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Border politics, the "hostile environment" for migration, and education in the UK

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Abstract

In the age of globalization, states exercise their sovereignty through the control of their physical and material borders. The perceived "migration crisis" of recent years has driven states in the Global North such as the UK, to increasingly fortify their borders, with policies fueled by popular anti-immigration rhetoric and panics around high levels of inward migration. This article documents and examines the power technologies and regimes of immigration practice known as the "hostile environment" as a field of conflict and struggle. The paper draws on Theresa May's speech as then Home Secretary outlining the "hostile environment," and news reports and commentaries detailing the enactment of these policy technologies. Of particular interest is the positioning of education within "hostile environment" regimes of practices, where we find the school weaponized for border control purposes. The paper concludes with considering what we as educators should be doing to counteract hostile forces against migrants and migration, so as to create more critical and compassionate individuals.

Keywords: border control, border politics, compassionate citizenship, education, migration

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Introduction

Migration is said to be one of globalization's discontents. While the movement of capital and trade across borders attendant on globalization is largely welcomed by states, the movement of people across borders is treated with some ambivalence (Bauman, 1998; Jordan & Duvell, 2002). With the movement of peoples across the world increasing disproportionately to the increase in global population and accelerating in recent decades, states have sought to exercise their sovereignty through the control of their physical and material borders. The current perceived "migration crisis" has therefore driven states in the global north such as the UK, to increasingly fortify their borders, which within neoliberal contexts translates to economic nationalism in immigration policy. Such policies are fueled by popular anti-immigration rhetoric and panics around high levels of inward migration, seen for example in the continuing popular anti-migration feeling in Europe, despite a sharp fall in numbers of migrants traveling to the European Union (EU) in 2018, and the rise of New Right and Far Right parties entering coalition governments in Austria and Italy. Similarly, in the UK Brexit referendum of 2016 anxieties over high numbers of migrants clearly contributed to the vote to leave the EU (Anderson, 2017), while the "Leave" campaign's mobilization of fear and its anti-immigration rhetoric led to a rise in hate crime against immigrants (Burnett, 2016).

Toward the end of the 20th century, the major immigration concerns were around refugees and people seeking asylum, following the so-called worldwide "asylum crisis," which peaked in the UK in 2002 with 103,000 asylum applicants (Blinder, 2017). Popular and media rhetoric around refugees and asylum at the time was couched in terms of scroungers, even terrorists, who were abusing the system and were a threat to the welfare state and the economy, with calls on the government to take a tough stance (Pinson, Arnot, & Candappa, 2010). The raft of legislation that followed not only tightened controls over those entering the UK, but significantly also added restrictions to their entitlements and access to various social services, to deter "bogus" asylum seekers. The focus of public debate has since shifted. Anderson (2017, p. 1531) argues that enlargement of the EU in 2004 changed the focus of the debate to being about mobile populations from the EU, and "*post-2004 claims that low waged EU 'migrants' were taking British jobs, moved to the tabloid centre stage*." Concomitantly, a substantial fall in asylum applications was beginning to be seen at the time (see Blinder, 2019). The political rhetoric is now about net migration, about the balance between numbers of migrants arriving and those leaving. David Cameron's 2010 election manifesto pledged to reduce net migration to the UK to the tens of thousands; a pledge to reduce net migration to below 100,000 was reiterated by the Tories in the 2015 and 2017 general elections.

This article considers migration and border politics in the above context and the ability of the state to control its borders in an age of mass migration. Following

Anderson (2017, p. 1532), I posit that conceptually "*'migration' signifies problematic mobility*" (emphasis in original), since people have always been mobile and not all mobility is subject to investigation. The term *"'migration' [then] already signals the need for control", and immigration controls far from being innocent are "moulds, that shape social relations*" (ibid). The article takes as its premise that the state is the representative of citizens, the adjudicator of citizens' interests; through the social contract, the sovereign has the prerogative to rule as long as it guarantees the safety of its citizens (Foucault, 2008). Sovereignty entails rights of a people to control its borders and the control of migration is crucial to state sovereignty (Benhabib, 2004). Taking as its focus the regime of UK immigration practices known as the "hostile environment," the article will document and examine these power technologies as a field of conflict and struggle, drawing on Foucault's notions of sovereign power, governmentality and ethics, and related discourses. Of particular interest is the positioning of education within "hostile environment" regimes of practices, where the school is weaponized for border control purposes.

The "hostile environment"[2]

The "hostile environment" has been described as a "*sprawling web of immigration controls now embedded at the heart of the UK's public services and communities*" (Liberty, 2019, p. 7). First mentioned by Theresa May as Home Secretary in an interview with The Telegraph in May 2012 in the context of net immigration figures running at around 250,000 a year, well above the tens of thousands promised by the Conservatives in their election manifesto noted above, she stated, "*The aim is to create here in Britain a really hostile environment for illegal migration*" (Consterdine, 2018; Kirkup & Winnett, 2012).

