

## Towards a Political Economy of Charging Regimes: Fines, Fees and Force in UK Immigration Control

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This article examines something that is at the forefront of immigration control in the United Kingdom but that has not always been at the forefront of the analysis of it: the raising of revenue and the extraction of value. Provisions for income collection through immigration control have a long history in the United Kingdom, with the 1905 Aliens Act, for example, enabling the Home Office to charge shipping companies for the costs of removing migrants (under certain circumstances) if they had earlier facilitated their arrival (see [Bashford and Gilchrist 2012](#)). However, over the last few decades, and the last few years, in particular, the imposition of fees and fines has accelerated to a point where they sit at the centre of immigration policy and practice. The maximum value of civil penalties for those responsible for enforcing immigration control have increased ([Home Office 2016a](#)), and the range of bodies liable to receive such penalties has broadened (although not without opposition). Undocumented workers caught in enforcement operations can, for the first time, have their wages confiscated as proceeds of crime ([Home Office 2017a](#)). An immigration health surcharge has been introduced, and charging regimes for those ‘not ordinarily resident’ have intensified ([Department of Health 2017](#)). Meanwhile, the costs levied on those applying for citizenship, leave to remain and visa services have in some cases increased exponentially (Project for the Registration of Children as British Citizens (PRCBC) and Amnesty International 2019); and fees introduced in immigration tribunals mean that appealing against immigration decisions is in some cases now dependent on the ability to afford doing so ([HM Courts and Tribunal Service 2017](#)). In the process, a form of economic power has been embedded within almost every single aspect of immigration control within the United Kingdom, with its functions mandated—in some contexts—to ensure profitability.

What follows utilizes empirical research to develop a conceptual and analytical account of this form of economic power. It draws from publicly available financial accounts and reports from bodies involved in the administration of immigration control where available, but it also makes extensive use of data obtained through the Freedom of Information Act (FOIA) 2000 where not. In the process, it examines a fiscal framework within which hundreds of millions of pounds of revenue are levied (or charged for) each year from those subject to immigration

control or, in some contexts, responsible for its administration. This article explores how these charging regimes operate *within* and, in some ways, act as a connecting thread *between* a range of policy trajectories. It examines how they are utilized (among other things) to police the boundaries of service provision, ensure acquiescence with immigration control, cohere the public interest with regard to immigration enforcement and help fund immigration control itself. It scrutinizes the ways in which they operate as an integral component of immigration and asylum control.

This acceleration of fees has not gone unnoticed by those working with people subject to immigration control ([Valdez-Symonds 2018](#)), human rights and activist groups ([Patel and Peel 2017](#); [Bruce 2018](#); [Docs Not Cops 2018](#); [Let us Learn 2019](#)) and work published in academic fora exploring them in their specific forms ([Steele et al. 2014](#); [Aliverti 2016](#); [Baird 2017](#)). Indeed, such has been the groundswell of concern about certain charging functions that, in 2019, the Independent Chief Inspector of Borders and Immigration ([ICIBI 2019a](#): 9) published the results of an investigation, which expressed alarm about their costs and the extent to which they are ‘truly transparent’. Thus, it is certainly not the contention here that either the existence of particular fines, charges or fees—or their acceleration—has escaped attention. However, it is the contention that when brought together into a single analytical frame, they raise significant questions about a political economy of charging regimes at the core of British immigration control.

This article consequently attempts to sketch out the parameters of this political economy of charging regimes and, in doing so, it explores its implications for criminological inquiry. Initially, it examines the development of charging regimes in the United Kingdom. This provides a backdrop against which to map out their integration within a broader framework of immigration control, before outlining their total ‘value’ in one financial year: 2017–18. Drawing on this data, this article then expands its frame of analysis by discussing the role of charging regimes in shaping the parameters of migration before, in turn, examining the ways in which they operate in conjunction with immigration enforcement. Certainly, in quantitative terms, the sums generated through charging regimes utilized directly as a form of immigration enforcement make up only a small proportion of the sums generated through charging regimes in their entirety. However, as this article goes on to suggest, charging regimes ostensibly unrelated to immigration enforcement nonetheless have a key role within it. The substantial profits generated through certain UK Visas and Immigration (UKVI) fees,

for example, can both create precarity and also precipitate moves to punish it. Whilst simultaneously, charging regimes are integral to the ongoing blurring of the lines between immigration control and the functions of the welfare state. Consequently, as well as being utilized to trigger immigration enforcement, it is argued, charging regimes have had—and continue to have—significantly injurious effects on some of those unable to meet their costs, to the point where they have been fatal. Indeed, it is the contention of this article that understanding this is vital to understanding the ways in which charging regimes can underpin criminalization and operate in conjunction with immigration enforcement.

According to the [Home Office \(2018a: 3\)](#), it is ‘the Government’s aim to achieve a self-funded immigration system’ in the United Kingdom and, ultimately, this article examines the political economy of charging regimes, which is central to attempts to achieve this. In doing so, it explores the social ramifications of a form of statecraft that is bound up integrally with harm and profit, precarity and punishment, and it explores the implications this has for contemporary understandings of crimmigration ([Stumpf 2006](#)).

## Charging Regimes, Fines and Fees: Mapping the Parameters

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There is extensive literature on the history and development of immigration control in the United Kingdom, which has documented, among other things, its colonial origins ([Sivanandan 1976](#); [Bashford and Gilchrist 2012](#)) and its neo-colonial present ([Webber 2012](#)). Within these structural frameworks, charging regimes have operated in a range of ways to buttress broader political objectives. In as far back as 1793, for example, ‘Britain required the masters of vessels to declare information about certain foreigners or face a fine’ (see [Bloom and Risse 2014: 70](#)). Whilst, as noted above, the Aliens Act 1905 contained provisions to fine the carriers of those who had transported people into the United Kingdom (in certain circumstances) who were later deported. Nonetheless, whilst the influence of the Aliens Act 1905 has been well documented—with [Vincenzi \(1985: 275\)](#) going as far as describing it as ‘the start of modern immigration law’—it is the contention here that one of its key contributions was to form part of the basis of a regime of economic power that has since become central to immigration control. Manifested within a series of interlinked spheres, these are examined briefly in what follows.

