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Bhatia, Monish (2020) Crimmigration, imprisonment and racist violence: narratives of people seeking asylum in Great Britain. *Journal of Sociology* 56 (1), pp. 36-52. ISSN 1440-7833.

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Crimmigration, Imprisonment and Racist Violence: *Narratives of People Seeking Asylum in Great Britain.*¹

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Abstract

The past five decades have witnessed a dramatic growth in immigration controls. The external controls have expanded, but at the same time, there has been a proliferation of internal control measures. The British state has increasingly resorted to using penal machinery to punish people who violate immigration laws. Individuals can now be prosecuted under the criminal law and receive custodial sentences for immigration crimes. This article draws upon narratives, interviews and experiences of asylum seekers who were imprisoned for such crimes, in order to understand how their trauma is exacerbated and ways in which injuries are strategically and deliberately inflicted by the state and built within legal and policy frameworks. It draws attention to the racist nature of the crimmigration system and production of violence.

Key Words: Asylum seekers; racist violence; crimmigration; institutional racism; imprisonment; harms.

¹ Acknowledgements: I would like to thank the two anonymous reviewers for their helpful suggestions and advice. This also extends to Dr Jon Burnett (University of Swansea), Professor Scott Poynting (Charles Sturt University) and my colleagues at the Birkbeck Criminology Department for commenting on various versions of this article.

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Introduction

This country is all prison, prison and more prison for us asylum seekers (Interview with Rafiq).

The past five decades have witnessed a rampant increase in practices designed to manage and control migrants in Britain (Solomos 2003; Bhatia 2018). The immigration and criminal justice systems have merged, and individuals now face harsh criminal sanctions for immigration offences. The shift towards the use of crime control structures in the migration arena is strongly underpinned by border control imperatives to keep out the racialised ‘other’. By criminalising certain migrant groups and creating crimes that should not be categorised as crimes in the first place, successive British governments have systematically directed hostility against them and dragged them into the punitive penal framework. Not only does this involve a sheer disregard for human suffering, but also a willingness on the part of the state to sacrifice lives in pursuit of a secured, ordered and bordered society. Whilst previous literature has addressed the criminalisation of migration (Back et al. 2002; Canning 2017), few have explained the ways in which migration has become a criminal justice ‘problem’ in Britain (Aas and Bosworth 2013; Aliverti, 2012a, 2012b; Bowling and Westera 2018). Sparse attention, however, has been given to understanding (a) how such punitive shifts produce violence and its impact on individual migrants; and (b) injuries resulting from these institutionally-sanctioned methods of excluding the ‘other’.

This article draws upon interviews, experiences and narratives of asylum seekers who were given custodial sentences for ‘immigration-crimes’ and explains their subjective experiences of criminalisation and entrapment in British prisons. The paper sheds light on the trauma of prison time and injuries resulting from confinement.³

Methodology and Scope

The article is based on an ethnographic research project conducted in the North of England. The author was embedded as a volunteer support worker with three refugee charity organisations for a period of over eighteen months and was able to gain access to people seeking asylum, follow social/support workers on client visits, communicate with the state authorities, analyse documents and case records held by the organisations, and develop understanding of policies and practices. In-depth (and on occasions repeat) interviews were conducted with asylum seekers and undocumented migrants (n=22) and specialist practitioners (n=7), and detailed fieldwork observation notes were maintained. Pseudonyms are used throughout this article to retain anonymity of participants.⁴

As the title suggests, this article focuses on racist violence directed against those seeking asylum. Violence, according to Ray (2018), does not arise in vacuum – it is repeated and patterned, and often within entrenched social relations. Racist violence is

³ Note: while the paper uncovers harms inflicted on asylum seekers convicted of immigration crimes – it does not intend to create a hierarchy of ‘crime’, ‘criminals’ and ‘prisoners’ – or suggest that certain groups are ‘deserving’ harsh treatment. Crimmigration is a racialised system of control that is hostile, damaging and creates suffering (for instance, see Hasselberg 2016; de Noronha 2019). This paper draws attention to one aspect of the system and its impact on asylum seekers.

⁴ This research was approved by the institutional ethics committee, and it also followed ethical protocols as outlined in the British Society of Criminology Statement of Ethics.

directed at foreigners and minorities due to their perceived threat to culture, national identity and economic resources. The person subjected to violence is not victimised in their capacity as an individual, but as representative of the imagined group they belong to (Witte 2014). Nevertheless, victim is considered as inferior, and violence occurs due to unequal socio-economic and political power relations in society (see Virdee 1995). While this understanding of racist violence is important, there is also a need to move beyond the individual perpetrators and focus on state and institutional aspects to understand various ways in which violence is meted out.

Developing from work by Lu-in Wang (2001) and Jackman (2002), Blee (2006: 606) defines racial violence as “*acts with violent consequences in which victims are racially fungible*”. Blee (2006: 606) further explains that using consequences to victims as the “*criterion for the violent aspect of racial violence broadens the notion of what is violent beyond individual, intentional inflictions of harm. It takes into account the victim(s) experiences and understandings including also institutional, collective harm against subordinate racial groups such as that evidenced in slavery, or racial disparities in health care provision, criminal sentencing, the siting of environmental toxins, and immigration policy*”. The fungibility aspect is crucial and it indicates that victims are not harmed because of their personal characteristics but as a result of their classification in a racialised group.⁵ The violence can be corporeal, psychological, social, and/or material, and includes a broad range of inter-personal actions, but excluding those without any injurious consequences.

⁵ See Erel, Murji and Nahaboo (2016) for an analysis of racialisation and migration.

By using the above understandings of violence, the article uncovers the institutional infliction of injuries on asylum seekers.