The issue of illegal migration raised here by May speaks to permeable borders, which allow foreigners to pass through and can be seen as an assault on state sovereignty, conflicting with the image of the state as a sovereign power and creating a "migration crisis" (Garland, 1996). Following Johansen (2018, p. 14), I posit that sovereignty is key to understanding border politics or the regulation of entry to the territory, and therefore the "hostile environment." Here, I will be using Foucault's notion of power, and the insight that "*power [relations] is everywhere*" and "*comes from everywhere*" (Foucault, 1998, p. 63), a regime of truth that pervades society and is in constant flux, to frame the discussion. I am particularly interested in Foucault's concept of sovereign power – which was invested in the person of the sovereign. As Ball (2013) observes, the modern state is an odd governmental mix of inclusive pastoral governance, and an

[2] Since 2017, the HO has referred to these policies as "the compliant environment," as Yeo (2018) notes what has changed is merely the label, the policy content remains the same, so in this paper I shall continue to refer to these policies as the "hostile environment."

individualizing secular political sovereignty which is expressed through visible agents of power. Of particular significance is the idea that when the state as agent of the sovereign identifies those who pose a threat, it will not hesitate to exercise its sovereign power, and to behave unethically if sovereignty is at stake, as in the case of permeable borders. Indeed, as Christie and Sidhu (2006, p. 451) note, "*authoritarian, illiberal and violent actions*" are not excluded within the liberal state.

Of related interest are the different modalities of power. Ball (2013, pp. 59–60) notes, "*according to Foucault, the modern state exercises its power, and governs, through the administration of life*;" and "*governmentality is a conceptual architecture of the modern liberal state and all its strategies, techniques and procedures as they act on the human body and social behavior through the many and varied capillaries of power*." Governmentality within neoliberalism is a form of power as self-management, within which is inscribed a particular citizen, a free subject, an innovative subject, who is free to challenge the state in legitimate ways (Christie & Sidhu, 2006). Ethics within this conception is the relation of the self to the self, and about ways and being to be "*good.. exemplary*;" the good ruler is an ethical ruler (Foucault, 2000).

If we consider "hostile environment" policy technologies within a framework of power and governmentality, we will see that its beginnings were already visible from the late-1990s following a sharp rise in asylum applications with a concomitant rise in populist feeling and xenophobia, and measures to reassert the authority of the state in the control of its borders, which I have discussed elsewhere together with colleagues Halleli Pinson and Madeleine Arnot (Pinson et al., 2010). Indeed Bowling and Westenra (2018) would locate this policy stance to an earlier date, pointing to border technologies developed since the 1970s that criminalized migrants and gave rise to regimes of practices that they name a "*crimmigration control system*." Here, for example, those who arrive without documents are labeled as illegals (Benhabib, 2004), and reclassifying administrative breaches of immigration law as immigration crimes (Bowling & Westenra, 2018), those "*arriving without documentation, or.. working without a visa.. are dangerous, undeserving and criminal*" (Bosworth, 2008, p. 205). The notion of "crimmigration" derives from what Stumpf (2012 cited in Bowling & Westenra, 2018, p. 3) describes as "*a trend toward criminalizing violations of immigration law and broadly imposing immigration consequences for criminal acts*." The book "*Crimmigration Control System*" as Bowling and Westenra argue is clearly connected to and works alongside the criminal justice system, *"with goals of exclusion, control and efficiency at the expense of justice*" (ibid, p. 2). What is also clearly seen in policies around this period is the policy technology of controlling borders through welfare, with ever tighter restrictions on migrants' access to social benefits (Pinson et al., 2010). Following the terrorist attacks in New York and Washington on September 11, 2001 and in London on September 7, 2005, UK immigration policy has

been "(*re)presented as key elements in the ongoing task of reducing risk from.. vague external threats*" (Bosworth, 2008, p. 201).

What is of particular note in the new "hostile environment" technologies is the "fundamental shift" away from established immigration control enforcement at the border by trained officers (Yeo, 2018), to harnessing of ordinary citizens at all levels of society as proxy border officials creating a web of immigration checks embedded in all aspects of daily life.

A significant contextual change around the same period was the rise of the UK Independence Party (UKIP) in UK politics. UKIP's anti-immigration rhetoric most clearly pronounced in its notorious "breaking point" poster (Stewart & Mason, 2016) prior to the Brexit referendum fed into hostile depictions of refugees and other migrants as "scroungers" and as threats to the welfare state, already present in popular and media discourse (Jordon & Duvell, 2002; Marfleet, 2006; Pinson et al., 2010). Clearly, the failure of the state to control its borders suggested here was a troubling political issue. With asylum applications having fallen to their lowest point since 1989 to under-18,000 in 2010 (Blinder, 2019), and numbers defined as the problem, the presence of another subpopulation of non-citizens on the territory attesting to permeable borders (Johansen, 2018), turned state attention from "bogus" asylum seekers to (criminalized) undocumented or "illegal" migrants.

