

# Continued and intensified hostility: The problematisation of immigration in the UK government's 2021 *New Plan for Immigration*

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## Abstract

Drawing on Bacchi's (2009) 'What's the problem represented to be?' framework, this article provides a critical analysis of HM Government's (2021a) *New Plan for Immigration*. We explore how immigration is problematised, the assumptions that underlie these problematisations, alternative ways of representing the 'problem' of immigration, and the possible effects of the proposed reforms. Our article demonstrates how the *New Plan* is increasingly hostile towards, not only 'illegal' migrants, but an ever-widening group of people and organisations who may be viewed as facilitating illegal entry (organised criminals, hauliers) and/or those held responsible for preventing/delaying their removal (lawyers). The government's proposals risk creating a two-tiered system, increasing the exclusion experienced by those seeking asylum, and widening the net of those held responsible for immigration control. Ultimately, we conclude that while the sentiments behind the government's *New Plan* may not be all that 'new', they are nevertheless

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significant for their continuation and intensification of existing hostile policies and practices relating to immigration in the UK. This is especially so, given a number of recent global events that could have provided an opportunity to disrupt the government's problematisation of, and hostility towards, people seeking refuge.

### **Keywords**

asylum, immigration, Bacchi, hostile environment, problem representation

## **Introduction**

A growing body of scholarship has explored the increasing criminalisation and securitisation of migration in western societies, whereby expanding groups of 'others' are constructed as 'threats'. These 'threats' include those to: personal and national security due to crime and terrorism; public health through the spreading of disease (seen recently with Covid-19); the economy and public/social services; and, community cohesion and 'national identity'. Although migrants are vulnerable in legal and socio-economic status, 'foreigners are often said to pose particular existential and ontological challenges to citizens ... [because of] ... [t]heir unfamiliar cultural, historical and personal expectations and experiences' (Bosworth, 2008: 201). They are framed, in other words, as 'unknowable', 'ungovernable' and 'thereby dangerous' (Malloch and Stanley, 2005: 54), which legitimises the 'need' for 'extreme immigration control measures' (Hirschler, 2021: 9).

While punitive responses to migration have a sustained historical legacy in UK policymaking (Mills and Klein, 2021; see also Fekete, 2001; Hirschler, 2021; Weber and Bowling, 2004), some scholars have described a 'punitive turn in immigration control' (Jiang and Erez, 2017: 3) and a move towards 'cimmigration' (Bowling and Westenra, 2020; Stumpf, 2006), whereby the criminal law is used to manage, control and deter 'unwanted' migration. Intersecting welfare and immigration policies have also become 'increasingly restrictionist' (Zetter and Pearl, 2000 cited in Mills and Klein, 2021) with 'destitution' representing a key technology, in an attempt to deter, and ultimately deny, access to welfare (see Mills and Klein, 2021 for a discussion). Successive UK governments have thus deliberately implemented policies that allow for 'destitution, exclusion and neglect' (Hirschler, 2021: 2) to 'make immigrants' lives more difficult' (Aliverti, 2015: 217).

In recent years, this can be observed through the UK Conservative government's creation of a 'hostile environment' for irregular migrants, whereby a

range of administrative and legal measures have been mobilised to limit access to employment, healthcare, housing, banking services and more. While the government has shifted the official narrative from a 'hostile' to a 'compliant' environment, the policies remain mostly intact (Griffiths and Yeo, 2021). A defining feature has been how it has infiltrated many aspects of people's lives through the 'deputisation of border enforcement' to third parties such as teachers, healthcare professionals, social workers, and landlords (Griffiths and Yeo, 2021: 24). This has led to a shift from 'gatekeeping at the border' to 'gatekeeping access to services' necessary for daily life (Dickson and Rosen, 2021: 548) and reflects the extension of migration control to a wider range of actors (Aliverti, 2015). Welfare and immigration policies now target ever widening populations, 'drawing-in citizens and lawful migrants in the process' (Griffiths and Yeo, 2021: 538). This was seen recently with the Windrush scandal whereby the government 'mistakenly barred' many British people's legal right to live, work and access welfare (see Qureshi et al., 2021; Williams, 2020), and wrongfully detained or deported at least 160 people from the UK (Rose and Lawford, 2020).

It is within this recent context, that in March 2021, the UK Home Secretary, Priti Patel, set out the government's *New Plan for Immigration*. This proposes 'comprehensive reform' of the UK asylum system, with the following three alleged objectives:

- 1) to increase the fairness and efficacy of the system in order to better protect and support those in genuine need of asylum;
- 2) to deter illegal entry into the UK, thereby breaking the business model of people smuggling networks and protecting the lives of those they endanger;
- 3) to remove more easily from the UK those with no right to be there (HM Government, 2021a: 3).

