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SESSION ON THE VIOLATIONS WITH IMPUNITY OF THE HUMAN RIGHTS OF MIGRANT AND REFUGEE PEOPLES (2017-2019)

HOSTILE ENVIRONMENT ON TRIAL LONDON HEARING 3-4 November 2018

DELIBERATION

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1. INTRODUCTION

The public hearings of the Permanent Peoples' Tribunal (PPT) on "The hostile environment" held in London on 3rd and 4th November 2018 form part of a process of investigation which has lasted more than two years and has produced texts and judgments for the opening session in Barcelona (7th- 8th July 2017) and from Palermo (18th- 20th December 2017), Paris (4th – 5th January 2018) and Barcelona (29 June- 1 July 2018). The hearings of the London Session of the PPT cannot obviously be separated from the contents and the conclusions of the Sessions mentioned at the beginning of this introduction, which could be found in: <http://permanentpeopletribunal.org/45-session-on-the-violation-of-human-rights-of-migrants-and-refugee-people-2017-2018/?lang=en>

The highly relevant and specific objective of this Session of the PPT has been extensively and meticulously documented and motivated in the Indictment submitted to the attention of the PPT – this was built on a broad call for evidence and specific cases and in consultation with the Co-Convenors and finalised in the Indictment text prepared by Frances Webber, Human Rights lawyer and Vice-Chair of the Institute of Race Relations. Its text (Appendix 1) should be considered an essential component of this Deliberation. The Indictment summarises its objectives in a number of detailed questions, but also provides a clear description of the context which the PPT has taken into consideration when formulating our response. The questions are:

- a) *To the extent that the Tribunal finds the above violations proved, how do they fit with the general pattern of violations found by the Tribunal in its hearings at Palermo, Paris and Barcelona?*
- b) *How does the creation and maintenance of a rightless people sit with the pretensions of Europe to be a cradle of universal human rights and values and with the human rights instruments written, signed and ratified by European states?*
- c) *How does the continued tolerance of the suffering of those condemned as rightless affect the rule of law?*
- d) *Since the protection of fundamental human rights is designed to embrace both the executive and juridical arms of state, to what extent does the treatment of migrants destroy this bridge between the political and the juridical?*
- e) *To what extent are migrants experimental subjects or guinea-pigs for a broader destruction of the rights of populations under globalisation?*
- f) *How do government policies and ministerial statements treating poor migrants and refugees as 'benefit tourists', 'health tourists', 'a swarm', help to exacerbate popular racism and encourage hatred of migrants and racial violence?*
- g) *Has the Tribunal found examples of resistance against these measures which can act as models or markers for future action?*

The UK context is characterized by the state policy objective of creating a "hostile environment" thereby suggesting that the UK government itself is directly implicated in the violations of the sustainability and dignity of the life of migrants and refugees. This is what the PPT has considered in its London Deliberation. Such violations also characterise the comprehensive findings which have been documented in previous hearings. In sum, the analysis of the enforcement of national and supra-national frontiers, the policies of criminalization of migrants themselves and of those who express solidarity with them, and the hierarchies of human beings that are introduced through the prioritisation of the formal status of citizenship demonstrate a clear continuity and complementarity between the violations of the fundamental rights of the people of migrant and refugees, and the failures in the respect of the basic principles and rules of democracy in the European countries and by the European political, economic, normative institutions.

This Deliberation provides the detailed motivations of the well founded general statement (Appendix 2) delivered in the immediate follow up of the London hearings by the panel of judges integrated by: **Bridget Anderson, chair of the panel, Leah Bassel, Maureen Byrne, Eddie Bruce Jones, Wah-Piow Tan, Enrico Pugliese** (see the biographies in Appendix 3).

2. THE STRUCTURE AND ARTICULATION OF THE DELIBERATION

In the tradition of the PPT, the formulation of the deliberations has as a priority to give visibility to the people who presented the Indictment: the courage and commitment of the witnesses who appeared before the PPT must be acknowledged as courageous actors and as the driver of this Deliberation (see section 3).

The Deliberation of the PPT has its principal value and significance as an instrument in the challenging struggle for justice. We draw attention to Appendix 4 on resistance, exemplars and demands as both an inspiration and forward-looking component of the Deliberation: the subjects of rights do not accept to be nor to have a future of victims.

The documents of national and international law laying out the rights of the people of migrants and refugees also provides the frame of reference for our Deliberation. Furthermore it indicates the gap between what is agreed in principle and what happens in the UK (and other European states) in practice.

The proceedings have been opened by two significant contributions, presented by **Diana Holland**, Assistant General Secretary to Unite the Union and **Nonoi Hachang** from the Transnational Migrants' Platform, who motivated and documented, on one side, the positions of trade unions in considering the support of the struggle of migrants and refugees, on the other side, the general strategy of the organizations which favour the coordination of their activities of resistance and resilience (see Appendix 5).

3. THE EVIDENCE PRESENTED

3.1 A state of fear: the hostile environment, detention and corporate profits

Tony Bunyan gave us the framework, the infrastructure of enforcement: the militarisation of the borders and the Big Brother database, creating a pervasive state of fear. He talked about the abdication by the Court of Justice of the EU of its role when it disavowed EU responsibility for the EU-Turkey deal, claiming it was a deal between the member states and not the EU as an institution. This has profound implications for the rule of law, amounting to collusion between the political and juridical institutions of the EU in the denial of migrants' rights¹.

Discussing data sharing in Europe, Tony's evidence revealed an example of migrants being used as guinea-pigs; resistance to the development of the Big Brother database, containing the biometrics and personal data of 200 million non-EU citizens, is muted as citizens are told it doesn't apply to them – but in time, if it is not opposed, it will.

Don Flynn presented an overview of the hostile environment in the context of a neoliberal economy and the assault on workers' rights. He talked about the conscription of civil society – employers, landlords, university staff and medics – into surveillance and enforcement.

Anna Mulcahy described the way local authority social and housing workers break the law, rejecting requests for intervention on behalf of vulnerable children, and abuse homeless and poverty-stricken migrants, telling them to go home. **Neal Russell**, a doctor, talked about the hostile environment in health, in particular the charging regime, the transmission of patients' data to the Home Office for enforcement and the deterrent effects of these policies, as well as the inability of sick people to access health care. He talked about the way the ripples of the hostile environment spread, so people who under the regulations were exempt were being charged as staff used racial profiling and ignored professional ethics. Charging and denying treatment to those who could not pay was, he pointed out, antithetical to the founding values of the NHS.

Interviews with legal experts, equality bodies and health ombudsmen indicate that proving that a discriminatory act has taken place is often challenging for plaintiffs and their lawyers. Research demonstrated both the existence of discrimination in the area of healthcare and the difficulty of proving it, in this and other sectors.

A final problem in establishing discrimination before a court, raised by legal experts in the United Kingdom, is that it is often fairly easy for the defendants - doctors or hospitals - to prove that the unequal treatment was objectively justified.

¹ For the evidences presented during the London hearing, see: <https://transnationalmigrantplatform.net/migrantppt/hearing-london>

Legislation denying health care to migrants and refugees who need it because they are vulnerable and sick breaches basic human rights. Some people in the UK are not entitled to free NHS hospital care. This includes short term visitors, undocumented migrants and some asylum seekers whose claims have been refused. There are already processes in place for hospitals to identify and bill patients for their care.

The Government has made new regulations (1) extending NHS charges to community healthcare services and (2) to ascertain patient's eligibility for free care, which could include asking for passports and proof of address, and charge up front for healthcare, refusing non-urgent care where a patient cannot pay.

Extended charges into community service and non NHS providers

Other evidences received have shown that from August 2017 healthcare charges have been introduced for services provided by all community health organisations in England except GP surgeries. From October 2017, NHS providers will be legally required to check every patient before they receive a service to see whether they should pay for their care and, in some circumstances, patients will be charged for accessing these services.

Introduction of upfront charging

From October 2017 every hospital department in England is legally required to check every patients` eligibility for free care, potentially asking for paperwork before treating them, to see whether they are an overseas visitor or undocumented migrant and should pay for their care. Every patient, British citizen or person under immigration control, will be asked about residency status and will need to prove they are entitled to free NHS care. Pilots requesting all patients to provide two forms of identity prior to appointments are being carried out in 20 hospital trusts across England. The obligation to check patient eligibility may apply to services also exempt from charging on public health grounds, such as infectious disease departments.

If a patient cannot prove they are entitled to free care, they will receive a bill for their treatment and will have to pay it in full before they receive any treatment other than that which is URGENT or immediately necessary.

Stigma

A number of smaller research reports highlight the stigma and stigmatising treatment experienced by migrants, refugees and asylum seekers in England. Misconceptions about the number of immigrants living in England were widespread including among children, as well as negative attitudes towards Muslims and those born overseas.

Gracie Mae Bradley described the hostile environment in schools, including the use of pupils' date for immigration enforcement, and racial profiling and the creation of division, fear and prejudice in the classroom by questioning children on their nationality.

This evidence revealed more themes: the subsuming of legal, moral and ethical duties of care and human rights obligations, owed to all regardless of immigration status, to the imperatives of immigration control, and the way racist attitudes and actions ‘trickle down’ from central government. The question that arose from all this testimony was how to respond when the law entrenches injustice.

Anna Mulcahy also testified to the creation of destitution among migrants with permission to be in the UK through the imposition of ‘no recourse to public funds’ conditions, a theme also covered in the written submissions of **Sue Henry** and **Lameck Mbanjo**. **Kate Adams** of Kent Refugee Help described the cycle of destitution, the petty crimes it engenders and imprisonment for foreign offenders caused by the denial of accommodation or support on release from prison, leaving ex-offenders street homeless. She referred to the denial of access to justice through the removal of legal aid which, she said, meant people were not seen as fully human. ‘The job of prison, for foreign offenders’, one governor told her, ‘is to make them ready for deportation’. For them there is no rehabilitation, and no humanity.

The film shown by **Disabled People Against the Cuts (DPAC)** showed the effects on a vulnerable Iraqi asylum seeker of the Home Office culture of disbelief and delay. His mental health needs were not only not addressed but were denied. **Umit Ozturk** also spoke to the way the asylum process, with its disbelief and delays, generates anxiety and depression, which is reinforced by a hostile media and political environment, leading to a spiral of distress and fear – a continuation of the persecution asylum seekers are fleeing. Misinformation and disinformation spread by politicians and media incited racism and division which served political and corporate interests.

The institutionalised injustice of the Employers’ Sanctions Directive, which requires member states to penalise employers for employing undocumented migrant workers, was referred to by Tony Bunyan and analysed by **Dr Katie Bales** in her written submissions. The UK’s employer sanctions regime featured in the films shown by **Bobby Chan** (Min Quan Advocacy Group) of immigration workplace raids and resistance to them. He described how the law had been weaponised by arrogant Home Office officials with unchecked power to close a business down. Frequent raids, accompanied by shocking physical brutality, were in fact a legalised shakedown or protection racket rather than real immigration enforcement, with those arrested being released within minutes but employers expected to pay fines of £20,000 per person each time. This led to contempt for the law.

We heard how the UK not only fails to enforce payment of unpaid wages due to undocumented migrants caught working, but even confiscates wages as ‘proceeds of crime’ under the 2016 Immigration Act. We also read (in Katie Bales’ submission) how collusion with the Home Office in raids to catch undocumented workers, in exchange for reduction or waiver of fines, provides an incentive for exploitation by employers, particularly when faced with employees demanding workplace rights. Finally, we heard about the denial of an effective remedy for violations of workers’ rights, through legislation excluding workers under ‘illegal’ contracts and through the removal of legal aid.

The evidence of **Jon Burnett and Fidelis Chebe** and the film shown by **Women in Exile** exposed the dishonesty of the stated rationale of employer sanctions, to prevent and combat exploitation, with detainees in German asylum centres paid €0.80 per hour and detainees in UK removal centres £1 per hour for menial work. In the UK this was justified by denying that it was work, claiming it was a way of passing time for detainees, although they performed nearly a million hours of work, at less than a seventh of the UK minimum wage.

This evidence also went to collusion between the corporate sector and the Home Office. **Dariush Sokolov** (Corporate Watch) described a profit-driven model of detention spreading across the EU. The unholy alliance benefits both parties: profits for the corporations, for governments, the fear and division essential to immigration control. Here we see government policy at its most cynical, and it is no coincidence that directorships of security companies are common among former ministers and MPs. In the UK, detention did not serve its stated purpose of deportation as fewer than half of those detained are removed. The written submission of **Bill Mackeith** (Campaign to Close Campsfield, Barbed Wire Britain) revealed that in the UK, (uniquely in the EU), there is no statutory time limit for immigration detention. Immigration detention is extremely damaging to health, as the British Medical Association and the Royal College of Psychiatrists have found, and it engenders a culture of brutality and impunity. **Sakuna**, a former Yarl's Wood detainee, testified to the inhuman speed of the 'fast track', the detention of vulnerable survivors of torture and trafficking and the fear which makes families afraid to visit and detainees voiceless and hidden. The damage of detention is lasting: 'I left detention; detention never left me.'

These witnesses demonstrated how detention constitutes and generates systemic state-sponsored violence, and is a site of rightlessness for migrants.

David Forbes of Lifeline Options testified on Home Office profiteering through the commercial level of fees. A visa for 30 months, together with a 'health surcharge', cost nearly £2,000 per person, nearly £8,000 for a family with two children, turning rights into privileges to be paid for.

3.2 The global supply chain and labour exploitation

Dorothy Guerrero (Global Justice Now) and **Brid Brennan** (Transnational Institute) described the continuum between exploitation in the global south and the global north, with the restructuring of labour to create sites without rights. With global brands subcontracting and outsourcing, 94 percent of their workforce is hidden, ie, not directly employed. The conditions of work in outsourced countries lead to out-migration. In the global north, migrant labour is concentrated in the areas that cannot be outsourced to other countries, such as care, agriculture, building, logistics, fisheries and oil rigs.

Dr Gbenga Oduntan spoke of the factors in one global south country, Nigeria, creating the need to migrate. The biggest was massive corruption by TNCs, leading to the collapse of public services such as health and education, through the diversion of over a billion dollars of public money.