Deciding who enters and who leaves the territory is fundamental to the exercise of sovereign power (Brown, 2010 cited in Johansen, 2018). The inability of the state to administer its borders successfully therefore "*creates a dilemma within the logic of governing*" (Garland, 1996) and constitutes a threat to state sovereignty, calling for a radical response. The "hostile environment" can be understood as one such policy technology. Who actually constitutes a "migrant" is however unclear. As Anderson (2017, p. 1531) notes, the Office for National Statistics (ONS) uses a definition of "*foreign born', but "a person may be 'foreign born' and.. be a British citizen by naturalization, or be a British citizen born abroad*." Also, while the net migration policy does not actually state this definition (ibid), not all who are counted as "migrants" under this definition can be controlled by immigration policy, in particular EU citizens exercising their right to freedom of movement across the Union.

That aside, an Inter-ministerial "Hostile Environment Working Group" set up to create an effective "hostile environment" was reportedly tasked with "*finding new ways to make immigrants' lives more difficult*" (Aitkenhead, 2013). Webber (2019, p. 77) comments that "*the explicit intention is thus to weaponize total destitution and rightlessness, so as to force migrants without the right to be in the country to deport themselves*" and demonstrates the potentially ruthless and unethical nature of a sovereign power under threat.

Related to the above, Bowling and Westenra (2018, p. 3) note the role of "race" and racism in immigration policing, and that "*the pursuit of security commonly relies upon the identification of suspect populations*." The now infamous "Go Home" vans pilot of 2013 under Operation Vaken as part of "hostile environment" policy is a potent illustration of this. With echoes of Bentham's Panoptican suggesting that the Home Office (HO) as agent of the sovereign knew where they were, billboard vans drove around six London boroughs with high minority ethnic populations carrying the message, "In the UK illegally? Go home or face arrest," and "106 arrests last week in your area" (Hattenstone, 2018). This was accompanied by aggressive immigration checks on minority ethnic youth at London Underground stations (Webber, 2019), clearly racially identified as "suspect populations." The aim of the operation was to tell undocumented migrants "*there was a near and present danger of their being arrested*" (Home Office, 2013) and they would be panicked into leaving (Webber, 2019).

As discussed above however, neoliberal governmentality is premised on a free subject at liberty to challenge the state in legitimate ways. An ethical subject could invoke parrhesia or "fearless speech" (Foucault, 2001, p. 18) coming "*from below.. directed towards above*" to challenge the unethical sovereign. A public outcry against "Go Home" vans demonstrating the power of resisting practices resulted in the retreat of the state and the scheme being abandoned after 1 month (Travis, 2013).

More broadly, the harsh policy technologies developed by the Hostile Environment Working Group[3] include initiatives that place restrictions on access to work, housing, healthcare, bank accounts, etc., to threaten a state of "bare life" (Agamben, 1998) for those unlawfully present in the UK, and contained in the Immigration Acts of 2014 and 2016 and related secondary legislation. These regimes of practices built on the perceived success of civil penalties as border control technology introduced in the Asylum and Nationality Act of 2006, whereby employers would be fined if found to be employing someone without the right to work in the UK. This was reinforced by "crimmigration" technology creating a criminal offence of knowingly employing a person without permission to work. Yeo (2018) notes: "*Unlike criminal prosecutions, this was an enforceable system. And the new system was enforced . . . employers were increasingly fined under this law and they started to take the Home Office guidance on immigration checks more seriously*."

Legal Underpinnings of "Hostile Environment" Policies

Under the 2014 Immigration Act, the sanction of civil penalties is inscribed in law and extended to landlords in addition to employers, constructing them as proxy border

[3] Later changed to "Inter-ministerial group on migrants" access to benefits and public service.

officials. For employers, the maximum fine increased from £5,000 to £20,000 per employee (Yeo, 2018); landlords became subject to civil penalties if a tenant or lodger is found to be someone without permission to remain in the UK. Webber (2019) reports that this so-called "right to rent" scheme was piloted in 2014 and extended to the whole of England in 2016 despite an unpublished HO survey suggesting, inter alia, that it was leading to greater racial discrimination in the housing rental market, confirming Bowling and Westenra's (2018) warning noted above. A Joint Council for the Welfare of Immigrants (JCWI, 2017) report similarly found disturbing evidence of discrimination. Under the 2016 Immigration Act, "*renting property to a person knowing or having reasonable cause to believe that the person is disqualified*" became a criminal offence for landlords and agents, and a system of accelerated eviction operates where the HO as agent of the sovereign can serve a notice on a landlord, the latter allowing landlords in some instances to evict without a court order (Yeo, 2018). Those unable to prove citizenship or leave to remain in the UK have ended up homeless as a result. Commentators argue that the "right to rent" scheme is in breach of "*the right to adequate housing without discrimination.. recognised in the Universal Declaration on Human Rights*" (Webber, 2019, p. 78), underscoring sovereign power's scant regard for international convention when under threat. What is of particular significance is that little effort is made to seek to legitimize these practices: in tension with pastoral governance principles border control is instead brutally enforced through financial penalties on its own citizens potentially threatening the livelihoods of employers and landlords.