The *New Plan* has been subject to a great deal of criticism from key charities and organisations (including the Law Society, Amnesty International, and Liberty), with around three quarters of those who responded to a public consultation opposing many of the proposed reforms (HM Government, 2021b). Despite this strong opposition, the government has pushed ahead with its plans as part of the Nationality and Borders Bill, which is currently making its way through the UK parliament.

## Conceptual framework and methodological approach

Drawing on Bacchi's (2009) 'What's the problem represented to be?' (WPR) framework, this article critically examines how the *New Plan* 'problematise' immigration and asylum in the UK. We used this framework, which is

informed by governmentality and post-structuralist theories, to perform a critical analysis of the *New Plan* and the assumptions underlying it. The main task of a WPR approach is ‘to read policies with an eye to discerning how the ‘problem’ is represented within them and to subject this problem representation to critical scrutiny’ (Bacchi, 2012a: 21). Rather than solely scrutinising the ‘solutions’ proposed within policy documents, we instead worked backwards to study the ways in which the *New Plan* itself ‘creates’ or ‘constructs’ problems (Bletsas, 2012: 38). This helps reveal how ‘problematizations’ are ‘central to the practice of government - to *governing*’ (Bletsas, 2012: 38, emphasis in original). Our task was to ‘dismantle’ and place under critical scrutiny how immigration has been problematised, what implicit assumptions these problematisations rest upon, what ‘solutions’ are justified, and what is left unsaid (Bacchi, 2012b). To do this, Bacchi (2009: 48) suggests considering the following questions:

- 1) What’s the ‘problem’ represented to be in a specific policy?
- 2) What presuppositions or assumptions underlie this representation of the ‘problem’?
- 3) How has this representation of the ‘problem’ come about?
- 4) What is left unproblematic in this ‘problem’ representation? Where are the silences? Can the ‘problem’ be thought about differently?
- 5) What effects are produced by this representation of the ‘problem’?
- 6) How/where is this representation of the ‘problem’ produced, disseminated and defended? How could it be questioned, disrupted and replaced?

Bacchi’s framework has been adopted by other scholars working in the field of migration research. This includes an examination of Swedish labour migration changes (Bonfanti, 2014); Australian skilled migration policy (Chan, 2018); Danish immigration and integration policies (Vitus and Jarlby, 2021); Norwegian immigration and right-wing politicians (Fangen and Vaage, 2018); Canadian immigration policy (Huot *et al.*, 2015); and international anti-human trafficking campaigns (O’Brien, 2015). As Bacchi (2009: 154) herself suggests, ‘population, immigration and citizenship’ provide an ‘ideal opportunity’ to adopt a WPR approach when placing governing styles under critical scrutiny.

Our article explicitly addresses questions 1, 2, 4 and 5 of Bacchi’s framework. Crucially, Bacchi (2012a: 23) sees the questions as a malleable framework that allows for an ‘open-ended mode of critical engagement’ with policy and not as a restrictive formula. Not all questions therefore have to be addressed. Although we touch on question 3 throughout our article, we have omitted it from our formal analysis due to the wealth of literature that already explores the genealogy of UK immigration policy (see, for example,

the references in our introduction, along with Aas and Bosworth, 2013; Bosworth, 2008; Goodfellow, 2020). While space also limited our ability to consider Bacchi's sixth set of questions, we briefly reflect on these in our conclusion. We begin with question 1, in order to identify how the *New Plan* problematises immigration.

## Representing the 'problem' of immigration

### *The 'problem' of illegal migrants*

A dominant concern in the *New Plan* is with 'illegal' migration. People entering the UK 'illegally' are problematised as illegitimate and undeserving of a humanitarian response. By virtue of entering the UK 'illegally', migrants who arrive by irregular routes are also characterised as immoral and criminal. Moreover, they are framed as not having a legitimate need to come to the UK. For example, the document claims that many '[p]eople have died making these dangerous and *unnecessary* journeys' (HM Government, 2021a: 7, our emphasis). Reinforcing this point, the document argues that 'access to the UK's asylum system should be *based on need, not on the ability to pay* people smugglers' (2021a: 3, our emphasis). The implicit suggestion here is that those who enter the UK via alternative routes are not vulnerable, do not have legitimate needs, and because they may be able to 'pay', are undeserving of support. This is reinforced by the use of data to present those entering illegally as overwhelmingly young male adults. For example, the document claims: '74% of those arriving by small boat in 2020 were aged between 18–39 and 87% of all small boat arrivals were male' (2021a: 7). 'Illegal' migrants are also commonly characterised as 'economic migrants', which suggests they have certain forms of capital, that in practice they do not. For example, the document claims: 'the presence of economic migrants - which these illegal routes introduce into the asylum system - inhibits our ability to properly support others' (2021a: 3). Elsewhere the document states: '[i]f you illegally enter the UK via a safe country ... *you are not seeking refuge from imminent peril* ... but are *picking* the UK as a preferred destination over others' (2021a: 3, our emphasis). Those entering the UK 'illegally' are therefore presented as having made active and deliberate choices to do so, and because their actions are characterised as 'choices', they are also framed as unnecessary.