Janet MacLeod of Unite spoke of the culture of fear and bullying in the *hotel and housekeeping* sector. The global hotel chains have divested themselves of hotels and subcontract housekeeping, paying on a per-room basis, which leads to exploitation of staff forced to clean more and more rooms per shift in order to keep their jobs. This restructuring means inhuman levels of work, payment of less than half the minimum wage (and only 80p per hour during induction), workforce replacement (BAME staff forced to leave, replaced by Romanian non-English speaking staff) and active discouragement of unions. Similar conditions of work, and a similar culture of fear were described in *warehousing* by **Colin Hampton** (Unite). Restructuring meant 70 percent of a 5,000 strong workforce on zero-hours contracts, providing fewer rights, and very few staff directly employed. In *road haulage*, **Unite's** written submission said that EU free movement law was abused to pay Polish wages (£2 per hour) to employees of a Dutch company who drive all over Europe, sleeping in their trucks for six weeks at a time, with companies refusing responsibility for workplace injuries and failing to provide adequate rest breaks. **Unite** referred to bonded labour, delayed wages and dreadful working and living conditions in *construction*, where migrant workers with 'self-employed' status are denied protective clothing and equipment, sick pay, holiday pay, travel or accommodation and union access and illegally live on site. Corporate responsibility obligations for workers are flouted.

A similar picture obtains in *food and agriculture*, according to the evidence of **Christina Brovia** (European Coordination of Via Campesina, ECVC, and Associazione Rurale Italiana, ARI), who spoke of the industrialisation of agriculture. Seasonal agricultural worker programmes which tie workers to employers institutionalise exploitation and isolation, empower gangmasters, deny family reunion and health and safety rights and protection against accidents, pesticides and other dangers, and against unemployment. **Delia Alforon**'s video, 'The tomato slave trade', and her evidence, described the systematic under-recording of hours leading to denial of rights, conditions of slavery and recruitment in Morocco in a public 'slave market'. **Jordi Sala** (Coordinadora Obrera Sindical de Catalunya) described the huge scale of false self-employment contracts in the *meat processing* sector, excluding workers from cooperative rights including sickness and accident pay and protection, and social security. Back in the UK, **Sue Pollard** spoke of the effect of the 2013 abolition of the Agricultural Wages Board, the systematic neglect of workers' rights and its ill effects, a theme taken up by **Julian Firea** who said over half of absences from work in poultry processing were caused by stress and anxiety.

3.3 Gender and labour exploitation

Petra Snelders (Respect Network Europe) gave an overview of the importance of gender issues, abuses and sites of work with the fewest labour rights and legal migration channels: care and domestic work. Women faced sex, race and class discrimination.

Karen (Kanlungam) spoke of the impact on women workers in the health and care sectors of the rule requiring minimum earnings of £35,000 to obtain settlement, with reference to her own situation. The values of loyalty, integrity, knowledge, skills and effort were completely disregarded in favour of a simple monetary measure of worth.

Ornelia Ospino (Latin American Women's Rights Service) described the extent of physical, sexual and verbal abuse of migrant women in the workplace and how immigration legislation fosters violence, exploitation, intolerance and abuse. The fear of deportation prevents reporting of violence and recourse to justice, whether the perpetrator is a spouse or partner or an employer. **Marissa Begonia** (Voice of Domestic Workers) demanded to know where the much-vaunted human rights were in this country, asking why is it a crime to escape an abusive employer? The collusion between employers and the Home Office was captured by the immigration stamp given to domestic workers, saying 'Visit, no employment permitted' with a handwritten 'accompanying employer' alongside. **Viviane Abayomi** (Waling Waling) described how the legal protection of a route to settlement for domestic workers had been removed. **Clara Osagiede** (formerly Rail, Maritime and Transport union, RMT) spoke of how subcontracting of cleaning on the London Underground squeezed workers with more work for less money and how fear of deportation deterred workers from joining the union or reporting abuses. She also spoke about replacement of a largely African workforce by Polish workers.

Conclusion

The evidence showed that the charges in the Indictment had been clearly established. It showed how the causes of migration included global corruption, super-exploitation in the chain of labour, and political interference in the global south in the service of empire and profit.

The evidence revealed patterns and continuities across countries, communities and sectors:

- new forms of exploitation and ways of denying workers' rights: subcontracting, agency work, false self-employment contracts, zero-hours contracts, under-recording of hours worked to avoid social security obligations, and the replacement of an organised or English-speaking workforce by unorganised, non-English speakers;
- Laws setting up conflict between legal, moral and ethical obligations and the imperatives of immigration enforcement, for teachers, doctors, social workers, employers and landlords, through their conscription as immigration enforcement;
- Collusion between governments, politicians and corporations, and wealthy employers, seen in contracts for detention and asylum housing providing vast profits for the giant security companies and the waiver of minimum wage rights permitting exploitation of detained migrants; the domestic workers' 'visit' visa; the use or threat of immigration enforcement against workers attempting to organise or unionise.

We heard again and again how the status of 'migrant' puts people outside the protection of the law, outside the site of rights, in a system where everything is subordinated to immigration control.

We heard about mechanisms to create powerlessness, fear and division.

But we also heard how unity overcomes fear and division; the importance of uniting across nationalities and communities; the importance of having the voices of migrants heard, both for the reclaiming of agency and a voice and also for creating solidarity:

- in the evidence of Dr **Neal Russell**, who returned the medal awarded for humanitarian work, along with colleagues, saying they could not accept such an honour from a government which forced them to refuse treatment on the basis of immigration status, and who described the campaigns of organisations including Maternity Action, Docs not Cops, Medact against the hostile environment in health care;
- in the evidence of **Bobby Chan**, who showed how a strike of employers and employees in Chinatown stopped immigration raids;
- in the evidence of **Gracie Mae Bradley**, who described the boycott campaign against the hostile environment in schools by groups including Against Borders for Children, Let us Learn and Sin Fronteras, which forced the Department for Education to withdraw the nationality and country of birth questions from the schools census;
- from **Women in Exile**, whose film showed how solidarity actions such as workshops in asylum camps have given a voice and confidence to migrant women there;
- from **Brid Brennan**, who described how 48 women of different nationalities in Greece came together to form – ‘Melissa’ (the Greek word for ‘beehive’), reaching out to disenfranchised Greeks showing possibilities for survival and for change to the system and who talked about the globalisation of hope and struggle through collectives of solidarity and humanity;
- in the evidence of **Colin Hampton**, whose community union branch took solidarity action to publicise the grievances of the warehouse workers;
- from **Jordi Sala**, whose union won rights and spread the struggle;
- from **Ornella Ospino**, whose organisation puts people with lived experience in the front of the struggle, gives training in talking to the media and space for expression;
- from **Marissa Begonia** and **Viviane**, who spoke of the campaigns for rights of domestic workers and the self-empowerment engendered by resistance;
- from **Clara Osagiede**’s struggle and the fight for the London Living Wage;
- and from the testimonies of all the migrants who spoke up and took a stand against institutionalised injustice and exploitation.

4. DELIBERATION

*We struggle for change to honour
those who have been failed by the system*

Introduction

We are deeply grateful for the bravery, strength and commitment of all those who testified in person and in writing who speak out despite the risk of racist violence and of deportation. They have of course been speaking all along and are not voiceless. But ‘we’ are not listening, particularly the Defendant to the Indictment: the British government (in its own right and as representative of the governments of the EU and of the global North). We note that they were not present at the Tribunal. We note too the absence of witnesses who are detained, deported and otherwise prevented by visa regimes from attending. With awareness of these silences it was possible to speak *and listen* within a space where the hostile environment was challenged on different terms that open to new actions. Thanks to the work of the witnesses and organising committee it was possible for the jurors and those attending to see the world as those giving testimony constructed it for us, rather than adopting or taking over their perspective. The process of the Tribunal was therefore a vital moment of what has been term a ‘politics of listening’. For the jurors and all those who use the testimony this is now our privilege and our responsibility.

We are conscious of the specificities of a hearing based in London, a city that continues to profit from the extractive, exploitative relations that were, through Empire, violently imposed on people throughout the world. Webber, Bunyan, Osagiede, Oduntan named the ongoing legacy of colonialism, corporate looting and the arms trade that inflicts economic and social immiseration. We heard from Guerrero how global supply chains continue to squeeze wages and maximise profits. Oduntan gave specific examples of abusive trade and financial practices that direct huge profits away from social benefits such as healthcare systems and education and into tax havens. The City of London is known to be both a key facilitator and beneficiary of such corrupt processes. Migration to the UK must be understood within this context. As Osadgiede stated: “You’re here to take a little back ... You can’t steal from me and at the same time call me a thief”.

Yet the continuing global injustice that Britain has played such an important role in initiating and perpetuating is also meeting with continuing resistance, and the struggles of migrants, refugees formerly colonized people have provided both inspiration and deep insights. We would foreground here the anti-racist struggles of Black and Minority Ethnic² people to which many of the witnesses and organisers have made crucial contributions. In the testimonies we heard many examples of racism at work, not only between migrants and citizens, but also racial hierarchies of jobs in detention centres, housekeeping jobs in the hospitality sector occupied by women of certain nationalities with little/no English, and African cleaners being replaced by cleaners of different nationalities. We saw how the making of difference between differently racialised people intersects with and can reinforce the making of difference between migrants and citizens, and the need to

² The terminology for differently racialised group is often nationally specific. Given that the Hearing took place in London we will use the UK term Black and Minority Ethnic with reference to the UK witnesses, and ‘People of Colour’ when referring to the witnesses in the full PPT series.

name racial and patriarchal capitalism which underpins the relations of production and the violations of the rights of migrants and (BME) citizens, and the resistance to it.

We are asked by the Indictment to consider seven questions. We will first address those that are directly pertinent to the UK evidence viz:

- I. *How do government policies and ministerial statements treating poor migrants and refugees as 'benefit tourists', 'health tourists', 'a swarm', help to exacerbate popular racism and encourage hatred of migrants and racial violence?*
- II. *How does the continued tolerance of the suffering of those condemned as rightless affect the rule of law?*
- III. *Since the protection of fundamental human rights is designed to embrace both the executive and juridical arms of state, to what extent does the treatment of migrants destroy this bridge between the political and the juridical?*

On the basis of the evidence presented we will also add a further section detailing:

- IV. *The collusion between states and corporations, immigration officials and employers that results in profits at the expense of migrants and other workers and the perpetuation of division through racial and sexist domination.*

We will then turn to the questions that situate the UK within the wider European context:

- V. *To the extent that the Tribunal finds the above violations proved, how do they fit with the general pattern of violations found by the Tribunal in its hearings at Palermo, Paris and Barcelona?*
- VI. *How does the creation and maintenance of a rightless people sit with the pretensions of Europe to be a cradle of universal human rights and values and with the human rights instruments written, signed and ratified by European states?*
- VII. *To what extent can are migrants experimental subjects or guinea-pigs for a broader destruction of the rights of populations under globalisation?*
- VIII. *Has the Tribunal found examples of resistance against these measures which can act as models or markers for future action?*

I. How do government policies and ministerial statements treating poor migrants and refugees as ‘benefit tourists’, ‘health tourists’, ‘a swarm’, help to exacerbate popular racism and encourage hatred of migrants and racial violence?

As intimated in the Indictment, the policies initiated to foster a ‘really hostile environment’ (the phrase was introduced by then Home Secretary, currently Prime Minister, Theresa May) were devised in the context of the promotion of strongly anti-migrant attitudes in sections of the media. The popular press has consistently used the inhuman language of natural disasters, insects and infestations and politicians have not protested but themselves adopted this kind of terminology: ‘a swarm of people’ was how then Prime Minister David Cameron described people in Calais seeking to come to the UK. There has been an increase in hate speech, and in the hostile use of terms such as ‘asylum seeker’ that strikes fear into individuals and communities. We note that while the ‘hostile environment’ policies were introduced by a Conservative Home Secretary, the ground was laid by previous Labour Governments which, among other policies, introduced the UK Borders Act 2007 and automatic deportation for non-citizens convicted of certain crimes.

The language of the hostile environment makes it easier for us to go beyond mere ‘complicity’ as a starting point and evaluate policies in the context of intentional cruelty. In particular, to concentrate on how government policy and law is playing an active role in creating and providing the structures for ongoing violence in which employers, service providers and other actors carry out the weight of this violence. The government’s creation of destitution, creation of illegal status, creation of conditions for systemic abuse by employers goes beyond mere complicity and demands we attend to government responsibility for deeply destructive effects of law and policy on migrants’ lives and experiences.

Reading the hostile environment as intentional or planned cruelty allows us to evaluate the devastating impact of the policies on migrant communities not as a betrayal of the rule of law, but as a type of violence by design. This design includes, for example, duplicity in the expectations and protections that apply to migrant communities under the hostile environment policies. For example we heard about:

- being asked for data, that will ultimately lead to denial of services;
- tying people to families as visitors, knowing that they are workers and are vulnerable to exploitation;
- being denied the right to work but being permitted and in some cases coerced to work in detention without the protection of labour rights;
- a culture of disbelief in the face of truth telling.

Thus, violence by design includes a duplicitous set of messages and expectations that work to the detriment of migrant communities. Legally, and in the broader political messaging, this creates the conditions for the exclusion of migrants from social services and other rights while keeping intact the state-legitimising force of a system of formal human rights protections for migrants. The protections are designed to give the impression of protection whereas the practical reality, as we saw, is quite different. Arguably, this is how it is meant to work, because these laws and policies

have an audience — everyone has access to services but the genuine enjoyment of those services is frustrated by either scaling back of formal rights or the deterrent effect of the hostile environment. Witnesses used metaphors that did indeed suggest violence by design, even if this is not a way of speaking that would fit the legal grammar — e.g., policy as a perpetrator of abuse, or the state as a thief. This suggests we need a legal and moral language that describes the legally unclassifiable or illegible moves that are made, and the testimonies are an important step in approaching this language. The acts of verbalizing, of calling out, that we heard at the PPT are political acts, and provide an important map in strategizing for the future.

The aims of the hostile environment policies imply the official intentions of those policies, which in this case are odious, but it is really the effects of these policies that need to be in the foreground—whether intended or unintended. The ways in which the submissions have brought the effects to the forefront have been effective and persuasive. We heard multiple examples of the everyday cruelties that the hostile environment fosters, and how it promotes fear and prevents people from availing themselves of basic rights. This has long term and irreversible consequences. We heard, for example, of a baby born with disabilities as result of mother being deterred from accessing antenatal care. Detention is an important component of the hostile environment and it too has long term consequences: ‘I left detention, but detention has never left me’ as one witness explained. The fact that 80% of those detained are released within two months calls to question the purpose of such breach of liberty. It is also a cause of great concern that in 2017, 275 migrants were held without trial for over a year, and in one case, for over four years.