The discriminatory and unjust nature of "right to rent" procedures led JCWI to bring a case to the High Court in a show of parrhesia, where the practice was declared unlawful, the judge ruling on March 1, 2019 that "*it causes unacceptable racial discrimination*" (Liberty, 2019). Demonstrating the power of the judiciary to challenge the sovereign's unjust agent, amended and more equitable HO guidance on "right to rent" resulted from this ruling.

The "hostile environment's" inherent threat of a "bare life" is nowhere more apparent than in technologies to limit migrants' access to financial services contained in the 2014 Immigration Act, reflecting the vision Theresa May outlined in her interview with The Telegraph:

> *What we don't want is a situation where people think that they can come here and overstay because they're able to access everything they need . . . We will talk to the CIFAS [a not-for-profit financial fraud prevention service] members, financial institutions, about the possibility of closing accounts of people who have no right to be here . . . If you're going to create a hostile environment for illegal migrants . . . access to financial services is part of that.* (Kirkup & Winnett, 2012)

Sections 40–42 of the 2014 Act therefore legislated for people who are unlawfully present to be prevented from opening bank or building society accounts, the respective bank, or building society tasked with carrying out immigration status checks on prospective customers. Again involving the prescribed use of ordinary citizens as proxy border control officials, these rules were further developed in the Immigration Act 2016, despite "*flaws in the data on which decisions would be made*" (Yeo, 2018). From January 2018, banks and building societies were made to carry out quarterly checks on existing account holders; those suspected of illegal stay by the HO would have their accounts frozen or closed, making destitution likely or even unavoidable.

The regimes of practices around access to financial services, and indeed all of "hostile environment" technologies, link back to Anderson's (2017) point noted above, on who counts as a migrant, as well as the deeply flawed thinking behind the policy that absence of papers equated to unlawful residence. This and the brutality of the "hostile environment" were exposed in the Windrush Scandal of 2018, where many British subjects from previous colonies who had arrived in the UK at the government's invitation post-World War II when Britain faced severe labor shortages were unable to prove their right to remain and wrongly identified as non-citizens. Many of these citizens were denied access to their bank accounts; were wrongfully detained, denied legal rights, threatened with deportation, and in some cases wrongfully deported by the HO or denied reentry; they lost their jobs or homes; and were denied social rights to which they were entitled (Guardian staff, 2018; Liberty, 2019). This was a result of what Yeo (2018) terms the "papers, please" immigration check culture of the "hostile environment" relating to housing, employment, banking, and other areas of social life.

Here again, parrhesia was invoked to challenge unethical sovereign power and the abrogation of pastoral power: following a public campaign including a series of articles in the Guardian newspaper on the Windrush scandal, checks on existing bank accounts, were suspended in May 2018 (Liberty, 2019; Webber, 2019).

Also enshrined in immigration legislation is a ubiquitous technology key to implementing and upholding the "hostile environment" for migrants: this comprises data sharing arrangements between the HO and other bodies. In the 2016 Act, "*a general duty [is imposed] on public bodies and others to share data and documents with the Home Office for immigration enforcement*" (Webber, 2019, p. 82). These powers are not completely new however and had been granted by legislation from 1999 onward, but this partnership arrangement is now further embedded in the Immigration Acts 2014 and 2016 (Liberty, 2019; Webber, 2019). I discuss how this operates in relation to a number of significant policy areas below.

Regimes of Practices Governing Data Sharing in Policing, Health, and Livelihood

As I have discussed above, the main thrust of "hostile environment" policies is a reduction in numbers of immigrants or non-citizens, for as Anderson (2017, p. 1529) notes, "'*too many' [immigrants] is a difficult number*." One response of the British state to this "problem" is data sharing utilizing policy technologies provided through governmental power, to identify and remove these hidden populations to consolidate its sovereign power. In this section, I look at two key public services that affect everyone – policing and health – and more general areas relating to livelihood and liberty that are impacted by data sharing regimes of practices under the "hostile environment."

