evolution of state-bordering policies.

Likewise, Gentleman, who roots the Windrush scandal in thirty years of racial immigration policies intended to decrease the non-white population in the UK, underscores the fact that the scandal is one of many racist experiments to which immigrants were exposed. In the 1950s, there was a prevailing belief that "coloured immigrants" were unfit for British civilization. According to Gentleman's study, the failure to recognize and address significant alterations to British immigration policies for the past seventy years disproportionately impacted black communities, forming the crux of the Windrush community (Gentleman, 2022). For instance, the experiences of African American communities in Britain have been markedly different to those of white communities, from encounters with the Home Office, to law enforcement, to instances of everyday life. The findings of the National Audit, demonstrate that the Home Office blatantly failed to act on warnings about the impact of its immigration enforcement policies on people's lives (Gentleman, 2022). Similarly, Puppa (2021) describes the experience of Italian-Bangladeshi immigrants in London (Bangladeshi migrants who acquired EU citizenship in Italy and thereafter migrated to London) as of 'triple absence'. Triple absence because they are absent from (a) their parent country, (b) the country where they spent most of the time and acquired citizenship from, and (c) the country where they are physically present but not totally present due to the legal and social exclusion that they face (Puppa, 2021).

The development from Britain's colonial past to present day demonstrates that the "hostile environment" of current racial politics is far from new. Rather, it is illustrative of longstanding institutionalized hostility towards racial minorities in the UK. More specifically, as stated in 2012 by the then-Home Secretary Theresa May, these policies are designed to make life unbearably difficult for those who cannot show the right paperwork. As she said at the time; "The aim is to create, here in Britain, a really hostile environment for illegal immigrants." The hostile environment was meant to stop illegal immigration, but in effect it prevented many from obtaining citizenship privileges, even if they were eligible (Perkins & Gentleman, 2018). The lack of universally recognised identification papers resulted in many individuals being wrongly labeled as either illegal immigrants or citizens. Likewise, Elfving & Marcinkowska attribute blame to the UK administration's failure to implement a robust framework for registration and identification cards, as well as the stringent evidentiary requirements and administrative errors, all of which played a role in exacerbating the Windrush scandal (Elfving & Marcinkowska, 2021). The government allegedly knew about the detrimental effects of its policies on the Windrush generation but did little to rectify them (Perkins & Gentleman, 2018).

The failure to maintain accurate records of immigrants is further emphasized by Carbone et al. (2021) suggests that opposing governmental and institutional bureaucracy also played a significant role. They highlight the detrimental impact of the destruction of landing cards by the National Archives in 2010, which led to Caribbean-British residents being erroneously classified as unlawful immigrants and subsequently losing their constitutional protections. As such, Carbone suggests that a human rights-centered approach is necessary in developing, administering, and distributing documents that might counteract bureaucratic aggression. Despite the Windrush Scandal having taken

place, the Home Office continues with similar practices, where immigrants regularly face extended periods of waiting for decisions on applications. This uncertainty and lack of awareness for the stress that can be caused by immigration challenges yet again continues to show the British government's systemic failure to adequately consider the needs of those who are not traditionally "British citizens".

As such, some scholars have examined connections of causation and consequence between the occurrence of the Windrush Scandal and the workings of the "hostile environment". Cox (2022), for instance, highlighting the collective concerns raised by diplomats, MPs, and civil society groups regarding the impact of hostile environment policies on the Black-British Caribbean community over several years before the scandal's publicity, argues that the wrongful deportation of Caribbean migrants and their descendants was not a sudden occurrence, but rather a result of policies such as the "hostile environment", introduced in the mid-2000s (Cox, 2022). Alternatively, a compelling argument can be presented to go further than Cox's position, arguing that not only was this a result of policies introduced in the mid-2000s, but rather a result of the authoritarian influence stemming from Britain's colonial past, where British supremacy remains embedded in societal and political values.

It can clearly be acknowledged that discussions surrounding the Windrush scandal have raised important concerns about citizenship recognition and the legal rights of those impacted. These discourses have shed light on the challenges faced by individuals in establishing their right to UK citizenship and the disproportionate impact of the harsh environment policy on people of color. The above literature nevertheless points to a research gap when it comes to examining the influence of the Windrush generation on UK citizenship legislation. The legal rights of those impacted as indicated by the High Court decision in R (Vanriel and Tumi) v. the Secretary of State for the Home Department [2021] EWHC 3415 merit further consideration: the case clearly illustrated the intersection between race and citizenship in the UK, and the urgent need to address this issue. Finally, the Windrush controversy underscores the importance of adopting a human rights-centered approach in developing, managing and distributing materials that can counteract bureaucratic violence, particularly in relation to archives and recordkeeping. Further investigation is required to examine the broader implications of the scandal, including its impact on future laws and policy decisions in this area, as well as how to implement sufficient safeguarding measures to prevent the recurrence of such injustices. A potential area for development is the need to understand the undeniable connection between Britain's colonial past, authoritarian influences, and the resulting immigration and nationality stance.