## ‘Pre-Border’ and Border Controls

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Echoes of the Aliens Act 1905 can certainly be found in the development of carrier sanctions. The Immigration Act 1971, for example, contained provisions to make carriers liable to pay ‘for the detention, accommodation and maintenance costs of certain passengers who had been refused entry, as well as their removal costs’ ([Scholten 2015](#): 72). Yet it was not until the enactment of the Immigration (Carrier’s Liability) Act 1987 (ICLA) that carriers (such as airlines or shipping vessels) could be charged for every embarking person who was unable to produce adequate documentation—at a rate of £1,000 per passenger. Rushed through parliament by the Thatcher government, this legislation was utilized explicitly to widen the scope of those with responsibility for immigration control, establishing an increased threat of financial sanction to do so, whilst, crucially, it was followed that same year by guidance on how to negotiate fee waivers for those carriers who cooperated with immigration authorities ([Shah 2000](#): 145–8). That is, it acted as a concrete form of ‘responsibilisation’ (see [Garland 2001](#)) that has since become widespread within immigration control, encouraging cooperation and co-option through financial means (see [Home Office 2006](#)).

With fines doubling to £2,000 per person in the early 1990s, the revenue subsequently generated through carrier sanctions in this period was significant: between 1987 and 1998, fines totalling some £117 million were issued, according to one analysis, before a new carrier’s liability civil penalty was set out in the Immigration and Asylum Act 1999 ([Fiddick 1999](#): 46–7). It is this legislation that continues to act as the mechanism through which contemporary carrier sanctions are administered; and it does so in conjunction with penalties of up to £10,000 imposed on carriers that have brought in passengers deemed to pose a threat to national security introduced in 2012, which were extended to £50,000 per breach three years later (see [Home Office 2015a](#)).

What is more, carrier sanctions were certainly not the only financial mechanisms being intensified towards the latter part of the 20th century, nor were they restricted to the United Kingdom. Countries in the global North increasingly looked to create ways to ‘upstream’ their border functions in the latter part of the 20th century ([Reynolds and Muggeridge 2008](#): 4). And according to [Shah \(2000](#): 145), one of the drivers of the ICLA was anger amongst government ministers that the visa restrictions that were being imposed on people from countries considered to ‘produce’ larger numbers of asylum seekers were not substantially reducing the number of asylum claims. Indeed, while the use of carrier sanctions intensified in this period, they did so, in part, as a means to supplement visa requirements, which, by

preventing would-be refugees at the point of their departure, came to be conceptualized as the ‘frontline of immigration control’ ([Reynolds and Muggeridge 2008](#): 25). There is little to suggest that their use and impact has lessened since. On the contrary, as will be outlined further below, the scope and range of visa costs have since expanded exponentially, coming to represent a core component of revenue collection and of shaping the contours of migration into the United Kingdom, of which a rationale to reduce irregular migration is only one component.

## Immigration Policing and Civil Penalties

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The administration of charges at or beyond the border is an integral component of contemporary charging regimes, but they have accelerated in tandem with a parallel civil penalty regime operating through immigration enforcement ‘internally’. Under the Immigration Act 1971, it was already an offence for someone ‘with limited leave to enter or remain within the UK to be in breach of any condition relating to his or her employment or occupation’ ([Fudge 2018](#): 573). However, the Asylum and Immigration Act 1996 and the Immigration, Asylum and Nationality Act 2006 expanded upon this by introducing penalties, for employing people whose immigration status prevented them from working, of up to £5,000 and £10,000, respectively. These statutes manifested a desire to locate charging regimes at the centre of a key site of immigration enforcement (see [Home Office 2013a](#)) and, in the context of the Conservatives’ infamous drive to turn Britain into a ‘hostile environment’ for irregular migrants, this subsequently intensified both by way of the size of penalties and by way of scope. Under the Immigration Acts 2014 and 2016, civil penalties for employing undocumented workers increased to a maximum of £20,000 ([Home Office 2016a](#)) and were joined by ‘right to rent’ checks imposing penalties of up to £3,000 on landlords renting to irregular migrants (in conjunction, in certain circumstances, with custodial sentences; see [Patel and Peel \(2017\)](#)). At the same time, a requirement for banks and building societies to check on the immigration status of some 70 million account holders per quarter began in early 2018 with the Financial Conduct Authority (FCA) given the power to use disciplinary measures (including financial penalties) for non-compliance. Against the backdrop of the widespread condemnation of the treatment of ‘Windrush’ migrants, these requirements were suspended just a few months later (although this suspension could itself be lifted at a later date, see [Webber 2018](#): 11) and, in 2019, the Home Office was forced to review its ‘right to rent’ measures following a High Court ruling that it was incompatible

with the European Convention on Human Rights. However, an intention to appeal this decision was immediately made clear, and a commitment to utilizing charging regimes as an integral component of the criminalization of ‘irregular’ migrants also remains.