### *The 'problem' of organised crime*

Closely linked to the problematisation of illegal migrants, is the problematisation of organised crime and people smugglers. Reflecting this – two chapters

(4: Disrupting Criminal Networks and Reforming the Asylum System; 7: Disrupting Criminal Networks Behind People Smuggling) - explicitly discuss the links between organised crime and migration. Across the document, illegal immigration is commonly linked to serious crimes involving drugs, firearms, slavery and violence. We are advised that: *'the same criminal networks responsible for people smuggling are also responsible for other illicit activity ranging from drug and firearms trading to serious violent crimes'* (2021a: 17, our emphasis). Across the document, there is a constant interchange between discussing organised crime networks involved in people smuggling and 'illegal' immigrants who travel via 'irregular' routes. All are characterised as 'criminals' who should be deterred and punished. The *New Plan* thus advocates a range of reforms to 'break the business model of criminal networks behind illegal immigration' (2021a: 18).

### ***The 'problem' of foreign national offenders***

Another key problematisation in the document is foreign national offenders (FNOs). Just as illegal immigration is conflated with organised crime, illegal migrants are also commonly conflated with FNOs. In addition to the two chapters concerned with criminal networks, the *New Plan* includes another chapter entitled: 8: Enforcing Removals Including Foreign National Prisoners. Here, and elsewhere in the document, those seeking illegal entry to the UK are often discussed alongside FNOs. For example:

[c]hild rapists, people who pose a threat to national security and illegal migrants who have travelled to the UK from safe countries have sought modern slavery referrals, which have prevented and delayed their removal (2021a: 31).

We are also told there has been 'an alarming increase in the number of illegal migrants, including Foreign National Offenders (FNOs) and those who pose a national security risk' (2021a: 31, our emphasis). Across these extracts we can see how 'illegal' migrants are constructed as dangerous and criminal, and even aligned with one of the most feared groups of all, 'child rapists'. The use of phrases like 'alarming increase' form part of a 'governmentality of unease' (Bigo, 2002); governing through fear of threats from generic 'foreign others'. Moreover, these extracts reveal how the *New Plan* also problematises immigration in relation to the law. There is an explicit suggestion that both 'illegal' migrants and FNOs (large heterogenous categories with very different reasons for seeking asylum and experiences of breaking the law) are actively using legal safeguards to their advantage.

## The ‘problem’ of law

The law - particularly in relation to safeguards to protect victims of human trafficking as well as the asylum appeals system – is regularly presented as problematic. Indeed, two chapters (3: Ending Anomalies and Delivering Fairness in British Nationality Law and 5: Streamlining Asylum Claims and Appeals) deal specifically with the perceived deficits in the current legal system of protections and appeals. The document often tries to highlight how the system is being exploited and the problems that follow from legal safeguards. We are told of the ‘persistent failure to properly enforce our laws and immigration rules’ (2021a: 3), that asylum ‘caseloads are growing to unsustainable levels’ (2021a: 8) and how the ‘courts are becoming *overwhelmed by repeated unmeritorious claims*, often made at the last minute’ (2021a: 9, our emphasis). Moreover, the legal safeguards that exist, are presented as encouraging illegal migration:

Because of the various ways in which people with no right to be in the UK can frustrate their removal by filing an asylum claim, the system creates perverse incentives for economic migrants to pay criminals to facilitate dangerous and illegal journeys into the UK and then claim asylum on arrival (2021a: 17).

We are further told that ‘[j]ustice is being delayed for those with genuine and important claims and valuable judicial and court resources are being wasted’ (2021a: 9). Across these extracts we can see how the legal system is presented as generating many harms, including diverting resources from those who ‘deserve’ asylum and as ‘incentivising’ economic migrants and organised crime. The document also tries to highlight how problems with the law can be counter to national security:

Repeated legal challenges (often made at the last minute and which often transpire to be unfounded) have meant the UK has found it increasingly difficult to remove those with no right to remain in the UK, including Foreign National Offenders (2021a: 10).

This last extract illustrates our earlier point about how people seeking asylum are often conflated with FNOs. The claim that many legal challenges are made at the ‘last minute’ and are ‘unfounded’ reinforces the characterisation of those seeking asylum as deviant and dishonest. Furthermore, this extract reveals how legal safeguards (and by extension, the professionals/courts/experts involved) are framed as problematic. Elsewhere in the document it is proposed that a ‘new system for creating a panel of pre-approved experts (e.g. medical experts) who report to the court’ (2021a: 27) is introduced in order ‘to ensure *greater confidence* in the system by putting the independence of the experts beyond question’ (2021a: 30, our emphasis). This implies a lack of trust in the ‘system’ and the experts involved.

