

# JENNIFER HOUSEN INTERVIEW

Key:

EHdK: Dr Eve Hayes de Kalaf (Interviewer)

JH: Jennifer Housen (Respondent)

Date/Location:

27<sup>th</sup> September 2022. Ladywood, Birmingham, United Kingdom.

**EHdK 00:02 I'm here with Jennifer Housen who is barrister-at-law England and Wales, attorney-at-law, New York, USA and Jamaica. Jennifer, thank you for agreeing to speak with me today. First and foremost, could you tell us about your career and your involvement with issues around citizenship and migration?**

JH 00:29 Morning Eve. Thank you. My interest in this stems back, in fact, from my own personal experience. I was born in Jamaica. I'm 57-years-old and when we...when I say we, I have five siblings, but the one that I'm closest with is my sibling whom I follow. And she and I came to England at the same time. I actually came to England in 1983 to join my mother.

**EHdK 01:10 So how old were you at that time?**

JH 01:16 At that time, I was 16 when we came to England. So, we came to England in June of 1983. And my mother had left to go to England. She had got married to someone who was a British citizen and so she left and we were to join her later on. But she left when we were about 11. So, she left about 1979.

**EHdK 01:43 So she had spent five years in the UK then?**

JH 01:46 Yes, before we arrived here.

**EHdK 01:47 Was she on her own? Or did she come with family?**

JH 01:51 Well, she came here [the UK] to join her husband.

**EHdK 01:52 Okay.**

JH 01:52 So, she married and her husband was here so she came to join him as a spouse. After she came here, and then we obviously followed on, it wasn't that easy because our mother had tried to file for us. That's a term Jamaicans use. She tried to file for us from very early on. But there's this issue which today, unfortunately, and I don't want to go off track here...but it is one of the issues that mars child immigration to this country. It is something

I've been literally boxing in the dark about for years now and it is about this issue of sole responsibility. And hopefully when this book is done, Eve, maybe that's something you could look into. But this issue of sole responsibility is one that is very painful and, in my view, terribly arbitrary. But I go off track. Because of this requirement of sole responsibility, it means that unless a parent can show this threshold, which is extremely high, they can't get their child here. Now because of that, my mother had to make several visits back and forth to Jamaica trying to find our dad who was out of our lives and had been from when we were toddlers. So, because of that she was refused... Well, our application was refused and refused again. We were refused maybe three or four times.

**EHdK 03:29 Was that because your father was absent from the...?**

JH 03:31 Because she couldn't show sole responsibility.

**EHdK 03:35 Okay. So, she was the sole carer?**

JH 03:37 No and that's what I'm saying. It's very complex. It's extremely complex. This idea of sole responsibility is what has meant a lot of children of parents in the UK who want their children to join are unable to get them because they cannot show sole responsibility. Because, technically, just the fact that your other parent is alive means your parent here can't show sole responsibility. And, in fact, my... I am responsible for the case it's called T-2009. It was a case that I brought in 2009 against the British government about precisely this issue. And the law was changed because of that. And I am proud to say that is my case. And it was a case in 2009 which we looked at the BCIA which is the British Citizen and Immigration Act [Borders, Citizenship and Immigration Act] of 2009. And we said, look, the law as it relates to children in the UK is applied disproportionately for children outside the UK at a far lower threshold. Because if that child was in the UK, you would deal with them in a particular way because in England, as we know, when it comes to children, best interests of the child is paramount. But what we're doing, well what the UK government was doing with children outside the UK, is holding them to an extremely higher standard and it meant that this was something we put before the court and the court agreed that even though UK law was not the law outside of the UK, they should try and ensure that the two were, at the very least, operating similarly when it came to children. And in the case of T, the court decided that the case ought to be remitted back to the British High Commission in Jamaica for the decision to be remade and the child managed to come here. Because in that case, the child's father... the child was living with the mother's friend. This was well known, it was documented, we had evidence but the father would occasionally...who was a taxi driver...pick up the child and drop her to school when it was absolutely necessary. And the government said, "Well, he did that occasionally. That means the mother didn't have sole responsibility," and we were able to show not. And that was it. But the issue of sole responsibility, going back to my story, was the reason we were being refused.

**EHdK 06:35 You were being refused what specifically?**

JH 06:36 Being able to come to the UK to join my mother.

**EHdK 06:37 So that's why it took five years for her to be able to bring you over because she had problems with...**

JH 06:41 ...showing sole responsibility and eventually we had to go to an appeal and she won the appeal. And I want to make something clear, and this is also off legal knowledge, is that 75% of cases that go to appeal are actually upheld. That is a sad indictment on the Home Office and the UK government. Three out of every four cases that they refuse settlement on appeal or citizenship rights or anything...three or four of them are upheld on appeal.

**EHdK 07:23 And what do you think has led to that situation?**

JH 07:28 I think that there are discriminatory practices and I think there are policies which are covertly indiscriminate in that, sometimes, just as we saw. The new Discrimination Act [sic] I think it's 2016 or something like that. And one of the things is that you can apply a policy which appears to apply across the board but it means that in order for a minority to access that, it's going to operate this adversely against the majority of a particular group. And so, when you look at those policies, I think that is what operated disproportionately against immigrants and that would harm them.

**EHdK 08:28 Well, let's get back to your story then. So, you were 16 years old. You had just arrived...was it in Birmingham that you had arrived?**

JH 08:40 Just one sister at the time because my mum could only afford to do two and then another and so on...

