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## **REPRODUCTIVE INJUSTICE IN BRITAIN: PUNISHING ILLEGALISED MIGRANT WOMEN FROM THE GLOBAL SOUTH AND SEPARATING FAMILIES.**

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### **ABSTRACT**

This article aims to show how race, gender, class and other identity markers intersect to oppress, control and discipline poor and illegalised single migrant mothers and pregnant women from the Global South. The article draws on evidence from three ethnographic studies conducted between 2008 and 2017 to shed light on the predicaments of mothers and pregnant women excluded from the welfare safety-net, who were flying under the radar due to the fear of deportation. It shows how (cr)immigration controls render women vulnerable to victimisation and harm. The second part of the article addresses imprisonment and punishment, treatment by the criminal justice system, and separation from children placed in foster care. The evidence strongly suggests that controls in Britain disrupt the core principles of reproductive justice, including reproductive autonomy and health, and to parent children in a safe and healthy environment without fear of retaliation from the government. This is being termed as racist-gendered state violence.

**KEYWORDS:** Crimmigration; Intersectionality; Migrant Women; Imprisonment; Reproductive Justice

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## INTRODUCTION AND SCOPE

Crimmigration, as coined by Stumpf (2006), refers to the merger of immigration and criminal law. This has blurred the boundary between immigration enforcement and criminal justice. Immigration breaches and irregular/unauthorised forms of migration, previously treated as civil law infractions, are now subjected to increasingly harsh criminal penalties in Britain (Aliverti, 2017). At the same time, the immigration offence categories continue to expand, and immigration authorities and police are given greater powers to raid, search/seize, and arrest those who lack legal status and are considered detainable/deportable. The successive British governments have systematically directed hostility and dragged certain migrant groups into punitive circuits (Bhatia, 2020). Overall, the criminal justice system (CJS hereafter), has undergone drastic changes to become part of the control of immigration, so as to exclude, stop and banish racialised ‘others’ (Bosworth et al., 2018).

Hartry (2012a) argues that crimmigration has specific gendered impacts and calls for greater attention to be paid to gender as a unit of analysis alongside race and class. Doing so will produce a complex picture of how gender interacts with CJS and immigration enforcement, and also bring into focus the relationship between families and the state. More recently, Cervantes et al. (2017) have analysed the racialised-gendered logics used to justify the confinement of Latina immigrants in the U.S., pointing out that feminised and infantilised discourses mask a range of punitive enforcement practices, and positions the state as a paternalistic protector of so-called ‘bad mothers’ (who are then blamed for their own confinement). In Britain, Hales and Gelsthorpe’s (2012) research highlights the multiple forms of victimisation experienced by migrant women (including trafficking, sexual violence and rape) – which is disregarded by the system – and women are re-traumatised through detention and imprisonment. Similarly, Dingeman et al. (2017) highlight women’s negative experiences with crimmigration in the US and how these are exacerbated by their gendered statuses. The victimhood of some women rather than their ‘offending’ leads to their entanglement with the system. According to Menjívar and Abrego (2012), the state acts less as an agent of benevolence than an arbiter of legal violence, contributing to a continuum of abuse encountered by female immigrants (Dingeman et al., 2017; see also Bosworth et al., 2016; Matos et al., 2019; Ogg, 2019; Abji, 2020).

The state constantly attempts to control migrant women's bodies, as biologically reproducing 'undesirable' migrant females are seen as multiplying the immigrant 'threat', transgressing cultural, sexual and racial boundaries (Hartry, 2012b). In the US, this has resulted in increased profiling and targeting of women of child-bearing age and pregnant individuals for confinement and removal – to prevent them from giving birth and eliminate the possibility of their children gaining US citizenship (Hartry 2012b). While analysing the situation in Britain, Tyler (2013) argues that racialised-gendered tropes of 'birth tourists' and 'scroungers' have generated fears about the erosion of the National Health Service and welfare. The spectre of the 'conniving reproductive migrant' has led to pregnant women and mothers becoming sites of intensive management and criminalisation, and their bodies as corporeal borders of the British state (Tyler, 2013). Under the British Nationality Act 1981, children born to precarious status mothers are not entitled to British citizenship. Not only are these children rendered de facto stateless, at birth they also become subject to racialised border controls (Tyler, 2013).

Black feminists have long argued that oppression cannot be viewed from a single axis framework, and is better understood as being formed by intersecting and interlocking systems (Davis, 1981; Crenshaw 1991, 2012; Roberts, 1997, 2012; Ross, 2017). The aim of this article is to uncover how gender, race, class, sexuality, marital and migration status intersect to oppress, control and discipline poor/illegalised single migrant mothers and pregnant women from the Global South<sup>3</sup>. The initial sections of the article highlight the framework and methodology. This is followed by two substantive empirical sections. The first highlights the predicament of mothers and pregnant women excluded from the welfare safety-net, and 'flying under the radar' due to the fear of (cr)immigration enforcement. It shows how British laws and practices render women vulnerable to victimisation and impact their reproductive autonomy. The next part brings to the surface the narratives and experiences of single migrant mothers using fake ID documents to survive and escape state controls and who were consequently imprisoned for violating immigration laws. It explains their treatment by the CJS, the trauma inflicted through punishment and separation from their children who were placed in foster care, and disrupted mothering. The conclusion reflects on the reproductive injustice resulting from criminalising, heteropatriarchal and racist laws and practices.

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<sup>3</sup> Important note: migrant gender diverse people may also be pregnant and experience criminalisation and harm, in some cases intensified by their gender expression and/or sexuality.