Indeed, as part of the growth industry of immigration offences in the United Kingdom (with 89 new offences created between 1999 and 2016 alone, for example; see [Aliverti 2016](#)), many have potentially attracted a fine (ranging from attempting to bring alcohol into an Immigration Removal Centre to assaulting a detainee custody officer). But it is under the Immigration Act 2016 that the extraction of revenue appears to have been asserted as a core factor of particular offences themselves. This legislation established ‘illegal working’ as a criminal offence, for example, attracting a fine or a custodial sentence (or both) and also enabling the earnings of workers to be confiscated under the Proceeds of Crime Act 2002 ([Home Office 2017a](#): 9). At the same time, it was under this legislation that an offence of driving while unlawfully resident was created, with those convicted liable for a custodial sentence and a fine under the Road Traffic Act 1988.

## Accessing Services and UKVI Fees

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Charging regimes have further been incorporated into key sites of ‘service provision’ itself. Central to this is health care and, in 2015, an Immigration (Health Charge) Order was added to visa and immigration applications, requiring those subject to immigration control (with certain exemptions) to pay an annual surcharge of up to £200 to contribute to National Health Service (NHS) costs. This doubled to £400 (in certain circumstances) at the beginning of 2019 (see [Home Office 2018b](#)). Access to health care has long been a key battleground with regard to migrants’ rights and responsibilities, of course; and, in the 1980s, hospital costs for overseas visitors were introduced, with those not deemed ‘ordinarily resident’ required to pay for certain forms of care. However, these requirements have ‘gradually been expanded since’ ([Doctors of the World 2017a](#): 3). The NHS (Charges to Overseas Visitors; Amendment) Regulations 2017, for example, made hospital departments in the England legally responsible for checking patients’ eligibility and for charging ‘upfront’ for care. If patients cannot prove their eligibility for treatment that is free at the point of delivery (and that is not urgent or immediately necessary), fees of up to 150 per cent of the cost of care can be sought after as part of the [Department of Health’s \(2017](#): 8) ‘ambition’ of making up to £500 million per year. Yet charging for certain forms of health care works in conjunction with charging for a

further pillar of the welfare state: legal support. Following a consultation in 2010 on introducing charges for appeals in the Immigration and Asylum Chambers of the First-tier Tribunal and the Upper Tribunal, fees for most appeals against immigration decisions (again, with certain exceptions) were introduced in 2011 and set, in 2017, at £80 for appeals heard on paper and £140 for oral hearings ([HM Courts and Tribunal Service 2017](#)). In the process, the ability to challenge decisions made about a range of immigration issues was made dependent on being able to afford to do so. And it is in this context that charging for ‘services’ has coalesced with a development of fees and charges attached to what the Home Office describes as ‘UK based applications for permanent settlement and nationality applications in-country’ ([Home Office 2018c](#): 99).

In September 2018, there were 132 distinct Home Office immigration and nationality fees, categorized under eight separate groupings of: visas and applications made outside the United Kingdom; points-based system—applications made outside the United Kingdom; optional premium services made outside the United Kingdom; optional premium services in the United Kingdom; optional premium services at the border; applications made in the United Kingdom; points-based system—applications made in the United Kingdom and points-based system—sponsorship (see [UKVI 2018](#)). As such, these fees and charges include both ‘in-country’ charges and those made externally (highlighted above), which, while operating in most cases to lever costs on migrants themselves, also include charges imposed on migrants’ employers and sponsors. For its own financial purposes, the Home Office breaks down UKVI costs into separate categories of ‘international group—visas’ and ‘immigration group—in country’; by utilizing these categories, in conjunction with the charging regimes set out above, it is possible to begin to map out an architecture of charging regimes within immigration control and the sums generated within this schema.

## Methodology and Scope

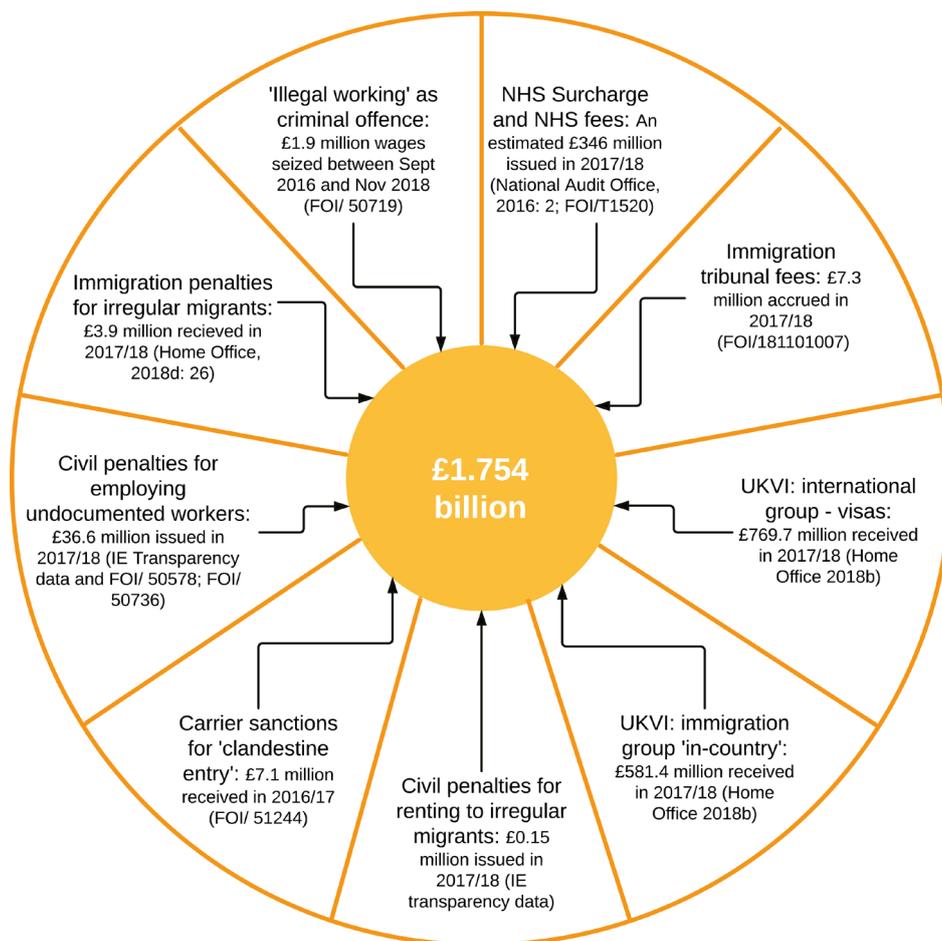
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Against this backdrop, this article draws upon several distinct forms of information in order to examine empirically and analytically the charging regimes in United Kingdom immigration control. Where possible, it utilizes Home Office annual accounts as primary data in order to ascertain the revenues generated. Leading from this, it draws upon immigration enforcement ‘transparency data’, published in conjunction with a ‘transparency agenda’ instigated by the coalition government after it came to power in 2010 (see [Cabinet Office](#)