**EHdK 08:45 What was your mum working as at that time?**

JH 08:49 At the time she was working as a care assistant. Yes, she was doing care work.

**EHdK 08:53 And when you say she had to... she had legal challenges that she had to overcome, how did she... was that from the UK side of things?**

JH 09:02 Yes.

**EHdK 09:03 So that was her interactions with the Home Office?**

JH 09:04 Yes. So how it's done. And it's interesting as well because I've also been a lawyer from the US, you see the differences and the disparities when you look at US immigration



law. So, for example, if you've got... if you're in the US and you just have residency, you're able to bring your child to the US if you're the parent, whether you're the mother or the father. It doesn't matter. But with the UK, it's not like that. The parent who is seeking to file for this child. So, the application is made in Jamaica but usually it will be a lawyer in the UK who prepares all the documents. It is then mailed to Jamaica and then the child and the guardian or whoever, you know, rocks up at the British High Commission, submits all the documents and then you wait a few weeks, and you get a decision. At the moment, the service standard is 90 days and so within three months now you get a decision as to whether you're going to join your parent.

### **EHdK 10:17 in the US?**

JH 10:18 No, sorry, I'm flitting. In the US, if your parent is a resident and the parent is applying for their biological child living in Jamaica, it's no problem. You just apply for your child. And it's very straightforward. Is it your child? Yes. Are you legal in the US? Yes. Right, your child can join you. We're not going to... unless they do a DNA but assuming the child's yours, it's pretty straightforward.

### **EHdK 10:44 What you're saying is the UK process is much more complicated?**

JH 10:50 It's more complicated because the first thing we have to look at is transcending this threshold of sole responsibility and that requires some legal gymnastics to show that, well, it's a deadbeat mother or a deadbeat father. You've never seen them. You don't know where they are. And one of the things that I've always found interesting was the [Home] Office would say things like, "Well, please provide evidence that the father is not in the child's life." And my response every single time is, evidence of absence, sorry, absence of evidence is evidence of absence! It's that simple. So, do you want me to go and scale the heights and peaks of the valleys and hills of Jamaica to get someone to sign a letter saying, "Yeah, I'm John Brown and I'm not involved in Baby Brown's life." And this is something them and I have had real sort of trouble with.

### **EHdK 11:45 What was the result then of you bringing this case T in 2009?**

JH 11:50 In T, the father was not in the child's life and we indicated that. There's a case called ZH (Tanzania) which sets out maybe about 11 to 15 requirements showing what sole responsibility meant. In any event, as I say, it was an interesting case because I don't think some of these factual aspects of it came out. And, basically, when the application was submitted. And it was truthful. It was genuine, the father wasn't in the child's life, child was living with the mother's friend at the time. And what happened was, the child had a phone and somehow that was the phone number that was on the... the child was 15 at the time. And what happened was that the number was the one that was on the application. The child's father had picked her up one day because it was raining and he had come because the guardian had called him and said, "Pick up the child." And he came and he collected the



child. The child left her phone in his car. The Home Office called the phone and he answered it and they said, "Who is this?" And he said, it's the father. They said, "Oh, that's interesting because as far as we're concerned, you're not in the child's life." And they asked him a series of questions and the conversation, and I'm just paraphrasing because of what I then found out afterwards, because he then spoke to the child's mother or whatever. And it was, "I thought, you weren't in the child's life." And he got upset because he said, "Of course, I look after my child, I pick her up" and all of this, "How dare them say that?" Anyways, I called the mother... and she said, "No, he's not." And then she relayed this series of events, but you have to understand this is a cultural thing. A man's never going to admit, "I don't look after my child." Anyways, I said to them, this is not on because basically you would be saying we're lying and we went to court over it. And, of course, the court believed us because we were able to show that. We gave evidence, the mum gave evidence, and the court believed us and we won. But the child...the mother had filed for the child to come here [the UK] because the child was living with the friend.

**EHdK 14:12 Okay, so moving on from that topic but maybe you could explain then, how is that topic specifically of the difficulties in people being able to bring their children to the UK and being able to prove sole responsibility, how is that linked to the broader question around citizenship and migration?**

JH 14:35 Good question. Right. What tends to happen is, and this is the part where I draw contrast, let's say somebody's left Jamaica in 2012, right? Sorry, 2020. And they are in the UK. And then they subsequently become a citizen of the UK.

**EHdK 14:56 So they've naturalised?**

JH 14:58 They've naturalised, right. So, they've naturalised but they've got their children in Jamaica. Well, the child, and this is actually what happened in T's case, the mother had British citizenship. But, again, with the US, you now fast track the queue. You're no longer resident. In the US, you're a British [US] citizen As a US citizen parent, you... sorry, as a US citizen parent, you can bring your Jamaican child because you're a US citizen. So, when you look at citizenship, being that you're the parent, you would assume, well, this attaches. Which is logical. It makes absolute sense. The child is under 18. But the UK says, "No, it doesn't matter. You're now a British citizen but at the time of having the child, you were a Jamaican and that is what we attach to the child." So, you now need to go back and show us how you're solely responsible. So, you've now separated the child from the parent. You have a parent who's a British citizen and the confusion of this with a child to say, "But how is my friend whose parents live in the US, they flew off and I'm sitting here having this incredible tug of war?" And that's where, when it comes to the issue of citizenship, I'm saying, it appears you're implementing a policy across the board, but people are going to disproportionately be affected by virtue of the fact that they're immigrants. So, if you're saying, well, the child is in Jamaica and to come here, even though the parent's a British citizen, it's going to affect them. That then becomes the difficulty.