Managing ‘Undesirable’ Asylum ‘Bodies’: *From Safety Net to Prison Dragnet.*

The racialised anxieties surrounding ‘illegal migrants’, ‘cheats’, ‘bogus asylum seekers’ and ‘potential terrorists’ have resulted in exclusionary and unjust laws and policies (Lentin 2007; Garner 2013; Bhatia 2018). Harsh measures are consistently implemented to root out the ‘risky’ and ‘enemy others’ or in other words those considered as objects of insecurities. Successive British governments, each formally committed to dismantling institutionalised racism, have instead created new structures of racism (Fekete 2001; Yuval-Davis et al. 2019). The new forms of racism are consistently deployed through policies and structures that control the flow of undocumented migrants and asylum seekers and governments have used highly managerialistic approaches to this end (Sivanandan 2001; Bonilla-Silva 1997; Goldberg 2002; Murji 2007). The new penology thesis formulated by Feeley and Simon (1992: 378) succinctly explains this management of ‘unruly groups’, which is based on their so-called risk profiles. According to them, managerial approaches have “*lowered expectations ... away from an aspiration to affect individual lives through rehabilitative and transformative efforts toward the more realistic task of monitoring and managing intractable groups*”. To achieve these goals, certain population groups are herded together, not transformed but only managed – a kind of a “*waste management function*” (Feeley and Simon 1992). The emergence of the new penology has influenced new techniques of regulation, governing migration through crime (Bosworth 2008), and through the use of penal interventions (Aas and

Bosworth 2013). It has given rise to a hybrid system that Stumpf (2013) refers to as “crimmigration”, which combines exclusionary powers of immigration and criminal justice.

Crimmigration is essentially a racial project (also see, Provine and Doty 2011; Provin 2013; Johnson 2015; Armenta 2017; Martinez and Ortega 2018) – an ever-expanding system of control that polices and targets immigrants criminalised as ‘illegals’, ‘bogus’ and ‘risky’. It is a set of hostile practices designed to manage/filter out racialised ‘others’ due to their perceived lack of belonging to the (imagined) national community, and involves denigration, punishment and banishment. One of the ways the British state has achieved this goal is by turning immigration breaches from administrative matters dealt with via civil courts into ones that are dealt through the criminal courts. Between 1999 and 2016 nine immigration and asylum laws were passed in the UK, creating 89 new immigration offence categories. Some of these offences included fraud and forgery, various forms of deception in the immigration context, non-compliance with immigration rules and irregular entry and stay. It is important to note that, due to the proliferation of external and internal borders, the routes asylum seekers once took to safety and/or seek regular status are now choked off (Czaika and Hobolth 2016; Crawley et al. 2016). Individuals often access the underground market to obtain forged identity documents or adopt other means to regularise their presence and to counter controls (Harding 2012). Instead of addressing the issue through humanitarian interventions and evidence-based policy changes, successive governments have resorted to using penal power to target people ‘evading’ controls. A rapid expansion of immigration offences has occurred so as to

stamp out the so-called ‘abuses of immigration controls’ – particularly the ‘abuse’ of the asylum system (Aliverti 2012b).

The language of ‘abuse’ and punitive attitudes have resulted in a rapid move away from ‘due process’ and embracing a ‘crime control’ model of the criminal process, thereby paying little regard to procedural safeguards or individual vulnerabilities. The majority of participants in this study were labelled as ‘dangerous’ by the law enforcement authorities at the initial point of contact for possessing and/or using fake passports and committing immigration-crimes.⁶ This impacted on the way in which they were treated. For instance, Moulay, a West African national, was fleeing torture and persecution. However, he chose not to apply for asylum due to the fear of “guaranteed rejection”.⁷ After witnessing exclusions and restrictions imposed on other individuals seeking asylum, a small number of study participants decided not to lodge a claim altogether, as it entailed a lengthy and complicated process, destitution, restricted or no access to the labour market, living in limbo for unreasonably long periods, and above all the constant fear of detention and forced removal (see Canning 2017; Bloch and McKay 2016). These individuals chose to regularise their status via illegitimate means. Moulay used a fake British passport and started living ‘legally’;⁸ he was eventually caught during a stop and search procedure conducted by the police, and transferred to prison awaiting trial. During the research interview he mentioned that the police fingerprinted his entire family, which included a six year old child. His

⁶ Two destitute individuals whose asylum claims were rejected were charged for shoplifting and public order offences, which will be discussed in subsequent papers.

⁷ Moulay’s own words

⁸ The passports cost them £500 each. Both Moulay and his wife started working as carers with the help of their fake passports.

wife (who was at the time five months pregnant) and child were separated from him and transferred to the Immigration Removal Centre. According to the documentary evidence, Moulay was receiving treatment for panic disorder and chronic depression prior to his arrest. Nevertheless, his medical history was ignored by the criminal justice authorities who had already labelled him as ‘dangerous’. On the other hand, Moulay’s wife suffered a miscarriage as soon as she was released from detention.

Two pregnant women were identified in this study who were held in detention/prison, which severely affected their health and they continued to suffer from the after-effects following release. The lack of effective procedural safeguards and consequent trauma experienced by another asylum seeking woman, Bukola, resulted in her entering labour in the seventh month of her pregnancy and giving birth prematurely.⁹ Confinement had a profound impact on health and well-being of all the participants (also see Filges et al. 2016; Robjant et al. 2009). Moulay was eventually sentenced to six months imprisonment and his condition rapidly deteriorated. He started experiencing more intense flashbacks to traumatic events and seizures and secondary ailments such as high blood pressure and diabetes. As he explained:

When I was in prison it relapsed my memories of being held in [home country] prison ...I was suicidal, and I tried attempting suicide on several occasions... my cell mate use to keep close eye on my mood. [After

⁹ Bukola was a victim of trafficking. When she applied for asylum, authorities immediately transferred her to prison and a few days later moved her to the immigration detention, failing to conduct a detailed medical assessment. As a result, sexually transmitted infections were left undetected/untreated. She also stated that the authorities paid attention only to the fact that she was ‘illegal’, entirely ignoring that she had been forced into prostitution for over eight months. Her pregnancy resulted from coerced unprotected sex with several men, and she did not know the identity of her child’s father. During the interview she mentioned the adverse impact of immigration confinement on her physical and mental health, suffering from anxiety and living in fear of being forcefully removed from the country.

release] the other day I left home in the morning and I don't know how I ended up in XYZ (city)...I fainted and they called my mental health worker...they referred me to the crisis team...I keep on having nightmares. Even when people talk to me, I sometimes cannot hear what they are saying: the noises of prison, people banging the doors, all run in my head – and my head wants to explode at that time...that's why I get panic attacks all the time ... I use to have flashbacks in past, but prison made it worst for me¹⁰ ... (Interview with Moulay).