## REPRODUCTIVE JUSTICE FRAMEWORK

Reproductive justice (RJ hereafter) is a critical/intersectional framework that describes how various identity markers influence reproductive politics and produce complex structures of (reproductive) oppression. The concept was created to move analytically and politically beyond individual rights and the marketplace of ‘choices’ that fails to capture the challenges and realities facing poor racialised women and marginalised people<sup>4</sup> (Davis, 1981; Ross, 2017). By infusing reproductive rights with principles of social justice, RJ emphasises one’s ability to make personal reproductive decisions and draws attention to the lack of physical and cultural safety and systemic inequality (Ross, 2017). RJ is centred around three interconnected human rights values: the right to not have a child using birth control, abortion, or abstinence; right to have a child; and to parent children with dignity, in a safe, healthy, and risk-free environment, and without any fear of retaliation or violence from the government or individuals (Ross, 2017). The RJ framework challenges heteropatriarchy, capitalism, misogyny, and white supremacist ideologies, and exposes how poor racialised women’s bodies/reproductive choices are used as a battleground for population and community controls and in shaping white national identity and nation-building projects (Roberts, 1997, 2012; Ross, 2017; Abji and Larios, 2021).

Immigration controls and reproduction have a dialectical relationship with discourses of identity and belonging, and they reinforce the boundaries of insider/outsider and who should be included/excluded from the modern nation-state (Lonergan, 2012). In Britain, poor ethnic minority migrant women are constructed as ‘bad mothers’ and ‘unBritish’ and their children as ‘less valued’ (Lonergan, 2012; see also Reynolds et al., 2018). The women are seen as someone from whom the ‘vulnerable’ (white) nation needs protecting. Through the discourses of ‘bogus’ and ‘scrounging’, women are represented as an unbearable burden the nation will have to bear – especially when their children or unborn foetuses, once born, take up residence (Escobar, 2016). Dependency and criminality are remapped on their reproductive bodies, and they are villainised and subjected to punitive strategies, surveillance,

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<sup>4</sup> According to RJ, institutional forces such as racism, sexism, colonialism, and poverty influence people’s individual freedoms in societies. There are also other factors – such as ability, gender identity, carceral status, sexual orientation, and age – all of which can result in reproductive oppression (Ross, 2017).

and exclusion (Luibhéid, 2014; Escobar, 2016). This article offers an analysis of the phenomena and impact of crimmigration in Britain through the conceptual lens of RJ. The framework provides intellectual tools to (a) contextualise the stories and experiences of migrant mothers and pregnant individuals, and (b) uncover the structural conditions created by an adroit series of hostile measures that control and exclude women and restrict their reproductive autonomy, motherhood, and liberty in differing ways – to maintain Britain as a bordered and racially ordered society.

## **METHODOLOGY**

The empirical data on which this article is based come from three studies conducted between 2008 and 2017. The first investigated the impact of immigration policies and procedures, paying close attention to the survival strategies adopted by asylum seekers, those whose claims got rejected, and precarious status migrants. It involved over eighteen months fieldwork with three migrant charity organisations. Along with field observation, documentary evidence and reports and approximately 110 case files were also included. The next two projects followed a similar pattern. The second project involved fieldwork at two migrant organisations over a four-month period. The aim of the study was to understand and document the impact of destitution and homelessness among refused asylum claimants and precarious status migrants. Around 40 case files were included in the research. The third project investigated the deportation process and resistance, involving eight months fieldwork and included 45 case files and other documents.

Over the three studies, a total of 15 women were (repeat) interviewed. The women came from various parts of Africa<sup>5</sup> (Sudan, Zimbabwe, Eritrea, Nigeria, Morocco, Somalia, Congo and Uganda). Some participants applied for asylum on arrival, and others after a few months/years of living undocumented. Some individuals fleeing insecure situations chose not to seek asylum and instead used false documentation. Also, nine specialist practitioners were (repeat) interviewed across three studies – including charity social workers, homeless shelter

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<sup>5</sup> An overwhelming number of women who approached the organisation were from Africa. The exact reason behind this is not known to the author; however, it could in part be the result of official dispersal policy involving the re-location of asylum seekers to parts of the country linked with their ethnic/language clusters. The organisations also received a large number of single men from Africa and the Middle-East. All of these countries have established diaspora communities and strong historical, linguistic and colonial ties to Britain.

and migrant rights charity managers, a clinical psychologist, and a general practitioner/doctor. To protect anonymity and confidentiality, pseudonyms are used throughout this article and any traceable information has been removed. The studies did not set out to look for violence and reproductive injustices; rather, the data and individual stories inductively led the author to reflect on these areas. For further discussion on reflexivity, ethics and positionality – see Bhatia, 2014.

## CRIMMIGRATION CONTEXT

In Britain, people seeking asylum are offered limited support – this includes housing on a no-choice basis and a cashless card offering £40.85 per week that forces recipients to live below the poverty line. Individuals are restricted from accessing employment or public funds. When a claim for asylum is rejected, support is terminated, although all the pre-existing restrictions remain intact. In certain cases, limited support is offered to destitute individuals who sign-up for ‘voluntary return’; however, many are unable to return to their country of origin due to unstable conditions (Bhatia, 2020). The British state considers ‘failed’ asylum seekers as ‘illegal’ migrants and ‘undeserving’ of welfare support (Home Office, 2015). During the fieldwork destitute individuals were often concerned about finding safe/secure shelter and food which often diverted the focus from the asylum claim, thereby leaving them in the illegalised domain. Pregnant individuals whose claims are rejected are given accommodation and support limited to six weeks before the expected date of delivery until six weeks after birth. Various reports continue to highlight that accommodation is sub-standard, degrading and breaches health and safety regulations, and has a peculiar impact on those who are pregnant (see next section)<sup>6</sup>.