**EHdK 16:48** What can you tell us about the changes to British citizenship acquisition, for example, from the 1960s? Around the time of Jamaican independence in 1962? I know that you're extremely knowledgeable on this subject so I think it would be very useful to listen to your input about some of the changes that occurred over this time. Can you talk us through that?

JH 17:18 Citizenship, in most countries, attaches by virtue of birth. Most countries.

**EHdK 17:33** Jus soli? Jus soli citizenship?

JH 17:34 Yes. Whereas with the UK, citizenship is a matter of statute. So, it's a matter of legislation. And there are several pieces of legislation which are important for British citizenship. And there's one in 1943. There's one in 1927 and there's 1973 and there's 1982 and there's 2006.

**EHdK 18:15** So what happened in 1927?

JH 18:17 Alright, 1927. You had a situation where it was more paternalistic. British citizenship travelled through the father. You could get citizenship by virtue of you being an overseas national. You had BON, British Overseas Nationals. You had BOT, British Overseas Territories. We still have some, of course, Turks and Caicos, we've got Montserrat. So, we've got those persons. And so, when you look at citizenship in 1927, by and large it was far more inclusive. And by 1943 [sic], it became more maternalistic. It travelled through the mother. And...it's funny as you're talking about it now and articulating it, you realise how complex it is. And it travelled through the mother. And so, what you find...it was no longer the father.

**EHdK 19:27** You mean that citizenship was no longer acquired via the father?

JH 19:31 You're looking more through the mother. But this changed again back to the father by about 1973 I think it was. I think it was 1973. And then reversed again in 1982. Now, 1982 is a critical year. And if you asterisk that because it is these children who are born between 1982 and 2006. We call them the lost generation. I don't know if you've heard that term before. Between 1982 and 2006 but then before that, between 19... I may get this wrong....It's either between 1973 and 1982, that's where the ones, the same problems that the children...the generation between 1982 and 2006...the same problems they had with their father. The generation between 1973 to 1982 had with their mothers. I have dealt with cases in both. So, at the moment, let's say you have somebody who is born in 1976 and you have somebody who is born in 1983, right? Now, the persons born in 1986...

**EHdK 21:07 1976.**

JH 21:09 1976. Thank you. If you have somebody who was born in 1976 whose mother, biological mother at the time of their birth was British. You're born in 1976. Your mother is a British-born person. But you were born in Jamaica. You are not British.

**EHdK 21:37 Right.**

JH 21:38 You have to naturalise and, at the moment, you have to complete a form called a UKM because you have to register as a British citizen.

**EHdK 21:51 Because you were born overseas?**

JH 21:53 You were born overseas to a British mother. I'm going to give you the two scenarios now. Stay with us. So, we're doing your mum. In 1976, you were born of a British mother in Jamaica. Mother was British at the time of the birth. You have to register as a British citizen and go through the whole process.

**EHdK 22:21 You would register at the British High Commission. Is that correct?**

JH 22:25 Well not...It used to be but now it all mails here but yes for just ease of reference. But, actually, it's an application that is sent through to Durham to the Passport Office and it's done here [UK] through the national UKVI. Still with the mother...Let's say you were born in 1982. In Jamaica...use 1983 because the law came in 1982 but it took effect 1st January 1983. Let's say, it's still your mother and you're born in 1983. Still your mother...but you were you born in Jamaica, your mother's British. You are automatically a British citizen. So, this person born in 1976, before they can get a British passport, they have to complete a UKM, make the application, be confirmed as a British citizen then use the naturalisation - the registration, sorry - there's a difference between registration and naturalisation. They have to use the registration certificate to apply for the British passport.

**EHdK 23:39 Effectively what you're saying is that a brother and sister...a brother could be born in 1976 and not be classified as British but registered as a Jamaican. And his sister in 1983 was automatically British. One would have British citizenship and the other wouldn't? Have you seen cases of that?**

JH 24:02 Absolutely. I've done loads of these. I've done a lot of these.

**EHdK 24:06 Do the families themselves understand this?**

JH 24:09 After I've given them the detail but people generally are just like, "Why? Why? Why? Why?" I will be honest and say that I've had situations where the Home Office, to be fair to them, have actually, when I've done the two together and lumped them in, sometimes



if it's one year apart and I've done one where it's been one year apart and they've said, "Alright then," and they've given it to them.

EHdK 24:33 I mean, it's fair to say, if the Home Office is dealing with multiple contexts. It's dealing with people not just across the Caribbean but also across the broader Commonwealth. The assumption would be that they understand the laws and the rules that are being applied. But in practice, mistakes are made.

JH 24:57 Loads of mistakes are made.