First, the Police service is seen as a crucial public body for enforcement of "hostile environment" policies, and with data sharing as a key border enforcement technology, collaborative arrangements between the Police service and the HO are in force. Significant among these is Operation Nexus, a little-known data sharing regime, which when launched in 2012 was "*a joint police-immigration operation which relied on police intelligence rather than findings of guilt to identify 'high harm' individuals for deportation*" (Webber, 2019, p. 83). The implications for justice are obvious. As Yeo explains, "*it began as a project in London targeting suspected criminals and gang members considered by the police to be high risk*" (Yeo, 2018). Significantly, it was later expanded from terrorism to immigration, and has seen immigration officers embedded at police custody suites across London to identify if people suspected of crime are from overseas; it was later rolled out to four regional areas (PolicyBristol, 2017). The operation supports referral of "High Harm" cases by police to immigration, to decide "*whether or not to refer a person for immigration enforcement action, based on whether or not removing them would be 'conducive to the public good' – even if they do not have any convictions*" (Liberty, 2019, p. 25). A report in the Guardian on June 6, 2013 (Laville, 2013) indicated fears among immigration lawyers that this practice could lead to a circumvention of criminal justice; similarly concern over these practices were expressed by a refugee charity operating in East London:

When Nexus first began, we were reassured it was only about people who had criminal convictions in this country or in their home countries and who were very high risk. What we are seeing now is that they are targeting all crimes and low-level criminality. This is going to stop victims coming forward in the black and ethnic minority communities because they fear they will be targeted by Nexus .... This is totally going to mess up local policing and any trust communities have in the police (Laville, 2013).

The reference to racial politics and the damage to community relations through this operation are instructive; however, the Police Commander of the operation interviewed for the article exhibited no such concerns. A Freedom of Information request in 2017

revealed that people's personal details have been passed on the by Metropolitan Police where there were concerns over immigration status, even when they were victims or witnesses of crime (Yeo, 2018). These practices confirmed concerns around justice and due process, indicating that police were failing in their duty of care as a public service to the community, and the precedence of border control over issues of justice.

It is of concern that the police have enforced and rolled out Operation Nexus unquestioningly, given its potential and reported impact on communities, particularly minoritized communities. This is all the more so in the context of Macpherson's (1999) findings of institutional racism among the police following the Stephen Lawrence inquiry, and inter alia the recommendation for creating trust with the community as "*an essential first step . . . for all Police Services*" (ibid., Chapter 46, Para 46.30). It might be argued that as a department directly under the HO, the police were just following orders, but this is insufficient explanation for a public service. A more convincing argument might be their acceptance of the threat to national security used to rationalize the original operation coupled with what Bauman (1989, p. 208) terms adiophorizing action, or "*the disabling of morality through strong emphasis on the pursuit of efficiency*" (Bowling & Westenra, 2018, p. 15).

Parrhesia in the form of a claim for judicial review of Operation Nexus by the Advice on Individual Rights in Europe Centre mounted in 2018 proved unsuccessful.

Turning now to the healthcare sector, in the UK primary and emergency healthcare is provided free at the point of service to those "ordinarily resident" in the country; "ordinarily resident" defined as "*broadly, living in the UK on a lawful, voluntary and properly settled basis for the time being*" (National Health Service [NHS], 2018). The word "lawful" is of importance to the "hostile environment," which worked through two main policy technologies. First, through requiring NHS hospital staff to demand full payment in advance from those unable to prove their entitlement to free non-emergency treatment, i.e., a person "ordinarily resident" to differentiate between Us and Them; and through data sharing with the HO. Yeo (2018) notes that while it was legally permitted for non-residents to be charged for NHS services since 1977, very little money had been recovered in this way. Regulations introduced as part of the "hostile environment" co-opted NHS staff as proxy observers, forcing hospitals to perform ID checks to identify if patients should be charged, and if debts are incurred to pass the information to the HO. Therefore, charging for NHS services is now linked to immigration enforcement (Hiam, Steele, & McKee, 2018). As from April 2017, charges are imposed in advance, emergency care being invoiced later: those not entitled to free treatment are charged 150% of the cost of treatment. Students and those with work visas are required to pay a health levy of £200 per person per year since 2015 as part of their visa application, rising to £400 in

December 2018. If a person fails to pay, they may be pursued by debt collection agencies (Liberty, 2019; Webber, 2019). An unresolved NHS debt of £500 is a basis for refusal of right to remain and potentially to removal from the UK (Hiam et al., 2018). This "debtor reporting process" continues (McKinney, 2019), the technology remains in place.