Windrush Scandal: Aftermath and Reflections

Forced departure from the UK stands as one of the most harrowing consequences of the Windrush scandal. As noted by Owen (2020), while 164 individuals were detained or expelled by the UK government, a larger number of individuals departed "voluntarily" due to relentless pressure from the Home Office despite their rightful entitlement to stay. It is important to recognise that many of these departures were a result of authoritarian pressure from law enforcement authorities, and so it is unreasonable to equate voluntary departure in a legal context with voluntary departure in the common sense of the term. Furthermore, De Noronha reveals that even individuals with official records faced forcible deportation by the Home Office due to the destruction of landing cards that may have served as proof of their citizenship (De Noronha, 2021). The Windrush controversy and the subsequent expulsions of individuals who solely identify as British have brought attention to the precarious nature of UK citizenship, resulting in the forced departure of legal immigrants from the UK.

Under the hostile environment, employers, landlords, NHS staff and other public servants are required to check immigration status before providing employment, housing,

healthcare or other forms of support. This construction has made immigrants without proof of legal presence even more vulnerable, as they become less likely to have established social and support networks in the UK (Griffiths & Yeo, 2021). Reports indicate that, under the hostile environment, hundreds, if not thousands, of individuals have been wrongly denied access to necessary benefits or treatment, prohibited from working (Owen, 2020), and deprived of basic services such as healthcare and housing, while others have faced detention and deportation (Griffiths & Yeo, 2021). Although in some cases this may be argued as understandable, as preventing illegal immigration is necessary in protecting the needs of a country, the consequences result in those who have the legal right to residence to be subjected to unfair treatment and the deprivation of the most basic rights.

Furthermore, the anti-immigration sentiment created a significant delegation of decision-making and discretionary powers to employers, apartment owners, and medical practitioners, among other private actors who lack expert knowledge of migration laws and stipulations (D'Angelo, 2023). The absence of universal documents issued to Windrush-generation residents to prove their legal presence, due to their arrival in the UK prior to 1973 when formal citizenship rights for Commonwealth citizens were granted, makes it unrealistic to expect civilians such as employers and landlords to accurately determine the legality of undocumented or under-documented immigrants. As a result, accessing affordable healthcare, social benefits, opening bank accounts, obtaining driver's permits, securing employment, or renting apartments has become increasingly challenging for these immigrants. The blatant shift of responsibility as the British government has delegated their obligation to conduct immigration checks has prompted discrimination against people from minority ethnic backgrounds, resulting in new forms of racial profiling based on appearances, name or accent. One of the most controversial policies under the hostile environment, the "Right to Rent" scheme, has particularly fuelled discrimination against black and minority ethnic people, as landlords may wrongfully assume they do not have the right to rent (Griffiths & Yeo, 2021).

The UK government's response to the Windrush scandal has been widely criticized for its insufficiency. To address the issue, the government introduced several measures, such as the Windrush Scheme, Windrush Taskforce, and Windrush Compensation Scheme (Gower, 2020). However, these measures have been met with criticism, with many considering them slow, complex and inadequate. Despite some progress, the compensation scheme has received fewer applications than expected, and claims experience substantial delays, resulting in the death of some applicants before their cases were resolved. Furthermore, limitations have been placed on the kinds of damages that people may claim, as well as the maximum compensation amount. The complexity of the claim form and the accompanying documentation requirements have also been a subject of criticism (Gower, 2020). Lewis et al. (2022) draw attention to the Windrush Compensation Scheme's hindrance by delays, clerical mistakes, and inadequate communication, adding that many claimants have found it challenging to navigate the procedure efficiently due to the absence of legal assistance. As such, the National Audit Office, legislative Committees, and the Windrush Lessons Learned Review have all strongly condemned the Home Office's involvement in the Windrush crisis and questioned the effectiveness of its response (Gower, 2020). In addition to the procedural shortcoming in the compensation scheme, Kealey also criticized the practice of denying Windrush victims the right to redress for the losses and negative impact they have endured for years (Kealey, 2023). These shortcomings expose both institutional indifference and institutionalized prejudice.