Moulay's migratory and medical history was not taken into consideration prior to sentencing, which resulted in re-traumatization and triggered suicidal ideation. Judges are unlikely to order a Pre-Sentence Report that can inform their sentencing decisions in cases involving migrant groups (explained further below). Therefore, individuals charged with immigration crimes are unlikely to receive any form of sentence other than a custodial one. In Moulay's case, he was not only ill, but also fleeing persecution. The prison environment amplified the effects of past traumatic events, further de-stabilising his condition. For all participants, regardless of the sentence duration, becoming trapped in confined settings brought back memories of trauma in their country of origin.

The focus on inherent 'dangerousness' of this group (Bhattacharyya 2013; Bhatia 2018) has rapidly shifted the goal from protection to prosecution and imprisonment.

In this regard, Crown Courts' and Magistrates' Courts' statistics depict a disturbing

¹⁰ The author visited Moulay twice; however, on the first occasion no one answered the door. A few hours later, an NHS employee called and mentioned that Moulay had been admitted to hospital earlier that day due to high blood pressure, seizure and panic attack. Moulay had requested the hospital staff to inform the author. Due to the sensitive nature of this case, author chose not to probe or ask questions about his country of origin and reasons for fleeing, so as to avoid "trauma exploration". Moulay was also reminded that he could skip questions or pause/stop the interview, if he felt uncomfortable.

picture. Since 2005, the number of those prosecuted and convicted in Magistrates' Courts declined – 1,083 prosecutions in 2005, compared with 573 in 2014 (Migrant Observatory 2016). Similarly, the number of convictions of immigration offenders dropped from 724 to 67 in 2014. However, in the same period, those prosecuted and convicted in Crown Courts increased from 364 to 459 with a peak of 505 in 2011, and convictions increased from 293 to 354 with a peak of 403 in 2011 (Migrant Observatory 2016)¹¹ – indicating a re-classification of immigration breaches as 'serious' criminal offence. These figures do not include data on those prosecuted and convicted for forged nationality documents (such as passports and ID cards), as they are grouped under the wide category of 'Fraud and Forgery' offences – making it difficult to distinguish between immigration-related cases and 'ordinary' fraud cases (Migrant Observatory 2016). Nevertheless, prosecutions/convictions for these so-called 'crimes' often target asylum seekers (Aliverti 2012a), who are vulnerable¹² and in need of a 'safety-net', as opposed to a prison dragnet.

Inflicting Injuries through Encagement

The use of criminal law to punish immigration rules violations has become a cause of concern. The punishment is immoral and must be viewed from social harms perspective (Hillyard and Tombs 2007). Further, immigration offences are 'strict liability' and a deliberate strategy to forcefully pull asylum seekers into the criminal

¹¹ 78% of those found guilty in both Magistrates' Courts and Crown Courts in 2015 were for one of three crimes: assisting unlawful immigration; seeking leave to enter or remain or postponement of revocation by deception; and being unable to produce an immigration document at a leave or asylum interview (Migrant Observatory, 2016).

¹² The list of vulnerable migrant groups as mentioned on the British Government website: <https://www.gov.uk/guidance/vulnerable-migrants-migrant-health-guide>

justice circuit.¹³ These ‘crimes’ are also harmless in nature, and a custodial sanction is likely to inflict unjustified and intense pain (Aliverti 2017). Even when an individual has a statutory defence for certain immigration crimes (Sato et al. 2017), there is yet an overzealous attempt to imprison them. This has led to the Criminal Case Review Commission expressing strong concern that “*hundreds of asylum seekers and refugees may have been wrongly convicted after being advised to plead guilty to offences relating to their entry to the UK*”.¹⁴ The crimmigration system denies (Cohen 2001) and silences suffering of the racialised ‘other’ and simply manages/treats them as a ‘global waste’ (Mathiesen 2004).

The system operates on a bitter irony: to serve its ultimate goal of keeping *out* the ‘undesirables’, it in turn pulls them *inside* the managerial black hole. Since the focus is on imprisonment, the assembly line approach is used by the ‘justice’ system and cases are moved rapidly/efficiently on the ‘conveyor belt’ leading to quick disposal. To facilitate this, judges tend not to order a Pre-Sentence Report (PSR) or completely ignore any such report. The decision on PSR is closely linked with a provisional view about the suitability of a community sentence and the courts are less likely to regard these individuals as suitable for any other form of punishment. According to Canton and Hammond (2012: 12) the reasons for this are highly contentious; first, courts might believe that undocumented individuals will be unable to access public funds and work legally, and will consequently abscond and go off the radar (which rules out non-custodial options); second, courts adopt a punitive approach to encourage ‘compliance’ with immigration rules and regulations; third, there is an increased

¹³ I would like to thank my colleague Dr Bernard Keenan for highlighting this point.

¹⁴ See: <https://www.lawgazette.co.uk/law/ccrc-concern-over-advice-given-to-refugees/66102.article>

preference for custodial sentences. However, there is also a fourth and an important element – i.e. institutional racism within the British criminal justice system (Phillips 2011; Parmar 2013; Kutateladze et al. 2014; Fekete 2018), which can lead to prejudiced or no PSR altogether.

Prisons are inherently an extreme environment that results in a range of deprivations and can trigger harmful psychological and emotional responses (Cohen and Taylor 1972; Sim 2018). By subjecting individuals to harsh sentences and caging those who have fled persecution and extreme situations, the state (wilfully) neglects their predicaments and deliberately inflicts injuries – as explained below.

Prison Environment, Racism and Injuries

In my country I was once a seaman, here I was a criminal – old, mad,
refugee criminal man (Interview with Anthony).