### **EHdK 24:58 What kinds of mistakes have you seen?**

JH 25:00 You tend to find that you can do two cases exactly the same and you will get a different decision in one and a different decision in another. For example, when you look at British citizenship in Jamaica, and this is something that, again, these cases are a lot. We used to have a situation in Jamaica where you used to...a British man, and I'm going back in the 1970s to the 1980s because I started seeing them coming through in the 1990s and early 2000s. A British man would be married to a woman and, at the time, they were allowing the woman to get British citizenship and the father was giving the children citizenship. Now, I'm saying this because you've asked this question because I wanted to finish that to show the disparity. And what was happening was, a child born in 1976 by a British father, a British father, would get citizenship automatically. But a child born in 1983 of a British father would have to do a UKF [register as a British citizen form]. So, I wanted to finish that before. I've had situations where they've given the children born in 1984/1985 automatic British citizenship passports. They've just issued them passports, but they've come now to renew after three and they've sought to revoke it. And what I've had to do is to make representations on the basis of what's called legitimate expectation. I've said, "No. You've led them to believe that they were British till now..."

### **EHdK 27:11 They had their papers in order.**

JH 27:13 Right. Because they could have done this ages ago. So, you can't now turn around and say to them, by the way your passport in another year and a half is going to be...when they've come to renew they've said well, actually, you weren't entitled to it. We're going to give you a passport for two years. Put yourself in order and we're going to cancel it. And I've been like, "No, you can't. Because of the whole concept of legitimate expectation when you've already given it to them.

**EHdK 27:42 You've already painted a really complex picture of citizenship regulations and how they're applied...how people can be confused, clearly, about what nationality they're entitled to and how to go about acquiring that. So, could you now talk to us specifically about the Windrush scandal? How does this relate then to some**



**of the themes that we've just talked about with regards to sole responsibility? With regards to the automatic acquisition of British citizenship, and other issues?**

JH 28:33 You asked me a question and I hadn't answered it properly because we kind of went on a little bit of a rabbit warren but if I could just do it briefly. Brevity, as you see, is not...sometimes is difficult in this area. In 1962, Jamaica got independence. Prior to 1962, basically, everybody had...you're a British citizen. And even when you look at the passport, it would say British citizen and then at the bottom, it would have Jamaica. But when you look at those passports, that's what it had on them. So, if you're born in, say, 1958 and you acquired a passport. And one of the - I don't want to call it a loophole because loophole is usually when you're getting round something. But what I had found out inadvertently, completely accidentally, was that if you had a British passport which you travelled on. Let's say you were Windrush, just using the term now loosely. A Windrush generation person. So, you had come on the boat on Windrush in 1958 for argument's sake but then you didn't like it. It was too cold and you went back to Jamaica. I was finding out that by virtue of you having travelled on that passport, I was able to get citizenship later on for those persons because the travel meant you cemented your citizenship somehow.

**EHdK 29:59 People who arrived on HMT Windrush, for example, what documentation would they have carried with them?**

JH 30:08 They would usually have had the Jamaican passport. They would have had a passport that said British citizen and at the bottom it would say Jamaica. And I have copies of those, if you ever need to look at them you can, you know, redact it. But it said British citizen and that was the thing. So, prior to 1962, if you applied for a passport, that's what you got. It said British citizen. At the bottom, it would say Jamaica and by and large everybody was a British citizen. You were happy. On the 6th August 1962, Jamaica got independence. And what it says in the Jamaican constitution is this. On the morning of the 6th August 1962, when you woke up, everybody who had been born in Jamaica on that morning automatically became Jamaican citizens. You are Jamaican, no matter what your status as long as you were born in Jamaica.

**EHdK 31:21 So a Jamaican anywhere in the world?**

JH 31:22 No. In Jamaica. On that morning, you were immediately a Jamaican citizen. So, two days ago, you could have applied for a passport as a British citizen. On the morning of the 6th August, you were a Jamaican citizen. However, British citizens born in the UK, and people who already acquired British citizenship, were British as well but also were now Jamaicans as well. As long as they were resident there. Now, why I said that those people who had travelled before. Because they had that passport, they sort of came out of this. That loophole was that if they had gone to England before on that passport said British citizen of Jamaica, I was finding that they were able to say no. As long as they did not renew a passport as a Jamaican, they were able to jump from here to a British passport.

**EHdK 32:31 I interviewed the former High Commissioner Aloun Ndombet-Assamba and part of what she was telling me was about...there emerged cases of fraud, basically, because people were thinking - there was a lot of misunderstanding around the scandal and around people and what their rights were - and that some people were trying to distance themselves from their Jamaican citizenship because they thought if they didn't have anything to with their Jamaican citizenship then they would become British.**

JH 33:11 Oh, yes! Absolutely, yes! Oh, goodness, I had forgotten that. A lot of people were getting advice from various quarters that if they made themselves stateless...so you know, with asylum seekers...If you're stateless, it means you're without a country, right? So, for example, when we get asylum seekers in the UK from Eritrea, Ethiopia, wherever we've had people who've come into the UK...and they are from these countries and they say, right, we can't go back because if we go back, we're going to be persecuted, then you're stateless. You're given a special passport, once your asylum claim is completed and processed and whatnot, you're given a special passport and it's like a UN passport type thing. So, persons were saying if they renounced their Jamaican citizenship, and they were getting this advice, and I will be honest, some of them were being successful. So, what they were doing was they were renouncing their Jamaican citizenship and saying...so they would write a letter, or they'd get this thing off to the Jamaican High Commission, and so on and renouncing their citizenship in Jamaica. But I don't, I will... I'm just speaking anecdotally now because my understanding...I didn't deal with any of these cases. I just had people who came to me, and I was saying to them, "No, don't do that because..." But people went and did it anyways. But the fact was that I know that the government, certainly, was moving towards closing that loophole and they had been working with the Jamaica High Commission in addressing it.