## Assumptions underlying the representation of the ‘problem’ of immigration

Bacchi’s second question asks us to explore ‘What deep-seated *presuppositions and assumptions* underlie this representation of the ‘problem?’ We begin by discussing the underlying concerns for sovereignty and ‘domopolitics’.

### *Sovereignty and domopolitics*

While the *New Plan* claims to ‘take pride in fulfilling our moral responsibility to support refugees fleeing peril around the world’, it quickly moves on to claim:

This Government promised to regain sovereignty and we have made immigration and asylum policy a priority. We have taken back control of our legal immigration system by ending free movement and introducing a new points-based immigration system (2021a: 2).

The *New Plan* thus draws on a familiar story of the ‘sovereignty myth’: that what is ‘inside’ the UK needs protecting and preserving from those who are ‘outside’ (Bigo, 2002: 67), with the ‘sanctuary of home’ in need of defending (Walters, 2004: 241). This reflects how sovereignty and ‘domopolitics’ are key underlying conceptual logics behind the ways in which immigration is problematised. ‘Domopolitics’ refers to how the ‘interests’ of a particular nation state and its institutions are prioritised over ‘others’ who are constructed as a ‘threat’ (Bacchi, 2009: 174). This ‘domopolitics’ is appealing to the public as it simplifies and makes clear who we should be afraid of by juxtaposing the ‘warm words’ (Connolly, 1995: 142) of community, trust, and citizenship, with the danger words of a chaotic outside - illegals, traffickers, terrorists’ (Walters, 2004: 241).

Elsewhere we are reminded of the need to ‘properly control our borders’ (2021a: 2) and ‘toughen our stance’ (2021a: 4). At several points across the document, it is emphasised that the problem of illegal immigration has not been adequately dealt with by previous governments. We are told that: ‘now we have left the European Union, Global Britain has a responsibility to act and address the problems that have been neglected for too long’ (2021a: 3). The document promises to ‘overhaul the UK’s decades old domestic asylum framework’ (2021a: 18) which is described as ‘outdated’ (2021a: 17) and ‘fragmented’ (2021a: 23). The *New Plan* is thus ‘performative’, ‘symbolic’ and designed to send a message to the British public that the government is tough on ‘illegal immigration’ and able to ‘control’ external threats to ‘our home’ (Mayblin, 2021; Walters, 2004). Regardless of

whether there is need for such reform (see Yeo, 2021), the narrative of a ‘decades old’ and ‘broken system’ allows the government to promise that they will now bring the situation under control.

### ***Migrants as ‘dishonest’***

Another underlying assumption underpinning the *New Plan* is that those seeking asylum in the UK may be dishonest and are not to be trusted. Throughout the document, migrants (especially those entering the UK ‘illegally’) are constructed as making calculated, rational and unnecessary decisions to enter the UK. They are therefore constructed as deviant, dishonest, and criminal, requiring the full force of the law. Moreover, those seeking asylum and/or appealing decisions through the court are presented as dishonest through their ‘repeated unmeritorious claims’ (2021a: 9). The document also tends to make use of hegemonic narratives of ‘vulnerability’ to help construct the image of the dishonest and ‘dangerous’ (predatory) asylum seeker. For example:

Adult claimants can take advantage of a fragmented system to pass themselves off as children, benefitting from additional protections properly reserved for the most vulnerable (2021a: 23).

Here, we see how legal safeguards (in this case, for those under the age of 18) are represented as a risk in themselves, on the basis that people may dishonestly try to make use of them. We have seen elsewhere how a similar narrative is developed in relation to FNOs misusing modern slavery safeguards to ‘frustrate removal’ (2021a: 31). These examples reflect a common narrative across the document of the UK being ‘exploited’ (2021a: 8) and ‘taken advantage of’ (2021a: 23). While the *New Plan* does recognise how migrants can be ‘exploited’ by illegal immigration, far more concern is given to the ways in which the asylum system is ‘*open to gaming and criminal exploitation*’ (2021a: 3, our emphasis). For example:

The British people are fair and generous when it comes to helping those in need ... We have a generous asylum system that offers protection to the most vulnerable via defined legal routes. But this system is collapsing under the pressures of what are in effect parallel illegal routes to asylum, facilitated by criminals (2021a: 3).

Many proposed solutions are put forward to try and deal with these ‘abuses’ of the system. For example, the document emphasises the need for ‘rigorous’ ‘credibility assessments’ to test:

the person is who they say they are and that they are experiencing genuine fear of persecution. This will have to be proven to the standard of ‘balance of probabilities’ and will include a credibility assessment, considering all the relevant evidence ... if a claim is contradictory, that could impact on the credibility of a person’s testimony (2021a: 22).