Migrants carry ‘a double burden’ in prison or ‘a prison within a prison’, as they are incarcerated in an unfamiliar culture, unable to understand prison life and norms (Richards et al 1995) and exposed to prison place racism (Scott and Codd 2010). The participants in this study mentioned being treated harshly due to their lack of ‘legal’ status, and racial, ethnic, religious and cultural backgrounds. Ali, a ‘rejected’ asylum seeker from Iran, explained that police officers kept him handcuffed on the way to the Magistrates’ Court and insisted that he should receive a custodial sentence, as he was a ‘risk to the public’ and a potential ‘absconder’. In court, the magistrates emphasised that his offence of using a fake British passport was ‘very serious’ and must be tried in the Crown Court instead, authorising his remand in custody until this Crown Court

appearance.¹⁵ Having never previously been confined in a British correctional facility, like all other participants Ali had no awareness of the prison environment. Other prisoners found it ‘funny’ that he was in prison for merely possessing/using a fake passport. This, along with the label of asylum seeker, pushed him to the bottom of the prison hierarchy. He was looked down upon, called names, and repeatedly bullied. He explained:

... they put me in prison [remand] for 2 ½ months, but I was not convicted yet. It was a B category prison,¹⁶ and it was filled with rapists, murderers ... I was just thinking that ‘I have not done anything dangerous, I have not raped or killed anyone...why am I here?’ ... I was treated very badly in prison...I was called gay boy ... Those men were huge and very muscular ... They said: ‘you can’t be gay in here’ ... Once I was in corridor, the prison officer called me and asked me: ‘where are you from?’ and I said: Iran. The officer started shouting and he said: that ‘you Iranians are fucked up’. I cried all the time, all the time (Interview with Ali).

Participants from Iran, Afghanistan, Sudan, Congo and Nigeria mentioned that prison staff had preconceived notions of their nationalities, which on most occasions resulted in verbal abuse and degrading treatment. Similarly, Kaufman (2015: 121) has also outlined the stereotyping by prison guards who mentioned to other people in prison that ‘the Pakis smell’ and called Chinese people ‘ching chong’. Furthermore,

¹⁵ This is despite little to no evidence to suggest that individuals abscond prior to their trial. According to Banks (2011: 195), foreign nationals lack the ‘requisite antecedents’ to enable risk assessments, and this is combined with a belief that they pose a greater risk of absconding than do British nationals – resulting in remand and custody as the default option in many cases.

¹⁶ All male participants were held in a Category B prison until trial.

immigration agents in prison offered her detailed description of prisoner behaviour based on their nationalities – for instance, Jamaicans were ‘loud and aggressive’; Nigerians ‘are all document offences’ and so on. Individuals in the current study explained the impact of racism: lack of trust, the constant feeling of loneliness, loss, anger, and becoming repeatedly trapped in miserable situations – making ‘life’ inside even more difficult and unbearable. Further, Iranian and Afghani participants also mentioned homophobic bullying in prison and being called ‘gay boy’ and ‘poof’ due to their slender physique and mannerisms (this is regardless of the fact they identified as heterosexual, but did not meet the masculine norms of the penal regime). According to the documentary evidence, Ali was fleeing persecution and suffering from mental distress prior to being imprisoned and a prison sentence aggravated his vulnerability.

Participants highlighted their struggles within the oppressive prison environment and attempts to ensure psychological survival. An Iranian refuge seeker, Rizwan, whose asylum claim was rejected, was also caught using a fake passport¹⁷ and spent over three months in a Category B prison anxiously awaiting trial. Besides enduring the pain of becoming trapped in confined settings, the constant threat of violence from other prisoners and intimidation from certain prison officers placed him in a highly vulnerable position. Rizwan stated that other men in prison were extremely dominating and he was frequently provoked and bullied due to the reasons mentioned earlier. However, he feared that ‘fighting back’ would result in a harsher sentence and/or forced removal. He felt degraded and was unable to strike friendships. It also made him hyper-vigilant and continued to affect his mental and physical health.

¹⁷ Rizwan and Ali both used informal networks to obtain fake identity documents so as to ‘legally’ travel to Canada. The decision to escape the UK was due to destitution and *on-going* trauma and suffering – suffering which never ended even after escaping from their home countries.

Further, prison officers labelled him as a potential ‘troublemaker’¹⁸ and watched him closely. Therefore, he had to be very patient and passive. This very situation amplified his sense of grief and inability to exercise control over his life and/or rebuild it – as he was moved from one extreme environment to another. Further, despite prison officers being aware of his mental health condition and past suicide attempts, he was not immediately offered a referral to the prison psychiatrist or provided with appropriate medication. The collective effect of this treatment resulted in a suicide attempt and several instances of self-harm. He explained:

I attempted suicide ... They said that: “you have broken the prison rule and you will have to live without TV, fresh air ...in segregation” ... Sometimes they put me for a week, 4 days, 24 hours you never know. I was not well and depressed and this is how they treated me. Even when you want to go for toilet, you have to bang the thick door so that they hear you. The officer starts shouting back at you and swearing. He told me to “shut the fuck up” every time...

He [the judge] said: “you’re a danger to the public!” Really? How? I left my country for protection [refuge] and I am here not protected at all. What’s the point of your life? I wanted to live my life, and they did everything to take it away by putting me in prison... Now this time they took me to CAT C prison. I tried to suicide again...took cocktail of tablets, all mix, sleeping, depression, pain killers - took altogether to try and kill myself. They took me to the hospital again and then back to prison block (Interview with Rizwan).

¹⁸ Rizwan’s own words

Suicide and self-harm provided the means by which a racialised body was able to express individual political subjectivity; something it had otherwise been entirely deprived of. From the above accounts, it is evident that Rizwan was facing a rapid mental health breakdown, but he also tried (desperately) to ‘escape’ the racism, injustice and intensely painful punishment by inflicting violence on his body and attempting suicide (also see Sim 2018). Nevertheless, authorities considered these actions as a hindrance to the daily operation of the prison regime. Rizwan further explained that, during the Crown Court hearing, the judge highlighted his ‘bad’ behaviour and disrespect of the prison authorities. At no point were his medical history, migratory history or asylum application discussed prior to sentencing.