**EHdK 35:00 Did you always know there were issues because of the fact that you came to the UK as a teenager? Your mother had obviously worked very hard to bring you and your sister to the UK, you've gone through the legal channels to do that. Were you always aware of these problems? How did that happen? Did you find that through your legal career? Was it your personal journey? Was it a bit of both?**

JH 35:33 I was a police officer. And from being a police officer in the West Midlands Police, I then went off to bar school and I did my law degree. I was 28. I was a mature...I was. How old was I? I was 25.

**EHdK 36:00 How was that experience of being a young Black woman?**

JH 36:05 All right, let me put it in context. There were 7,500 police officers in the West Midlands Police and 33 were ethnic minority women. It was an interesting and difficult time. But I can say I enjoyed it. But there were some interesting times. But that's for another day.

But um, so I was a police officer and then I left from the police. I was 25 when I joined the police. I was 28 when I went off to Leicester University to do my law degree. And then, I was 28 when I went to Leicester uni and then I went to bar school. I went to the Inns of Court School of Law. And then I started...I got ten pupillage which is what you have to do as that one year, bridge. And so, I was on my way as a barrister. And it was during this time that I really started doing the kind of work where I would see, "Oh, that's weird," but it still never clicked. In fact, it was after I went off in about 2001. I went off to the US. I qualified in the US. I was doing law including immigration in the US. In New York. I qualified in New York. I took the bar there. Passed that and then was working in New York. And I was doing immigration as well. And I just found it was far easier than doing immigration here [UK]. It was far more satisfying because it was fairly straightforward. Are you American? Yep. You want your child here? Yep. Okay. You're American? Yep. You want your wife here? Yeah. And it was all fine. So then, in 2005 I went to Jamaica to set up my practice and was also on my journey there to qualify. And I set up a practice to do immigration in 2005. And around about 2008, so I was just doing regular Jamaican law but about late 2006 to early 2007 is when I started doing immigration fully. Because prior to leaving to go to Jamaica in between 2002 to 2004, when the government was setting up the Immigration and Asylum Accreditation Scheme, when they decided that every solicitor, barrister or just anyone who wanted to give immigration advice, even at the most basic level, had to be accredited in order to get public funds. So, legal aid. And I was in charge of that programme where I worked. We're looking at 2002 to 2004. And I oversaw that programme and there was about approximately 80 professionals, solicitors, barristers who are on the team which I headed. We created the exam, marked them and accredited persons who would give immigration advice. And it covered immigration and asylum.

**EHdK 39:46 That is to say, before that anybody could give advice.**

JH 39:48 Anybody! You could go and the cleaner could give you advice and the government would have to pay for it. Persons were not with qualified at all.

**EHdK 40:00 Did you find cases of people giving terrible advice?**

JH 40:03 Absolutely. Even today but I mean now it's not as bad. But then the advice was horrible.

**EHdK 40:11 Let's say [people are] working very long hours. They've found that they've encountered an immigration problem. They're trying to resolve an issue. But, you know, the people that they're actually trying to pay out of their hard-earned money to help might not be giving them the right advice in the first place.**

JH 40:39 But again, as I said, with immigration, anybody giving immigration advice must be accredited. So, what we get to is around 2006, 2007...I then...I'd gone back to Jamaica. So, after I left training, I moved to Jamaica and I set up. And my first case of this Windrush,

what is Windrush, was about 2006. And I remember it very, very well because that's when I actually realised how bad this was.

**EHdK 41:20 Was it a lightbulb moment?**

JH 41:25 Yes, It went off. It really was a lightbulb moment. And it was this. There was a family who had come to Jamaica. And what we had was the...I would say my age, right? So, at the time she would have been in...so this was 2006 which is what 10 years ago? 15 years ago, 16 years ago, or something like that. So, this woman was maybe about forty something. And she had come with her siblings, her mum, her aunties, younger generation from England. A whole family had come home for a family reunion. They had come to Jamaica, maybe about 30 of them of various generations. But what had happened was that all of them had, having been here. And even the way I got my citizenship. I mean, I got mine, I think, in 1997. You have to just fill out the form, send it off. Bob's your uncle, it's done. And pay a small fee. It was like 18 pounds at the time, less than 20 quid. I remember because I was at uni when I did it. It's very simple. It's a one-page, two-page form. Send off your 20 quid and you got it back in the mail. That's it. So, what had happened was that all her siblings, her mum and everybody had got British citizenship. But she was very proud. And she was Jamaican, and she had been here [UK] since she was two years old. But she was Jamaican. She wanted to be Jamaican. So, she kept her Jamaican passport which was fine. She had actually travelled back and forth in the early...before independence. And also, before visas were required. So, a visa wasn't required until late 1990s, early 2000s, they required visit visas [visitor visas to the UK for Jamaicans were introduced in 2006].