In 2010, the government launched a ‘hostile environment policy’<sup>7</sup>. Various institutions and bureaucracies now jointly work with immigration, and individuals identified as living in the country illegally may be referred to the Immigration Compliance and Enforcement (ICE). For

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<sup>6</sup> For example, see

<https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/637/637.pdf>

<sup>7</sup> Hostile environment is a set of administrative and legislative measures that created a sprawling web of immigration controls embedded within public services and communities (including schools, hospitals and police). The measures criminalise and exclude undocumented and statusless migrants and make their lives difficult, in order to force them out of the country.

instance, the National Health Service actively conducts document checks to assess the healthcare entitlement and those deemed illegal migrants are simply denied care. NHS hospitals also share patient data with ICE, which assists in tracing minor immigration breaches and finding address details of refused asylum claimants and illegal migrants (Bulman, 2019). Similarly, people with tenuous status are not allowed to access public funds and doing so is considered a criminal offence. Local Authorities have a duty to provide support where it is necessary to safeguard and promote the welfare of a vulnerable adult or a child. However, it was noted during the fieldwork that Social Services disregarded the vulnerabilities when migrants without legal status requested assistance. In two observed cases, the fieldwork organisation applied for support to Children's Services, who then passed on the cases concerning vulnerable migrant children to Adult Services. The request was subsequently rejected due to (single) migrant mothers lacking legal status and having no active case with the Home Office. Most individuals who approached the fieldwork organisations were afraid that status checks could trigger law enforcement action, and they avoided seeking help altogether.

The state has made the routes to regularisation not only expensive (due to the dramatic reduction in legal aid and consequent legal fees and also immigration fees) but also overly complex and lengthy. Adults must demonstrate twenty years of continuous residence to be considered sufficiently permanent, whereas children, including those born in Britain, are required to demonstrate living a minimum of seven years or half their lifetime in the country, depending on the circumstances, to be eligible to obtain a regular status. The Mayor of London (2020) report warns that without proper regularisation programmes, children and families remain exposed to a discriminatory hostile environment and detention/deportation. Moreover, successive governments have expanded the immigration-crime categories. There are now 89 offences, including irregular entry and stay, illegal working, fraud and forgery, various forms of deception in the immigration context, and non-compliance with immigration rules (to list a few). The recent Borders and Nationality Act (2022) further expands these categories.



## **(CR)IMMIGRATION ENFORCEMENT AND PERPETUAL CAPTIVITY: FEAR, VICTIMISATION AND THE VIOLATION OF REPRODUCTIVE AUTONOMY.**

The constant surveillance and fear of getting caught up in the enforcement dragnet creates a condition of *perpetual captivity* for women – a space defined by multi-dimensional oppression and harms (see Crenshaw, 1991 - author emphasis). Women are pushed further underground – rendering victimisation more a condition than a one-off event. They suffer violence and harms pertaining to their gender. Dr McDonald, a primary care physician and general practitioner (GP)<sup>8</sup> explained that destitute women are rendered vulnerable, and some enter intimate relationship(s) in exchange for support:

By getting into such relationships women open up to several sexually transmitted diseases. I attend to women who have been raped back in their home countries and they have been put in such situation in the UK where they repeatedly trade sex for shelter. For them it is an on-going trauma. Sometimes they openly say that “I am with this guy because he has put a roof over my head – I can eat and my child can eat”. I also attend to women who are experiencing domestic violence and physical abuse. They simply don’t want to reach out to the authorities to report or seek help ... Families and children need to be supported, but if your case is being turned down and you are terrified of getting caught and deported, then obviously you are not receiving that essential support.

The punitive immigration landscape facilitates violence and harm rather than ensuring protection (Canning, 2017; Dingeman et al., 2017). In a large-scale study conducted by Women for Refugee Women, 35% of 106 destitute women stated that destitution forced them to stay in a relationship they would not have otherwise stayed in, 38% of those who stayed in an unwanted relationship were raped by their partner, 41% experienced another form of sexual violence, and 35% were physically abused (Dudhia, 2020). Throughout the fieldwork, eight cases of domestic violence and abuse and racist-misogynistic hate crime victimisation were noted; in all cases, the individual avoided contact with the police and did not report

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<sup>8</sup> Dr McDonald was the only GP in the region who attended to precarious status migrants.

crimes. This was due to a lack of trust in those in official positions and fear of deportation<sup>9</sup>. The production of fear serves as a form of violence. A homeless shelter manager, Ken, outlined the predicament of women who get into unwanted relationships:

These women are without legal status, and many have been refused asylum. They have limited or rather no choice at all, and find themselves in awful situations, for which I solely blame the Home Office. When they are made destitute, they move in with a guy and some eventually get pregnant. When five or six months into their pregnancy they are being chucked out and back on streets. Pretty much all of them avoid seeking support, as they fear getting taken-in by the police and deported. We recently had a referral where this woman was six months pregnant and thrown out by her so-called boyfriend, who also threatened to call the immigration police.

Some of the women that we've encountered are in such a poor health ... They don't present themselves to the doctors on time and have a series of physical and mental health issues due to being destitute and carrying a baby at the same time. This is a very important period, and women need stability, proper nutrition and no stress. But women who come to us are so anxious about getting locked-up and deported and that takes over everything.

Criminalised and racialised migrant women experience pregnancy and motherhood in captive conditions (that extend beyond prison/detention). The state systematically facilitates their reproductive oppression. Further, as outlined earlier, women are given limited support during pregnancy. In seven observed cases, women who applied for the support were given unsafe and unsanitary accommodation. In one recorded case, a woman in the late stages of pregnancy was moved into a property infested with rats and water leakage. Requests for her relocation by the organisation and doctor were ignored by the authorities. This eventually led to the woman accidentally slipping and fracturing her leg. She then developed a blood clot because of her immobility and eventually delivered a baby while still recovering from the broken leg. A normal pregnancy became complicated and filled with risks due to sheer neglect and denial of care.

