



# Migration, welfare and citizenship: Brexit as the culmination of a programme of declaratory discrimination by the State

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# Declaratory discrimination

- *Feryn*
- Statements themselves as discriminatory acts
- Statements as evidence of discriminatory practices
- Statements by the State



# Government press releases



- 'Accelerating action to stop rogue EU benefit claims'
- 'Tough new rules come into force to ensure that migrants don't take advantage of the British benefits system.'
- 'the Prime Minister has made it clear that abuse and clear exploitation of the UK's welfare system will not be tolerated.'

# Declaratory obstacles to movement



- Same logic –
- ‘such statements being likely strongly to dissuade certain ~~candidates~~ [EU nationals] from ~~submitting their candidature~~ [moving] and, accordingly, to hinder their access to the labour market.’
- Obstacles to movement: measures that preclude or deter the exercise of free movement

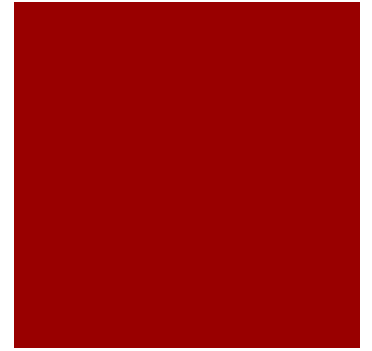
# Obstructive practices – redefining migrant work



- Minimum Earnings Threshold - 'part of the government's long term plan to... *reduce immigration*'
- Obstacle in itself – but also evidence of possibly obstructive practices
- Other Member States...

# Unjustified

- Absence of evidence of benefit tourism or pressure on public services
- Existence of evidence of net contribution
- Greater likelihood of being in work



# Collusion EU institutions

- Messages about 'in-work' benefits
  - European Council
  - Commission
- ECJ messages
  - Means tested benefits
  - *Reverse human rights caveat?*



# Limiting social security rights: *Commission v UK*

- Elevation of *Brey* para 44
- Dodging the discrimination question and reversal burden of proof; public finances trump card
- Dispensing with the rest of *Brey* – proportionality and citizenship disregarded
- No mention of rights of children





# EU at a crossroads too

- Dehumanised citizenship
- Free movement on its head
- Narrative on low-paid migrants
- Placating didn't work
- Moral vacuum + loss of internal logic
- Anachronism, exclusion, discrimination
- Can EU citizenship be saved?