[2013](#)). However, while ostensibly originating with an aim of ‘strengthening public accountability’, this ‘agenda’ has been criticized by the Home Affairs Cabinet Committee (among others) for providing data that is ‘poor or incomplete’ and with ‘gaps in information’ ([House of Commons Committee of Public Accounts 2012](#): 3): criticisms that are salient here. These data say nothing about the money raised through certain forms of criminalization, for example, and they say very little about forms of monetarization that are not administered through the Home Office. Indeed, rather than making transparent a series of financial regimes, some forms of information are partial and others are absent.

As such, this article also utilizes already published secondary data, if available. But it further makes significant use of information gathered under the FOIA through a series of requests made in a six-month period between October 2018 and March 2019 for the purposes of this research. These requests attempted to extract data from the Ministry of Justice (MOJ), the Home Office, Immigration Enforcement (IE), the Crown Prosecution Service (CPS), the NHS, NHS Improvement, the Department of Health and Social Care, the Ministry of Housing, Communities and Local Government and HM Courts and Tribunal Service about the charging regimes above. They asked a series of questions relating primarily to: the total sums received in the latest year at the time of writing, the total sums received in the years over a longer period (up to either 5 or 10 years), the differences between the money received and the money claimed for over these periods, the functions of fees and information about fee remissions. That they were sometimes met without success is indicative of [Tombs and Whyte’s \(2003](#): 225) reminder that those engaged in critical research should be mindful of ‘the abilities of state servants to exercise influence or control over the outcomes of that research’. Indeed, more than one request was refused or answered only in a partial form on the basis of exceeding the upper cost limit of FOI expenditure, ‘system limitation’, not holding the desired information or not having ‘sufficiently detailed management information’. Nonetheless, in conjunction with information gleaned from the sources above, from the data that *was* released, it is possible to give both a broad baseline of the sums raised or issued as part of immigration control in the most recent financial year at the time the FOI data was gathered: a scale of revenue that, in 2017–18, amounted to some £1.754 billion ([Figure 1](#)).

Fig. 1



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Charging regimes in immigration enforcement, immigration control and access to services: a select overview (2017–18 unless otherwise stated).

It is important to note that this figure is certainly under-representative. It does not include fines collected through all immigration offences in the year given (of which there are over 150 in existence), for example, and it simplifies certain revenue streams made up of a range

of fees and costs (particularly those relating to UKVI) by presenting their combined value. Furthermore, the [Home Office \(2018d: 20\)](#) received £91.372 million from the Immigration Skills Charge in 2017–18, but this is not included as it is ‘collected as part of the Tier 2 visa applications’ and it is consequently assumed here that this is already included in its presentation of UKVI fees. Also, given that the ‘UKVI Immigration Group deals with UK based applications for permanent settlement and Nationality applications’ for the purposes of Home Office annual reports and accounts ([Home Office 2018c: 99](#)), it excludes revenue generated through HM Passport Office (of which there was some £521.5 million in 2017–18 alone).

In turn, it should also be noted that the distinction in terminology (‘issued’, ‘received’, ‘charged for’ and ‘accrued’) is important (the figure for tribunal fees, e.g., is that which has been calculated *after* fee remissions have been taken into account), whilst, finally, the combined 2017–18 NHS surcharge and other fees figure is based on predicted revenue by the Audit Office rather than verified revenue (with information about charges to visitors liable for NHS treatment made available through FOI data but not the total revenue raised through the surcharge itself). Yet, as crude as it is, it is nonetheless indicative—in the first instance—of an immense form of financial power embedded within immigration control in the United Kingdom. It sets out a fiscal environment within which income generation is asserted as a principal strategy of immigration control and, in doing so, enables an exploration of how this intersects with broader aims and trajectories. It is to this that attention next turns.

## **Towards a Political Economy of Charging Regimes**

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Central to this fiscal framework is the manner in which the extraction of value from those subject to immigration control has come to occupy a central rationale and organizing principle of immigration policy itself. There is little ambiguity with this and, as the Home Office has stated, it is envisaged that ‘the costs of front-line Border, Immigration and Citizenship operations are to be recovered through fees paid by those who use the system’ ([Home Office 2018c: 3](#)). Consequently, attempts to ensure full cost recovery for the operation of the immigration system coalesces directly with Her Majesty’s (HM) Treasury’s guidelines on Managing Public Money (MPM): a guide for government departments (among other bodies) on public expenditure advocating charges to recoup the costs incurred for the administration of particular services ([HM Treasury 2013](#)). Indeed, underpinned as this is by a



**Table 1.**

Home Office income from services provided to the UKVI Visas and Immigration International group—visas: 2009–10 to 2017–18