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<sup>9</sup> In 2018, two leading organisations, Southall Black Sisters and Liberty, initiated a “super-complaint” against police forces for sharing victim’s immigration details with the Home Office.

It is important to note that not receiving adequate welfare support, safe shelter and medical care during pregnancy are recognised high-risk factors and leading causes of maternal and neonatal mortality and/or morbidity. According to Knight et al. (2019) late booking, poor attendance for antenatal care or no antenatal care are the main causes of maternal deaths, and women from minority racial groups are disproportionately likely to have suboptimal care. Black African women have a mortality rate nearly five times higher than white women, and infants born to migrant women have a higher risk of low birth weight and congenital abnormalities (Shahvisi and Finnerty, 2019). Refugee and asylum-seeking women constitute 12% of all maternal deaths (despite making up only 0.1% of the population). Similarly, babies from minority racial groups have higher infant mortality rates, and those of Pakistani, black-Caribbean and black-African origin have the highest of all at 6.7, 6.6 and 6.3 deaths per 1000 live births respectively (Office for National Statistics, 2015). In the fieldwork reported in this article, six cases were noted where women lived precariously for most of their pregnancies and beyond, and they found it difficult to register with a GP and/or access maternity care<sup>10</sup>. Some also delayed seeking support and medical help because of the previously-mentioned fears. One child was born with low birth weight and anaemia, and one birth was a stillbirth. Bukola, a West African victim of trafficking, sought support and was immediately transferred to immigration detention. She was abandoned by the brothel keeper after revealing her pregnancy. A homeless charity supported her for a few days and then advised her to apply for asylum. On approaching the authorities, she was quickly processed and held in confinement, where she received no systematic prenatal medical assessment resulting in the sexually transmitted diseases from which she suffered remaining undetected and untreated:

They kept me in detention for one entire month for being in the country illegally. It was horrible! They were feeding me, they don't insult me or beat me or anything like that. But I was so scared and used to cry every day. I could not sleep ... I was then released after one month and they put me in a shared house. I was still shaking everyday thinking they [authorities] will come back for me ... When I reach 29 weeks and I got premature baby. Look at her how tiny she is (pointing at the baby in a stroller) ... [While in the

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<sup>10</sup> The 'hostile environment' and NHS data sharing practices also deter women from accessing abortion services, see: <https://www.independent.co.uk/voices/immigration-nhs-patient-record-data-migrant-women-health-care-abortion-a8180906.html>

hospital] The nurse came to me and told me I have got a sickness called Hepatitis B and chlamydia. They treated me and my baby when she was born. You know, even in hospital I keep thinking they will come for me and take me away. I am worried all the time.

Another pregnant woman and her six-year-old daughter were held in the immigration detention centre. According to the documentary evidence, the woman suffered a miscarriage as soon as she was released. Detention brutally degrades pregnancy and childbearing, rendering them sites of reproductive injustice (Abji and Larios, 2021). Bukola's narrative reveals that 'illegality' overshadowed her status as a pregnant trafficking victim or, rather, it was her victimhood that resulted in her entrapment in crimmigration enforcement (see also Hales and Gelsthorpe, 2012; Digeman et al., 2017). Bukola was disbelieved and considered manipulative from the outset – resulting in her immediate detention and inadequate medical screening. Bukola's body became a corporeal border, and the focus was solely placed on removing her and the unborn foetus from Britain. Further, at the time of the interview, her claim was rejected, and she was finding it difficult to locate a local legal aid solicitor, thereby exacerbating her stress and adversely affecting her parenting. People whose claims are refused increasingly find themselves in a Catch-22 situation – where they have no active case and at the same time cannot access legal advice easily – leading to the withdrawal of support, destitution, and at risk of deportation. This lack of access to justice also adds to women's vulnerability – as explained by, Elaine, a social worker for a charity:

My client said that she was sleeping with a man who paid for her solicitor fees, as she was refused legal aid to fight her asylum case. He also provided her with food and a place to sleep. She eventually got pregnant and recently had a baby. She is depressed as a result of all this, and finding it very difficult to look after her child.

The predatory controls in Britain have disrupted the core principles of reproductive justice – the right not to have a child, the right to have a child and right to parent children in safe, healthy and risk-free environment and without any fear or retaliation from individual or the state. Marginalised women from racial minority and migrant backgrounds are pushed in precarious conditions and unhealthy environments, and no regard is given to their health, well-being, and safety. The next section analysis the punishment of migrant women who were caught violating immigration laws and committing crimes to survive. It shows how the

system corrals women and families into punishment regimes and consequently inflicts violence and harm.

## **REPRODUCTIVE JUSTICE DISRUPTED: (CR)IMMIGRATION ENFORCEMENT AND MOTHER-CHILD SEPARATION**

Some study participants chose to not apply for asylum on arrival in the UK, as they were informed by compatriots about many years of waiting and the ever-present threat of detention and deportation. Therefore, they avoided the system altogether and bought fake identity documents to gain employment. One participant, Eunice, was fleeing a violent situation and was re-victimised during transit. She chose not to apply for asylum as she was convinced that Britain's refugee system was inhumane and feared deportation. Therefore, Eunice obtained a forged European Identity Card and began a new life under the alias of 'Cécile', an EU citizen. She found a job, paid taxes, and became a known member of the community. A few years later, she had her first child and was the sole provider, as her relationship with the child's father ended during the fifth month of her pregnancy. Soon after the child's second birthday, Eunice was made redundant and could not find alternative employment due to childcare issues. After exhausting her savings over the next two years, she decided to use the fake ID to seek welfare support but was caught out by the authorities:

They [Her Majesty's Revenue and Customs] have taken taxes and national insurance from my wage [for over seven years] and I have never ever received any support or [welfare] benefits. So, even though my ID was fake, my work was legal ... They [an employee at the Job Centre] asked me for my pay slips, P45, my previous address, and an ID with picture. I gave them my [European Country] ID. They told me nothing is coming on the system and then they asked me to come back the next day. When I went there again, the police were waiting for me. They took me to the police station and questioned me regarding my real identity. Then they let me go the first time and asked me to report at the Immigration Reporting Centre... Now I had no savings, no job, no help, and my request for benefits [i.e., welfare support] turned into a fraud case.