Elsewhere, the document proposes a new ‘One-Stop’ process which will ‘require all rights-based claims to be brought and considered together in a single assessment upfront’ (2021a: 4). People will also be expected to act ‘honestly and comprehensively’ (2021a: 27), and to avoid adding information as the case proceeds. In addition, the *New Plan* proposes a new ‘Good Faith Requirement’ whereby:

Anyone bringing a claim or a challenge in the courts and their representatives will be required to act in good faith at all times. This means bringing any claims as soon as possible, telling the truth and leaving the UK when they have no right to remain (2021a: 28).

Across these extracts we can see how proposed solutions in the form of swifter justice and greater efficiencies are driven by the assumption that migrants are ‘dishonest’ and purposively exploiting the system. We are told that we require ‘a new system that is *fair but firm*’ (2021a: 4, our emphasis). We are also promised that the proposed reforms will ‘achieve efficiencies in the system as a whole – decreasing the costs of unnecessary litigation and failed removal actions for the taxpayer and freeing up valuable judicial resources’ (2021a: 27). Fairness here is not about equality (as it is often understood) but is about efficiency (in terms of reducing the number of people seeking asylum) and ‘fairness’ to the British taxpayer (reflecting the wider domopolitics discussed above).

### ***The value of deterrence, punishment and exclusion***

The characterisation of migrants as ‘untrustworthy’, ‘dishonest’, ‘rational’ and ‘calculating’ also allows for a range of punitive measures to be put forward in the name of trying to deter people from trying to enter the country. This therefore represents a further underlying assumption about the value of deterrence, punishment and exclusion. There is an explicit emphasis on the need (and value) of deterring and punishing those who seek to enter the UK by illegal routes, along with those who help facilitate entry. For example, the document highlights:

It is unacceptable that people seeking to enter our country illegally, including those who have crossed the Channel by small boat, are not appropriately penalised

for breaking the law. Tougher penalties would also deter some people from undertaking these dangerous journeys altogether (2021a: 36).

The document sets out a number of proposed changes in relation to the penalties for entering the UK illegally, or helping to facilitate it. For example:

We will take steps to discourage asylum claims via illegal routes ... We will increase the maximum sentence for illegally entering the UK and introduce life sentences for those facilitating illegal entry. The use of hotels to accommodate arrivals will end and we will bring forward plans to expand the Government's asylum estate to accommodate and process asylum seekers including for return to a safe country (2021a: 4).

Significantly, there are also proposals to make it more difficult for those who enter the UK by irregular routes. Indeed, for these migrants, the document proposes a new 'temporary protection status' where they 'will be regularly reassessed for removal from the UK, will have limited family reunion rights and will have no recourse to public funds except in cases of destitution' (2021a: 4). Across these proposed solutions we can very clearly see underlying desires to deter, punish and exclude a diverse group of 'foreigners', irrespective of their needs or circumstances.

## Silences in the problematisation of immigration

In addition to exploring dominant ways of representing a problem, Bacchi's (2009) fourth set of questions encourages us to explore the silences that exist within a policy text and to consider if the 'problem' can be thought about differently. We therefore turn to consider what is left unsaid, or neglected, by the government's *New Plan*.

### *Low asylum applications in the UK*

The *New Plan* emphasises the rising numbers of people entering the UK 'illegally' via boats. While the document does acknowledge the use of other routes declined due to the Covid-19 pandemic (which helps explain the rise in boat use), it still presents immigration and asylum as growing problems. This is despite the latest data from The Migration Observatory (2021a) showing that in the year ending June 2021, the UK received asylum applications from 37,325 people, representing a 9% decrease from the previous year. Although the *New Plan* makes several references to the generosity of 'Global Britain' and of its 'proud record of welcoming and resettling refugees' (2021a: 12) it is of note that the UK is currently home to approximately 1% of the

29.6 million refugees forcibly displaced across the world (Refugee Council, 2021). It is also notable that while the document claims ‘[t]he UK accepted more refugees through planned resettlement schemes than any other country in Europe in the period 2015–2019’, other data from The Migration Observatory (2021c), indicates that the UK in fact ranks 7th in the ‘absolute number of people to whom it gave protection, including resettled refugees’ when compared to EU member states. In 2019, people who claimed asylum in the UK made up 0.6% of the UK population, and ‘of these, 56% had lived in the UK for sixteen years or more’ (Walsh, 2021: 5). Narratives about the ‘generosity’ of Global Britain and the sense that immigration controls need urgent remedy can thus be challenged.