<b>Year</b>	<b>Income/revenue £000</b>	<b>Full cost £000</b>	<b>Profit £000</b>	<b>Fee recovery actual (%)</b>	<b>Fee recovery target (%)</b>
2017–18	769,690	394,520	375,170	195	194
2016–17	705,376	364,158	341,218	194	192
2015–16	637,112	379,810	257,302	168	169
2014–15	585,500	393,216	192,284	149	148
2013–14	528,245	449,195	79,050	118	100
2012–13	444,759	366,571	78,188	121	100
2011–12	428,520	416,510	12,030	103	100
2010–11	399,321	407,319	–7,998	98	100
2009–10	283,739	300,934	–17,195	94	100
<b>Total</b>	<b>4,782,262</b>	<b>3,472,233</b>	<b>1,310,049</b>		

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**Table 2.**

Home Office income from services provided to the UKVI Immigration group—in-country costs: 2009–10 to 2017–18

<b>Year</b>	<b>Income/revenue £000</b>	<b>Full cost £000</b>	<b>Profit £000</b>	<b>Fee recovery actual (%)</b>	<b>Fee recovery target (%)</b>
2017–18	581,464	329,401	252,063	177	194
2016–17	476,999	279,322	197,677	171	192
2015–16	449,663	271,290	178,343	166	201
2014–15	429,300	198,936	230,364	216	239
2013–14	524,300	208,428	315,872	252	189
2012–13	482,599	200,283	282,276	241	184
2011–12	433,734	206,072	227,662	210	184
2010–11	413,364	221,408	191,956	187	184
2009–10	320,953	239,544	81,409	134	100
<b>Total</b>	<b>4,112,376</b>	<b>2,154,684</b>	<b>1,957,622</b>		

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There is an official justification for such seismic shifts, of course, couched in a language of fairness and arguing that fee increases contribute to the costs of providing services and, thus, reduce the ‘burden’ on those paying tax. For instance, an impact assessment for the Immigration and Nationality (Fees) Order 2016 stated that the ‘government believes it is right that those who use and benefit directly from the UK migration system make an appropriate

contribution to the meeting of its costs, thereby reducing the call on UK tax payers' ([Home Office 2015c](#): 3). In turn, with regard to the immigration health surcharge, the Immigration Minister when it was expanded stated that the NHS 'is a national, not international health service' and that migrants need to contribute 'to its long-term sustainability' ([Home Office 2018b](#)). However, such claims are problematic. As Potter ([2018](#): 418–9) has stated: 'Whilst working, [migrants] pay income tax and National Insurance, as well as VAT and other consumption taxes they will pay even if not working'. Furthermore, while 'debate' on migration is often locked into a reductive discussion over the extent to which migrants provide economic benefits or not, what these strategies could perhaps more accurately be described as is the imposition of sometimes punishing fees and charges on immigration status itself.

It is notable, then, that many of those charges rapidly intensified against the backdrop of the austerity measures implemented from 2010 onwards for, while migrants were certainly already vilified as a drain on public resources prior to this period, this certainly intensified further (see [Burnett 2017](#)). Meanwhile, the role of the state was the subject of sustained debate and attention (see [Cooper and Whyte 2017](#)), with Prime Minister David Cameron suggesting in 2015 that the fiscal environment engendered by the financial crisis provided the opportunity for the emergence of a 'smarter state' where 'achieving a surplus' was a priority and where 'it's not just about resources: it's about results' ([Cameron 2015a](#)). Although this 'smarter state' should not be 'run exactly like a business', he suggested, it should nonetheless 'use their insights' ([Cameron 2015a](#)). And in this regard, while this is certainly not to suggest that the climate of austerity was the sole or even driving factor behind this rapid intensification of charging regimes, it nonetheless at least contributed to its impetus. Indeed, it is somewhat ironic that, while charges in certain contexts 'substitute for taxation (or, in the short term, borrowing) as a means of government finance', according to [HM Treasury's \(2013: 41\)](#) MPM framework, the charging regimes described above constitute a unique form of 'migration tax' in their own right.

## **Charging Regimes and Controlling Immigration Strategies**

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How, though, does this commitment to transforming the existence and administration of migration into a form of profit, on the one hand, square with the stated aims of reducing (at

least some forms of) migration itself on the other? After all, this has been the explicit goal of successive governments, which have consistently staked a claim to control and cohere overall migration as an electoral strategy (see, e.g., [Cameron 2015b](#); [May 2018](#)). In order to explore this question, it is necessary to examine the fluidity of charging regimes and their multifaceted nature. For they serve different purposes at different times and in relation to the particular immigration status within which they are focussed.

In 2015, the [Home Office \(2015c: 3\)](#) was candid about this fact, stating that ‘the government aims to limit fee increases on the most economically beneficially sensitive routes in order to continue to attract those migrants and visitors whom add significant value to the UK economy’ and, as it later suggested, ‘Some fees are also set at below cost where a lower fee supports wider government objectives’ ([Home Office 2018c: 3](#)). Therefore, while the Home Office extracts profits of over 800 per cent for some visa fees, the development of UKVI charges above should not *just* be seen as creating profit for profit’s sake (although this is not to ignore capital’s ‘boundless and measureless urge to exceed its own limits’ in [Marx’s \(1986/1857–58: 260\)](#) words). What has been created is a fiscal framework within which fees and charges are imposed strategically, with charges relating to some immigration services (and migrants themselves) particularly punishing so as to facilitate and contribute to others.