The lack of alternatives, criminalised survival, combined with surveillance and social control, often renders racialised women arrestable, incarcerable and deportable (Crenshaw, 2012). The police and immigration authorities released Eunice without arranging for any financial support to meet her daily expenses or for the care of her 4-year-old child, and social services refused to offer any material support due to her lack of legal status.

The fieldwork revealed that social services had extremely stringent criteria for granting support to migrants lacking status. Moreover, migrant mothers, and specifically African mothers, who requested assistance, were denied help and treated harshly. In one observed encounter, a welfare services employee asked the charity organisation worker to furnish DNA proof that linked the mother (i.e., service user) to the child, and refused to accept the child's birth certificate as adequate evidence. The employee deployed the racialised-gendered trope to disregard the woman's vulnerability, portraying African women as conniving and accusing them of using other people's children to 'sponge-off' the welfare system. In Eunice's case, the refusal of support and imminent risk of destitution pushed her into an office cleaning job from 5 am until 8 am. However, on one occasion, she was made to work overtime; her (frightened) daughter went looking for her and was saved by a passer-by from being run over by a vehicle. This resulted in Eunice being charged with a second offence i.e., child neglect. Her daughter was immediately taken into care by Social Services. Eunice explained her interaction with law enforcement and foster care:

See, when I look back, I have gone through a lot. To come so far and at this stage of my life – honestly, I couldn't have survived without my child. To take her away from me was like worst moment of life ... The police woman looked at me and said: '*You're a bad mother*'. No, I am not a bad mother. How could she say something like that? Then she said: '*you will be lucky to have your child back*'. Honestly, I thought they will never give me my child back [starting to cry]. I have not slept properly since the day took her away. All I think about is how she is doing, is she eating properly, are those people looking after her?

One day I decided to commit suicide. I felt that my life is useless and my daughter will have a stable life with a foster parent from this country. Then I realised that if I lived, I would be able to tell her what happened to her mother and how much she

loved her baby. But if I died, she will never know about me and what happened to me. I don't want anyone to ever tell her that I was a bad mother! So, I had to live.

Eunice also mentioned that female officers accused her of having a child only to obtain welfare handouts and remain in the country. They questioned the 'genuineness' of her maternal bond and indicated she was 'unfit' to be a mother. Roberts (2012) argues that unmarried racialised mothers are often represented as irresponsible and negligent, and these stereotypes are reproduced and reinforced by the criminal justice authorities – who treat them as naturally prone to crime and abusing their children. Eunice was once again taken to the police station and subsequently released on bail. To prove that she was not a 'bad mother', she started meeting child protection social workers on a regular basis, and three months later regained custody of her daughter.

Eunice and her daughter were reunited and lived together for two weeks before her court hearing (that she gave author permission to observe from the public gallery). Prior to the hearing she said: "I don't want to go to prison. I am scared they will take my daughter away forever and deport me. I just don't want to live a day away from her" [fieldnotes]. Eunice had experienced the profound pain of separation. She mentioned that at every supervised visit her daughter cried or appeared upset and quiet, and witnessing her emotional responses made her feel like a failure as a mother and woman. Eunice considered the past three months an intense form of punishment.

Before articulating his sentencing decision, the judge stated:

... You have pleaded guilty to two offences, one in relation to the use of a false identity and the other to an offence of neglect in relation to your four-year-old child. The offence in relation to the false identity document was a X [European country] identity card which you produced in order to obtain a national insurance number and therefore to obtain benefits. The use of a [false] identity card is a very serious offence... identity card is a document which is meant to be used in place of a passport within the EC by [EU country] nationals. When a false identity document is produced it is always regarded by the court as a serious offence and these cases do cross the custodial threshold. When you were on police bail for that offence you had

left your four year old daughter ... and you had gone out shortly after five in the morning, and then at nine o'clock in the morning your four year old was seen walking... is a serious offence as well... you are a woman of mature years, you are hard-working ... you are living in difficult circumstances with the care of your daughter, you had to resort to using a false identity card or document because of the position you are in, because of your immigration status but apart from those problems you had found almost continual employment and I have read references which speak highly of you. It is always sad, genuinely tragic in cases such as yours when people come before the court in your position. But the use of false identity documents as I say are offences which must be met with custodial sentences and I regret to say there is no alternative to that here. Thank you. (Judge's narrative; Fieldnotes, date anonymised)

The judge's remarks depict a two-fold tension; he highlights the facts of the case and criminal intent, which renders Eunice punishable in a legal sense. He acknowledges the difficulties she encountered as a single mother and primary caregiver to a young child. In so doing, he not only comes across as sympathetic, but also shows what Aliverti (2020:1126) calls "moral discomfort" with the border work. The later part of the judge's narrative demonstrates an awareness that people without legal status are illegalised and prevented from being considered lawful or even given the chance to be a law-abiding citizen. It is clear that the judge interpreted illegal status as a condition from which Eunice was trying to escape to lead a stable life. At the same time, however, he deploys a racialised narrative of bordering to authorise Eunice's punishment (Lousley, 2020). The judge constructs a 'good immigrant worker' as someone who is hardworking and in continual employment – a colour-blind trope that taps into the white nationalist narrative of immigrants with neoliberal ideals and establishes individual value to the notion of 'genuineness' and 'deservingness'. Since Eunice was a single migrant mother who tried to access welfare (and went from being productive to reproductive to unproductive and thereby valueless), she became a 'burden'. She then violated immigration laws and neglected her child, which also turned her into a 'bad' migrant and an 'unfit' and 'irresponsible' mother, resulting in her imprisonment. Her daughter was returned to foster care. In this case (and the ones below), the (cr)immigration system and foster care functioned to discipline and control, and subjected women to intense state supervision and abandonment. Roberts (2012:1491) terms this as "system intersectionality".