The second policy technology is part of general data sharing arrangements between the HO and public bodies mentioned above. The Health and Social Care Act of 2012 had allowed the NHS to pass on details of patients to HO for enforcement. These informal arrangements were replaced by a formal Memorandum of Understanding (MoU) made public in January 2017, between the Department of Health, NHS Digital (who provide information, data, and IT systems to NHS England), and the HO, which allowed for a more "efficient" sharing of patients' non-clinical data between these parties "*to support effective immigration enforcement*" (Gordon, 2017, Q.1 response). Hiam et al. (2018) note that the agreement came into force "*without a public consultation ever taking place*." They argue that "*the MOU could threaten both individual and public health, while placing health professionals in an unworkable position both practically and in terms of their duties to patients around confidentiality*" (ibid, p. 107).

NHS Digital has submitted that while "*there was no clear statistical evidence of the impact of data sharing deterring immigrants seeking health services . . . the increased transparency enabled by the MoU . . . may itself have an effect*" (Gordon, 2017, Q.6 response). A consequence of this became apparent in the aftermath of the Grenfell Tower fire of 2017, when some migrants who resided there declined treatment for fear of possible detention and deportation (Gentleman, 2017; Hiam et al., 2018). Invoking parrhesia "*charities across London responded by establishing support and even a temporary health care clinic for those in need, safe from immigration authorities*" (ibid, p. 108).

Here, unlike with the police force, the unethical regime of data sharing practice was challenged. The Government's public health adviser, Public Health England (PHE), had warned, "*the perceived or actual sharing of identifiable information from confidential health records in order to trace individuals in relation to possible immigration offences [. . .] could present a serious risk to public health and has the potential to adversely impact on the discharge by PHE of the Secretary of State's statutory health protection duty*" (HoC Health and Social Care Committee, 2018, p. 24). In a hard-hitting report which demonstrated the authority of the legislature in a parliamentary democracy, the Health and Social Care Committee recommended that "*NHS Digital should suspend its participation in the memorandum of understanding*" (ibid, p. 4) until a more comprehensive review has been completed. The unethical nature of this policy regime united groups across the health service in protest, including doctors' groups, medical charities, campaign groups together with MPs in the Select Committee on Health, which resulted in government announcing

partial suspension of the MoU in April 2018; legal challenge resulted in scrapping of the agreement in November 2018 (Webber, 2019, p. 79). As Foucault (2002, p. 475) posits, "*The suffering of men must never be a silent residue of policy. It grounds an absolute right to stand up and speak to those who hold power*." Subjects therefore should hold the sovereign responsible for suffering caused by government action or negligence and here we see the victory of capillary power forcing an unethical government rethink its position.

I will now turn to look at notable "hostile environment" regimes of practices in relation to livelihood and liberty, two human rights held dear in democratic regimes, but under "hostile environment" technologies work and rough sleeping is criminalized in relation to "illegal" migrants. In terms of livelihood, as Webber (2019, p. 79) notes, the 2016 Act "*continued and perfected the process of criminalisation of migrants' work which started two decades before*" with a ban on work for those whose asylum claims were under consideration and for those without permission to be in the UK. Here, again, we see the forerunner of the "hostile environment;" employer sanctions discussed above could be applied here, but the law was hardly used. This was stepped up in 2006, with the creation of a new criminal (as different from regulatory) offense of illegal working, which Webber argues is in breach of the right to work under the Universal Declaration of Human Rights. She states that intensive enforcement raids targeted "*mainly small, minority ethnic-owned workplaces*," testifying to racism in the enactment of immigration policing (Bowling & Westenra, 2018). The Act allowed the wages of workers without papers to be confiscated, constructed as "proceeds of crime," a threat designed to force migrants without secure immigration status to leave voluntarily.

Given the political significance of EU "migration" in the vote for Britain to leave the EU and the salience of the approaching Brexit divorce date, I will consider "hostile environment" regimes of practices around rough sleepers and working that have particular resonance for EU mobility. Anderson (2017, p. 1531) notes however that, "*there have been longstanding objections to defining EU mobility as an immigration issue*," quoting the EU Home Affairs Commissioner as saying that "*EU immigrants [is] a concept that does not exist*."

Notwithstanding this, and arguably with targeting EU nationals from Eastern Europe in mind, in May 2016, the HO pronounced rough sleeping an "abuse" of EU citizens' right to freedom of movement under the Treaty of Rome (Liberty, 2019, p. 51). Liberty (ibid.) comments that this policy change was introduced without any new legislation being passed and gave immigration enforcement teams the authority to arrest, detain, and remove homeless EU nationals from the UK for sleeping rough. Reports indicate that homeless EU nationals from Eastern Europe sleeping rough in London and in Scotland were targeted by immigration enforcement teams and told they had no right to sleep rough (Kirkaldy, 2019; Liberty, 2019; Webber, 2018). Some were issued with letters

telling them to leave the UK and had their ID documents confiscated, leaving them unable to work; others were detained in immigration removal centres (Liberty, 2019). In a show of parrhesia, North East London Migrant Action (NELMA) and the Public Interest Law Unit challenged this policy in the High Court, and in December 2017 it was found to be unlawful (Liberty, 2019), again demonstrating the power of the judiciary to rein in unethical sovereign power. Kirkaldy (2019) notes that before the policy was pronounced unlawful 26 people had been deported from Scotland on these grounds.