In 2017, foreign nationals in prison (including asylum seekers and illegalised migrants)¹⁹ had higher instances of self-inflicted death compared to UK nationals, with rates of 1.44 and 0.44 per 1,000 prisoners, respectively (Ministry of Justice, 2018). According to Borrill and Taylor (2009), the increased risk of suicide and self-harm is linked with past traumatic life experiences. Furthermore, for some individuals not having a good grasp of English can lead to communication problems, an inability to explain their mental or physical illness, understand documents or what is happening to them (Borrill and Taylor 2009; also see Bhui 2009). Imprisonment can in itself lead to self-injurious behaviour,²⁰ and for individuals in this study who were trapped and

¹⁹ The rate of self-inflicted deaths was also high among nationals from European countries, at 2.48 incidents per 1,000 prisoners

²⁰ The Ministry of Justice report also highlighted that the number of reported self-harming incidents (44,600) was 11% higher in 2017 than in 2016 and 94% higher than in 2007.

caged in a country where they were seeking sanctuary it resulted in dramatic injuries – deliberately inflicted by the British *racist state* (Goldberg 2002).

Time, Deprivation(s) and Injuries

I came to UK for life, for freedom. They put me in prison and take my life and freedom away. For me one day [in prison] was like one month
(Interview with Rizwan).

In advanced industrialised societies time is often linked to money, and time wasted is equivalent to money wasted in the race for higher productivity and accumulation of capital (Cohen and Taylor 1972). The time of participants in this study was abstracted by the crimmigration system – making it a controller and not a resource, and something to serve rather than use productively. They were given time as punishment, which was grossly disproportionate when compared to the harmless crimes they committed. Some were also held in prison or detention centres beyond their sentences under the immigration powers (see Bosworth 2011). This enforced time in custody is synonymous with what Khosravi (2018) terms “stealing time”²¹ from migrants. Participants in this study used the references of (prison) time to narrate their experiences of punishment. Most acknowledged in different ways and forms how prison exacerbates the vulnerability of people who are locked-up.²² However, they also compared their time inside with British nationals, so as to draw attention to institutional racism and wrongdoings of the criminal justice system. For instance,

²¹ This aspect will be further developed in future work.

²² Participants highlighted the lack of recreational facilities, over-crowding, noise levels, threats of violence, boredom, mental distress and drug use. They mentioned that every group in prison was affected by the lack of care – some more than others. Participants also added that, if facilities became available, British nationals were given priority and foreign nationals were left out.

Ahmed, an asylum seeker from Afghanistan, contrasted his sentence of six months' imprisonment for possessing a fake identity document, whereas the British nationals that he encountered were given 2-4 months for dealing in Class A drugs. This made him feel like a "*dirty animal in foreign land*".²³ Similarly, another asylum seeker, Rafiq, explained:

All [the] drug dealers were there sometimes for two months, sometimes for three months, sometimes for six months...the Judge said: he will give me nine months...nine months?²⁴ For what? without any understanding they gave me nine months...I was asking the [prison] officer what will happen when I finish my sentence. The officer said: "I will not be released"... he said: "we can keep you inside for as long as possible"...it was very hard mentally...one immigration officer said: "you are living here safe, we are giving you food and you are not getting killed in Afghanistan" (Interview with Rafiq).

Individuals had a limited frame of reference at their disposal and time was one of the mediums through which they made sense of imprisonment and punishment. By comparing the length of their sentence with that of British nationals imprisoned for drug-dealing, both Ahmed and Rafiq drew attention not to who is 'deserving' or 'undeserving', but rather the manner in which time was forcefully stolen from them and their racial degradation by the system. Also, becoming aware that their sentence

²³ Ahmed's own words

²⁴ According to the documentary evidence, Rafiq was given a six months' sentence. However, he was held for a further three months following this sentence under immigration powers. This extension was not communicated to him clearly.

is not determinate time and they could be held indefinitely under immigration powers, amplified the feelings of injustice, victimisation and grief of separation from family/friends. According to Warr (2016) this inability to envisage a future due to indefinite confinement causes significant distress amongst imprisoned foreign nationals. Since individuals are deprived of certainty, legitimacy and hope – the deprivations they experienced resembled those sentenced to life imprisonment (Warr 2016; also see Cohen and Taylor 1972). Rafiq worked for a campaigning organisation in Afghanistan which promoted human rights and co-ordinated with American soldiers who were actively supporting his work (and he had documentary evidence supporting his claim). This close association with Westerners exposed him to Taliban reprisals and he was eventually subjected to a brutal and near fatal assault. His migratory history was not taken into consideration prior to receiving a custodial sentence and he was convicted of ‘deception’ and providing ‘false’ information during the asylum-screening interview. Rafiq mentioned that immigration authorities did not offer an interpreter and he therefore struggled to provide in-depth, consistent and correct answers. His first interview lasted for a short duration and consisted of a few structured questions to which he was asked to respond with a *yes* or *no*. However, the authorities did not explain the purpose of those questions, nor did they make him aware that failing to provide correct replies constitutes an offence under British law. Rafiq’s ‘crime’ was that he provided a ‘false’²⁵ name and did not make the authorities aware of a pending asylum application in France. Having escaped a life-threatening situation and then subjected to indeterminate imprisonment caused intense harm.

²⁵ Rafiq did not add “Ullah” after his name. He considered this to be optional. Nevertheless, the immigration authorities perceived this as falsifying information to seek asylum.

Rafiq suffered a nervous breakdown and was subsequently supported by the Samaritans and offered anti-depressants by the prison health service.

Whilst Rafiq was apprehended, Mehboob a study participant who was an asylum seeker from Darfur-Sudan voluntarily surrendered himself to the authorities. He was also charged for 'deception'. During the conversation before the interview Mehboob mentioned that, it is 'haram' in his religion to lie and that he comes from a strong religious family. Having a significant fear of persecution, he escaped Sudan with the help of human smugglers and paid approximately £2000 for a 'safe' journey to Canada.²⁶ The smugglers provided a set of instructions that included that if caught in transit in any other Western country, true life accounts, original names and other personal details must not be divulged. Therefore, Mehboob followed the smugglers' instructions and provided false information to the immigration authorities. During the interview he expressed his guilt for lying, which had started to play on his moral conscience. Therefore, he decided to arrange a meeting with the authorities to disclose correct information and a true account for the reasons behind leaving his home country. As he stated during the interview:

I told him [i.e. immigration authorities] this is not my name, this case is not my case ... that officer was very happy with me and he said: "thank you Mehboob" and then asked: "Why did you do that?" I said... I thought that man [i.e. smuggler] is safe... he brings me from Sudan until here... that man was very good...