### ***Reasons behind illegal migration***

A notable ‘silence’ within the *New Plan* is any recognition or discussion of the reasons *why* people may enter the UK illegally. There are also very limited details about *who* is entering illegally and their circumstances. Yet, if the government wants to reduce illegal migration, clearer understanding about *why* people are seeking asylum and *why* they are using illegal points of entry, is surely required. The characterisation of illegal migrants as young, fit men, with the ‘ability’ (and links) to pay people smugglers, overlooks the trauma people may have experienced and their reasons for seeking asylum.<sup>1</sup> It also helps support the narrative of illegal migrants as ‘untrustworthy’, a ‘threat’, and a ‘danger’; thereby justifying a punitive solution. Although the document claims many illegal boat crossings are ‘unnecessary’ (2021a: 9), those undertaking these journeys may feel they have little alternative.

### ***Absence of legal and safe routes***

Another key silence in the *New Plan* is the absence of ‘legal’ and ‘safe’ routes to the UK. Some argue there are ‘no ‘safe and legal’ routes for refugees to reach the UK’ (Mayblin, 2021) and that ‘for almost all people fleeing desperate circumstances [to the UK] ... there is simply *no application form that exists and no process that can facilitate a safe and legal journey*’ (Rahman, 2020: 2, our emphasis). An alternative reading of the ‘problems’ with immigration in the UK could therefore be that it is the bureaucratic processes and legislation, and lack of safe/legal routes, that actually lead people to undertake dangerous, and illegal, journeys to the UK. In other words, ‘illegal’ immigration is not an entity in itself, but rather has been constituted (and reinforced) by UK government policies for some time, and continues via the problematisations inherent in the *New Plan*. Indeed, Dickson and Rosen (2021: 553) remind us how ‘illegality’ is a ‘political not an existential status, one that is produced through changing legalised routes to mobility and settlement’.

## ***Deterrence and punitive models are ineffective and counter-productive***

Earlier we argued that the problematisation of immigration by the *New Plan* rests on underlying assumptions about the value of deterrence, punishment and exclusion, and that these are used to justify a whole suite of tougher penalties. Yet, ‘the deterrent effect of punitive policies and sanctions on immigration rates is negligible’ (Griffiths and Yeo, 2021: 531; see also Walsh, 2021) and making particular routes of entry to the UK ‘unviable’ is likely to lead to ‘an increase in dangerous journeys and an increased reliance on traffickers and people smugglers’ (Rahman, 2020: 1, our emphasis). Moreover, the *New Plan* may lead some people seeking asylum ‘into precarious and potentially limbo situations’ (UNHCR, 2021) and risks making migrants *more* vulnerable to human trafficking and modern slavery (GRETA, 2021, our emphasis). A key silence in the *New Plan* is therefore a lack of engagement with how such policies may not only be ineffective, but also counter-productive and harmful.

## ***Justice, human rights and welfare***

Discussions about the social and welfare needs of those seeking asylum and their human rights, represent other silences in the *New Plan*. The document commonly conflates people seeking asylum with ‘criminality’, and as a result the primary focus is with punitive and exclusionary responses. While there are some discussions of a ‘humanitarian’ response, this is not the priority and limited concern is shown for justice, human rights, and welfare. For example, the term ‘human rights’ is mentioned just 5 times throughout the document (compare this to the term ‘illegal’ mentioned 74 times). Across nine chapters (of which 3 deal specifically with criminality and 2 with the need to address problems with the law), only one chapter explicitly deals with the possible harms that people migrating to the UK may have experienced. While this chapter (2: Protecting those Fleeing Persecution, Oppression and Tyranny) does focus on the protection of ‘legitimate’ immigration claims, it is notably short (4 pages) and light on specific guidance as to how people in genuine need can claim asylum in the UK. Given the very recent Windrush scandal in the UK, it is also of note that only 3 references are made to Windrush throughout the entire document.

## **Effects produced by these representations of the ‘problem’**

In this final analysis section, we explore Bacchi’s fifth question: What *effects* are produced by this representation of the ‘problem’?

## ***Creation of a two-tiered system***

Concern has already been expressed that the *New Plan* will ‘create a discriminatory two-tier asylum system that will treat migrants as ‘worthy’ or ‘unworthy’, depending on how they entered the country’ (Qureshi and Mort, 2021: 1). The potential for a two-tiered system reflects how policy problematisations enable populations to be governed through ‘dividing practices’ (Bacchi, 2009). Across the *New Plan* we can observe many dividing practices, particularly in relation to those who enter the UK illegally. Indeed, the document is explicit, when it states: ‘[f]or the first time, whether you enter the UK legally or illegally will have an impact on how your asylum claim progresses, and on your status in the UK if that claim is successful’ (2021a: 4).