Overall, we can see that "hostile environment" regimes of practices in a number of related areas of everyday life are Draconian, unlawful, inhumane and have been conceived without consideration of human rights or international conventions, designed solely to assert the sovereign power of the state over its borders. In the next section, I will examine this policy regime as it relates to another area of basic human rights: education.

Immigration Policy and Education

High human mobility indicates corresponding high levels of child mobility, raising issues around realizing children's right to education. Schools have to cater for an increasingly diverse population and support the pedagogical and other needs of newly arrived students, including migrants, providing an inclusive space for them within school communities. Public and media hostility to migrants have implications for how schools respond to the presence of migrant children within their populations. The "hostile environment" has similar implications.

While I have considered "hostile environment" technologies separately in relation to different sectors and areas of life, in reality they intertwine to form the "web" described by Liberty (2019). These coalesce in the person of the migrant child who carries with them the effects of these technologies on their families and homes. Therefore, encounters with the "hostile environment" through housing, employment, health, banking, and other areas of social life will impact on the person of the migrant child as they cross into the school. Here, however, I will focus on "hostile environment" technologies as they center on education.

School education is a universalist service under British law, free to all children of statutory age on the territory without having to prove entitlement. However, with the "hostile environment" formally entering the school sector, there was a change in this relationship where the potential of school education to be weaponized for border control purposes was activated. The extent of HO thinking on this can be seen in a proposal by the Home Secretary clearly in breach of children's rights, "*not to permit children of migrants with irregular status to attend school or to push them to the back of the queue for school places*" (Webber, 2019, p. 81), which was rejected by the government. However, in line with the general duty on public bodies and others to share data and documents with HO for

immigration enforcement in the 2016 Immigration Act, in June 2015, the Department for Education (DfE) entered an agreement with the HO for this purpose. The agreement involved passing on details of school pupils aged between 5 and 19 obtained through the annual schools census, to enable the HO to trace families without legal right to remain. Entitled Operation BORTZ, the HO sought to make use of DfE data to track down "*migrant children with whom the Home Office had lost contact*" and "*take compliance and enforcement action against migrant families with no right to be in the UK*" (McKinney, 2019). Webber (2019, p. 81) notes that these measures "*are calculated to deter parents from sending children to school*" (2019, p. 81), thereby achieving the aim of the Home Secretary's proposal rejected by the government. She comments further, "*The agreement, whose aims included the creation of a 'hostile environment' in schools, was secret, and only came to light in December 2016, after DfE added questions on nationality and country of birth to the census*" (ibid.). This initiative caused an uproar among human rights activists, educationists, parent groups, and data protection campaigners among others, likening it to producing a "foreign children list," and with cross-party MPs calling the system "racist" after schools were reported to be requiring passports from parents as proof of children's nationality (Pells, 2017). The campaign group Against Borders for Children (ABC) organized a mass boycott of the data collection, urging parents to refuse to hand over children's personal data (Liberty, 2019; Pells, 2017). Liberty (2019, p. 11) reports that "*by the time it was finally exposed the arrangement had been operating for more than a year with no public knowledge or parliamentary scrutiny*," claiming that in that time the DfE and HO had shared school records of up to 1,500 children a month for immigration enforcement purposes. ABC represented by the activist group Liberty took legal action against the DfE, following which nationality and country of birth questions were finally dropped. In April 2018, the DfE announced that it would no longer require schools to collect children's nationalities and countries of birth, and has updated its census guidance to reflect this. Liberty (2019) reports however that DfE is refusing to delete already collected nationality and country of birth data.

While the country of birth data and nationality questions have been removed from the schools census, the data sharing agreement between the DfE and HO remains in force: this is in line with "hostile environment" arrangements in the 2016 Immigration Act noted above. Campaigners believe it could deter those with irregular status from sending their children to school, fearing that it is not a safe place for them, and even withdraw children from education entirely, which is totally in keeping with "hostile environment" objectives. As Liberty (2019, p. 12) notes, "*This will have a huge impact on children's futures, as well as removing them from the protective influence of an institution that is supposed to protect them from harm.*"