We find the connection made in the Indictment between hatred of migrants and racial violence to be robustly confirmed by the testimonies. In the wider public discourse determined efforts have been made to disconnect anti-migrant feeling – which is actively promoted by a wide range of political stake-holders as having a legitimate basis – and overt racism, which thanks to the struggles of previous generations and the continuing work of anti-racist organisers, continues to be considered as socially troubling. Racism permeates British society but it must not be seen to do so. One of the duplicitous tricks that enables a blind eye to be turned, not just to the effects but to the *manufacturing* of ‘race’ and racism is precisely to disconnect racism and hostility to migrants. This disconnection and the claim that hostility to migration is qualitatively different from racism permits the endorsement of practices of racism. This was exposed by the so-called ‘Windrush scandal’ which has seen and continues to see the illegal deportation, detention, eviction, sacking and denial of services to Black British citizens and long-term residents.

Flynn described how civil society is conscripted into the service of the hostile environment which is implemented by non-trained service providers required by law to check documents. This has resulted in informal racial profiling. For example, in September 2016 schools were required to ask for country of birth and nationality in data gathering for the school census. Many schools only asked this of BME or children with non-Anglo-Saxon names and even demanded passports. Some children were asked their nationality directly in the classroom. Embedding formal immigration enforcement in public services only exacerbates the negative implications of the hostile environment, as we heard in the description of the consequences of immigration officers’ presence in social services’ child need assessments. In short, the practices unleashed by the hostile environment have wide ramifications and are highly socially damaging. They produce

stigmatization and license abusive, intimidatory and inappropriate behaviour. They popularize the legitimization of exclusion from basic services in a country that is one of the richest in the world.

Finally, we note the classed and gendered element of the hostile environment. This is evident for instance in the NHS charging system, which charges people 150% of the cost of their care, putting access to health outside the reach of the vast majority of poorly paid migrants. People are charged extortionate fees for visa renewal and citizenship applications, again putting access to certain rights out of their reach. This fosters spaces for exploitation as employers can use status as a threat to control migrants, and it also facilitates violence and abuse. Ospino told us that in the case of their work with Latin American women, those fleeing intimate partner violence were regularly threatened with exposure of their immigration status.

II. How does the continued tolerance of the suffering of those condemned as rightless affect the rule of law?

This question raises the vast difference that citizenship makes to the rights that individuals enjoy. The distinction between citizens and non-citizens is enshrined and promoted in many national and international legal instruments. The European Convention of Human Rights (ECHR), otherwise formally named the Convention for the Protection of Human Rights and Fundamental Freedoms draws a distinction between citizens and non-citizens with respect to some of the “rights”. For example, despite Article 5 rights to liberty and security in the ECHR, under Article 5(f) a migrant is subject to arrest and detention to prevent “unauthorised entry into the country” or “with a view to deportation”. Even if granted that Article 5 (f) confers powers to European states to breach migrants’ rights to liberty and security, under the policy of hostile environment such powers are often wielded disproportionately, and at times gratuitously beyond the intended limited objectives. They render migrants vulnerable to arbitrary violence and exploitation, lack of physical freedom of movement, insecure futures, family separations, lack of voice, exclusion from ethical and moral considerations.

These vulnerabilities are fundamentally related to the exclusionary policies across Europe and maintain an impoverished state-centric narrative of how migration politics relate (or do not relate) to global geopolitics. An ahistorical view of violence prevents us from understanding that we are a part of a global labour economy, a global system at the juncture of racism, capitalism, migration and gender violence. We must view the UK’s treatment of all people moving in and out of the territory within this context. Franz Fanon, in *Wretched of the Earth*, wrote of zones of non-being, where certain people or communities experience extreme violence or destitution. These zones are not mapped only by the boundaries of war or geopolitical borders. They are present at the centre of liberal democracies as well as in the global margins. The violence in the UK is on a continuum with violence meted out to migrant communities in Europe and across the world.

While rightlessness may be a misnomer in legal terms for the situations put before the Tribunal, we understand it as an effective description of the experiences of those who endure them. The understanding that rights do not exist is promulgated by fear, which is rooted in the deterrence logic of the hostile environment which, for example, dissuades migrants from seeking vital health care

services to which they may be entitled. The effectiveness of legal recourse was so poor in many cases that one could argue that migrant communities face a form of rights-destitution, so that even the rights that exist formally are not understood to exist fully, reliably or at all.

However, ‘rightlessness’ must not be understood to mean lawlessness. What people are experiencing is not rightlessness, in the sense that their situations are not governed by law. Migrants are not living in a space where there are no rights because no law or regulation has considered them. Rather, the space is saturated with law and various regulatory practices. Indeed, the law is the key mechanism for creating migration status, and different types of migration status effectively remove rights that citizens take for granted. Thus, attention to the rule of law illustrates the ways in which the government structures this misfortune. The abuses and exploitation that are consequent on the hostile environment are not simply the result of racist individuals and it is necessary to call the government to answer for its own architecture of poverty and violence.

Whether this undermines the rule of law is a matter of interpretation. If the rule of law is to be understood as not distinct from the social and political world in which it develops this suggests that we should beware of simply understanding even the limited legal protections for non-citizens as benign, but rather be attentive to the ways in which it serves multiple functions, including purposive exclusions and the general legitimisation of the state. For example, enforcing rights protection through immigration controls and enforcement via ‘trafficking protections’ can in practice undermine labour rights. The Tribunal agrees with the witness who claimed it is hypocritical for the enforcement officers to say that they were rescued from exploitation by their employers, when they were put into private detention centres to work for a small fraction of what they were able to earn before being “rescued”. Abayomi described how the hard won right of migrant domestic workers to leave abusive employers was removed and replaced with anti-trafficking mechanisms. The claims that the law protects, when those subject to it find that such protection means they cannot access labour rights, undermines confidence in the rule of law.

We can also understand the rule of law in more conventional terms, that those responsible for obeying the law understand and obey it without knowingly frustrating its efforts. This presumes that the rule of law, in the context of rights and protective provisions, would maximise the rights of those who are entitled to them. In this sense too, one may understand the hostile environment as a deviation from the rule of law. The recent case of the Stansted 15, who were convicted of a terrorism related offence for chaining themselves to an immigration removal flight is an example of people challenging the law because of its failure to protect human rights – in this case, eleven people due to be deported currently remain in the country.

Both interpretations of the rule of law are concerned with how to effect voluntary compliance with the law. It is widely acknowledged that the implementation of harsh penalties (the deterrence view) or appeals to self-interest are not sufficient in themselves. There must also be a role for procedural justice. Individuals and organisations are more likely to follow the law when they feel that decision-making procedures are fair and respectful. Justice must not only be done, but it must be seen to be done. Lack of procedural justice undermines co-operation with the authorities.

The law is not a seamless whole, and the Tribunal heard of contradictions between laws and policies. For example, laws forbidding access to public funds (no recourse to public funds–NRPF) push some migrants, including legal residents, into destitution. When challenged, national government can claim that there is a safety net protecting vulnerable residents such as children from destitution because social services are legally obligated to protect all children within their area. However, the theoretical safety net is not available in practice because local authorities are not given any funding to enable them to comply with this obligation. On the other hand, non-immigration regulations may be mobilized for immigration purposes. For example, in a raid of London’s Chinatown in 2018, immigration officers used an alleged breach of Licensing Act as the excuse for the raids on restaurant premises. The intention was harassment of migrants, and revenue raising from ‘guilty’ employers who can be fined up to £20,000 per person. That the so-called intelligence-based raids were gratuitous was evident when some workers hauled into vans were released into the streets almost as soon as the van was outside the vicinity. These kinds of practice gaps, and legal mobilisations, again point to what we have termed violence by design.

III. Since the protection of fundamental human rights is designed to embrace both the executive and juridical arms of state, to what extent does the treatment of migrants destroy this bridge between the political and the juridical?

As discussed in section II above, the complicity with cruelty or intentional cruelty have a bearing on how we understand the rule of law—and this underscores the contention that law is not benign, and it must be understood within the context of political commitments. We understand this question as inviting comment about whether a true separation of powers is relevant or possible in a context where the *political* aspirations of the hostile environment policy work to the detriment of the proper functioning of democratic institutions, including the separation of powers between the executive and judicial arms of the state. We preface our response by noting that the separation of powers and the democratic nature of institutions is an imperfect fiction in one sense, and also that the hostile environment does not constitute a breakdown of policies that were supposed to function to the advantage of migrant communities, but rather, it was meant to exclude and disadvantage these communities.

The juridical and the political cannot be isolated from one another. This is not simply to argue that the hostile environment and anti-migrant policies are political and social as well as legal and economic policies. The idea that “ethics is subordinate to immigration control”, phrased in this way by the prosecutor, is itself an ethic or a politic of law. Politics, in this context, cannot be separated out from law. This is not a unique area of law in the regard that it has an ethic, but we see the hierarchy in action. The hostile environment policies are designed to work like an engine. Like an engine they rely on fuel to function. The misunderstandings of the legal entitlements of migrants are fuelled by fear in some (e.g. by service providers like health care practitioners), and exploitation of the law based on racism, opportunism and a lack of fear in others (e.g., by employers who exploit migrants’ insecure status). So, the ways the laws and the overall hostile environment policy affect society are not only legal-technical in form, they also involve social and political choices and carry social and political consequences. This forms a larger moral economy of choices where much of the risk is carried by migrants and to those imagined to be migrants, including BME communities.

Central to the political aspect of law is the politics of fear, which was emphasised consistently in testimonies brought before the Tribunal. In the broadest sense of the question posed by this section, the willingness to allow a politics of fear to dictate the engagement of migrants with their rights can be understood as detrimental to the aspiration for a separation of legal rules from political life. Furthermore, the testimony demonstrated a failure to ask the constitutionally-relevant questions that would typically hold the hostile environment policy up to the scrutiny of human and fundamental rights analysis.

Even if we understand the political to mean the executive arm of the state rather than broader social politics, it seems that the exclusion of migrants from the protections of core rights may actually serve to concretise state narratives and bolster state interests in a global, historical context, making the suffering of migrants seem legitimate or even inevitable. By arguing for a need to balance formal human rights provisions against the maintenance of criminalising and marginalising migrant communities with insecure immigration status, by using harsh deterrent logics, the government keeps in place an impoverished understanding of the UK's responsibility and role in the global political order, specifically with regard to colonialism and contemporary border practices.

IV. The collusion between states and corporations, immigration officials and employers that results in profits at the expense of migrants and other workers and the perpetuation of division through racial and sexist domination.

The Indictment did not invite remarks on this subject, but strong evidence of this collusion emerged during the hearing and we would like to draw attention to this aspect of the testimonies. It is particularly important at a time of growing nationalism, where the depredations of global capitalism undermine the regulatory capacity of states and political efforts are made to rebalance economies and societies in order to enhance national governments' protective functions.

Many witnesses described how rather than challenging the interests of global capital and big business, UK government law and policy, including through the hostile environment, promoted these interests at the expense of migrant workers. We observed two mechanisms at work. Firstly, the outsourcing of government contracts to private companies such as Securicor, G4S, GEO group, MITIE. Sokolov described the huge profits that are extracted, and how these are enhanced by systematic cost-cutting. Migrants are denied payment at the national minimum wage whilst in detention, they are effectively "captive labour", employed for the profit of the private jailors. Such practices are facilitated by companies being allowed to self-audit and not held to account. In this way profits are made, not only through the exploitation of migrants' labour but through the management and controls of their bodies themselves.

The second mechanism was the ways in which immigration controls made workers dependent on their employers. We heard from Begonia how workers with a legal status that relies on sponsorship by a named employer can find it impossible to demand even limited rights. The creation of an undocumented population also gives employers excessive control. Osagiede described how the

threat of status was used by managers at London Underground to extract excessive hours at extremely low, or even unpaid wages.

We note that many of the experiences of migrant workers are the experiences of an oppressed class, and they are compounded by racial domination. This is embedded in imperial histories of divide and rule, European racism, and nationalist hierarchies that not only divide migrants from citizens, but also divide migrants themselves by religion, ethnicity, phenotype and legal status. Racial domination is also patriarchal and we heard of the particular horrors endured by women workers, the sexual harassment, abuse and rape that immigration status makes them vulnerable to, and the impunity granted by immigration controls to rapist and abusive managers. We applaud the many testifiers who have so strongly challenged these divisions.

V. To the extent that the Tribunal finds the above violations proved, how to they fit with the general pattern of violations found by the Tribunal in its hearings at Palermo, Paris and Barcelona?

The hearing in London followed previous hearings in Palermo, Paris and Barcelona. Each of these hearings had a particular character and emphasis. The Palermo hearing focussed on migratory flows in the Mediterranean, the neighbourhood policies of Europe including the externalisation of borders and the criminalisation of solidarity; the Paris hearing paid particular attention to the internal borders of Europe and its relations with the Mediterranean and Africa; the Barcelona hearing focussed on the Southern border, gender and diversity, and minors and youth.

In common with the Palermo hearing we find that while migration is represented as the global problem of our age and is spoken of as a migration/refugee ‘crisis’ it is in fact not migrants that are the problem, rather it is Europe. Europe does not have a problem of migrants, rather it is migrants who are experiencing a terrible problem with Europe. In common with all the hearings we recognise that the injustice migrants experience is deeply embedded in global political, economic and social systems. Global capitalism, the nation state system, and the imbrication of both with racism and patriarchy have deep historical and European roots. In the introduction to the Barcelona session it was reported how France objected to taking in ‘all the misery of the world’, we observe that Europe is indeed taking in much misery from the world as it is congealed in things, but rejecting the people from places that have been impoverished by Europe’s power.

While the hostile environment is a UK policy, its spirit stalks Europe. All hearings heard how fear is used to divide people, and to discourage collective action and speaking out. We find shared patterns in the treatment of non-citizens across Europe. These are:

Firstly, immigration controls and practices expose the racism of Europe. Witnesses across the hearings connected this racism to the violence and expropriation of colonialism, some contrasting the treatment of European entrepreneurs who come to Africa to plunder natural resources, with the treatment of Africans in search of sustainable lives, who are separated from their loved ones and who are treated as if they have committed crimes. All PPT hearings were informed about ethnic profiling by state officials and the ways in which migrants are associated with crime. They have

also heard about the disposability of Black and Brown people. It is not only that their labour is exploited but that they themselves, their human vitality, is turned into objects to be profited from, their bodies being warehoused in internment centres, deported or killed. This is systemic and institutionalised racism and stigmatisation. It materialises in the institutionalised violence of fences and detention centres as well as street racism and attacks. Black Africans are particularly subjected to a violent and dehumanising anti-Black racism and Muslim people are subjected to Islamophobic hatred and abuse. European racism is monstrous and multifaceted even as it attempts to hide behind polite words and promises.