**EHdK 43:24 Which is different to other places in the Caribbean, for example, Barbados where you don't need a visa.**

JH 43:31 But for Jamaica, they needed it. But the fact was, she had travelled before but she had not travelled until, I think, early 1990s. And that's it. When they got to Jamaica. Had a great time. 30 of them came. And 30 of them were going back. They stopped her because she was travelling on a Jamaican passport and they said, "Where's your visa?" And they're like, "Well, you don't need one." "Yes, she does." And she was left in Jamaica. Now, this woman who left here [Jamaica] when she was two years old, and she was forty-odd, had one of the strongest South London accents I've ever heard. And they were like, "No, you can't go back." And she was stuck in Jamaica. This was 2006 to 2007.

**EHdK 44:21 So they were already stopping people at the airport at that time?**

JH 44:23 Well, this was the first one I had come across. So, by 2006 they said to her you can't go back. In my own journey, looking at this in a big picture, for some time people had been stopped but they were being scolded. Listen, you need to do...so at the airport, they were able to show things like the British driver's licence...people add stuff with them that are able to say no, I live there. This is my job. They started my national insurance. Now, in

this situation, unfortunately, this lady had learning difficulties, right? And she was actually being cared for by her mother. So, her mother was about 70 but the roles were reversed. So, she didn't have any of that stuff, driver's licence.,,She didn't have that because she was the one with the...This person has been stranded in Jamaica.

**EHdK 45:18 A vulnerable person?**

JH 45:20 A vulnerable person. So, that's when I thought, hang on a minute. So, I then started saying to them, "Where's her bills?" To the parents, to her family who were coming with her. Nothing? I'm like, that's crazy. And then now, I had to start going back. So, I started saying, where's her school records? And that's when I realised...I didn't even realise that the Museum of...when a school is shut down, apparently the Museum of Something or Other is where the records are kept. Okay. And I didn't know. So, I learned a lot on that journey.

**EHdK 46:02 You had to go to the archives basically.**

JH 46:03 That was in Jamaica. I had to be trying to get things here. I knew she banked with Barclays because she used to get some benefits. I write to Barclays. Everything was already on microfiche. It really was a tedious journey. But I had to get stuff to show that she legitimately arrived here because she, as a baby, had travelled on her mother's passport. And I'm sure you've seen this because this is one of the main problems Windrush generation people have had. So, people my age and older people are born in the 1950s and so on. And were babies. They came on their parents' passport or they came with a card which nobody can find now. Because England changed. England knew what their policy was. And part of the biggest aspect of the Windrush scandal was that documents were destroyed but I don't want to touch on that just yet. So, what was happening was this woman, she came to England on her mother's passport. Once she came to England, she went to school and all of that and she finished secondary school. And then there's nothing else because she's a vulnerable person, things are happening. So, she's getting some benefits, her mum's looking after and so on. So, what my company had to do, we had to go through and really backtrack on a lot of stuff. And it took us about...maybe six weeks. And then we were able to make an application for her to get back

**EHdK 47:32 And in the meantime, where did she stay?**

JH 47:34 She just was...they found some long-lost relative and she had to be staying there. And family was having to pay monies and so on.

**EHdK 47:41 So, you had this light bulb moment.**

JH 47:42 Yes, I realised this is crazy!



**EHdK 47:44 Why did you see that as crazy?**

JH 47:48 Because then I realised that there were these people who have what's called the right of abode. And that is critical.

**EHdK 47:58 Indefinite leave to remain [ILR]?**

JH 47:59 No! This is the problem! Go on, what were you going to ask me?

**EHdK 48:03 I was going to say...I was going to ask you then to explain leave to remain status and explain why this is important with regards to the story that you just told.**

JH 48:15 This actually once bring me to tears. Because when people are dealing with the Home Office, they're thinking they're dealing with people who are tenure lawyers or even lawyers for that matter. That is not the case. You are dealing with people who might or might not have a degree. And who are trained for an average between six and 12 weeks. People working at the Home Office, making decisions about people's lives, are people...random persons who are trained for about six to 12 weeks.

**EHdK 48:57 I think that's an extremely important point. They're not legal specialists.**

JH 48:59 They're not legal specialists, no.

**EHdK 49:01 And more so, as well, that the process has become more and more detached from human interaction.**

JH 49:11 Right. And that is why when you go back to something I said earlier, three of every four refused applications get overturned on appeal. So going back to this subject...

**EHdK 49:01 Just to underline that, what you're saying is the Home Office doesn't have competent staff, doesn't have people....**

JH 49:29 I wouldn't go so far but I would not say that the competency level is where it should be.

**EHdK 49:36 It's inadequate because you have seen so many cases overturned on appeal.**

JH 49:39 Now, so on that basis, you need to make a distinction between right of abode and ILR because that's what they've been using to mess people about.

**EHdK 49:52 Explain the difference between the two.**

JH 49:55 The right of abode is when people are...so these people who are Windrush actually have the right of abode! Right of abode means, I don't need to do anything. I don't need to get a British passport. I can live here, travel outside as much as I like. I don't need to answer to anyone because I have an inherent right to live here. That is what right of abode means.

**EHdK 50:28 And these were people who arrived in the UK between which years?**

JH 50:31 These would have been the people from anywhere up to 1973, basically. So, any time before 1973.

**EHdK 50:41 Even after Jamaican independence?**

JH 50:42 Even after Jamaican independence. These people were likely having right of abode. And this is why the problem started because they were like this lady. That's why when I said when I did this, I was fighting for her to get back her right of abode. They ended up giving her ILR, indefinite leave to remain. Now, indefinite leave to remain...because you have to get back home and people can be tired of fighting because you see sometimes you can take on a crusade. And all you want is, look, I just want to be home. So, you will take what is going on offer. But I will explain to people what it is. Now, ILR can be revoked. You can't revoke a right of abode.