The extent of schools' compliance with data sharing with the HO echoes police response to the same, and contrasts with that of the health sector; and this is puzzling given that

schools traditionally had not seen it as their business to be concerned with immigration issues (Pinson et al., 2010). Within the inclusive schools we researched, we also found some highly committed teachers who went out of their way to provide academic and cultural support for asylum-seeking and refugee pupils (see Arnot, Pinson, & Candappa, 2009), and it can be expected that teachers such as they participated in the protests against inclusion of nationality and country of birth questions in the schools census and sharing of this data with the HO. We do not suggest that this position reflects the whole teaching force, even in those schools. However, requiring parents to provide passports is a less than compassionate stance, suggesting identification with HO weaponizing of schools for border control purposes. I would suggest that similar to the police, schools' compliance might reflect concurrence with the construction of migrants as threat to national security used to legitimize the practice regime. The migrant child then carries a similar threat as the adult migrant – a potential terrorist and scrounger – who needs to be identified and removed. Bauman's (1989, p. 208) concept of adiaphorization, "*disabling of morality through strong emphasis on the pursuit of efficiency*" mentioned above offers a related explanation. "Efficiency" here being the efficient identification and removal of terror suspects via the migrant child, legitimated as fulfilling schools' duty of care to their pupils; with the migrant child seen not as the "learner citizen," Arnot (2009) argues for, but constructed as the Other, needing removal rather than a duty of care. "Hostile environment" technologies therefore appear to be creating distrust and fear in a context that traditionally provided a safe space for children.

In relation to the education sector more widely, the remit of the "hostile environment" has penetrated all levels and predates its announcement. From 2009, private schools, universities, and colleges were obliged to carry out immigration enforcement by collecting and transmitting to HO the personal details, attendance, progress, and other related information on non-EU students enrolled on courses, as well as to check the documents of all staff including visiting lecturers (Liberty, 2019, p. 16; Webber, 2019, p. 82; Yeo, 2018). Compliance rests on the panoptic threat of having their licenses to recruit international students removed by the HO, if monitoring is not undertaken and transmitted. Similar to employers and landlords, borders are controlled though sanctions that threaten the very life and viability of educational institutions, with ordinary citizens again acting as proxy border guards. The ultimate sanction of threat to their very existence guarantees compliance.

More widely, HO policy toward non-EU students has grown increasingly more stringent and unwelcoming. While UK universities' academic standing ensures their continuing attraction for overseas students, policy initiatives such as soaring visa fees and proof of minimum maintenance as part of the visa process; tuition fees of up to four times as much

as UK students on some courses; tightly restricted access to work capped at 20 hr a week for international students; and similar measures, ensures a particular type of student only will be accepted on the territory. However, simultaneously, the inhospitality of the "hostile environment" encourages them not to remain longer than is necessary.

Conclusions

In this paper, I have examined the regimes of practices known as the "hostile environment" and its insidious workings in vital areas of everyday life using the concept of sovereign power. With the insight that "power is everywhere" and "comes from everywhere" (Foucault, 1998, p. 63), we have also seen conflicts, struggles, and resisting practices in the enactment of the "hostile environment." These have involved pressure groups, professionals, and ordinary citizens among others, and challenges to its unjust technologies from organs of the legislature and the judiciary, reining in an unethical sovereign power. The "hostile environment" was introduced with the avowed aim of reducing net migration as a political move; while it has undoubtedly been successful in creating suspicion and dissent, now 7 years since it was announced we might consider how successful it has been in bringing down numbers. ONS (2019) reports in terms of long-term international net migration that immigration and emigration figures have remained broadly stable since the end of 2016. Long-term international net migration data show that migrants continued to add to the UK population, as an estimated 258,000 more people moved to the UK with an intention to stay 12 months or more than left in the year ending December 2018. EU long-term "immigration" has fallen since 2016, no doubt influenced by the "Leave" vote, and is at its lowest since 2013. Non-EU long-term immigration has gradually increased over the past 5 years to similar levels seen in 2011 (ONS, 2019). Overall, then there has been little change to net migration since the "hostile environment" was announced.

However, the "hostile environment" has unleashed worrying and somewhat unexpected hostile forces against migrants and migration, seen following the 2016 referendum and later with some schools' harsh complicity with "hostile environment" practices discussed above. Its practices have increased human suffering as we have seen. As educators, we need to consider what we should be doing to counter such occurrences, and I would argue that we might consider fostering within our schools an ethical approach toward the sufferings of others, which we could see as a form of parrhesia to counter negative messages received from the state. As Nussbaum (1996, 50) advocates, "*Public education at every level should cultivate the ability to imagine the experiences of others and to participate in their sufferings*." Elsewhere my colleagues and I have argued that, "*If schools are to create compassionate individuals, they would need to install a sense of shared humanity, possibly through critical notions of*

cosmopolitanism" (Pinson et al., 2010). A compassionate citizenship education then should involve more than moral reasoning but should move off rational argument to engage critically with global issues of forced migration, war, and human rights. This could enhance possibilities for solidarity with the suffering of others and for a compassion based on social justice.

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Ethics

The study was carried out in accordance with the Declaration of Helsinki and the ethical guidelines of the British Sociological Association.

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