Secondly, the hearings have exposed Europe's patriarchy and its anti-women bias. In different hearings we heard about the denial of labour rights and recognition of their labour to women working in private households, the requirement to have sex with employers to be given the possibility of work, the underpayment of women, and laws pushing women into dependence on male partners. We also heard about the fake 'protection' offered to women as victims of trafficking. Related to sexism and misogyny is its heteronormativity, and in the Barcelona hearing in particular we heard from LGBT communities how people seeking to escape anti-gay norms and laws have their fears and experiences unrecognised in a highly heteronormative asylum system even though Europe likes to congratulate itself on its openness to different sexualities and genders. Unfortunately, patriarchy and heteronormativity can also be manifest in civil society groups including in some male dominated trades unions.

These negative aspects of Europe are bound up with capitalism – they are not simply about domination, but about expropriation and profit making, about the economy as well as society. In all hearings it was clear migrants are at the bottom rung of the capitalist system. We've heard about how corporations have been involved in criminalisation processes and we can see the private profits derived from immigration enforcement and externalising controls, but also how the same companies benefiting from provision of immigration enforcement are also profiting from arms sales that are causing misery in Yemen for example. The class-based oppression of migrants is apparent throughout Europe in high visa fees and requirements for long term residence and citizenship that discriminate on the grounds of wealth. This disadvantages poorer migrants, migrants with special needs and women with children.

We also note that as well as shared patterns of violations, there are shared networks and patterns of resistance, resistance that can also be attacked as the European environment becomes ever more hostile, and a version of that hostility becomes directed against those who support migrants. Here we would like to mention the organisations involved in the search and rescue activities carried out in the Mediterranean. These have saved many lives and are now under attack and in Italy have become the object of a real persecution.

VI. How does the creation and maintenance of a rightless people sit with the pretensions of Europe to be a cradle of universal human rights and values and with the human rights instruments written, signed and ratified by European states?

In Section V we have considered how the testimonies of witnesses across the PPT hearings undermine the pretension of Europe to respect human rights. In this section we consider legal instruments. For the purpose of this Deliberation, the two relevant international documents which are signed and ratified by European states are: a) The Universal Declaration of Human Rights which is an international document that states the basic rights and freedoms all human beings are entitled to. It was adopted by the United Nations General Assembly in Paris on 10 December 1948; b) The European Convention of Human Rights (ECHR), otherwise formally named the Convention for the Protection of Human Rights and Fundamental Freedoms. All Council of Europe member states are parties to the Convention. As the ECHR mirrors the United Nations Universal Declaration of Human Rights, we will examine the evidence against the stipulations of the various articles of ECHR which were designed to protect Human Rights and Fundamental Freedoms.

Despite its claim to Universality, both the UN Universal Declaration and the ECHR are inadequate in ensuring that the “rights” declared therein are Universal. The fact that the Mediterranean Sea has turned into a mass grave, the inability of Europe to adequately respond to the 2015 so-called ‘refugee crisis’, not to mention the evidence gathered in the five PPT hearings demonstrate that the rights within ECHR are often privileges enjoyed by citizens only, to the exclusion especially of undocumented migrants. IF human rights such as liberty, freedom from inhuman treatment, family life, adequate standard of living, health without discrimination, work in just and favourable conditions, education, dignity, effective remedy, and the right to be treated without discrimination, are not universal they become privileges to be given to the deserving.

As observed in Section II, the ECHR draws a distinction between citizens and non-citizens with respect to some rights. Citizenship is a means of giving rights but also a means of exclusion. Citizenship is a European achievement, but the place of the colonized, of women, the non-worker, the disabled, has always been contested. Hence despite Article 5 right to liberty and security in the ECHR, under Article 5(f) a migrant is subject to arrest and detention to prevent “unauthorised entry into the country” or “with a view to deportation”. We have seen how this distinction further has the effect of rendering migrants vulnerable to abusive employers and unable to claim fundamental labour rights. Furthermore, despite the ECHR Article 10 Freedom of Expression, and Article 11 Freedom of Assembly, the tribunal finds that many migrants are afraid to speak freely due to their precarious existence and fear of state imposed deportation. Various witnesses gave evidence confirming that migrants in low paid employment such as domestic work, cleaners, workers in warehousing, agriculture, meat and fishery industries workers are most disenfranchised, and susceptible to bullying without redress, fearful of bringing their plight into the open, either because they are undocumented, or fearful of losing their job.

While the ECHR Article 6 confers Right to Fair Trial, and Article 14 the Right not to be Discriminated Against, the lack of legal aid funding means that many migrants who face housing, health and immigration appeal issues have to rely on the work of small charity funded caseworkers.

The evidence of Kate Adams of Kent Refugee Help corroborated that of another caseworker, Catherine Carpenter: “The majority of our clients face deportation, are without legal representation and need to apply for immigration bail. Many have family and potential claims under Article 8 of the Human Rights Act. These are not being considered after the withdrawal of legal aid for such claims on 1.4.2013. Although in some cases there is exceptional case funding (ECF) where there is a breach of Human rights, it is extremely difficult to apply for and virtually no help.

VII. To what extent are migrants experimental subjects or guinea-pigs for a broader destruction of the rights of populations under globalisation?

Firstly, we note that the difference between ‘migrants’ and ‘citizens’ is one that is made by law and that racism and the hostile environment mean that in the UK BME citizens may be treated as migrants (Section II). Furthermore, the criminalization of solidarity and the destruction of families and communities through immigration controls and enforcement mean the consequences of immigration enforcement are not confined to ‘migrants’. While immigration purports to be protective of citizens it also directly undermines citizens’ rights. What is bad for migrants is not good for citizens. For example, infectious diseases may be exempt from health charges in order to protect public health, but how do people know that they have an infectious disease before they go to hospital?; and even if they do know they have the right, fear may prevent them from attending (Section I).

We note too that the rights of citizens are increasingly under attack. The rights of low waged workers are particularly vulnerable, as evidenced by the abolition of the Agricultural Wages Board in 2013 withdrawing advice and statutory protection for workers. In the six months after abolition more than half workers surveyed had not had a pay rise. This affects migrants and citizens alike. Sometimes citizens’ rights are more rhetorical than actual: for example, the hostile environment requires landlords to check if their tenants have the ‘right to rent’. Yet this ‘right’ does not mean that citizens can access affordable, decent housing. Indeed austerity measures have made this even more out of reach including through policies such as the bedroom tax. The right to rent has appeared only in its absence, i.e. its denial to migrants with certain statuses. Attention to the context of austerity again highlights the importance of understanding the relation between migrants and class and the artificiality of the division that is introduced via migration status. While it is claimed that immigration enforcement is protective of low waged, precariously employed and unemployed people, these are the people who are most detrimentally affected by restrictions on family visas to those earning above a certain sum for example.

Many examples were provided of migrants and migration control as ‘guinea pigs’ for further violation, what Frances Webber described as the broader destruction of rights under neoliberal globalisation. We learned how the UK is a pioneer in immigration detention using it as a testing ground for the privatisation of prison. The withdrawal of legal aid that has decimated access to justice was implemented first for migrants before being rolled out more generally. At the EU level, Bunyan testified how concerns about privacy were quashed when the EU proposed a shared personal database because it was gathering data only on migrants, but that today it is now gathering

details on all EU citizens. Exploitative work is represented as a reward in prison as well as in detention.

In this spirit we take particular note of the contribution of Disabled People Against the Cuts, where disability adds an important note of caution to campaigns for ‘the right to work’. Calling for the ‘right to work’ risks buying into capitalist definitions of ‘work’ as paid employment, obscuring for example the unpaid material and emotional work associated with survival which is inherent in the search for asylum, or the work of those who care for others in the private home. We need only look at the experiences of disabled citizens and people on benefits, to predict that the ‘right’ would soon become an obligation irrespective of the barriers that are faced. Disabled citizens and migrants often have to make strong efforts to resist systematic pressure to find paid work, whatever the cost to themselves and those they care for. Of course for some paid work is a positive way forward, but rather than a binary option we applaud DPAC’s call to ensure that people are not deprived of the resources needed for dignified life, whatever their individual circumstances, and challenge the idea that there is anything intrinsically positive about the right to work in a capitalist economy.

VIII. Has the Tribunal found examples of resistance against these measures which can act as models or markers for future action?

We consider the Tribunal itself as an act of resistance, as a space for a politics of listening. Attempts to challenge hostile environments through structured policy forums – e.g. where one is invited to submit evidence to consultations – happen on the terms of dominant political interests and can confirm the status quo and legitimise state racism. We end up somewhere different through what was shared at the Tribunal and through the way it was shared, in what several witnesses referred to as a space of hope and solidarity. The opportunity demonstrated by the Tribunal is the way this logic is reversed, and new ground is broken for new forms of resistance. This was very powerfully articulated by migrant women of colour, under whose leadership we are shown new ways to understand intersecting forms of oppression including race, legal status, gender, class. Speaking from these intersections they show us the system and its effects: what we understand as work, who count as workers, the multiple oppressions of the systems we are up against. But they also show us paths to unity and resistance.

It is impossible here to do justice to the many claims and strategies that were shared at the Tribunal. Some key examples are flagged in Appendix 3 as possible foundations for future actions, under the headings *Strategies, Demands, Leadership*. The groups and individuals whose testimony was heard – including: Sacuna, Waling-Waling, Voice of Domestic Workers, LAWRS, Women in Exile, Clara Osagiede – show us the ways to forge unity. This is unity that starts at intersections such as race, class, gender, legal status. None of these women are tokens, from whom wider movements pick up on one aspect of their experiences that suits a certain movement or campaign. They do not mobilise ‘irrespective’ of their differences.

The ongoing legacy of colonialism was denounced and this in turn directed us to new forms of resistance across time as well as the spaces of specific hostile environments in European nation-states. Demands were made in light of this ongoing history by, among others, Osagiede and

Oduntan: for acknowledgement, a need to speak the truth; for compensation and reparation for harms; to desist from British policies that impoverish African nations. These historical understandings and the recognition that they are ongoing processes should serve as the foundation for strategies of resistance to multiple hostile environments.

Austerity and migration control combine to restrict the rights of migrants and citizens and pit groups against each other through state racism and racialised capitalism. To resist, these are the bridges that can be built across false divides to challenge hostile environments and generate new visions of justice. In this context we note that there are many citizens resisting alongside migrants in many different capacities, from organising to standing bail, from advice to speaking out. They are inspired by people in global south who are showing the way to create not a hostile but a HOPEFUL environment.

Conclusion

*You already know enough. So do I. It is not knowledge we lack.
What is missing is the courage to understand what we know and to draw conclusions.*
Sven Lindqvist “Exterminate All the Brutes”

The UK Government purposively designed and implemented the hostile environment. This is not in dispute. On 28th February 2019, after the Tribunal hearings were completed, the High Court found that rent checks, a key component of the hostile environment, were in contravention of human rights law. We welcome this finding and note Justice Spencer’s finding that: “the scheme introduced by the government does not merely provide the occasion or opportunity for private landlords to discriminate but causes them to do so where otherwise they would not”. The jurors of the London session of the Permanent People’s Tribunal state unequivocally that the hostile environment is an environment which facilitates and perpetuates racism and cruelty. We have seen incontrovertible evidence of the institutional racism and violence of the British state, and the hostile environment enables this cancer to spread ever further into our society.

The hostile environment breeds suspicion and division when solidarity is in the interest of the vast majority. At a time when our shared communities and our shared earth are proving so vulnerable and endangered, the politics of nationalism and racial division are risking our future. The British government is working against the interests of migrants and citizens alike. It is failing to educate the population about the racism, greed and violence of British imperialism, whose consequences continue to this day. We refute the hypocrisy of the claim that the British government respects basic rights as it demands that ordinary people enforce its racist immigration laws. We call for us all to find connections and common interests between struggles.

We recognise and celebrate the struggles and victories of migrants and their supporters. We learned of solidarities, new subjectivities and discovery of common interests. We heard about resistance even in detention centres. We heard about transborder solidarities and collective strategies of survival and resistance. We have heard about how some people are inhabiting the borderlands – non-rights spaces even when they are in the heart of Europe, but they are also making new spaces, turning these borderlands into sites of politics. We are seeing people excluded from citizenship take roles as political subjects and European citizens need to learn from them.

There are demands of the state and of the European Commission that we can continue to make: free movement for all, stop externalisations, ease of passage and safe corridors, legal entry channels, close detention centres, Stop Dublin, allow people to claim status in the country where they want, end ‘hot spots’, end enforced evictions and debt repayments. But there are other stakeholders we need to call to account, the multinational corporations, humanitarian actors, local authorities and services that permit the embedding of immigration officials.

There are also demands we can make of ourselves and of others to strengthen our movement. Trades Unions must be held to the highest anti-racist, pro-migrant standards, open to all genders and nationalities. More generally migrants’ struggles must be integrated into the struggles of marginalised citizens, and women have an important role to play here. This may require us to

reframe conversations, to help progressive forces see that if they do not take the issues of mobile people seriously their struggles for justice can be undermined.

We must also reflect on our own practices and be alive to power operating within our own organising through the vectors of citizenship status, language, education, race and religion and gender. We must be open when demands are made of migrants' organisations to be more accessible to LGBT people, women, or disabled people and be alert to what one of the witnesses called 'competition between vulnerable people', played out most obviously in the competition between marginalised and impoverished citizens but also be played out in our own settings. What is bad for you is bad for me. Racism against migrants is translated into racism against citizens, misogyny against citizens also misogyny against migrants.

We need to be connecting the abuses and exploitation of migrants with the profits from companies. The European Union and the member states are complicit with this. Through the evidence we heard at the PPT it is possible to make connections beyond the examples and cases themselves. This evidence helps make the system visible through the effects and experiences of legal and policy instruments and their absences. It is then possible to move toward a broader vision of justice that starts with migrants, keeps migrants at the centre, and then radiates outwards. This is particularly urgent in the current perfect storm of austerity and migration control that combine to restrict the rights of migrants and citizens, while pitting groups against one another.

We need more than legal instruments and people stressed that now is the time for unity, equality, solidarity, workers' rights. To echo the findings of the Paris hearing, we need to reach a place where the world can be shared again.

APPENDIX 1
Indictment submitted to the Permanent Peoples' Tribunal
and signatory organizations

Session on The violations with impunity of the human rights of migrant and refugee peoples
(2017-2019)

“Hostile environment on trial”

London Hearing
3-4 November 2018

The Defendant to this indictment is the British government (in its own right and as representative of the governments of the EU and of the global North).