**EHdK 51:32 In what circumstances can ILR be revoked?**

JH 51:35 The vast majority of people who are being deported have ILR. A lot of people who are being deported have ILR. Pick children who have come to this country and they've been here as children, but they've never gotten a British passport. They're being deported if there's a crime because they are then classed as a foreign criminal. And the term foreign criminal has a specific definition. It doesn't matter if you've lived here legally [and] have indefinite leave to remain. Because you were born in this country [UK] and still travel on the passport of a foreign country, you are termed, once you commit a crime, a foreign criminal.

**EHdK 52:17 And if you've got right of abode...**

JH 52:20 They can't touch you. That doesn't apply.

**EHdK 52:22 When you realised that there was a real problem, you were seeing more cases of this. What did you do? Did you speak to the High Commission? Did you speak to the Home Office?**

JH 52:32 Yes, I did. Straight on the back of that. I had another lady and to this day, I would say she died of a broken heart. It was a lady. She was about 65 or so. She worked on the set of Coronation Street as it happened. She came to the UK from Jamaica when she was



two to four years old. Something like that. She and her husband had retired to Jamaica. The husband had his British passport. She didn't. And she had a Jamaican passport. Again, it was a pride thing. She wanted to be Jamaican. She then returned to Jamaica. And when she returned to Jamaica, the marriage broke down shortly after. And she had all her children here. All her grandchildren here. And so, she decided, you know what, I'm just going to go back home. Well, she went off and bought her ticket and was on her way back. And they said, "No, you can't go back to live." And she said, "No, I've lived here all my life." She had been getting her pension in Jamaica [UK] and so on. And they stopped her. And that's when I got involved. That was the second case I saw. And this was around 2007. And that was what cemented did this. And I thought "No, this has to be dealt with." Because now it came so quickly on the back of it that I thought this is a generation that's having a problem because they had been travelling here. And because of that, they were asking them for evidence which they simply wouldn't have. So, I contacted the High Commission in Jamaica, the High Commission in England. I said, "Listen, I'm coming to England in the summer." So, this must have been earlier in the year in 2006. And I said, "I want to run some workshops, you know, seminars just to let people know but I want the High Commission behind me to do this." Oh, we'll call you back. Nobody got back to me. Nobody, right? And I ran these. The churches were extraordinary. I did churches in Birmingham, Manchester, Sheffield, London. in Croydon, Lewisham and this was just a one-woman crusade because this thing for me was like...

**EHdK 54:48 And how did you connect to them? Was that through your church?**

JH 54:51 I picked up the phone and called these churches. I just looked for big churches.

**EHdK 54:56 What was their reaction when you approached them? Had they already picked up on the issue as well?**

JH 55:05 I don't know. I genuinely don't know. I was saying to them, "Listen. Do you have older persons in your congregation over 50 years old who had come to the UK from Jamaica and they may be in problems, they may be in trouble?" And that was how I was selling it because I was saying to them, "Look, I need to address these people because what's happening is these people are not realising that they need to get their British passports." Because if they come to Jamaica on a Jamaican passport thinking "Oh, we're British by having the Jamaican passport," they're going to get stranded. And I went and I was giving these talks, and a lot of people were saying yes. I was like, "You don't have to use me. I don't care who you use. I'm not here for the money. I'm here because I am really worried."

**EHdK 56:02 Did you speak to any activist groups?**

JH 56:10 I didn't know if there were any activists. That's what I'm saying. At the time, there was no activist groups because I don't think people were realising this was a problem. Because people were individually...It was Windrush became this big thing that several

stories were being mentioned. But if you're in Sheffield and it's happening to you alone, you don't know that there are two people in Birmingham, 10 in Brixton, you don't know. But by me raising it...

**EHdK 56:43 Exactly. So, there were individual cases that were cropping up and because of your role as a lawyer and seeing these cases, you could actually see a pattern emerging and see that there was actually a problem.**

JH 56:57 Right. People were coming to me and then I was like, "Okay, this is big." So, over the next few years somewhere between sort of, say, 2008, 2009 to maybe about 2012, I was steadily just doing these cases. I didn't know who they were or whatever. And in 2012, 2013 I realised, no. I have to go back on another crusade because again these started in coming in thick and fast. And I remember again, so two specific moments in points in time. I contacted the Jamaican High Commission again somewhere between 2012 and 2013. And I said to them, "Listen, I need you guys on board with this. This is getting way out of hand."

**EHdK 57:43 Can you remember who you spoke with?**

JH 57:43 I think it was someone called Lincoln Downer. And he kept saying that nobody would put me through to the High Commissioner at the time. So, I didn't speak directly to whoever the High Commissioner was. But this person was the person who was in charge, or supposedly, who would deal with this stuff. Outreach, whatever. I said, "Listen, we are getting a lot of these cases where, you know, this is happening. I want to run again, some seminars. This needs to be flagged up," because by which time I'd had some really serious ones.