²⁶ Where one of his close relatives had sought asylum.

I thought after lying they [i.e. British immigration authorities] will let me go to Canada... but they keep me here... they kept calling me for questions again and again... so, I thought lie upon lie no good... I was honest! They take me in prison straightaway and [officer] said “sorry but you will have to go to prison”. I said ok, I lie. It is my mistake...take me to prison (Interview with Mehboob).

Mehboob served his sentence in a remote prison in North East England, which was pre-dominantly white. According to the Ministry of Justice, 90 percent of its prisoners were white males, 60 percent of whom had a registered home address within a 50 mile radius of the prison. Mehboob stood out not only because of his skin colour, but also due to his accent, lack of command of the English language and the label of asylum seeker (explained further below). He was repeatedly subjected to racial abuse – as explained;

... they put me in HM jail XYZ [in the North of England]...they put me for over six months...when I was released I felt clean inside and I was very happy... I did crime [i.e. providing false name during asylum interview], I was punished...but the life in prison was very difficult...I had a small room, they lock you all the time ... English people, about 75 percent in prison were racist...they racist for black man...racist because you do not talk English like them...they hit me two times...they always catch me in gym or playing football.

... some officers were very racist too... the officer asked me [looking at the bruises] ‘Mehboob did you fight yesterday’, I said: ‘yes sir, three people hit me’... he said: ‘OK’ and did not do anything... the English guy

in my cell said: he did not want to stay with me...in six months I was moved in 4 rooms, because of racist people²⁷ ...I started taking drugs in prison...first time in my life I take crack cocaine... it was too much for me... detention was better than prison... as I meet other people from XYZ [home country]... I stayed in detention for one month [after finishing prison sentence]... The staffs in prison and detention are all the same (Interview with Mehboob).

Mehboob 'accepted' the prison time and considered it as 'soul cleansing' due to his religious beliefs – he was nonetheless severely affected by life inside the prison and racism. Therefore, in order to escape and distort the time perception, he started taking Class A drugs (despite having no prior history of drug use). Similarly, to escape the traumatising effects of prison time, certain individuals signed up for '*Facilitated Returns Scheme*' or '*Assisted Voluntary Returns*' to dangerous parts of the world – countries from which they have escaped. The very names of these schemes indicate that choice to leave must be voluntary and not induced (Webber 2010). However, individuals tend to see such 'voluntary' returns as a less painful alternative to prison and punishment. For instance, Rafiq kept thinking about returning voluntarily, but he also referred to a 17 year old asylum seeker²⁸ from Afghanistan²⁹ (whom he described

²⁷ In the past, several policies were introduced to combat racism in prison (following the death of a British Asian man Zahid Mubarek). However, the momentum has been lost and prison racism has dramatically increased. According to Lord Ramsbotham, Chief Inspector of Prisons (1995-2001): "*It's a tragedy waiting to happen*" (quoted in Telegraph, 2015). See: <https://www.telegraph.co.uk/news/uknews/law-and-order/11550203/Racism-in-our-prisons-are-we-at-risk-of-another-violent-murder.html>

²⁸ It was uncertain whether the boy was recognised as 17 years old or wrongly age assessed by social services/the Home Office.

as “like a younger brother”) who was in the same adult male prison as himself for using a fake passport. According to Rafiq, the teenager was treated like an adult and imprisonment (over nine months) started affecting him emotionally, and he became increasingly unstable and frustrated. Moreover, he did not speak or understand English very well and was self-harming from the very first week in prison:

...once he took a lot of tablets and he wanted to die...but then he got scared...so I was translating for him- they [prison officers] took him to hospital, shouting all the way ...[on a different occasion] he couldn't stop shouting in the room, pointing at the prison guards, verbally saying that he will hit them. Three big officers came, very big muscles and very strong. They took him in a small cold room and told him: “if you don't stop shouting, we will hit you with this [i.e. baton]”... he requested me to write a letter to the Home Office to deport him ... he went back voluntarily [to Afghanistan] (Interview with Rafiq).

The processes, practices and individual decisions to sign-up for ‘voluntary’ returns need further in-depth investigation and academic attention. The story of this 17 year old boy shows different ways in which injuries can be strategically inflicted on undocumented migrants and those seeking asylum – who should not be imprisoned in the first instance. Also, since there is no established mechanism for complaints, those individuals who are returned to dangerous parts of the world, ‘voluntarily’ or otherwise, under such precarious circumstances, can rarely provide accounts of their abuse and harms inflicted by the British criminal justice and immigration systems. It is therefore important for social scientists to identify victims of the crimmigration

²⁹ According to Rafiq, he had applied for asylum in another European country and entered the UK ‘illegally’. He did not provide this information to immigration officials, which resulted in his arrest for ‘dishonesty during asylum interview’.

system, gather testimonies and challenge state deviance from below (also see Grewcock 2012; Green and Ward 2004).

CONCLUSION

Racist violence is central to understanding the crimmigration system's brutal impact on asylum seekers. By drawing on individual experiences, this paper has contextualised and theorised the injuries and harms inflicted on this group through incarceration (including stealing of time, removal of hope and life chances), denial of medical (mental health) attention and deliberate psychological mistreatment. In most cases these compound trauma and damage resulting from pre-migratory experiences. As such, the harms result not from lapses in procedure or policy failures – they are not 'spectacular' or 'unusual' either – but rather strategic, functional, mundane and operating with a cruel rationality. They need to be understood and analysed as systematically built into the legal and policy frameworks. Injuries are perpetrated by and through racism, which also serves to dehumanise the victims and justify their treatment as legitimate, deserved and appropriate responses to 'law breaking'.