For example, an Immigration Skills Charge introduced in 2017—initially set at a cost of £1,000 per worker levied on employers—was ‘explicitly intended to make foreign workers uncompetitive in order to reduce immigration’ ([Yeo 2017](#)). This charge was ‘large enough to have an impact on employer behaviour’, according to the government’s Migration Advisory Committee, before claiming that it was set at ‘the right level to incentivise employers to reduce their reliance on migrant workers’ ([Yeo 2017](#)). However, in conjunction with such charges, when commenting on visa application fee changes in 2016, one legal firm noted that a two per cent increase in application fees for those ‘seen as being linked to economic growth’ (such as certain workers or visitors) was offset by a 25 per cent increase in fees for settlement, residence and nationality. Thus ‘bearing in mind’ a twin political desire to make Britain ‘attractive to businesses’ whilst making the immigration system self-funding (at least), the rationale behind these changes, it continued, was clear. The aim was to ‘limit increases in fees for students, visitors and workers so as not to deter people from coming the UK in the first place’, it suggested, while simultaneously making up ‘the deficit by imposing

hefty hikes on non-EEA nationals who have already established a life in the UK and want to remain' ([Clarkslegal 2016](#)).

Fees to apply for indefinite leave to remain more than doubled between 2009 and 2018, for instance, from £1,020 to £2,389, despite their estimated 'unit cost' being set at £243 in that latter year according to [UKVI \(2018\)](#). Meanwhile, fees for UK naturalization applications increased from £200 in 2005 to £1,282 in 2017 ([Yeo 2017](#)). And with settlement visas for adult dependent relatives costing some £3,250 in 2018 (and 'regularizing' under the 20-year rule costing over £10,000 in order to do so), it is unsurprising that some commentators have argued that 'settlement and citizenship are increasingly affordable only to the wealthy' ([Webber 2018](#): 22–3). For against a backdrop where the [Home Office \(2011b\)](#) has 'rolled out the red carpet for entrepreneurs and investors' who contribute to 'economic growth', charging regimes have become integral to managed migration policies (and their more recent incarnations), which manifest a desire to bend migration patterns to market needs as one of their core rationales (for discussion, see e.g. [Anderson 2013](#)). What remains in the rest of this article explores the implications that this—in conjunction with charging regimes more broadly—has for criminalization, enforcement and crimmigration.

## **Crimmigration, Charging Regimes and Immigration Enforcement**

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Initially developed as a means through which to understand the convergence of crime control and immigration control (see [Stumpf 2006](#)), the notion of crimmigration has provided an important conceptual framework through which to comprehend developments on a range of fronts over the last few decades. These include (but are certainly not restricted to) the overlapping of criminal and immigration law, the ways in which immigration enforcement has come to resemble criminal law enforcement and the extent to which procedural mechanisms in responding to immigration violations have come to mirror aspects of criminal procedure ([Stumpf 2006](#): 381). In the United Kingdom, these trajectories have emerged in conjunction with the mass expansion of the detention estate and the proliferation of a range of forms of surveillance, among other shifts. And such is the depth of these developments that [Bowling \(2013](#): 304) has suggested that a 'crimmigration control industry' has been established over this period that is 'dangerous and damaging to human lives'.

Operating as a means to shape the parameters of immigration, charging regimes make a concrete contribution to this crimmigration control industry, in the first instance, through the ways in which they can underpin significant precarity, exacerbate marginalization and create the conditions for exploitation. According to [Sigona and Hughes \(2012: vii\)](#), for instance, there were approximately 120,000 children with irregular immigration status in the United Kingdom in 2012, of whom 65,000 were born to ‘irregular migrant parents’. And although this latter group can theoretically apply for citizenship if they have lived in the United Kingdom for 10 years continuously, the costs to do so stood at £1,012.12 in 2019, of which £640 consisted of profit for the Home Office (PRCBC and Amnesty International 2019). What is more, in many cases, children and young people will need to have been granted limited leave to remain throughout this decade prior to even being able to apply for citizenship in the first place: a status which needs renewing every 30 months and which costs over £2,000 per renewal ([Coram Children’s Legal Centre \(CCLC\) and Let us Learn 2018](#)). As such, the impact on those caught up within this is profound. For, as the [ICIBI \(2019a: 38\)](#) has highlighted, the exorbitant costs of fees relating to settlement and leave to remain have left people ‘unable to lead “a normal life”’, have ‘adversely affect[ed] their mental and physical wellbeing’ and have routinely created ‘feelings of anxiety, humiliation, isolation and inferiority’. Such is the financial cost burdened on people simply trying to regularize their immigration status that they have left parents having to choose between children. They have forced people into significant debt and indebted to predatory lenders. They have directly underpinned ‘exploitative situations’ by, for example, rendering people vulnerable to unscrupulous employers and, in at least some cases, they have driven people into destitution ([ICIBI 2019a](#)).

At the same time, UKVI fees have not *only* forced significant numbers of people into debt and created the conditions for exploitation but also rendered them vulnerable to removal. With many people unable to meet the cost of these fees, they can have—and have had—a direct role in events culminating in attempts to deport people to countries they have barely visited for minor transgressions of the law ([Dugan 2019](#)). It is against this backdrop that lawyers have argued they ‘destroy the futures of children who’ve grown up British, for profit’ (Valdez-Symonds, cited in [England 2019](#)), for they can create the precarity that immigration enforcement punishes. Indeed, while the charging regimes noted above might not be designed to lead to criminalization, in their role in attempts to make the (relative) security of

immigration status contingent (in part) on capital, they have in, at least some cases, resulted in the criminalization of those without.