1. Preamble

This session calls on the Permanent Peoples' Tribunal to consider whether the policies of the European Union and its member states in the field of immigration and asylum, particularly as they affect migrant peoples in the chain of labour, amount to serious violations of the articles enshrined in the Universal Declaration of the Rights of Peoples signed in Algiers on 4 July 1976, to serious violations of the rights of individuals as enshrined in particular in the Universal Declaration of Human Rights 1948, and, in their totality, to a crime against humanity within the meaning of Art. 7 of the Rome Statute.

The current indictment is presented as one of a series of indictments against the governments of the global North within the framework set out at the introductory hearing in Barcelona in July 2017. These indictments taken together set out the ways in which the governments of the global North and the institutions of the EU have (a) created conditions making life unsustainable for millions in the global South, thus causing mass forced migration; (b) treated those migrating to the global North as non-persons, by denying them the rights owed to all humans by virtue of their common humanity, including rights to life, dignity and freedom; (c) created zones which are in practice excluded from the rule of law and human rights within the global North.

Governments of the global North, together with the international financial institutions, pursue trade, investment, financial, foreign relations, and development policies which uphold a system of global exploitation that destabilises governments, causes armed conflict, degrades the environment and impoverishes and immiserates workers and communities in the global South, thereby forcing millions to leave their homes to seek safety, security and livelihood elsewhere.

At the same time, through policies of deregulation, privatisation, welfare state retrenchment and outsourcing of government functions, marketisation and flexibilisation, the restructuring of work and labour relations have been enabled in the global North, creating acute insecurity and precarity, depressing real wages and conditions of work for most workers.

Through labour and migration policies which permit freedom of movement for capital and for citizens of the global North while denying such freedoms to the citizens of the global South, their governments have allowed employers to take advantage of the vulnerability of migrants and refugees as they attempt to enter the labour market, which has created a migrant and refugee underclass of illegalised, super-exploited, deportable workers – a people without rights.

Migrants, people forced to move from the global South to the global North for reasons of war, conflict, persecution, dispossession and poverty, suffer violations of rights with impunity when they reach the global North regardless of their particular nationality or ethnicity. By virtue of their common experience they can be said to constitute a ‘people’ for the purposes of the Universal Declaration of the Rights of Peoples (the Algiers Declaration), which provides that every people has a right to existence, and that no one shall be subjected, because of his national or cultural identity, to ... persecution, deportation, expulsion or living conditions such as may compromise the identity or integrity of the people to which s/he belongs.

The following sub-articles of Art. 7 of the Rome Statute (crimes against humanity) are relevant to the considerations of the Tribunal: c) Enslavement; d) Forced deportation or transfer of the population; e) Imprisonment and other serious forms of denial of personal freedom in violation of fundamental norms of international law; g) Rape, sexual slavery, forced prostitution ... and other forms of sexual violence of equal seriousness; h) Persecution against a group or a collective possessing their own identity, inspired by reasons of a political, racial, national, ethnic, cultural, religious or gender-based nature; i) Forced disappearances of people; j) Apartheid; k) Other inhuman acts of the same nature aimed at intentionally causing great suffering or serious prejudice to the physical integrity or to physical or mental health.

Other relevant human rights instruments engaged by the indictment include: The Universal Declaration on Human Rights (1948); The International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Protocol to Punish Trafficking in Persons, especially Women and Children; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of all forms of Racial Discrimination; the Convention on the Elimination of all forms of Discrimination against Women; the Convention on the Rights of the Child; the EU Charter of Fundamental Rights (2000); the ILO Migration for Employment Convention (Revised) (1949), all of which have been ratified by EU member states.

Within this framework, the current indictment asks the Permanent Peoples’ Tribunal to consider the economic, security, migration and labour policies of the EU and its member states, which together exclude, marginalise and deny basic human rights to poor migrants and refugees both at the borders and within Europe. In the UK, these policies are collectively known as the ‘hostile environment’, policies which have the avowed aim of making life impossible for migrants and refugees who do not have permission to live in the UK, and which remove such migrants from the rights to housing, health, livelihood and a decent standard of living, liberty, freedom of assembly and association, family and private life, physical and moral integrity, freedom from inhuman or degrading treatment, and in the final analysis the right to human dignity and to life. The Tribunal will also be requested to examine the legal infrastructure which underlies the ‘hostile environment’, in which migrants and refugees, with or without permission to be in the country, are in practice possessed of no rights, but at best privileges which can be withdrawn at any time.

While the ‘hostile environment’ policies have features particular to the UK, there are parallel provisions in other EU member states, which deny undocumented migrants access to housing, health care, employment and livelihood. Such policies are paradigmatic of the EU-wide treatment of poor migrants and refugees as undesirable and undeserving of human rights. This contempt finds multiple expressions, from the criminalisation of rescue in the Mediterranean, to the maintenance of inhuman and degrading conditions at refugee camps from Moria in Greece to Calais, France. It spreads downwards from government and encourages the growth of more and more extreme anti-immigrant racism and violence.

The note below sets out some of the features of the ‘hostile environment’ for migrants developed as policy in the UK since 2012, with their historical roots.

2. Explanatory note: the ‘hostile environment’

In 2012, the UK home secretary Theresa May said that she planned to create a ‘really hostile environment’ for illegal immigrants in the UK, so they would leave the country. In the wake of her announcement, she set up an inter-ministerial ‘Hostile Environment Working Group’ (a title later changed, at the request of coalition partners in government, to ‘Inter-ministerial group on migrants’ access to benefits and public services’, tasked with devising measures which would make life as difficult as possible for undocumented migrants and their families in the UK. The explicit intention is thus to weaponise total destitution and right-lessness, so as to force migrants without the right to be in the country to deport themselves, at low or no cost to the UK.

The policies which this group devised were contained in the 2014 and 2016 Immigration Acts, in secondary legislation and guidance documents, and in operational measures adopted by the Home Office and partner agencies. They include:

(1) Housing: The ‘right to rent’ requires private landlords to perform immigration checks on prospective tenants, their families and anyone else who might be living with them. Landlords renting property are liable to penalties and potentially to imprisonment if someone without permission to be in the UK is found living as a tenant or lodger in their property. The right to rent was piloted in 2014 and was extended throughout the country in 2016, despite an (unpublished) Home Office survey indicating it was not working and was leading to greater racial discrimination in the housing rental market, findings confirmed by civil society organisations and landlords’ associations (Joint Council for the Welfare of Immigrants, 2015, 2017).

Those who cannot prove their citizenship or status in the UK, and are unable to access rented property and have ended up homeless and on the streets, include a significant number of pensioners who have lived in the UK since early childhood (the ‘Windrush generation’).

Acts of parliament in 1996 and 1999 had excluded asylum seekers, undocumented migrants and migrants on temporary work visas from homeless persons’ housing and social housing tenancies (the Immigration and Asylum Act 1999 created a separate agency to provide destitute asylum seekers with no-choice accommodation outside London and the south-east).

The ‘right to rent’ measures breach the right to adequate housing without discrimination, which is recognised in the Universal Declaration on Human Rights (UDHR) Art 25 (as an integral part of the right to an adequate standard of living), and in Art 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), further amplified by General Comment No 4 on Adequate Housing by the UN Committee on Economic, Social and Cultural Rights (1991). Insofar as homelessness affects human dignity and physical and mental integrity, the measures also breach Art 1 UDHR, Arts 3 and 8 of the European Convention on Human Rights (ECHR) and Arts 1 and 3 of the EU Charter of Fundamental Rights (EUCFR).

(2) Health care: A requirement for National Health Service hospital staff to check the immigration status of all those attending for non-emergency treatment, and to demand full payment in advance from those unable to show their entitlement to free treatment, was implemented through regulations which came into force in April 2017. Those unable to establish their lawful status in the UK and those with visitor status are charged 150 per cent of the cost of treatment. Emergency treatment does not require advance payment but patients are invoiced later for it. The regulations followed

restrictions on free hospital treatment in 2015, since when those in the UK as students or with work visas have been required to pay an annual health levy (now £400 per person per year).

They have resulted in many expectant mothers not attending for ante-natal treatment, causing lasting damage to their unborn children, and to cancer patients and others with very serious conditions being unable to start treatment for lack of funds.

The Health and Social Care Act of 2012 allowed the NHS to pass on details of patients to the Home Office for enforcement, and informal arrangements for such data sharing were replaced by a formal agreement (MoU) in January 2017. After doctors' groups such as the British Medical Association (BMA), medical charities including Doctors of the World, campaign groups such as Docs not Cops and members of parliament in the select committee on health called on the government to end the agreement, which was deterring sick people and expectant mothers from seeking medical help, the government announced a partial suspension of the MoU in April 2018.

NHS Regulations had from 1982 onwards provided that visitors to the UK were not entitled to free non-emergency hospital treatment, although NHS staff were not obliged to charge or to perform immigration status checks and most did not. Primary health care (at doctors' surgeries) remains free to all regardless of status, as attempts by government to extend the charging regime to primary care have met with very strong resistance from NHS and public health workers.

The denial of free hospital treatment to those in need, who cannot prove their immigration status or do not have secure status, and/ or measures which deter people from seeking medical treatment, violate the right to the enjoyment of the highest attainable standard of physical and mental health, which is one of the fundamental rights of every human being, without distinction of race, religion, political belief or social or economic condition. It is reflected in the 1946 Constitution of the World Health Organisation, in Art 25 UDHR and in Art 12 ICESCR 1966. It also violates the right to physical and mental moral integrity recognized in Art 8 ECHR and Art 3 EUCFR.

(3) Criminalising work: The 2016 Immigration Act continued and perfected the process of criminalisation of migrants' work which had started two decades before, when in 1996, the ban on work for asylum seekers and for those without permission to be in the country began to be enforced by employer sanctions: penalties for employers who employed those without authorisation to work in the UK. While the law was hardly used, it paved the way for much stricter sanctions in 2006, with the creation of a criminal (as opposed to a regulatory) offence of knowingly employing unauthorised workers, which carried a prison sentence; increased regulatory penalties; stricter documentary checks for employers to avoid penalties; and intensive enforcement through raids on mainly small, ethnic-owned workplaces. In 2016, the penalty was doubled to £20,000 per worker, and a new criminal offence of illegal working was created, which enabled undocumented workers' wages to be confiscated.

Opportunities for legal work in the UK have been closely tailored to the demands of the economy since the post-second world war reconstruction. From the 1971 Immigration Act onwards, unskilled workers from outside the EU were not admitted, apart from groups such as seasonal agricultural workers and domestic workers - temporary workers with no rights of settlement or family unity, controlled entirely by their employers and not permitted to change employer. Asylum seekers were not permitted to work while they waited for their cases to be determined, a process which could take years. Visas for work have largely been restricted to those with a high level of education, qualification and income (and since 2009, under the points-based system, points are also awarded for youth). In 2010, graduates were no longer permitted as before to remain in the UK for two years for post-study work.

As from 2016, too, immigration rules were changed to remove rights to settlement for those earning under £35,000 per year. This measure was introduced so as to ensure that ‘only the brightest and best workers who strengthen the UK economy’ are allowed to settle permanently in the UK; the others are now required to leave the UK after six years. The rationale for the rule changes is thus unashamedly neoliberal and nativist, treating the workers concerned as disposable commodities.

At the same time, while EU nationals have rights to move freely around the EU for work, homeless EU nationals from eastern Europe found sleeping rough in London have had their identity documents confiscated, which prevents them from obtaining employment, and they have found themselves detained and deported for ‘abuse’ of free movement rights.

These measures breach the right to work recognised as universal by Art 23 UDHR, and enshrined in Art 6 ICESCR and Art 15(1) EUCFR.

They should be seen against the background in which the governments and institutions of the EU and of the global North have abdicated their international law obligations to protect workers and ensure decent working conditions and fair pay, enabling the entrenchment of exploitative labour practices and oppressive labour conditions in both the public and the private sector. In the UK, the government has repeatedly refused pay rises to public sector workers while allowing managers to take obscenely high salaries; refused to adopt a genuine living wage; failed to enforce minimum wage and other labour protection vigorously; and has encouraged or condoned companies’ use of zero-hours contracts, their manipulation of ‘self-employed’ status, agency working, undermining of the right to organise and other actions which deny rights and protections to workers and employees.

These acts and omissions breach the right to just and favourable conditions of work protected by Art 23 UDHR, and to freedom, equity, safety and security at work, contrary to the Conventions of the International Labour Organisation (ILO).³

(4) Social security and asylum support: Migrants admitted to the UK for visits, work, study or family reunion are subject to a condition of ‘no recourse to public funds’ which prohibits access to means-tested benefits. Since 1999, they have been disqualified by social security regulations from access to any such benefits.

Asylum seekers are eligible to receive about £37 per week (an amount which in 2014 represented around 50 percent of basic income support). The level of support was based on the assumption that the determination period would be around six months, since it was accepted that no one could live on this amount for longer. The period for determination of claims is frequently measured in years rather than months, but the amount has not risen in line with living costs. Support was denied to late and refused claimants in 1996 and again by legislation in 2002. and in 2009 the removal of basic benefits and accommodation was extended to families with children who did not leave the UK when required to. Those eligible for asylum support often have to wait for several weeks or months to obtain it, leaving many homeless and utterly destitute.

In 2007 the Joint Parliamentary Committee on Human Rights condemned the level of and exclusions from asylum support as ‘enforced destitution’, which ‘in a number of cases reaches the

³ Insofar as the ILO Migration for Employment Convention and the EU Charter of Fundamental Rights’ requirements of decent and safe working conditions apply only to workers lawfully on the territory, these instruments themselves unjustifiably and wrongly entrench the exclusion of undocumented migrants from rights recognised as universal.

threshold of inhuman and degrading treatment'. It concluded that the 'deliberate policy of destitution falls below the requirements of the common law of humanity and of international human rights law.' A 2014 report by IRIS, *Poverty among refugees and asylum seekers in the UK. An evidence and policy review*, found that destitution was a deliberate policy calculated as a deterrent to others considering coming to the UK.

Measures deliberately depriving anyone of the means of life breach Arts 9 and 11 ICESCR (right to social security and to an adequate standard of living), and may also constitute inhuman and degrading treatment contrary to Art 5 UDHR, Art 3 ECHR and Art 4 EUCFR.

(5) **Education:** In June 2015 the Department for Education (DfE) entered an agreement with the Home Office to pass on details of school pupils obtained through the schools census, to enable the Home Office to trace unlawfully staying families for deportation. The agreement, whose aims included the creation of a 'hostile environment' in schools, was secret, and only came to light in December 2016, after the DfE added questions on nationality and country of birth to the census. A proposal by the home secretary not to permit children of migrants with irregular status to attend school or to push them to the back of the queue for school places, was rejected by the government. A public campaign by activist group Against Borders for Children, supported by teachers and parents, led to the dropping of the nationality and country of birth questions from the school census in April 2018, but the data sharing agreement remains in force, and campaigners believe it deters those with irregular status from sending their children to school.