Not only did participants explain their degradation and vilification, but they also drew attention to the failures to accord due process within the criminal justice and immigration systems – such as, understanding charges, understanding questions at immigration interview, understanding sentences, denial of rights to complain (and ignoring of complaints), about mistreatment or assaults within prison, all of which are covered by the International Covenant on Civil and Political Rights. The British state is also a signatory to the Refugee Convention and projects itself as a beacon of human

rights and refugee protection. However, by punishing individuals seeking protection for ‘immigration crimes’ the state reproduces a subaltern, vulnerable group trapped and corralled in excruciating conditions and psychologically shredded, and whose dignity and pain are not considered worthy of attention. The suffering is invisibilised, denied and muted, as (vitriolic) violence is committed at an institutional level and administered in a detached and legitimate manner. As scholars it is important that we help articulate the voices of oppressed groups and victims of the crimmigration system, identify the violent aspects of these ever evolving punitive and exclusive laws, and untangle the complex morass of policies and procedures. Only through disclosing this suffering we can challenge the white supremacy.

References

Aas, K. F. and Bosworth, M., (Eds.), *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*, Oxford University Press, Oxford, 2013.

Aliverti, A., The Wrongs of Unlawful Immigration, *Criminal Law and Philosophy*, 11(2): 375–91, 2017.

Aliverti, A., Exploring the Function of Criminal Law in the Policing of Foreigners: The Decision to Prosecute Immigration-Related Offences, *Social and Legal Studies*, 21(4): 511–27, 2012a.

Aliverti, A., Making People Criminal: The Role of the Criminal Law in Immigration Enforcement, *Theoretical Criminology*, 16(4): 417–34, 2012b.

Armenta, A., *Protect, Serve, and Deport*, University of California Press, Oakland, 2017.

Back, L., Keith, M., Khan, A., Shukra, K., and Solomos, J., New Labour's White Heart: Politics, Multiculturalism and the Return of Assimilation, *The Political Quarterly*, 73(4): 445–454, 2002.

Banks, J., Foreign National Prisoners in the UK: Explanations and Implications, *The Howard Journal of Criminal Justice*, 50(2): 184–98, 2011.

Bhatia, M., Social Death: The (White) Racial Framing of the Calais “Jungle” and “Illegal” Migrants in the British Tabloids and Right-Wing Press, in M. Bhatia, S. Poynting, and W. Tufail (Eds.), *Media, Crime and Racism*, Palgrave, London, pp. 181–212, 2018.

Bhattacharyya, G., *Dangerous Brown Men: Exploiting Sex, Violence and Feminism in the 'War on Terror'*, Zed Books, London, 2013.

Bhui, H., Foreign National Prisoners: Issues and Debates in Bhui, H. (Ed.) *Race and Criminal Justice*, SAGE, London, 2009.

Blee, K., Racial Violence in the United States, *Ethnic and Racial Studies*, 28(4): 599–619, 2005.

Bloch, A. and McKay, S., *Living on the Margins: Undocumented Migrants in a Global City*, Policy Press, Bristol, 2016.

Bonilla-Silva, E., Rethinking Racism: Toward a Structural Interpretation, *American Sociological Review*, 62(3): 465–480, 1997.

Borrill, J. and Taylor, D., Suicides by Foreign National Prisoners in England and Wales 2007: Mental Health and Cultural Issues, *The Journal of Forensic Psychiatry & Psychology*, 20(6): 886–905, 2009.

Bosworth, M., Deportation, Detention and Foreign National Prisoners in England and Wales, *Citizenship Studies*, 15(5): 583–95, 2011.

Bosworth, M., Border Control and the Limits of the Sovereign State, *Social & Legal Studies*, 17(2): 199–215, 2008.

Bowling, B. and Westera, S., Racism, Immigration and Policing, in Bosworth, M., Parmar, A. and Vázquez, Y. (Eds.), *Race, Criminal Justice, and Migration Control: Enforcing the Boundaries of Belonging*, Oxford University Press, Oxford, pp. 61–77, 2018.

Canning, V., *Gendered Harm and Structural Violence in the British Asylum System*, Routledge, Abingdon, 2017.

Canton, R. and Hammond, N., Foreigners to Justice? Irregular Migrants and Foreign National Offenders in England and Wales, *European Journal of Probation*, 4(3): 4–20, 2012.

Cohen, S., *States of Denial: Knowing about Atrocities and Suffering*, Polity Press, Cambridge, 2001.

Cohen, S. and Taylor, L., *Psychological Survival: The Experience of Long-Term Imprisonment*, Penguin, London, 1972.

Crawley, H., Düvell, F., Jones, K., McMahon, S., and Sigona, N., *Destination Europe? Understanding the Dynamics and Drivers of Mediterranean Migration in 2015. Unravelling the Mediterranean Migration Crisis*, (MEDMIG), <https://www.compas.ox.ac.uk/2016/destination-europe-understanding-the-dynamics-and-drivers-of-mediterranean-migration-in-2015/>, 2016.

Czaika, M. and Hobolth, M., Do Restrictive Asylum and Visa Policies Increase Irregular Migration into Europe? *European Union Politics*, 17(3): 345–365, 2016.

de Noronha, L., Deportation, Racism and Multi-Status Britain: Immigration Control and the Production of Race in the Present, *Ethnic and Racial Studies*, 1-18, 2019.

Erel, U., Murji, K., and Nahaboo, Z., Understanding the Contemporary Race–Migration Nexus, *Ethnic and Racial Studies*, 39(8): 1339–1360, 2016.

Feeley, M. and Simon, J., The New Penology: Notes on the Emerging Strategy of Corrections and its Implications, *Criminology*, 30(4): 449–474, 1992.

Fekete, L., Lammy Review: Without Racial Justice, Can there be Trust? *Race & Class*, 59(3): 75–79, 2018.

Fekete, L., The Emergence of Xeno-Racism, *Race & Class*, 43(2): 23–40, 2001.