## Criminalization and the Welfare State

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Of course, an inability to pay UKVI fees is not the primary force underpinning immigration enforcement in the United Kingdom, nor is this to suggest that they *always* embed precarity and criminalization. However, it is to say that the capacity to do so is inherent within them. Fees are non-refundable if applications are refused and, while in some cases they can be waived if an applicant is destitute, for those under 25 less than 1 per cent of requests for fee waivers are granted ([CCLC 2018](#): 3). Furthermore, not only is legal aid for support completing them generally unavailable but also the introduction of charging regimes into immigration appeals appears to have curtailed access to a fundamental means of challenging negative immigration decisions, including, but certainly not restricted to, those regarding applications for settlement and leave to remain. While the Courts and Tribunals Service received £10.6 million (after fee remissions) in 2014–15 for appeals relating to immigration matters, for example, the £7.3 million received in 2017–18 was a reduction of almost a third (FOI/ 181101007).

However, if this points to one of the ways that charging regimes are utilized as part of ongoing shifts in the welfare state, this is certainly not restricted to access to justice. In particular, charging regimes within the NHS work simultaneously to impose costs on those subject to immigration control and to trigger immigration enforcement explicitly against those liable for removal. This was made clear in 2017, when a memorandum of understanding (MOU) between the Department of Health and the Home Office revealed how non-clinical patient data gathered for the purposes of assessing eligibility to NHS care was being shared with the Home Office for enforcement purposes. And, while this was abandoned (after a backlash) in 2018, the Home Office was still accessing patients' data about NHS debts and using it to underpin immigration enforcement in 2019, in some cases facilitating their detention ([ICIBI 2019b](#)).

It is hardly surprising then that, in 2017, over half of the 43,000 people across Europe who reported to [Doctors of the World \(2017b\)](#) that fear of arrest was an impediment to accessing health care were England based, for the double function of charging regimes sever the boundaries between care and control and, much like with UKVI fees, this has had devastating

consequences in the process. According to [Doctors of the World \(2017a: 2\)](#), for example, health care charging regimes in the United Kingdom for those deemed not to be ‘ordinarily resident’ have deterred ‘heavily pregnant women and people suffering from cancer, diabetes, cataracts, kidney failure, fibroids and post-stroke complications’ from accessing treatment. Meanwhile, as Maternity Action has documented, pregnant women and mothers with babies have been locked into abusive, sometimes physically violent relationships as a result of health charges as they have felt that they must rely on their partner to meet the payment of NHS debt ([Feldman 2017](#)). Indeed, such is the extent of harm inherent within these charging regimes that in some cases they have proved fatal. In 2018, an elderly woman with cancer died after an NHS Trust in the United Kingdom demanded £30,000 ‘upfront’ before starting chemotherapy. Her family were unable to meet these costs and their ‘desperate’ offer of paying £500 a month in instalments was rejected ([Jayanetti 2018](#)). Similarly, when a man with an irregular immigration status who had suffered heart failure was admitted to hospital in 2018, he was refused a transplant but nonetheless charged £16,000 for receiving end-of-life care. He died a few months later, at which point his family was invoiced for a further £55,000 ([Nye 2019](#)). Between 2013–14 and 2017–18, the income to the NHS for care for ‘overseas patients’ increased almost four-fold from £24 million to £87 million (FOI/T1520). But as [Skinner and Salhab \(2019\)](#) have noted, it is ‘undocumented migrants, refused asylum seekers, and others caught up in the UK’s dysfunctional and discriminatory immigration system’ who are least likely to be able to meet the costs of NHS charges. Indeed, it is those same groups, in many cases, who have been denied care as they cannot meet its costs, avoided it through fear or have ultimately been pursued by debt collections companies to whom the NHS has sold their outstanding debt.

## **Crimmigration and ‘Institutional Violence’**

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In at least certain guises, then, it would surely be no exaggeration to see charging regimes as a manifestation of what [Cooper and Whyte \(2017: 23; emphasis in original\)](#) have elsewhere described as ‘institutional violence’: a ‘means of force which is not simply acted upon, but organized and administered through *legitimate* means’. With institutional violence ‘bureaucratized’ within “‘ordinary” and “mundane” processes that routinely and over time deteriorate ... physical and mental health’, they suggest, ‘it is the threat of violence that has become absolutely central to the force that institutional violence wields over its targets’ ([Cooper and Whyte \(2017\)](#)). And, in this regard, it is particularly pertinent as a means of

analysis here, for it is indicative of a framework within which charging regimes can cause significant harm upon their recipients whilst, at the same time, working in conjunction with a broader politics of criminalization and immigration enforcement.

This has particular resonance in a context where the terrain of immigration enforcement is shifting. That NHS charges have been integral to the drive to turn the United Kingdom into a ‘hostile environment’ for irregular migrants is well established. At its core, this embodies a desire to coerce irregular migrants from the country by denying them (or reducing) access to services; and extending as it does into a range of spheres, this policy framework has consequently been integral to attempts to enforce ‘compliance’ with immigration control in ways that reduce reliance on immigration enforcement itself ([Home Office 2018d](#): 9).

However, what is also well established is that even on its own terms there is ‘little evidence that the hostile environment policies introduced in 2014 have encouraged a larger number of people to leave’ (Walsh 2016: 6). Indeed, while there were 40,179 enforced and ‘voluntary’ returns in 2014, this had reduced to 24,510 four years later (Walsh [2019](#): 4–5). In turn, this reduction in removals has coincided with a similar fall in civil penalties imposed upon those responsible for immigration enforcement and, whilst the total number of ‘right to rent’ penalties issued in the 2016 calendar year (when they came into force) had a combined value of £73,500, for example, they had reduced by some 36 per cent to £46,750 two years later. Meanwhile, the combined value of civil penalties issued to employers with regard to undocumented working reduced by 57 per cent from £49.4 million to £21 million in the same period.