**EHdK 58:29 In the seminars, were you helping people with their paperwork?**

JH 58:32 I would just tell them what the issues were. Not necessarily legal aid. I've never been a legal aid lawyer. I would do it free if it was that they didn't have any money. If they had the money, I would charge them. If they didn't have much money, I would charge them a nominal fee. But I would say to them, it doesn't matter who you go to. You know a situation where you don't realise you have a problem? You have a problem, but you don't realise you have a problem? You keep saying, "Oh, my shoulder hurts. My leg hurts." But you don't realise you have sciatica, for example. Until you go to the doctor, and it's diagnosed, you don't know it's a problem. So, this was what I was just trying to make people...It was more an awareness campaign. Listen, if you've got a relative who still has a Jamaican passport, can you please address it? And I was targeting the young people to check with their aunties, their uncles, their mum, their dad. Check if they only have a Jamaican passport because if they do, you need to get them a British passport. So, this was...it was 2012 and I knew the law was going to change in July 2012. On July 9 2012, the law changed because now they had to sit a citizenship test. I was trying to do this before because a lot of these people 60,

65...they're not going to be able to sit tests. They are not used to that sort of stuff. So, I was trying to get them to do this before this thing hit. I didn't care who they went to. And I wanted the High Commission to spearhead this. They did not. The Jamaica High Commission - I can go on record as saying - they did nothing. I wrote one of the most damning, awful emails to them. I said to them, you're here to look after the interests of the Jamaican community and you're not. And they didn't. It was not until this became a scandal that they jumped on.

**EHdK 1:00:35 Why do you think they were so slow to react?**

JH 1:00:41 There is this whole diplomacy thing where, oh, we don't want to upset...rock the boat. And they will tell you all the time. Oh, you know, they take a sort of diplomatic stance to it. And I will say that there was a time that this issue was also raised. And at the time, I think, Lisa Hanna was in...she wasn't in government so I'm not going to hit at her too hard. She's very bright. And so whatever people think of that Lisa was the spokesperson for the opposition on Foreign Affairs. And I wrote something because I, again, when I'm in Jamaica, I'm more closely aligned to the current opposition. But I contacted the government here, the Foreign Affairs Minister. And I said to them, there's an issue. They did nothing, but I didn't think they would because they're aligned to the Conservative government. I wrote piece for Lisa because she said to me, I think you did this. And they just changed the piece. And it was all in the name of diplomacy. And I can say that before Lisa because they did. She had another chap, I forgot his name now, and I sent it to the both of them, telling them listen, this is the situation. And they changed the piece and wrote something that was more diplomatically palatable.

**EHdK 1:02:34 Why do you think it was so difficult when you were knocking on doors and trying to get people to listen to you and take you seriously?**

JH 1:02:45 Because they didn't know of the problem. I don't think they knew the magnitude of the problem. I guess that's what it was. And so, by the time it got to, you know, the break and The Guardian and all the rest, I had been...then everybody was like, "Oh, Jennifer come here!" Because I had been out there. I had been saying this. So, it wasn't a quantum leap for them to say, "Ah, touch base with Jennifer Housen." I wasn't just an add-on because I do immigration law. I had been doing this for years and knocking on doors and saying, "Guys, this is going to be really, really bad. This is really, really bad." And I did all the rounds, you know, the TV, the newspapers, whatever. But what the exposé led to was to show something that, as far as I'm concerned, we keep saying Windrush and using the term Windrush. But even when we talk about Windrush, it is boxed into a compartment that says, people who came here and their rights were taken away. But it's not. It's people who legitimately had citizenship or the right of abode. British people! And I remember being quoted in The Times. And they carried one quote. And I don't know, I had never been interviewed by them but they carried one quote. And they got it. And it was this. To talk about Windrush in a particular sort of vacuum is to misunderstand the inherent rights of citizenship and abode that these people had. That is what Windrush is. Windrush is not

somebody coming. These people had an inherent right. Here's the problem when they started giving people ILR...That's what started happening in the mid-2000s. When these people were saying, "Oh, you've messed up," and whatever. They then turned around and gave them ILR. But giving them ILR was not a solution because ILR actually was not what they had. So, the right you are giving them now...

**EHdK 1:05:16 It was giving them a demoted status.**

JH 1:05:18 A demoted status. Because ILR is not it. And that's what Windrush is about. And I think for those who are advocating Windrush, a lot of them don't understand that what they need to be advocating for is that these people are not just given the right to live here [UK]. We don't want that. So, I see people the other day saying, "Oh, you need to give these people ILR." They don't need ILR. What they need is a British passport or a stamp saying right of abode.

**EHdK1:05:43 Thank you so much Jennifer. What an enriching and important and necessary conversation we had today. Is there anything else that you would like to say before we wrap up this interview? Because I think you've given us such a great overview.**

JH 1:05:57 It's a wide spectrum. But I think for our purposes, that this is all we can do for now.

**EHdK1:06:02 How do you see the future then Jennifer?**

JH 1:06:05 I don't see much changing with the current government or even the one after because some of these things did occur under the Labour government in fact. And so, what we need to do is to make a concerted effort...what the government needs to do and what we need to advocate for is that there is a concerted effort to treat immigrants' rights on a basis where, as those rights accrue legitimately to persons into, in the UK, they travel to their relatives outside of the UK. Particularly their children because as you may well know, there are some Windrush cases to do with children. But the rights that are accrued in the UK ought to travel to their children outside of the UK. That's where I would like to see us going. I don't know when we will reach there.

**EHdK 1:07:09 Thank you so much for speaking with me today.**

[END OF AUDIOFILE].