Insofar as the measures are calculated to deter parents from sending children to school, they breach the universal right to education without discrimination, recognised by (inter alia) Art 26 UDHR, Arts 13 and 14 ICESCR, Protocol 1 Art 2 of the European Convention on Human Rights, (ECHR), Art 14 EUCFR and Art 28 UN Convention on the Rights of the Child (UNCRC).

(6) **Other data sharing measures:** Apart from the measures described above in relation to the NHS and schools, the 2016 Immigration Act imposed a general duty on public bodies and others to share data and documents with the Home Office for immigration enforcement. In addition, from January 2018 banks have been obliged to conduct quarterly checks on current account holders and to close accounts of those suspected by the Home Office of unlawful stay. These provisions were suspended in May 2018.

Powers to share data with and to require the provision of information to the Home Office by other government departments and agencies, including Her Majesty's Revenue and Customs, marriage registrars and local authorities, were granted by legislation from 1999 on.

From 2009, universities and colleges were obliged to collect and transmit to the Home Office the personal details, attendance, progress and other relevant information on non-EU students enrolled on courses, as well as to check the documents of all staff including visiting lecturers. Failure to monitor students led to suspension and in some cases withdrawal of their licence to enrol non-EU students.

The Data Protection Act 2018 exempts data collected and shared for immigration control purposes from rights of data subjects to access the data held on them, to the extent that disclosure may prejudice immigration control.

These measures disproportionately interfere with rights to privacy (Art 8 ECHR) and data protection (Art 8 EUCFR).

(7) Commercial fees: Home Office fees for visas and their renewal have risen exponentially in recent years, to reflect ‘the value of the product’, which makes applications for settlement, for regularisation or for citizenship prohibitively expensive. An application for settled status for a woman subjected to domestic violence by a spouse costs £2,997; for a dependent relative it now costs £3,250. Children born in the UK, who are entitled to register as British after ten years’ residence, are required to pay a fee of over £1,000, while those arriving in the UK as young children will have to find visa fees, including the health surcharge, amounting to £8,500 over ten years.

Insofar as these high fees prevent migrants from regularizing their status, they interfere with rights to private life protected by Art 8 ECHR and Art 7 EUCFR.

The cumulative effect of the above measures, in particular the denial of the right to work in lawful employment, the exclusion of migrants from all social security benefits and the exorbitant fees for immigration applications, is to drive many migrants into illegal employment, where they are wholly at the mercy of employers, subject to abuses ranging from sexual harassment to non-payment of wages, and with no legal recourse because of their status, violating rights to access to justice and to an effective remedy for the breach of rights (Arts 2, 7 UDHR, Arts 6, 13 ECHR, Art 47 EUCFR). Non-EU workers without regular status are excluded from access to workplace rights, minimum wage and other protections. Women, who make up a high proportion of these workers, are put at risk of sexual exploitation and abuse in addition to other forms of exploitation, which also directly and indirectly affect children and young people.

(8) Family life: Immigration rules were changed in 2012 so that regular migrants from outside the EU who earn under £18,600 are not entitled to have their spouse or partner join them, and they must earn £22,400 to bring a child as well, and a further £2,400 for each additional child.

The rule change was unnecessary, since migrants seeking to bring in family members were already required to show that they could accommodate and support them without recourse to public funds. It is designed to ensure that poor people cannot have family life in the UK.

The ‘deport first, appeal later’ measures in the 2014 and 2016 Immigration Acts allowed for the removal from the country of migrants who were appealing on the ground that removal would breach their right to respect for their family life, before the appeal was heard.

Many cases have been reported where young children as young as six months old have been separated from their parents by parents’ detention. Bail for Immigration Detainees (BID) has represented 155 parents separated from their children by detention so far in 2018.

The measures interfere with the right to respect for family life, protected by many human rights instruments including UNCRC and Art 8 ECHR. Interference with family life is only permitted in human rights law if it is lawful and necessary in a democratic society for public safety, the prevention of crime, the protection of the rights of others etc.

(9) Policing and detention: In 2012, Operation Nexus was launched, a joint police-immigration enforcement operation which relied on police intelligence rather than findings of guilt to identify ‘high-harm’ individuals for deportation. The following year, the government launched Operation Vaken, an attempt to frighten undocumented migrants into leaving the country, with billboard vans driving around migrant areas telling them to ‘Go Home! Or face arrest’, simultaneously with an aggressive operation involving immigration checks on minority youths at London tube stations.

Enforcement became an important priority in the late 1990s and 2000s. Enforcement officials grew from 120 in 1993 to 7,500 in 2009, when thousands of aggressive raids on ethnic businesses and

homes took place. A notorious operation in 2009, which illustrates the relationship between lack of workplace rights and insecure residence rights, involved an ambush on cleaners at the School of Oriental and African Studies (SOAS) in London, who had just won the London living wage following a hard campaign. Invited to an early morning meeting, the cleaners found themselves locked in by immigration officials who checked their entitlement to work in the UK and arrested several for deportation. Despite solidarity actions by students, nine were deported. However the cleaners and their supporters continued their campaign for just treatment and in 2017, they won the right to be employed directly by the school, giving them equal pay and conditions with the school's other workers.

The UK is the only EU member state where indefinite administrative detention of migrants is legal under domestic law, and many immigration detainees have been locked up for several years. There has been a strong campaign, involving many parliamentarians, for a 28-day detention limit. On many occasions, judges have condemned the lengthy detention of vulnerable people, and several times have ruled it inhuman and degrading. Indefinite detention causes mental illness and severe distress, and has resulted in numerous suicides and episodes of self-harm.

The UK was an early privatiser of immigration detention, with Harmondsworth detention centre run by Securicor in the 1970s. Seven of the eight long-term detention centres (now named 'immigration removal centres' or IRCs) are privately run. They are exempt from minimum wage legislation, and in 2018, centre managers refused to increase the pay of detainees doing menial work there from £1 to £1.15 per hour.

These measures violate rights to liberty, proclaimed as a peculiarly British fundamental right and value by judges, and also seen as fundamental in the UDHR and the ECHR; to decent conditions of work (see above); and to freedom from inhuman and degrading treatment.

(10) The hostile environment at the borders: As Europe closes its borders to poor migrants and refugees, informal camps have sprung up at the border bottlenecks, where little or no official help has been provided, volunteers seeking to provide help have been criminalised and harsh policing measures have been deployed, including beatings, attacks with dogs, and theft or destruction of belongings. At Calais, where migrants and refugees hoping to cross the Channel to Britain have been arriving since the 1990s, their encampments have been repeatedly destroyed. The big camp known as the 'jungle', with makeshift church, school and shops, was bulldozed in October 2016 and police routinely spray sleeping children with tear gas and destroy their tents and sleeping bags, and beat older migrants, while the Calais mayor, seeking to prevent another 'jungle' encampment, banned the unauthorised distribution of food and clean water despite diseases such as trench foot developing for lack of clean water. (The ban was overruled by a court which ordered the installation of taps for drinking and washing water.) The UK government contributes to the cost of policing migrants in Calais.

The harsh treatment of those in the encampments and at the borders is inhuman and degrading treatment, contrary to Art 3 ECHR, whose protection is designed to be absolute. Such treatment can never be justified by any policy objective.

3. Specific charges against the UK government (in its own right and as representative of the EU and member states and the global North)

1 Within a work force impoverished and rendered insecure by neoliberal policies, it has ensured that migrant and refugee workers often remain super-exploited, marginalised and deprived of rights by legal and operational measures including:

- i. Failure (in common with virtually the whole of the global North) to sign or ratify the UN Migrant Workers' Convention;
- ii. Failure (unlike many other states in the Global North) to ratify the ILO Domestic Workers' Convention, and the removal of rights and security from domestic workers;
- iii. Legislation imposing employer sanctions for bosses employing undocumented workers, enforced by violent raids on, in particular, small ethnic minority employers, who can be fined up to £20,000 and even imprisoned for employing an undocumented migrant or refugee worker;
- iv. The creation of the criminal offence of illegal working, under the Immigration Act 2016, which allows for the confiscation of workers' wages;
- v. The denial and/ or restriction of rights to work for asylum seekers;
- vi. Maintenance of a legal framework which excludes undocumented workers from protection against abuses including non-payment of wages, unfair dismissal and race and sex discrimination, which are particularly rife in the hospitality, leisure, service, agriculture and construction sectors;
- vii. Failure to provide sufficient ongoing funding for the Gangmasters and Labour Abuse Authority (GLAA) to enforce decent conditions of work;
- viii. Failure to provide legal aid in employment-related cases, and the removal of public funding for advice and assistance in these cases;
- ix. Failure to ensure complete separation of enforcement visits by GLAA from immigration enforcement;
- x. Removal of European Economic Area (EAA) nationals who are destitute and who cannot find work;
- xi. The exemption of immigration removal centres from minimum wage legislation, enabling multinational security companies to profit both from the detention contracts and from the cheap labour of detainees.

2. Meanwhile, the government's policies with regard to immigration and asylum have fostered racism, Islamophobia and nativism, and have deliberately created a 'hostile environment' for non-citizens which involves (in addition to the criminalisation of work) enforced destitution, denial of rights to housing and essential medical treatment, indefinite detention and deportation. These policies violate international human rights obligations to protect rights to life, to dignity, to physical and psychological integrity, to respect for private and family life, to liberty, and to protection from forced labour and from inhuman and degrading treatment. This has been achieved through:

- i. Increasingly restrictive visa policies which limit legal rights to enter and stay in the UK for work (for non-EEA or third-country nationals) to a small and diminishing number of highly qualified or corporate employees, with extortionate fees for issue and renewal;
- ii. Immigration rules and Home Office policy which treat domestic workers as the property of their employers;
- iii. The provision of no-choice, often squalid asylum accommodation to asylum seekers, who are required to live on an impossibly small weekly allowance;
- iv. Legislation requiring private landlords and agents to check immigration status before renting out accommodation;
- v. Legislation and policy that denies most refused asylum seekers, and undocumented migrants, any benefits or support, as well as any except emergency NHS hospital care;
- vi. The entrenchment of racialised viewpoints about migrants in the control system to the point that people of colour resident for decades are exposed to the suspicion of having no lawful right to reside, denied essential services, and threatened with enforced removal;
- vii. The removal of legal aid for non-asylum immigration cases;

3. The government, by policies which make it impossible to live without working and simultaneously making work illegal, forces vulnerable people to accept conditions of super-exploitation and total insecurity as the price of remaining in the country, and enables private companies to profit from such super-exploitation.

4. Additionally, while EU free movement law recognises the importance of family unity for EEA nationals who move in order to work, the government's family reunion rules for non-EEA nationals (whether they are admitted as workers or as refugees) are extremely restrictive and result in long-term separation of families.

5. These policies also work to the detriment of the rights of children, who are exposed to risks of exploitation and abuse when they attempt to migrate in their own right, or to hardship and destitution as a consequence of policies which deny public funds support to family migrants.

6. At the same time, the government, in its own right and as an EU member state, facilitates the making of vast profits by security corporations through contracts for the border security regime, the housing of asylum seekers and for the detention and deportation of migrants, while overlooking or condoning brutality, racism and other human rights violations, criminal offences, fraud and negligence, committed by their agents against migrants and refugees, in fact rewarding them through the continuing award of such contracts.

Questions for the Tribunal

The Tribunal is asked to consider the cumulative effect of all these measures, policies and operations taken together, in creating and maintaining a people without rights within Europe and at its borders.

- a. To the extent that the Tribunal finds the above violations proved, how do they fit with the general pattern of violations found by the Tribunal in its hearings at Barcelona, Palermo and Paris?
- b. How does the creation and maintenance of a rightless people sit with the pretensions of Europe to be a cradle of universal human rights and values and with the human rights instruments written, signed and ratified by European states?
- c. How does the continued tolerance of the suffering of those condemned as rightless affect the rule of law?
- d. Since the protection of fundamental human rights is designed to embrace both the executive and juridical arms of state, to what extent does the treatment of migrants destroy this bridge between the political and the juridical?
- e. To what extent can migrants be experimental subjects or guinea-pigs for a broader destruction of the rights of populations under globalisation?
- f. How do government policies and ministerial statements treating poor migrants and refugees as 'benefit tourists', 'health tourists', 'a swarm', help to exacerbate popular racism and encourage hatred of migrants and racial violence?
- g. Has the Tribunal found examples of resistance against these measures which can act as models or markers for future action.

**Indictment prepared by Frances Webber
Human Rights lawyer and Vice-Chair of the Institute of Race Relations**

Signatory Organizations

Co-convenors

- Corporate Watch
- Commission for Filipino Migrant Workers – Europe
- Global Justice Now (GJN)
- Institute of Race Relations (IRR)
- Justice, Peace and Integrity of Creation Links Network
- Lewisham Refugee Migrant Network (LRMN)
- Migrants Rights Network
- Monsoon Book Club
- Racial Justice Network, Quakers, Friends House
- RESPECT Network Europe
- Statewatch
- Transnational Institute (TNI)
- Transnational Migrant Platform-Europe (TMP-E)
- UNITE the Union
- Waling-Waling (Supporting Migrant Workers Rights Campaign)
- War on Want
- ECVC/LVC Sindicato de Obreros del Campo-Sindicato Andaluz de Trabajadores - SOC-SAT Andalucia
- ECVC/LVC Associazione Rurale Italiana ARI
- LAB Trade Union Basque Country
- COS-Trade Union Catalonia

Supporting organisations

- Asylum Welcome (Oxford)
- Bertrand Russell Peace Foundation
- Birmingham & Coventry Branch of the National Union of Journalists (NUJ)
- Brigidine Sisters
- Campaign Against Criminalising Communities (CAMPACC)
- Committee on the Administration of Justice (Belfast)
- daikon* zine
- Daughters of the Cross of Liege
- Disabled People Against the Cuts
- Doctors of the World UK
- Doughty Street Chambers
- Good Shepherd and OLC
- Haringey Welcome
- Holy Family of Bordeaux
- Hotel Workers Branch LE/1393 - Unite the Union
- INQUEST
- Kanlungan Filipino Consortium
- Kent Refugee Help
- Latin American Women's Rights Service (LAWRS)
- Leicester Civil Rights Movement
- Lifeline Options CIC
- Marist Sisters
- Migrant and Refugee Children's Legal Unit (MiCLU)

- Migrants Organise
- Migrant Support's
- Min Quan Advocacy Group
- SumofUs
- Miscarriages of Justice UK (MOJUK)
- Missionary Society of St Columban
- No-Deportations - Residence Papers for All
- Participation and the Practice of Rights (PPR)
- Praxis
- Restaurant/Bar Branch LE/1647 - Unite the Union
- Reunite Families UK
- Right2workuk ltd
- Reunite Families UK
- Sacred Heart of Jesus & Mary Sisters
- Sisters of Christ
- Sisters of St Joseph of Peace
- Sisters of St Louis
- SOAS Detainee Support
- Society to the Sacred Heart and the Sisters of the Assumption
- South Yorkshire Migration and Asylum Action Group
- The Monitoring Group
- UK Modern Slavery Research Consortium (CAJ)
- UNISON
- United Voices of the World
- The Voice of Domestic Worker
- Women in exile
- Society to the Sacred Heart
- Sisters of the Assumption

APPENDIX 2

Statement of the PPT General Secretariat

22 novembre 2018

The public hearings of the Permanent Peoples' Tribunal on "The hostile environment" held in London on 3rd and 4th November 2018 form part of a process of investigation which has lasted more than two years and has produced texts and judgments for the opening session in Barcelona (7th- 8th July 2017) and from Palermo (18th- 20th December 2017), Paris (4th – 5th January 2018) and Barcelona (29 June- 1 July 2018).