The Windrush Scandal represents only one of the discriminatory injustices endured by the Windrush generation and other communities of immigrants who have been subject to the institutionalized prejudice and systemic racism within the immigration and nationality legal system. While compensation may be considered as an initial response, broader

questions need to be asked about the British liberal government and how this scandal highlights the flaws in the system. Current discussions surrounding the Nationality and Borders Bill have instilled fear among Windrush scandal victims and members of Black, Asian, and Minority Ethnic communities. This bill includes a provision that allows the Home Office to strip someone of their British nationality without prior notice, raising the potential for another scandal to occur (Colson, 2022). The bill is just one of many contemporary legal examples illustrating Sredanovic's point that the lines between immigration and citizenship law are becoming increasingly blurred, as special procedures are put in place that suspend rights protection and result in citizenship loss (Sredanovic, 2020). This dangerous elision of citizenship and immigration, as seen in the case of the Windrush scandal and the current legislation on Nationality and Borders Bill, reveals the frailty of citizenship, especially in the face of immigration constraints (Sredanovic, 2020).

The Windrush Scandal and its reflection in contemporary British immigration and nationality law offers several conceptual advances that contribute to our understanding of postcolonial authoritarian racism and systemic injustices such as the recognition of Colonial Continuities which highlights the enduring impact of the colonial past on present-day immigration and nationality laws. By examining the mistreatment of the Windrush generation, we gain a deeper understanding of how institutionalized racism and discriminatory practices have persisted throughout history. This conceptual advance helps us acknowledge the long-lasting legacies of colonialism and the need to address them in contemporary society. Through the intersectionality of racism and immigration policies the Windrush Scandal reveals how racism operates within the context of immigration and nationality laws, targeting specific communities and perpetuating systemic injustices. Furthermore, this understanding of institutionalized racism within the UK underscores the importance of considering race, ethnicity, and immigration status together to fully comprehend the discriminatory practices faced by coloured immigrants.

Most importantly, the Windrush Scandal is the tip of the iceberg in a much broader discussion on citizenship deprivation, authoritarian immigration policies, and the deep-seated institutionalized prejudice and system racism embedded within Britain. It provides an assumption that British administration and public policy does not have the desire to include those who are not traditionally "white" British. It seems that, in light of its colonial past, Britain should be understood to encompass people from all different backgrounds, races, and cultures, taking into account the important impact and contribution that colonialism has made within Britain. Rather than maintaining and upholding those colonial, authoritarian ideas of British sovereignty, it seems that the UK government should move towards inclusive immigration and nationality policies that encourage the collaboration and migration of those who can make valuable contributions to everyday life in Britain. While existing approaches claim that the Windrush Scandal is just an example of poor administration and a failure to maintain accurate records, it should instead be understood as much deeper and more far-reaching, highlighting that this scandal should not be understood as an isolated incident.

Conclusion

This paper clearly illustrates how the Windrush Scandal can serve as a stark reminder that institutionalized racism and discriminatory legal practices have persisted throughout history, with the mistreatment of the Windrush generation representing a continuation of systemic injustices faced by coloured immigrants in the UK, revealing the need for further studies on the connection between colonialism, authoritarianism, and immigration and nationality matters. As discussed in this paper, the current British administration encompasses anti-immigration ideas as being embedded through racially biased legislation, and this is something that needs to be pushed as a motive for change in the system. However, the government's failure to reform and take the Windrush Scandal as a

prompting reminder to modernize and alter their policies to reflect the multicultural society that resides in Britain today just highlights their refusal to break away from their colonial and, consequently, authoritarian roots.

The links can be drawn to understand where authoritarian influence stems from Britain's colonial past, as sovereignty and superiority form the basis for these authoritarian and neo-liberal policies to come into play. Building on from this, politics and governance in the UK undoubtedly leans to their colonial past as we can see that immigration remains a polarizing topic, whereby various factors influence the discourse of policy decisions. Specifically, the combination of racist legislative policies and fluctuating opinion on immigration provides a perfect storm to allow for these system issues to continue and disregard the basic human rights of those who suffered from the Windrush scandal, in addition to immigrants who continue to suffer on a daily basis. The perception of what national identity truly is conflicts with Britain's desire to protect what they deem to be "values and traditions", rather than encompassing history as something to learn from. Moving forward, greater discussion needs to be had on what the Windrush Scandal shows us on a deeper level, specifically considering how this highlights the connection between colonialism, authoritarianism, neoliberalism, and racist immigration policies.

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