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STATUS NOW NETWORK EDITORIAL

9th December 2021

An exponential expansion of the number of people in the UK with precarious status: one potential implication of Clause 9 of the current Nationality and Borders Bill

"It's a horrible Clause". Frances Webber, Institute of Race Relations, London.

The idea that 'an uncommunicated decision can bind an individual' is 'an astonishing proposition'¹.

In August of this year Sky News published analysis² of the last three years of 'complete' Home Office data relating to migration. Demonstrating that the people who arrive in the UK in small boats and who generally claim asylum are only a small fraction of the number of migrants arriving in the UK each year, it admitted that *'These numbers are based on estimates. The real number of unauthorised people in the UK is not known as official figures cannot capture the true reality.'* Sky News then fell back onto the much-cited Pew Research figure dating from 2019 that describes there being between 0.8-1.2 million migrant people in the UK who are 'unauthorised'³. The Status Now Network favours the term 'precarious' to describe everyone in the UK without secure status.

On 11th November 2021, a number of media outlets carried the Institute of Race Relations exposure⁴ of *'the dangers posed by a clause inserted quietly into the Nationality and Borders Bill, which will allow some British citizens (mainly dual nationals) to lose their citizenship **without being notified** in a wide range of circumstances, which could put them at grave risk.'* As of 6th December this Clause, number 9⁵, is one of several that make up an additional 88 pages of amendments that have been tabled⁶ as the Bill passes through its procedural stages.

Here, IRR's Frances Webber explains more of the history of Clause 9:

Citizenship deprivation measures have been there for some years. Since 2002 it has been possible for ministers to deprive British citizens who were born in the UK of their citizenship, as well as naturalised citizens, provided they have another citizenship.

¹ [House of Lords - Regina v Secretary of State for the Home Department and another \(Respondents\) ex parte Anufrijeva \(FC\) \(Appellant\) \(parliament.uk\)](#)

² [Record migrants cross Channel but numbers are dwarfed by unauthorised people in UK | UK News | Sky News](#)

³ [Unauthorized Immigrants in the United Kingdom | Pew Research Center](#)

⁴ [IRR News \(4 - 18 November 2021\) - Institute of Race Relations](#)

⁵ (see Part 1, no 9 in [newbook.book \(parliament.uk\)](#))

⁶ [What is the Nationality and Borders Bill, why is it so controversial and what do MPs want to change? \(yahoo.com\)](#)



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Since 2006 the threshold for such deprivation is that it is 'conducive to the public good' to do so.

Since 2014 ministers have been able to deprive naturalised citizens even if they have no other citizenship, if there are reasonable grounds to believe they will be able to acquire another citizenship.

That's how the government was able to strip Shamima Begum of her citizenship in 2019 although she was born and brought up in Britain."

Frances goes on to explain why Clause 9 is particularly discriminating against Black and Minority Ethnic British Citizens:

The deprivation measures clearly discriminate against BME British citizens, as they are far more likely to have or be able to obtain another citizenship than white 'native' Britons. In practice, they have been used almost exclusively against British Muslims, mostly with South Asian or Middle Eastern/ North African heritage. The numbers are relatively small, usually in the tens per year (although there were over 100 deprivations in 2017).

However, the breadth of the provisions and the low threshold for deprivation makes whole communities very fearful that their citizenship is precarious and contingent on their good behaviour.

Clause 9 in this Nationality and Borders Bill builds on this precarity by allowing people to lose their citizenship without being notified in various circumstances including for reasons of national security, diplomatic relations or other 'public interest'. Historically, most deprivations have happened when people were abroad.

Under this clause, people wouldn't know they had lost their citizenship until either they try to come back to the UK, or need the assistance of the Embassy (e.g. they've had their wallet stolen or been arrested by the authorities of the country they're in).

It's a horrible clause. In a 2003 case the Law Lords ruled that you couldn't lose benefits without being told beforehand. They described the idea that 'an uncommunicated decision can bind an individual' as 'an astonishing proposition'. That's what this government wants to do, with this clause."

On the first day of this month, 1st December 2021, the New Statesman published the claim that the British citizenship of six million people could be jeopardised by these Home Office plans⁷.

Extrapolating from the Sky News and News Statesman publications then, one estimate of the total number of people in the UK who are either already living with, or becoming at risk of, precarious status is between 6.8 – 7.2

⁷ [Exclusive: British citizenship of six million people could be jeopardised by Home Office plans - New Statesman](#)



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million people: that's 7.2 million people out of a population of just over 68 million⁸ or around 10% of the UK's population.

That's 10% of the UK population who through being - or becoming - precarious in their status are then 'legitimately' deprived of equity of access to housing, healthcare, food and safety.

What is the significance of these projected numbers when set alongside two further information streams, emanating from the Financial Times and the Hansard Society respectively?

Firstly, the Financial Times highlights two legal manoeuvres as presaging '**government by diktat**'⁹, They both date since COVID19 emerged at which time the Status Now Network formed in response (March 2020).

1. Priti Patel has added '*18 pages to the [Police Sentencing Crime and Courts¹⁰] bill*'¹¹.
2. '*An "**emergency procedure**" in the Public Health Act that gave ministers the power to make rules simply by declaring that the matter was "urgent", **without consulting anyone or providing any evidence, has been used no fewer than 91 times in the past 20 months.***'¹²

Secondly, the Hansard Society¹³, building on its work that dates back seven years¹⁴, describes the Government use of "urgent" power on the statute book, as putting the '**democratic control of political power**'¹⁵ at stake. They have announced their embarkation upon a Review of Delegated Legislation which 'aims to harness the increased awareness and dissatisfaction that now exists about SIs (Statutory Instruments) to galvanise reform'.

Meanwhile, members of the Status Now Network are working, day in and day out, as and with people with precarious status to secure the most basic of human rights that can ensure fundamental survival.

When they aren't partying, the UK Government leaders are acting, with legal impunity, very 'urgently'.

WE, the People on the receiving end of those actions, but without legal impunity, need to do likewise.

⁸ [United Kingdom Population 2021 \(Demographics, Maps, Graphs\) \(worldpopulationreview.com\)](https://worldpopulationreview.com/United-Kingdom-Population-2021/)

⁹ [The new 'government by diktat' bypasses parliament altogether - swiftheadline](#)

¹⁰ [Police, Crime, Sentencing and Courts Bill 2021 \("PCSC Bill"\) - Briefing for MPs - Good Law Project](#)

¹¹ [The new 'government by diktat' bypasses parliament altogether - swiftheadline](#)

¹² [The new 'government by diktat' bypasses parliament altogether - swiftheadline](#)

¹³ [delegated-legislation-problems-with-the-process-hansard-society.pdf \(ctfassets.net\)](#)

¹⁴ [The Devil is in the Detail: Parliament and Delegated Legislation | Statutory instruments, secondary legislation | Hansard Society](#)

¹⁵ [delegated-legislation-problems-with-the-process-hansard-society.pdf \(ctfassets.net\)](#):