## ***Prioritising the ‘skilled’ (and ‘our’ needs)***

The bifurcation of people through dividing practices can be observed in other ways. Although illegal migrants are constructed negatively as ‘economic migrants’ and as people without legitimate ‘need’ to travel to the UK, it is apparent from the *New Plan* that some economic migrants are seen as more desirable. For example, those with ‘skills’ who can ‘contribute’ to the UK are framed as more ‘deserving’:

We recognise the contribution of those who have come to the UK lawfully and helped build our public services, businesses, culture and communities and we always will. The UK now decides who comes to our country based on the skills people have to offer, not where their passport is from (2021a: 2).

This illustrates other dividing practices at work and how the *New Plan* prioritises what migrants can *give* over what they may *need*. Essentially, legitimate migrants are those who we ‘trust’, who we think can ‘give’ and from whom we ‘benefit’. Legitimacy is not based on the needs migrants have, but rather on the needs of ‘Global Britain’. We therefore see a bifurcation of migrants based on a neoliberal human capital model which prioritises migrants who are constructed as desirable (i.e. skilled economic/labour migrants) above those portrayed as undesirable (i.e. unskilled/economically unproductive migrants, refugees and people seeking asylum) (Huot et al., 2015: 132). For example, the *New Plan* claims the government will ensure ‘refugees have the freedom *to succeed, ability to integrate and contribute fully* to society when they arrive in the UK’ (2021a: 11, our emphasis). Elsewhere, we are told:

Refugees in the UK should have access to the tools they need to become fully independent, provide for themselves and their families and contribute to the

economic and cultural life of the UK. We want to ensure there is effective support so that refugees can integrate and become self-sufficient once they make the UK their home (2021a: 13).

Here, we can see that some people are welcomed, but only if they can assimilate in desirable ways. The emphasis is firmly placed on what migrants can do to integrate and contribute to British society, rather than with the context/life that they may be seeking refuge from, and the complex needs they may have.

## **Exclusion**

The problematisation of immigration, with its underlying commitments to deterrence and punishment, leads to a number of exclusionary solutions. Despite annual reductions of the number of people being held in immigration detention between 2015 and 2020 (The Migration Observatory, 2021b) (and evidence that migration to the UK has reduced), the *New Plan* now recommends expanding the use of immigration removal/processing centres. Since 2020, the use of immigrant detention has begun to increase (Home Office, 2021) and there are new plans to ‘expand the Government’s asylum estate’ (2021a: 4) as well ‘to develop the capacity for offshore asylum processing’ (2021a: 19). In addition to increased immigration detention facilities, the *New Plan* also suggests the increased use of imprisonment is desirable, in its proposals to increase sentences for those entering the UK illegally (or involved with facilitating it). Removal is another clear preoccupation, with an entire chapter dedicated to it (ch8) and 63 references to the word ‘removal’ across the document.

It is important to highlight that exclusion takes place not only in explicit ways via detention/removal centres and deportation, but also in more subtle and implicit ways throughout civil society such as through barriers to reuniting with family and with access to public funds. These are *in addition* to barriers that already exist in relation to employment, housing, and healthcare, as part of the UK’s ‘hostile environment’. Across the proposed reforms, the emphasis is thus on increasing control, punishment and exclusion, rather than with the needs of those seeking refuge.

## **Widening the net of those who are responsible and to be punished**

Another effect of the *New Plan* is to widen the net of those who are responsible and to be punished for the immigration ‘problem’. In addition to more severe penalties directed towards migrants and people smugglers, the document

proposes new penalties for ‘failure to secure a vehicle, *regardless of whether* an illegal migrant is found on board or not’ (2021a: 37, our emphasis) and of expanding an existing scheme where hauliers are given penalties when migrants are found onboard. Elsewhere, the proposed ‘good faith requirement’ stipulates that migrants and ‘their representatives’ must act in ‘good faith’ at all times when bringing ‘a claim or challenge into the courts’ (2021a: 28). Furthermore, the *New Plan* suggests a need for greater powers to ensure ‘front-line immigration officers and other staff’ undertake full age assessments (2021a: 23). The *New Plan* therefore extends practices of responsabilising (and punishing) people for border control to a wider group.

## Conclusion: Continued and intensified hostility

Using Bacchi’s (2009) framework, our analysis reveals how the *New Plan* shapes and produces particular understandings of immigration and asylum in the UK. Through a detailed analysis we illustrate how immigration is problematised, the assumptions that underlie these problematisations, alternative ways of representing the ‘problem’ of immigration, and the possible effects that may follow from the proposed solutions. Our article demonstrates how the *New Plan* is increasingly hostile towards not only ‘illegal’ migrants, but an ever-widening group of people and organisations who may be viewed as facilitating illegal entry (organised criminals, hauliers) and/or those held responsible for preventing/delaying their removal (lawyers). All are characterised in negative ways; for posing a danger to national security, for damaging public confidence, for burdening the taxpayer and public services, and for undermining ‘justice’. The government’s proposals risk creating a two-tiered system, increasing the exclusion experienced by those seeking asylum, and widening the net of those held responsible for immigration control.