Eunice was handed a concurrent prison sentence of 12 months. Ironically, the Sentencing Guidelines list factors reducing seriousness or personal mitigation in cases where defendants are also primary caregivers. Minson (2019) lists the principles established through past legal decisions that instruct judges to take dependents into account, as follows: a) right to family life is not automatically lost because of conviction; b) courts need to weigh the rights of parent and child against the seriousness of the offence; c) there needs to be a compelling reason to separate a dependent child from their mother; d) the welfare and best interest of the child must be considered before passing a judgement. Treating immigration breaches as ‘serious crimes’ is problematic, as they do not fulfil the harm principle and are also non-violent in nature (Aliverti, 2017). Eunice and other participants were given prison terms. However, they were primary caregivers, and a few also had a detailed pre-sentence report from probation workers highlighting the vulnerabilities of both mother and child (which was ignored by the courts). According to the Hibiscus Initiative (2018), each year, migrant women account for over 12% of all women imprisoned and nearly 19% of those on remand. Over three-quarters were imprisoned for non-violent offences. The report further outlines that out of 585 women supported by the organisation between 2013 and 2017, half were held in prison on remand, and 49% of those given a custodial sentence were serving 12 months or less. Around 38% (222 women) had dependent children, and over a fifth of these had children younger than five years. The British state does not compile data on how many children from migrant and racial minority backgrounds are separated from their mothers, and the true extent of the problem is unknown.

In the case of Justine, a single mother, police arrived at the house looking for another person suspected of an offence and had a warrant to enter and search the premises. However, Justine was the only adult present at the property, and the police officers took her fingerprints to check the database. Justice also used a fake ID to live and work in the country and was caught violating the immigration rules. Therefore, she was taken into custody, and her 2½-year-old son, was passed to social services. Justine explained her treatment during arrest and lack of communication, and resultant distress:

I said [to the police officers: I don’t want to leave my child. They said: *‘you have to!’* After a few hours, two social workers came to ask: *‘do you have any relatives?’* I said: No. They took my child away. After that I did not hear from them. The next day they took me to the Magistrates’ Court ... Solicitor requested judge for bail, as I had a

little child but he [i.e., the judge] said 'no'. They kept me in [remand] prison. Two weeks later I came to know about my son. After a few weeks the [prison] officer called: '*Justine you have a court hearing via video link*' ... Judge then said: '*charges number one section xx, charges number 2*' [rhyming all the charges] and then: '*guilty or not guilty*'? I went mad and screamed: guilty, guilty, guilty. I couldn't understand what they were charging me for? ... Judge gave me 8 months [custodial sentence]

Justine found the entire legal process and sentence unjust and dehumanising and was deeply concerned about her son's well-being. Minson's (2019) study revealed that some judges were resolved that parenthood made defendants more culpable. They acknowledged the child's trauma and suffering but blamed the mother for the damage. Others established the mother's worth by reference to her criminal activity and expressed that the child will be better off without them. It could be argued that judges viewed migrant mothers as not conforming to Western notions of 'good' motherhood (Ogg, 2019). Therefore, they authorised the removal of children from their care and kept them under intense state supervision. In so doing, the judges ignored the breadth and depth of consequences and the harmful impact of imprisonment on the mother and child (also see Baldwin, 2015 and her work more generally).

Mothers often assumed that separation was permanent, and they would be deported without being re-united with their child – exacerbating anxiety and distress. Justine was not informed of the whereabouts of her son for over two weeks following her arrest. After repeated requests to the prison officers, she was put in touch with the foster carers looking after him. At that point, she was also informed that the foster carers lived a significant distance from the prison – which later impacted on the frequency of visits and intensified the pain of separation. Another participant, Ikeoluwa, a victim of trafficking, had a similar experience. She escaped the perpetrator and started working with the help of fake documents and was eventually caught and prosecuted. During the trial she passed a letter to the judge requesting a community sanction, mentioning her 18-month-old daughter who was being breastfed. Her request was rejected, and Ikeoluwa was sentenced to 4 months imprisonment. Ikeoluwa explained that the prison sentence and disrupted mothering significantly impacted her daughter's health, and also caused her to miss crucial vaccinations and hospital appointments. Ikeoluwa presented several before/after separation pictures of her daughter and emphasised her drastic weight loss and poor health. According to Bail for Immigration Detainees (2013), migrant children taken into care/fostering arrangements during their parents' confinement

experienced extreme distress. Further, the international psychological evidence strongly suggests that forced separation and parental loss arising from detention and deportation are potentially traumatic events adversely impacting a child's mental health (Roja-Flores et al., 2017). The children are simply treated as collateral damage by the crimmigration system, and their separation from mothers is nothing short of government-sanctioned child abuse.

Gracie, who was caught by police during an immigration raid and taken into custody, had a 3-year-old son with partially diagnosed developmental and learning disorders. However, they were separated and he was handed over to social services. During her interview Gracie said:

I was in the cell, I was so depressed. All I was thinking was 'what is happening to me?' My son has an autistic problem, and he cannot talk... the solicitor told me they will release me on bail, if I tell everything truth about my situation ... I was sentenced for 6 months. The social workers came to counsel me and said my child will be fine.