The earlier proceedings and the resulting judgments have provided an indispensable background and framework for the panel of judges at the London session, along with detailed factual and juridical support and integration of the evidence submitted to it. The main overall findings, presented orally at the conclusion of the hearings, are set out in the points which follow. The full text of the Deliberation, with detailed factual evidence and formal attribution of responsibility, will be made available shortly.

1. The direct testimonies of the witnesses, together with the written and oral presentations of the experts, provide robust and comprehensive documentation of the dramatic and systematic violations of the fundamental rights to life and dignity of migrants and refugees, both as individuals and as a group, indicated in the Indictment as the target and victims of a spectrum of repressive legislation and policies enacted by the UK government over the last several years.
2. The evidence and documentation clearly establish that the violations of fundamental individual and collective rights presented to the PPT are the deliberate, planned and systematic expression of repressive policies which, translated into legal provisions and norms, affect the full spectrum of the concrete rights which must be recognised in all human beings: rights to life, to dignity, to health, to work, to education.
3. In all the critical domains of their existence, migrants and refugees appear to be the victims of an ever deeper and more pervasive political, juridical and cultural transformation of a society which accepts and promotes the reversal of the values of democracy, of binding obligations for Governments and of basic principles of international law as affirmed and enforced in the corresponding international instruments. Economic and security-driven legal measures are given priority and prevail over the inviolable legitimacy of the individual and collective rights belonging to human beings, which are denied.
4. The contemporary migration and asylum regime demonstrates a deliberate historical amnesia, ignoring the destructive consequences of British colonialism and the ways in which this continues to underpin the massive inequalities of contemporary global political economy. These inequalities are a key factor in impelling human mobility.
5. A policy which has defined itself as promoting a "hostile environment" corresponds to the non-recognition of migrants and refugees as people and members of society despite the disparate nature of their origins and of the causes of their migrations, displacements and expulsions. The transformation of persons exercising their fundamental right to migrate into 'others', aliens, potential or real enemies, invaders and aggressors, both in attitudes and in concrete behaviours such as labour contracts, reproduces categories of colonialism and slavery.

6. A further reason for concern, and a confirmation of the direct responsibility of UK institutions, emerges from the documentation of the administrative and bureaucratic rigidity in the application of unjustifiable and opaque rules designed for the repressive control of people, the direct product of global models of development which pretend to bear no responsibility for the violations to the dignity of life, specifically of the most fragile individuals and groups.

7. The London session has focused on the situation of migrants and refugees in the real life of a democratic society that can be considered as a model. The testimonies presented – factually so well documented, with a lucidity which could not exclude a deep emotional participation - are highly consistent in terms of severity and for their characteristics of systematicity and continuity with the findings of the previous sessions devoted to other aspects and steps of the migration process in the EU. The responsibility of the several institutions referred to in the testimonies and illustrated in the expert reports, have appeared to the panel of judges well proven, having regard to official norms and political documents. As mentioned above, the juridical (criminal and civil) definition of responsibility for the violations, with a careful assessment of the causal determinants and actors, will be the subject of the full report. But it is clear that the basic crime of denial of the rights to life, to dignity, and to the rule of law, can be considered ascertained beyond any reasonable doubt. Further, it is clear from the evidence heard in previous sessions, in different scenarios and modalities, and confirmed in some ad hoc reports in this session, that the UK situation is not unique, but rather is an expression of the broader processes and institutional responsibilities vested not only in the countries and the central institutions of the EU but also in the diffuse geographical and political scenarios where economic and environmental poverty, armed conflict and wars oblige human beings to become peoples without rights facing legal and racist violence, and the further violence of systematic impunity.

8. This summary account of the public hearings and experience of the London session of the PPT would not be complete without underlining other even more impressive evidence in opposition to violations and impunity. The evidence the PPT has heard demonstrates the creativity and resistance of individuals and communities who, in a hostile environment, affirm and document that solidarity is not a crime but a resource, constantly renewed and shared as a perspective of “another future” – striving for new transnational strategies of action and solidarity among migrants and refugees themselves and with citizens. Beyond any repressive process of “identification”, migrants and refugees affirm their identity as human subjects and, through their common experience and their solidarity, their identity as a people. The PPT can be only one of the processes in support of their peaceful struggles for life and dignity.

Gianni Tognoni, PPT Secretary general

Simona Fraudatario, PPT coordinator

APPENDIX 3

The panel of judges

Bridget Anderson

Professor of migration, mobilities and citizenship at Bristol University. She has been Professor of migration and citizenship and research director at COMPAS in Oxford. She has a DPhil in sociology and previous training in philosophy and modern languages. She has explored the tension between labour market flexibilities and citizenship rights, and pioneered an understanding of the functions of immigration in key labour market sectors. She is the author of *Us and Them? The Dangerous Politics of Immigration Controls* (Oxford University Press, 2013) and *Doing the Dirty Work? The Global Politics of Domestic Labour* (Zed Books, 2000). She coedited *Who Needs Migrant Workers? Labour Shortages, Immigration and Public Policy* with Martin Ruhs (Oxford University Press, 2010 and 2012), *The Social, Political and Historical Contours of Deportation* with Matthew Gibney and Emanuela Paoletti (Springer, 2013), and *Migration and Care Labour: Theory, Policy and Politics* with Isabel Shutes (Palgrave Macmillan, 2014). Anderson has worked closely with migrants' organisations, trades unions and legal practitioners at local, national and international level.

Leah Bassel

Member of Haringey Welcome, a campaign group working for fairness, dignity and respect for migrants and refugees in the London borough of Haringey. BA, MA, DPhil, ESRC Postdoctoral Fellowship, she joined the department in 2011 as New Blood Lecturer in sociology. She was previously lecturer in sociology at City University London (2008-11) and held Postdoctoral Research Fellowships at the Refugee Studies Centre/Queen Elizabeth House, University of Oxford funded by the ESRC and with the Group for the Study of ethnicity, racism, migration and exclusion at the Institute of Sociology, Université Libre de Bruxelles, Belgium. She is author of: *The Politics of Listening: Possibilities and Challenges for Democratic Life*. (Palgrave, 2017), *The Politics of Survival. Minority Women, Activism and Austerity in France and Britain* with Emejulu Akwugo (Bristol: Policy Press, 2017) and *Refugee Women: Beyond Gender versus Culture* (Routledge, 2012).

Maureen Byrne

She is a Councillor, and a retired full time Equality Officer in Unite the Union. She has been on the Employment Tribunal panel for 30 years. Currently she is employment law adviser for the Stansted Airport Branch. Byrne is chairperson for the Bury St Edmund's Women's Aid Refuge and Local Association for Mental and Physical Handicapped Charity, a group supporting young people with special needs. She is the Town Council Chairperson of the Personnel Committee.

Eddie Bruce Jones

AB (Harvard), MA (Humboldt-Universität zu Berlin), JD (Columbia), LLM in Public International Law, is currently reader in Law and Anthropology at Birkbeck College, University of London where he teaches and researches in the areas of human rights, comparative discrimination law, racism, sexuality and migration. He is an academic fellow of the Honourable Society of the Inner Temple, a member of the New York state bar and a trustee of the UK Lesbian and Gay Immigration Group. He serves with a collective of lawyers on the Independent Commission on the Death of Oury Jalloh in Germany (on police brutality and due process) and is the Sexuality and Gender Identity Resource Co-ordinator for the Fahamu Refugee Legal Aid Network based in Oxford.

Wah-Piow Tan

A Balliol educated human rights solicitor in London representing Chinese migrants in the UK since 80s. A former political prisoner and exile from Singapore, he is well known since his youth as a student leader, activist, writer and public speaker advocating democratic reforms in Singapore. Most recently, in August 2018, he enjoyed unprecedented extensive media coverage following his 80 minutes discussion with the new Malaysian Prime Minister on the subject of expanding the democratic space in Southeast Asia. In 1980, Wah-Piow attended the Permanent People's Tribunal (PPT) hearing on The Philippines in Antwerp as an observer.

Enrico Pugliese

Professor of sociology of work, (Emeritus) at Sapienza- University of Rome, faculty member of the Graduate school in applied sociology, University of Rome La Sapienza. He is also research associate at Irpps (*Istituto di ricerche sulla popolazione e le politiche sociali*), National research council, Rome. He has been Professor of sociology of work at the University of Naples Federico II where he served as chairman of the department of sociology and then as dean of the faculty of sociology. He has been visiting professor in several European and American Universities. He has been also member of the National commission of inquiry on work at the *Consiglio nazionale dell'economia e del lavoro*, chairman of the Commission for drafting the immigration law of the Regione Campania. He has also been member of the advisory Commission of the City Mayor of Napoli for immigration policy. His main research interests include: international migration, Italian migration in Europe, third world immigration in Italy, migration policies, labour market with special reference to precarious employment and unemployment. His recent publications on migration include: *Quelli che se ne vanno (Those who leave*, Il mulino, 2018), and *International Migrations and the Mediterranean* in Andreotti, Benassi, Kazepov (eds), *Western Capitalism in transition*, (Manchester University Press, 2018).

APPENDIX 4

Models of resistance

The jurors commend the extraordinary creativity, resilience and courage of those living with and struggling against the injustice of border regimes. It is impossible here to do justice to the many claims and strategies that were shared at the Tribunal. Some key examples are flagged here as possible foundations for future actions, under the headings *Strategies, Demands, Leadership*.

Strategies

We saw many examples of wide-ranging and creative tactics including:

Strikes in different types of workplaces e.g. slaughterhouse in Catalunya, Chinatown restaurant workers; hunger strikes by detainees;

Boycott e.g. through action of Schools ABC (working also with Let us Learn and other groups), 200 000 parents/carers refused to answer the school census questions asking for student nationality and country of birth. This information was being used since 2015 by the Home Office for immigration enforcement through data sharing between the Department of Education and the Home Office. This campaign was particularly successful by focusing particularly on parents/carers, and through the support of local groups and campaigning (e.g. volunteer campaigning group Haringey Welcome emailed all schools in their borough to ask them to inform parents that they don't have to answer these questions, and the school can then respond 'not yet obtained' rendering the data useless). Unions played an important role but not all teaching unions. Schools outside of London have been less involved, and while Schools ABC wanted to include early years education this wasn't possible. The government decided finally to withdraw questions, though the information is still in the system, and there is still a MoU allowing the Home Office to get addresses of children of undocumented parents.

Theatre, film were used to tell the story, show brutality and draw us together and call us to action. For example the film from Women in Exile that show alliances and solidarity between migrant and German women; the film from Disabled People Against the Cuts where we learned of the experiences of Kamil Ahmad, a disabled asylum seeker who was then murdered. Through this film we saw the mural he created and learned of the coalition formed to build from failure of the system. Waling-Waling used theatre and drama production to tell the stories of different women's experiences as domestic workers, and through each performance around England, Scotland and Wales (where no passport was needed to travel) they changed their experiences and got stronger, united as one big family with one aim and purpose in mind. The use of these artistic methods was returned to in the final discussion of the Tribunal where members of the audience shared other examples.

Demonstrations, protests: Chaining selves to the railings of Downing Street (Waling-Waling); Chinatown demonstrations (Bobby Chan); Detention centres, sites of repression and profiteering, are also sites of resistance and struggle. We heard testimony about inspiring movements inside: revolts, hunger strikes, protest, everyday acts of resistance. They were supported through solidarity movements by people outside: visitors groups and campaigners such as at Campsfield (Dariush Sokolov). The highly effective mobilisation by women detainees is discussed below (Sacuna), in the section '*Leadership*'

Unions: representatives of different unions gave powerful testimony about resistance through union work e.g. about the power of the word 'Unite' which gives strength and keeps the machine working (Julian Firea). Some of the specific demands made by these representatives are set out in the section '*Demands*' below.

Freedom of Information (FOI) Requests: e.g. extent to which immigration officers are embedded in social services in London Local Authorities determined following FOI request to all London local authorities (Anna Mulcahy)

Consumer pressure: this is very strong and should be used to write letters to companies, suppliers, to ask whether there are guaranteed social and legal conditions behind this fruit and veg, specifically the work conditions for the workers for sub-contractors that supply produce (Delia Alfornon, Spain).

We also learned of multiple **strategies used to make voices heard.** These include putting people with lived experience at the forefront. People that lived it should be at events and roundtables, included in making presentations. It is particularly important to give space for women to speak and act. This means offering media training for women, offering childcare and finding different ways to do activism that are also safe remembering that what is good for ‘the cause’ is not necessarily good for their health and safety. Through workshops incorporate women in every aspect of the organisation so they know they are not alone (Ornella Ospino, LAWRS).

Demands

Demands were made to different groups that we can begin to map through this list:

- The UK government
- The European Union
- EU member states
- Consumers (who need to ask about conditions under which their fruit and vegetables are produced, for example)
- Parents
- Healthcare leaders
- Educators
- Regulatory bodies
- Immigration authorities
- ‘The Public’
- The media

A long term vision was the demand for **Open borders and no borders**

In the meantime there were expressed intermediate demands

Firstly of states regarding their immigration systems:

- Shut down immigration detention;
 - Oppose the payment of one euro an hour for work in reception centres;
 - Erect a firewall between workers’ rights and immigration status;
 - Erect a firewall between victims of violence and immigration status to enable survivors and exploited people to be able to report safely;
 - Grant migrant workers long term visas and right to permanent settlement without restriction on place of employment.
- to the problems of the journey and the treatment of asylum seekers after their arrival. The proposal to overcome Dublin present in the conclusions is right and should be emphasized. However, it needs to be more specified.