While our article is based on the analysis of one document, ‘every policy or policy proposal [is] a prescriptive text’ that provides ‘entry points for identifying problematizations’ (Bacchi, 2012b: 4). Moreover, our analysis has not occurred in isolation, but has instead used the WPR framework to ‘tease out conceptual premises, to draw attention to the ‘history’ (genealogy) of specific problematizations, and to consider their effects’ (Bacchi, 2012b: 5). It is also of note that many of our key themes relating to the government’s problematisation of immigration, can be observed outside of this document. For example, in September 2020, the Home Secretary, Priti Patel, was criticised by the Law Society following a knife attack on an immigration lawyer that was felt to have been inspired by a tweet she had written 4 days earlier about ‘activist lawyers’ frustrating the removal of migrants from the UK (Townsend, 2020). The following month, Patel continued with similar rhetoric, claiming that: ‘those defending the broken system - the traffickers, the

do-gooders, the lefty lawyers, the Labour Party - they are defending the indefensible' (Grant, 2020). More recently, in November 2021, Patel blamed a bombing outside Liverpool Women's Hospital on the exploitation of a 'dysfunctional' and 'broken' asylum system, with a Conservative colleague adding that 'bogus asylum seekers' were being 'aided and abetted by fat cat legal aid lawyers and bleeding heart liberals' (Barrett et al., 2021).

These seemingly 'tough' political narratives, which problematise immigration in particular ways, are likely to cause harm. Yet, as we have shown, the *New Plan* fails to engage with the possible counter-productive, harmful, and paradoxical effects of such representations. Rather than representing 'illegal' migrants (and their representatives) as 'dangerous' and 'risky', a reconceptualisation of the 'problem' might consider the ways in which the overly punitive and bureaucratic management of people seeking asylum, along with the rhetoric exemplified above, can itself cause significant harm. People will continue to cross borders for basic human needs (food, water, shelter, security) and a better life (Bowling, 2013). Indeed, this is clear from recent global events, including people trying to flee Afghanistan in August 2021, the deaths of at least 27 people trying to cross the Channel in one day in November 2021, and the significant displacement of people following Russia's invasion of Ukraine in February 2022. Although we did not have space to explore Bacchi's (2009) sixth set of questions, which ask how dominant problem representations can be disrupted, it is of note, that these recent global events could have provided an opportunity to disrupt the government's problematisation of immigration. However, there is no evidence of this having occurred. Indeed, in response to the news of 27 deaths at sea, the British Prime Minister used the tragedy to claim: 'it's so important that we accelerate ... all the measures contained in our Borders and Nationalities [sic] Bill so that we can distinguish between people that come here legally and people that come here illegally' (Syal et al., 2021). More recently, concerns have been expressed that the UK asylum response to people fleeing Ukraine, has been slower than other European countries because of the emphasis placed on 'checks' and 'controls' (Syal and Walker, 2022). Indeed, calls for visa requirements to be suspended for Ukrainian refugees were initially refused by Priti Patel on the grounds of 'security advice' [...] [t]hat is vital to keep British citizens safe and to ensure that we are helping those in genuine need' (Merrick, 2022). Amidst these events, the Nationality and Borders Bill has been making its way through the UK Parliament. Despite Members of the Lords voting down many of its central policies in what was hailed a 'victory for compassion' (Bulman, 2022), the government has since reinstated them during a vote in the House of Commons (Walker, 2022).

Regardless of how, and in what form, the *New Plan* finds its way into law, the idea that irregular routes of travel can 'only be solved with draconian laws and military rhetoric creates a toxic politics of fear and hostility' (Mayblin,

2021). This ‘toxicity’ can filter down and impact on community relations and community cohesion by ‘encouraging xenophobia and racism’ (Griffiths and Yeo, 2021: 533). Those who do manage to enter the UK can therefore expect to face further hostility from both the state and civil society. We therefore conclude, that while the sentiments behind the government’s *New Plan* may not be all that ‘new’, they are nevertheless significant for their continuation and intensification of existing hostile policies and practices relating to immigration in the UK. The *New Plan* not only casts doubt on whether lessons have been learnt from the harms caused by ‘hostile environment’ policies and the Windrush scandal; but also suggests an ongoing disregard for the many displaced people around the globe who are looking to the UK for sanctuary.

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## Notes

1. It also overlooks how women may be obscured by the data due to the tendency for the gender of the lead applicant in asylum claims to be reported only (which is typically male) (Cheung and Phillimore, 2017).

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