The reasons for this are multifaceted. For example, the hostile environment policy framework has been met with well-publicized critique and resistance (see, e.g., [Global Justice Now 2018](#); [Liberty 2018](#)), which, among other things, has been central to the High Court declaring the right to rent checks unlawful in 2019, whilst the 2018 ‘Windrush scandal’ has ‘had a significant effect on Immigration Enforcement’, according to the [ICIBI \(2019c\)](#): 2), even if only temporarily. At the same time, the reduction in civil penalties levied on employers might also be related to their use as a financial lever to facilitate cooperation with immigration control itself, for as [Bales \(2017\)](#): 288) has demonstrated, their end point is the creation of an environment wherein ‘employers, who have no legal duty to expose their staff to Immigration Enforcement raids, are incentivized to do so’ (such as by turning in undocumented workers). Meanwhile, the Home Office’s strategy of publicizing the details of (uncooperative)

employers of undocumented workers was described by the UK Border Agency (UKBA) in 2007 as having a communicative as much as a material function: that is, a desire to ‘increase public confidence’ in the ‘UKBA’s work’ by providing reassurance that its work is ‘robust’ ([UKBA 2007](#)). Indeed, whether the hostile environment is ‘effective’ in encouraging removals or not is not, in and of itself, the main point, for the rationale of charging regimes utilized in conjunction with this does not just reside in prompting removals but in their subsidiary functions that operate in tandem.

Of course, this also includes an economic rationale. For the income generated through immigration penalties levied on ‘individuals who enter or remain illegally in the UK’ (in the [Home Office's \(2018d: 26\)](#) terminology) ultimately contribute to the consolidated fund (the ‘central account administered by HM Treasury’; [Home Office 2018d: 6](#)). So too do the wages of undocumented workers seized through the Immigration Act 2016 as proceeds of crime, civil penalties that are levied on carriers and employers and the health surcharge. But, as indicated above, it is precisely those without capital who are less likely to be able to pay. The British Medical Association ([BMA 2019](#)) is among those NHS bodies that have called for the abolition of upfront NHS charges for those ‘not ordinarily resident’, for instance, in part, because they can leave those unable to meet their costs requiring more complex, and costly, care. Similarly, the £1.9 million of wages seized from undocumented workers between September 2016 (when the relevant legislation was enacted) and November 2018 (FOI/50719) is paltry in comparison to other charging regimes. Yet the revenue alone is not the issue: this also serves a punitive function, contributing to broader attempts to make residing in the United Kingdom intolerable, where it is not made impossible. Indeed, while immigration ministers may have claimed to be ‘detoxifying’ immigration policies following the Windrush scandal—not least through rebranding the hostile environment as a ‘compliant environment’ (for discussion, see [Wemyss 2018](#))—this, at best, is open to question. For the continued commitment to utilizing charging regimes on those vulnerable to immigration enforcement indicates a further function existing outside of the aims of enforcement itself: the disciplining of vulnerable populations.

What the above analysis suggests then, at the very least, is that there is a need to explore the extent to which immigration enforcement and criminalization are both connected to and mediated by a broader framework of charging regimes. Certainly, the charging regimes that are utilized explicitly as a form of immigration enforcement make up only a minor

component of this broader anatomy in its entirety. But this analysis indicates that those ostensibly unrelated to enforcement can nonetheless have a role in underpinning it, triggering it and operating in conjunction with it. As such, examining a political economy of charging regimes not only foregrounds the extent and functions of a vast form of economic power but also asks questions of the place and role of criminalization within this. What is clear is that charging regimes can, and in many cases do, cause harm and anguish in their role cohering migration, policing access to services and—in some cases—creating profit from immigration status itself. What is also clear is that they are integral to ongoing, deep-rooted shifts within the welfare state, which, in turn, asserts it as a key site of immigration control. In short, it is the contention of this article that by analysing a political economy of charging regimes, this begins to reveal a form of statecraft that is integral to immigration policy, although this, of course, is not to suggest that it is its driving force. What it is to say is that it has hitherto largely been unexamined in the United Kingdom and, by bringing it to the forefront of attention, this begins to foreground both its relevance for contemporary immigration control and its implications for contemporary analyses of crimmigration.

## Conclusion

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Over the last few decades, a burgeoning body of literature has been produced on immigration and asylum control to the extent that they have become integral components of the criminological landscape ([Arriaga 2016](#); [Bosworth 2017](#)). This has raised broad and vital questions, encompassing the normalization of immigration detention and deportation ([Weber 2002](#)), the gendered impacts of the asylum system ([Canning 2017](#)), the relationships between citizenship and punishment ([Bosworth and Guild 2008](#)), the criminalization of immigration law ([Stumpf 2006](#)) and the enlisting of the public in immigration policing ([Aliverti 2015](#)), among many other things. Within the scope of these frameworks of analysis, the political economies of immigration control have consistently been central. In the United Kingdom, for example, the state's attempts to force destitution upon 'irregular migrants', the politically driven welfare chauvinism and the subcontracting of a plethora of functions of immigration control—with contracts frequently running into the hundreds of millions—is well established ([Bacon 2005](#); [Schuster and Bloch 2005](#)).

This analysis suggests that the charging regimes operating at the centre of asylum and immigration policy ought to be afforded the same level of scrutiny. Clearly, a political

economy of financial power exists at the heart of immigration control within the United Kingdom, and it is the contention here that understanding it as such is essential in order to eradicate its injustices. Despite a frightening amassing of power in recent years, as well as a commitment to locating charging regimes at the centre of immigration policy ([HM Government 2018](#)), this is not an impossible challenge. As examined earlier, the ‘hostile environment’ has proved ideologically and legally vulnerable. Meanwhile, in March 2019, the Home Office froze most immigration and nationality fees—even if only temporarily—in a move that was at least partly down to campaigning organizations (see, e.g. [CCLC 2019](#)). If nothing else, this is indicative of the mounting concern about the inequities of charging regimes, their functions and their implications. This article hopes to make a modest contribution to understanding them.

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