Specific demands of the UK Home Office included:

- End the 35K requirements for permanent residence;
- Acknowledge domestic workers as workers in their own right with the same rights as any other workers rather than treated as victims and dependent on charity;

Secondly, of states and the European Union

- Acknowledge and speak the truth about colonialism and desist from policies that impoverish the states of the Global South;
- EU support for small farmers, as part of a more long-term vision for food sovereignty, environmental protection, and respect of human rights of migrant workers;
- Force companies to comply with EU fundamental rights;
- Improved regulation of cleaning sector (LAWRS and others)

Specific demands of the UK government included:

- End the hostile environment
- Provide sufficient resources to and extend GLAA including to the hospitality sector;
- Compensation and reparation from UK and Nigerian government for harms

Thirdly of civil society

- Hear voices of fellow voice domestic workers, not sacrifice humanity in quest of immigration control
- Health professional leaders to speak out (Russell)
- Condemn companies for failure to comply with EU fundamental rights (Urtzi Ostilizaga Arrie, Spain).

Leadership

The groups and individuals whose testimony was heard – including: Sacuna, Waling-Waling, Voice of Domestic Workers, LAWRS, Women in Exile, Clara Osagiede – show us the ways to forge unity. They show us the value of starting with migrant women and women people of colour, and keeping them at the centre, and radiating outwards.

Some examples include:

Sacuna mobilises women who have been detained, often with children, who contact other detained women and let them their rights and that they can fight back. Through demonstrations outside of Yarl's Wood they park buses where they know they can see detainees to give them the coverage, they make sure these women know people outside are supporting them and give them the courage to go on. This is the spirit women have to fight back.

The group **Melissa** ('beehive' in Greek) in Athens is made up of women of many different nationalities who come together to support each other with onward journeys or settlement in Greece. They reach out to disenfranchised Greeks as 'we are all in the same boat', seeking to survive and change the system. This group, and others (e.g. work of Women in Exile) build bridges across communities, and across citizens and non-citizens.

Waling-Waling spoke of shared aims across the group, made up of many nationalities, but with one aim in mind. As a group they are able to move forward, because this is happening in every country of the world and 'we are all here' campaigning against government decisions.

Through this resistance, empowerment and learning from each other it is possible to move toward the broader vision of justice.

APPENDIX 5

Introduction to the evidence

The Tribunal was welcomed by **Diana Holland, Assistant General Secretary to Unite the Union** which represents 1.3 million workers across all key sectors of the British economy - transport and food, manufacturing and services. She acknowledged that the impact of the 'hostile environment' on those who already face discrimination in the labour force and labour market is stark and extreme but also that it is at the extreme of a continuum of exploitation that is experienced by many more workers. These are difficult, divisive and dangerous times for our world, and in the UK as we face the impact of the outcome of the Brexit referendum, it is crucial to protect the human rights of migrant and refugee peoples and to fight against the undermining of trades unions which are in practice key stakeholders in addressing abuse and setting minimum standards for all workers. We need a clear strong message that exploitation and abuse is prevented through regulation and rights, and that abolishing protections intensifies the abuse. The experience of migrant domestic workers in this country clearly demonstrates this, as set out in the report "Better off with us" - Voices of Migrant Domestic Workers in the UK". UNITE is proud to have paid a central part in achieving the domestic workers' visa in 1997, and will work to ensure that the rights attached to this visa are reinstated.

Unite are clear that what is needed is:

1. Sufficient resources allocated on a secure sustained basis to important Labour exploitation prevention measures eg Gangmasters Labour and Abuse Authority;
2. Licensing currently in force in agriculture and seafood should be protected and extended to new sectors;
3. Trade unions recognised, rights for union representatives and membership enforced and strengthened;
4. Union education promote;
5. Cuts that were introduced in the name of austerity and cutting red tape reversed;
6. Financial and other support needs to be reinstated to all enforcement, protection and prevention organisations (including Agricultural Wages Board), specialist support and advice groups, access to justice and other related measures in public and not for profit sectors;
7. Action on the climate of fear.

The pressure to divide and blame workers is intense, with migrant workers and refugees beating the brunt, and women, BAEM women in particular at the sharp end. Our union is stronger because of the inspirational involvement of migrant workers and refugees, so are communities and the country as a whole, and we need to ensure we all stand together. Just after the Brexit referendum vote therefore, which turned a hostile environment into a toxic one, we produced a poster we could all unite around whichever way we voted.

Now is the time for :

UNITY not division
EQUALITY not discrimination
TRADE UNION RIGHTS not exploitation
SOLIDARITY not hatred

Nonoi Hacbang from the Transnational Migrants' Platform urged the Tribunal to **Look WITH us – not AT us**. The current rise of the fascist and racist right might seem to drown our voice...but we are creatively forging new initiatives and building another human rights regime.

The Transnational Migrant Platform-Europe – which brings together migrants and refugees from Africa, Asia, Latin America, Morocco, Turkey and Eastern Europe, has been a Co-Convenor of the PPT Hearings on the “Violations with impunity of the Human Rights of Migrant and Refugee Peoples”. He set this in the context of the EU’s migratory and asylum policies which have become increasingly At the same time the root causes of the mass and forced dispossession of peoples in terms of the failed global economic paradigm and the continuing wars over resources is becoming more visible and acknowledged. So we witness globally and within Europe the rise of “territories and sites with rights” and “territories and sites without rights” where migrant and refugee peoples are disenfranchised of their fundamental human rights. In this context, organisations involved in the Transnational Migrant Platform-Europe (TMP-E) as well as movements and networks in Spain and Italy took the initiative to submit a Petition to the PPT to hold a Session on the current situation of Migrant and Refugee peoples. This Petition and Call was supported by more than 150 organisations across Europe.

The process of preparation included two Europe-wide meetings and consultations with the PPT (2016-2017) to prepare the launch of the Session. An important part of the preparatory process was the development of the Barcelona Indictment which was systematised by a group of experts and coordinated by Professor Juan Hernandez Zubizarreta (University of Pais Vasco and OMAL).

Key elements of the Barcelona Indictment

The accused in this Indictment are: The European Union and its member States for its migratory and asylum policies; other complicit governments, Transnational Corporations and other public-private partnerships involved in both shaping and implementing these policies. The complete text of the Indictment and the specification of violations of fundamental human rights from international, UN and the EU Treaties and Conventions is available in English, Spanish and French-see link: https://transnationalmigrantplatform.net/migrantppt/wp-content/uploads/2017/12/ACUSACI%C3%93N-TPP_Versi%C3%B3n-Larga_Ang.pdf

From the Launch of this PPT process in Barcelona – we have used the following framework of four main Pillars as well as transversal themes with which to examine the Accusation.

1.Root causes of Forced Displacement of Migrant & Refugee peoples - the current corporate economic model and continuing war - both generating mass loss of livelihood; destruction of communities with extractivist mining, oil exploration; land grabs and major pollution of water and land; and more recently climate change; but also migrant labour needs and demands for Europe’s labour market for jobs that cannot be outsourced – care and domestic work, construction, hotel services, oil-rig workers.

2. The hazardous ‘death’ journeys - Legal routes and entry points at Europe’s Borders are almost totally closed and the EU’s externalisation and militarisation of borders and “push back” policies are preventing humanitarian rescue at sea – generating what we call a necropolitics which has turned the Mediterranean sea into the biggest mass grave in history. Many thousands of women, children/minors and men – mainly from Africa and the Middle East – have been forced to journey across deserts and seas and have either been drowned at sea or disappeared.

3. The Borders – The prevailing EU policy of ‘securitisation’ combined with the externalisation of borders, deflection of development and other funding to security priorities results in a policy of criminalisation, encampments, detention and deportation towards migrants and refugees.

Key implementing bodies are Frontex and the Libyan coastguard on the Mediterranean sea and forces under the EU-Turkey Agreement (march 2016) which gives Turkey the role to return refugees who arrive in Greece and to blockade others from traveling there via the Aegean Sea.

Increasingly, leading corporations of the military industrial complex and other transnational corporations (TNCs) e.g G4S play a major role both in shaping as well as in implementing this EU Border regime.

4. Fortress Europe – the EU policy of closed Borders and exclusion does not end at the borders. Structural and racist discrimination are reflected in the working and living conditions of a majority of migrant and refugee communities including into the second generation – currently exacerbated by the rise of rightist and populist organisations and parties and political representation of these forces in local, national and European Parliaments.

Cross-cutting themes in the indictment are Gender, minors/youth, racism and xenophobia.

Going Forward

From the perspectives of Migrant and Refugee Peoples – the PPT process is a space that contributes to:

- make visible our protagonism in the struggle for human rights and in articulating human rights based economic and political alternatives.
- give voice to the narrative of our experiences exposing the impunity of the EU and Member States and other actors such as Corporations in the crimes against humanity generated in the policies of ‘push-back’ and necropolitics.
- build new movements and alliances of solidarity that are prepared to challenge and change this Fortress Europe.

From the Launch in Barcelona, each PPT Hearing has had a specific focus – Palermo-the Necropolitics on the Mediterranean (December 2017); Paris-the building up of Fortress Europe (January 2018); Barcelona-Gender, Youth and Minors and Europe’s Southern Border (June 2018).

In London the “Hostile Environment” is being put on trial especially on how it impacts on the world of work and the realities of the working and living conditions of migrant and refugee workers.

The UK Co-Convenors and all organisations who have undertaken an outstanding work of preparation for this PPT Hearing in London are warmly congratulated.

Founded on the principles of the Universal Declaration of the Rights of Peoples (Algiers 1976), we believe that this PPT series of Hearings will address one of the biggest challenges of our times – how to address the legal architecture of impunity that shields the criminal operations of the EU and its member states, including the UK in the applications of its migratory and asylum policies.

This needs new critical thinking and new international legal tools and mechanisms that can close the gap on the neo-liberal re-structuring of international law elaborated over the past decades to protect the interests of corporations and economic and political elites – compromising the public interest as well as the fundamental rights of peoples...in fact institutionalising sites without Rights.

We act with urgency ... to shape a new transnational activism and solidarity! To reclaim together the universality of people's human rights...and to assert that we are Migrant and Refugee Peoples – who move in our human living bodies and who carry our human rights with us wherever we find ourselves!

APPENDIX 4
Hostile environment on trial
London hearing
3-4 November 2018

Program

Day 1 November 3 2018

- 10-10.10 Welcome
Facilitators of the day:
Jille Belisario, Transnational Migrant Platform-Europe (TMP-E)
Dottie Guerrero, Global Justice Now (GJN)
- 10.10-10.45 **Presentation PPT framework by Co-convenors:**
Nonoi Hachang, Transnational Migrant Platform-Europe
Diana Holland, UNITE the Union
Gianni Tognoni, Secretary General - Permanent Peoples' Tribunal (PPT)
- 10.45-11.15 Frances Webber (Vice-Chair IRR) – Presentation of the Indictment
- 11.15-11.30 *Break*

I. A state of fear

- 11.30-12.00 **Rapporteur: Build-up of Fortress Europe**
Tony Bunyan, Statewatch
Don Flynn, “hostile Environment”
Katie Bales, Bristol University immigration checks, employers’ obligations
- 12.00-12.30 **Presentation of Evidence: living in destitution**
Anna Mulcahy, No Recourse to Public Funds (NRPF)
Rebecca Yeo, Disabled Peoples Action Campaign (DPAC) (film)
Kate Adams, Kent Refugee Help - legal aid
- 12.30-13.15 **Presentation of evidence: exclusion and surveillance**
Neal Russell, The hostile environment in health
Gracie Mae Bradley, The hostile environment in education
Umit Ozturk, Euro Mediterranean Network-hostile environment in asylum process
Bobby Chan, Min Quan Advocacy Group (film)
- 13.15-14.30 *Lunch*

II. Detention and corporate profits

- 14.30-14.45 **Rapporteur**
Dariush Sokolov, Corporate Watch
- 14.45-15.15 **Presentation of evidence- DETENTION AND CORPORATE PROFITS**
Europe
Women in Exile (Germany) video

UK Bill MacKeith, Campaign to Close Campsfield & Oxford Trades Council
Fidelis Chebe, Migrant Action
Jon Burnett, University of Swansea
Sakuna, Experiences Yarls Wood Immigration Removal Centre

III. Global supply chain and labour exploitation

- 15.15-15.40 **Rapporteurs:**
Brid Brennan, Transnational Institute & Dorothy Guerrero, Global Justice Now
- 15.40-16.15 **Presentation of evidence:**
Dr. Gbenga Oduntan, Centre for Critical International Law (CECIL) Kent University
Janet Mcleod, UNITE the Union/IUF Hotel, restaurant and housekeeping
UNITE the Union Road & warehousing logistics & Construction
- 16.15-16.30 *Break*
- 16.30-17.30 **Presentation of evidence: food, agriculture & fisheries**
Cristina Bovia, LVC-Associazione Rurale Italiana ARI
Delia Alforon, ECVC/LVC SOC-SAT, Almeria, Andalucia (video)
Urtizi Ostilizaga Arrien, Lab TU Basque Country (fisheries)
Maria Serrat, COS-Trade Union Catalonia (meat industry)
Sue Pollard, UNITE Food and Agriculture
Julian Firea, Unite convenor West Midlands (meat processing)

Day 2, November 4 2018

IV. Gender and labour migration

- 9.45-10.00 **Rapporteur:**
Petra Snelders, RESPECT Network Europe
- 10.00-11.10 **Presentation of evidence: Public sector: health and social care**
Karin, Kanlungan
Narmada Thiranagama, UNISON Trade Union
Ornella Ospino, Latin American Women's Rights Service (LAWRS)
- 10.30-11.10 **Presentation of Evidence: Cleaners - Public and Domestic workers**
Marissa Begonia, The Voice of Domestic Workers
Viviane Abayomi, Waling-Waling -Supporting Migrant Workers Rights Campaign
Clara Osagiede, RMT Member - Cleaners Branch
- 11.10-11.30 *Break*
- 11.30-12.30 Frances Webber (Vice-Chair IRR) Summary of evidence
- 12.30-14.00 *Lunch* (working session of judges)
- 14.00-15.30 Jurors panel (initial responses)