They bought my son [to prison] one day and I was not happy. I collapsed. Even after he left, I couldn't eat for one week. I am a single mum, I live with him alone, I wake up with him...they took away me, away from me. I could only see my son for only 1 hour, so I requested them not to bring him again. He cried a lot, he is autistic. He doesn't understand what is happening. I cried a lot thinking about him.

Gendered racism and violence intersect in the lives of migrant mothers, who become entangled in the vicious crimmigration system and are unable to raise children in safety and with stability and dignity. The women in this study were released from prison without any assistance from the state or accommodation and had to seek help from community care and family solicitors. The entire process delayed mother-child reunification. The system imposed draconian obstacles on their successful re-entry and reintegration, as they lacked legal status and were already considered a burden. At some point after their release from prison, except for Eunice, all the women were also subjected to electronic monitoring. The device held them in perpetual captivity, induced the troubling feeling of being constantly watched by the state, and heightened their fear of deportation. This also made it difficult to continue mothering (for more details about the impacts of post-release conditions and electronic monitoring imposed by the immigration authorities, see Bhatia, 2021).

## CONCLUSION

The degradation of migrant women and snatching away children and infants from their mothers is not something that only happened in the US during Donald Trump's presidency. It is an integral part of Britain's (cr)immigration system. However, the issue has remained disguised and shielded from public scrutiny. Captivity inside and outside prison has a distinct and detrimental impact on women's reproductive lives, their children and unborn foetuses, and their ability to parent their children with dignity and raise them in a safe and healthy environment. Incarcerated migrant mothers and their separated children go through a trauma intentionally and deliberately inflicted by the British government. The architectural plan of control and captivity is shaped by the racist, white supremacist, heteropatriarchal, capitalist state that has historical connections with slavery and colonialism. The plan is centred around reproductive control (as a means of migration and racial control), and it undermines the core principles of reproductive justice and drives *reproductive oppression*. Migrant women's human rights are systemically violated, and they are subject to racist-gendered state violence.

Through the RJ framework, laws, policies and practices can be effectively challenged, and state and institutions can be held accountable for violating reproductive liberty and human rights. The activism against prisons, borders and immigration controls in Britain needs to re-orient the debate to include reproductive injustice to build a stronger and more effective movement against state racism, misogyny, violence and repression.

## REFERENCES

- Abji, S. 2020. "Punishing Survivors and Criminalizing Survivorship: A Feminist Intersectional Approach to Migrant Justice in the Crimmigration System." *Studies in Social Justice* 14(1): 67-89. doi:<https://doi.org/10.26522/ssj.v2020i14.2158>
- Abji, S., and L. Larios. 2021. "Migrant justice as reproductive justice: Birthright citizenship and the politics of immigration detention for pregnant women in Canada." *Citizenship Studies* 25(2): 253-272. doi:<https://doi.org/10.1080/13621025.2020.1859186>
- Aliverti, A. 2017. "The wrongs of unlawful immigration." *Criminal Law and Philosophy* 11(2): 375-391. doi:<https://doi.org/10.1007/s11572-015-9377-y>
- Aliverti, A. 2020. "Benevolent Policing? Vulnerability and the Moral Pains of Border Controls." *British Journal of Criminology* 60(5): 1117- 1135. doi:<https://doi.org/10.1093/bjc/azaa026>

- Bhatia, M. 2014. "Researching 'Bogus' Asylum Seekers, 'Illegal' Migrants' and 'Crimmigrants'". In Lumsden, K., and Winter, A. (eds) *Reflexivity in Criminological Research*, 162-177), London: Palgrave Macmillan
- Bhatia, M. 2020. "Crimmigration, Imprisonment and Racist Violence: Narratives of People Seeking Asylum in Great Britain". *Journal of Sociology* 56(1): 36-52. doi <https://doi.org/10.1177/1440783319882533>
- Bhatia, M. 2021. "Racial Surveillance and the Mental Health Impacts of Electronic Monitoring on Migrants". *Race & Class* 62(3):18-36. doi <https://doi.org/10.1177/0306396820963485>
- Bail for Immigration Detainees. 2013. *Fractured Childhoods: The Separation of Families by Immigration Detention*. London: Bail for Immigration Detainees.
- Bosworth, M., Fili, A., and Pickering, S. (2016). "Women's Immigration Detention in Greece: Gender, Control and Capacity". In Guia, M., Koulis, R., and Mitsilegas, V. (eds) *Immigration Detention, Risk and Human Rights*, 157-170, Cham: Springer.
- Bosworth, M., A. Parmar, and Y. Vázquez, eds. 2018. *Race, Criminal Justice, and Migration Control: Enforcing the Boundaries of Belonging*. Oxford: Oxford University Press.
- Bulman, M. 2019. "Home Office Still Using NHS Patient Data for Immigration Enforcement Despite Suggesting it Would End Practice." *The Independent*, February 3. <https://www.independent.co.uk/news/uk/home-news/home-office-nhs-data-sharing-immigration-enforcement-a8761396.html>
- Canning, V. 2017. *Gendered Harm and Structural Violence in the British Asylum System*. Abingdon: Routledge.
- Cervantes, A G., C. Menjivar, and W. G. Staples. 2017. "'Humane' Immigration Enforcement and Latina Immigrants in the Detention Complex." *Feminist Criminology* 12(3): 269-292. doi:<https://doi.org/10.1177/1557085117699069>
- Crenshaw, K. 1991. "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color." *Stanford Law Review* 43: 1241-1299. doi:<https://doi.org/10.2307/1229039>
- Crenshaw, K. W. 2012. "From Private Violence to Mass Incarceration: Thinking Intersectionally About Women, Race, and Social Control." *UCLA Law Review* 59: 1418-1472.
- Davis, A. Y. 1981. *Women, Race, and Class*. New York: Vintage.
- Dingeman, K., Y. Arzhayev, and C. Ayala 2017. "Neglected, Protected, Ejected: Latin American Women Caught by Crimmigration." *Feminist Criminology* 12(3): 293-314. doi:<https://doi.org/10.1177/1557085117691354>
- Dudhia, P. 2020. *"Will I Ever be Safe?" Asylum-seeking Women Made Destitute in the UK*. London: Women for Refugee Women.