Filges, T., Montgomery, E., and Kastrup, M., The Impact of Detention on the Health of Asylum Seekers: A Systematic Review, *Research on Social Work Practice*, 28(4): 399–414, 2018.

Garner, S., The Racialisation of Asylum in Provincial England: Class, Place and Whiteness, *Identities*, 20(5): 503–521, 2013.

Goldberg, D., *The Racial State*, Blackwell Publishing, New Jersey, 2002.

Green, P. and Ward, T., *State Crime: Governments, Violence and Corruption*, Pluto Press, London, 2004.

Grewcock, M., Public Criminology, Victim Agency and Researching State Crime, *State Crime Journal*, 1(1): 109–125, 2012.

Hasselberg, I., *Enduring Uncertainty: Deportation, Punishment and Everyday Life*, Berghahn Books, Oxford, 2016.

Harding, J., *Border Vigils: Keeping Migrants Out of the Rich World*, Verso Books, London, 2012.

Hillyard, P., and Tombs, S., From 'Crime' to Social harm? Crime, *Law and Social Change*, 48(1-2): 9–25, 2007.

Jackman, M., Violence in Social Life, *Annual Review of Sociology*, 28 (1): 387–415, 2002.

Johnson, K. R., Doubling Down on Racial Discrimination: The Racially Disparate Impacts of Crime-Based Removals, *Case Western Reserve Law Review*, 66 (4), 2015.

Kaufman, E., *Punish and Expel: Border Control, Nationalism, and the New Purpose of the Prison*, Oxford University Press, Oxford, 2015.

Khosravi, S., Stolen Time, *Radical Philosophy* 2(3), <https://www.radicalphilosophy.com/article/stolen-time>, 2018.

Kutateladze, B. L., Andiloro, N. R., Johnson, B. D., and Spohn, C. C., Cumulative Disadvantage: Examining Racial and Ethnic Disparity in Prosecution and Sentencing, *Criminology*, 52(3): 514–551, 2014.

Lentin, R., Ireland: Racial State and Crisis Racism, *Ethnic and Racial Studies*, 30(4): 610–627, 2007.

Martinez, L. M. and Ortega, D., Dreams Deterred: The Collateral Consequences of Localized Immigration Policies on Undocumented Latinos in Colorado, *Law and Policy*, 41(1): 120–141, 2018.

Mathiesen, T., *Silently Silenced: Essays on the Creation of Acquiescence in Modern Society*, Waterside Press, Winchester, 2004.

Migrant Observatory, *Immigration Offences: Trends in Legislation and Criminal and Civil Enforcement*,
<https://migrationobservatory.ox.ac.uk/resources/briefings/immigration-offences-trends-in-legislation-and-criminal-and-civil-enforcement/>, 2016.

Ministry of Justice, *Safety in Custody Statistics, England and Wales*,
<https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-march-2018>, 2018.

Murji, K., Sociological Engagements: Institutional Racism and Beyond, *Sociology*, 41(5): 843-855, 2007.

Parmar, A., Ethnicities, Racism, and Crime in England and Wales, in Bucerius, S. and Tonry, M. (Eds.), *The Oxford Handbook of Ethnicity, Crime, and Immigration*, Oxford University Press, Oxford, pp. 321–359, 2013.

Phillips, C., Institutional Racism and Ethnic Inequalities: An Expanded Multilevel Framework, *Journal of Social Policy*, 40(1): 173-92, 2011.

Provine, D. M., Institutional Racism in Enforcing Immigration Law, *Norteamérica* 8: 31–53, 2013.

Provine, D. M., and Doty, R. L., The Criminalization of Immigrants as a Racial Project, *Journal of Contemporary Criminal Justice*, 27(3): 261–277, 2011.

Ray, L., *Violence and Society*, Sage, London, 2018.

Richards, M., McWilliams, B., Batten, N., Cameron, C., and Cutler, J., Foreign Nationals in English Prisons: II. Some Policy Issues, *The Howard Journal of Criminal Justice*, 34(3): 195–208, 1995.

Robjant, K., Hassan, R., and Katona, C., Mental Health Implications of Detaining Asylum Seekers: Systematic Review, *The British Journal of Psychiatry*, 194(4): 306–312, 2009.

Sato, M., Hoyle, C., and Speechley, N. E., Wrongful Convictions of Refugees and Asylum Seekers: Responses by the Criminal Cases Review Commission, *Criminal Law Review*, 2017(2): 106–122, 2017.

Scott, D. and Codd, H., *Controversial Issues in Prisons*, Open University Press, London, 2010.

Sim, J., “Malignant Reality”: Mental Ill-Health and Self-Inflicted Deaths in Prisons in England and Wales, in Mills, A. and Kendall, K. (Eds.), *Mental Health in Prisons: Critical Perspectives on Treatment and Confinement*, Palgrave, London, pp. 235–258, 2018.

Solomos, J., *Race and Racism in Britain*, Palgrave, London, 1993.

Sivanandan, A., Poverty is the New Black, *Race and Class*, 43(2): 1–5, 2001.

Stumpf, J., The Process is the Punishment in Crimmigration Law, in Aas, K. F. and Bosworth, M. (Eds.), *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*, Oxford University Press, Oxford, pp. 58-75, 2013.

Virdee, S., *Racial Violence and Harassment*, Policy Studies Institute, London, 1995.

Wang, L., “‘Suitable Targets’? Parallels and Connections between ‘Hate’ Crimes and ‘Driving while Black’” *Michigan Journal of Race and Law* vol. 6 no. 2 pp. 209–236, 2001.

Warr, J., The Deprivation of Certitude, Legitimacy and Hope: Foreign National Prisoners and the Pains of Imprisonment, *Criminology and Criminal Justice*, 16(3): 301–318, 2016.

Webber, F., *The Politics of Voluntary Returns*, <http://www.irr.org.uk/news/the-politics-of-voluntary-returns/>, 2010.

Witte, R., *Racist Violence and the State: A Comparative Analysis of Britain, France and the Netherlands*, Routledge, Abingdon, 2014.

Yuval-Davis, N., Wemyss, G., and Cassidy, K., *Bordering*, John Wiley and Sons, Oxford, 2019.