- Escobar, M. D. 2016. *Captivity Beyond Prisons: Criminalization Experiences of Latina (Im)migrants*. Austin: University of Texas Press.
- Hales, L., and L. Gelsthorpe. 2012. *The Criminalisation of Migrant Women*. Cambridge: Institute of Criminology, University of Cambridge.
- Hartry, A. S. 2012a. "Gendering Crimmigration: The Intersection of Gender, Immigration, and the Criminal Justice System." *Berkeley Journal of Gender Law & Justice* 27(1): 1-27. doi:<https://doi.org/10.15779/Z38TM72082>
- Hartry, A. S. 2012b. "Birthright Justice: The Attack on Birthright Citizenship and Immigrant Women of Color." *NYU Review of Law and Social Change* 36(57): 57-101.
- Hibiscus Initiative. 2018. *Still No Way Out: Foreign National Women and Trafficked Women in the Criminal Justice System*. London: Prison Reform Trust.
- Home Office. 2015. *Reforming Support for Failed Asylum Seekers and Other Illegal Migrants*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/473284/Response\\_to\\_Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/473284/Response_to_Consultation.pdf) (accessed on 19th January 2022).
- Knight, M., K. Bunch, D. Tuffnell, J. Shakespeare, R. Kotnis, S. Kenyon, and J. J. Kurinczuk. 2019. *Confidential Enquiries into Maternal Deaths and Morbidity*. <https://www.npeu.ox.ac.uk/assets/downloads/mbrace-uk/reports/MBRRACE-UK%20Maternal%20Report%202019%20-%20WEB%20VERSION.pdf>
- Lonergan, G. 2012. "Reproductive Justice and Migrant Women in Great Britain." *Women: A Cultural Review* 23(1): 26-45. doi:<https://doi.org/10.1080/09574042.2012.644490>
- Lousley, G. 2020. "Sentencing 'Unwanted' Migrants: The Border, Racism, and Narrating Punishability." *Critical Criminology* 28: 209-224. doi:<https://doi.org/10.1007/s10612-020-09513-5>
- Luibhéid, E. 2013. *Pregnant on Arrival: Making the Illegal Immigrant*. Minneapolis: University of Minnesota Press.
- Matos, R., F. Esposito, and M. Bosworth. 2020. "Gender, Vulnerability and Everyday Resistance in Immigration Detention: Women's Experiences of Confinement in a Portuguese Detention Facility." *International Journal for Crime, Justice and Social Democracy* 9(3): 5-20. doi:<https://doi.org/10.5204/ijcjsd.v9i3.1588>
- Mayor of London. 2020. *London's Children and Young People who are not British Citizens: A Profile*. Available at: [https://www.london.gov.uk/sites/default/files/final\\_londons\\_children\\_and\\_young\\_people\\_who\\_are\\_not\\_british\\_citizens.pdf](https://www.london.gov.uk/sites/default/files/final_londons_children_and_young_people_who_are_not_british_citizens.pdf) (accessed on 3rd February 2022).
- Menjívar, C., and L. Abrego. 2012. "Legal Violence: Immigration Law and the Lives of Central American Immigrants." *American Journal of Sociology* 117(5): 1380-1421. doi:<https://doi.org/10.1086/663575>

Minson, S. 2019. *Maternal Sentencing and the Rights of the Child*. London: Palgrave.

Office for National Statistics. (2015). Pregnancy and Ethnic Factors Influencing Births and Infant Mortality. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/pregnancyandethnicfactorsinfluencingbirthsandinfantmortality/2015-10-14> (accessed on 17th May 2019).

Ogg, K. 2019. “Sexing the Leviathan: When Feminisms and Crimmigration Meet.” In *Crimmigration in Australia* edited by P. Billings, 63-87. Singapore: Springer.

Reynolds, T., Erel, U., and Kaptani, E. (2018). “Migrant mothers: Performing kin work and belonging across private and public boundaries”. *Families, Relationships and Societies*, 7(3), 365-382.

Roberts, D. 1997. *Killing the Black Body: Race, Reproduction and the Meaning of Liberty*. New York: Vintage.

Roberts, D. 2012. “Prison, Foster Care, and the Systemic Punishment of Black Mothers.” *UCLA Law Review* 59: 1474-1500.

Roja-Flores, L., H. J. Koo, and J. London 2017. “Trauma and Psychological Distress in Latino Citizen Children Following Parental Detention and Deportation.” *Psychological Trauma: Theory, Research, Practice, and Policy* 9(3): 352–361.  
doi:<https://doi.org/10.1037/tra0000177>

Ross, L. 2017. “Conceptualizing Reproductive Justice Theory: A Manifesto for Activism”. In *Radical Reproductive Justice*, edited by Ross, L., L. Roberts, E. Derkas, W. Peoples, and P. B. Toure, 170-232. New York: Feminist Press.

Shahvisi, A., and F. Finnerty 2019. “Why it is Unethical to Charge Migrant Women for Pregnancy Care in the NHS.” *Journal of Medical Ethics* 45(8): 489-496.  
doi:<https://doi.org/10.1136/medethics-2018-105224>

Stumpf, J. 2006. “The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power.” *American University Law Review* 56(2): 367-419.

Tyler, I. 2013. *Revolting Subjects: Social Abjection and Resistance in Neoliberal Britain*. London: Bloomsbury Publishing.