

EUROPEAN TASK FORCE ON IRREGULAR MIGRATIONS

Country Report: United Kingdom

Center for Migrations and Citizenship

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Introduction and Key Features

Irregularity of status, or 'illegal' migration, has become a significant issue of public interest over the last 10 years. It is argued that the numbers game and moral panic shifted from black communities in the early 1980s to 'bogus' asylum seekers in the early 1990s, and to irregular migrants in the late 1990s (Clandestino 2008: 18). We argue that public concern over irregular migration results from the tension between the needs of the UK economy for labour migration and the attempts of successive governments to convince voters that they are in control of immigration, and that they only allow inflows beneficial to the country. This situation generates loud and tough discourses on asylum and irregular migration, which remain closely related issues in Britain today.

Regularity and irregularity are social constructions. Immigration policies determine who is and who is not a regular migrant through arbitrarily determined statuses and entitlements, which evolve over time and according to changes in the regulations. It is estimated that over two-thirds of irregular migrants in the UK are failed asylum seekers alongside overstayers (20 per cent) and others who enter illegally (10 per cent) (Gordon *et al* 2009: 43). This results from Britain's geographical position, which makes cross-border entry more difficult, from policies which historically have enforced strict entry control with limited opportunities for the regularisation of those without legal status, and from high rates of failed asylum applications. Migrants fall in and out of regularity according to changes in legislation and policies. For instance, the Workers Registration Scheme for East Europeans created some degree of regularity, offering legal immigration and employment status to some previously irregular migrants workers (Farrant *et al* 2006: 8). However, the current trend is that of heightened irregularity in terms of both immigration and integration (access to work and services) statuses. For instance, the points-based system, which proposes comprehensive management of immigration, will generate more irregularity because of the narrow opportunities afforded to unskilled workers (Farrant *et al* 2006: 8). Strict control on entry also means that the UK is less likely to provide a route as opposed to a destination for irregular migration (MRN 2009: 9).

The irregularity factor is multiplied by the fact that the law does not distinguish between 'illegal' entrants, 'illegal' residents and 'illegal' workers. All are considered irregular migrants (Vollmer 2008: 9). There is a *de facto* criminalisation of irregular migrants for two broad

reasons. In the first place, a substantial number of immigration offences are considered criminal offences rather than administrative offences, and this constitutes a growing trend (Ibid: 10). Secondly, the lack of opportunities for regularisation and legal status, further restricted at present, leads migrants onto the path of illegality: to take up work when they are not allowed, to access services to which they are not entitled, and to fall foul of the many immigration rules and restrictions.

Traditionally, UK policy focuses on external control, perhaps on the assumption that it can do so effectively. For instance, it insists on controlling its own borders and has kept out of the Schengen Convention. Increasingly tight and restrictive measures have bolstered this approach. In the last few years, however, a new emphasis has been placed on internal controls (Farrant *et al* 2006: 17) and on measures to restrict access to benefits and local services. In addition, both areas of restrictions are combined for the sharper detection of irregular migrants and their exclusion from services. To this end, government departments responsible for the control of immigration place pressure and a duty on service deliverers, employers and other agencies to monitor, identify and report on irregular migrants. They are asked to act as *de facto* immigration officers through internal controls in the same way as transport companies in terms of control on entry. A partial transfer of responsibilities is being operated between the national to the local level. This is linked to the myth spread by politicians and media that irregular migrants and asylum seekers are 'benefit tourists' aiming to profit from Britain's health and social security systems. A related consequential trend is that of more difficult paths to regularisations.

The whole question of immigration and integration is fraught with contradictions:

- Discrepancies between government departments, whether explicit or implicit: the Home Office, for example, insists on excluding irregular migrants from services while the Audit Commission stresses instead the quality of services (Gordon *et al* 2009: 85).
- Incongruity between an exclusionary policy of integration (irregular migrants) and a policy stating its goals towards social cohesion
- Contradiction between deregulation of the labour market and the need for foreign labour on the one hand and strict control of migration on the other hand: governments have been aware that greater numbers of migrant workers are needed, and policies have been put in place to manage and create legal channels for migration. Yet, certain previous opportunities for legal migration and work have been closed, thus reducing openings for legal migration and regularisation. This inevitably leads to higher numbers of irregular

migrants. In the labour market, deregulation has facilitated the grey economy and nurtures opportunities for irregular work. At the same time, the state continues to develop strategies aimed at reducing irregularity (migration and work).

- Opinion polls suggest that the public generally opposes immigration (80 per cent of people say they would like to see less of it), but at the core of public concern are lack of control and illegality (Gordon *et al* 2009: 15). Yet, and perhaps for this reason, 66 per cent of the polled public is in favour of regularisation.
- Discrepancy between policies formulated by central government and 'local' practice: it is clear that in the main services, deliverers and employers remain cautious and divided over compliance with requests to identify, and report irregular migrants.
- Growing divergence between frontline service deliverers and administrators: for instance, hospital doctors may treat patients regardless of their immigration status, while administrators pursue them for payment of charges and may even threaten to report them to immigration authorities.

A neo-liberal agenda can be detected behind many of these trends. It fosters irregularity in more than one way: deregulation of migration and employment, as well as reduction of the welfare state and services. This may also have an impact on the ethos of service deliverers so that the future may give rise to a narrower gap between restrictive central policies and more flexible local practice.

Local authorities, service deliverers and employers are caught on the horns of a dilemma. On one hand, they are aware that migrants make a positive contribution to the local economy. On the other hand, they feel pressurised by central authorities and the threat of fines. Moreover, for local councils aiming to promote good management and social cohesion in their area of jurisdiction, it is far more satisfactory to receive regular rather than irregular migrants.

Altogether, the UK displays a complex canvas of characteristics, which make for differentiated macro and micro situations regarding irregular migrants.

The Local Dimension

Within this context, a key feature shaping the UK scenario is the relatively large degree of devolved power enjoyed by local gover-

nment despite attempts in the 1980s, by successive Thatcher governments, to reduce this power. In addition, UK local government is not homogeneous in form, structure and the powers wielded. It includes metropolitan authorities (in large cities), both unitary and two-tier county or 'shire' councils and, in London, local borough councils and the City of London Corporation, which all share powers with the Greater London Assembly.¹ They have differentiated responsibilities, although the control and delivery of policing, health and social services remain beyond their control. The relatively high level of decentralisation awards some degree of discretion to local authorities and to the local dimension. This decentralisation of power is generally enhanced by the substantial number of civil society organisations and the participatory tradition characteristic of the 'societal' and 'associational' British model as defined by Jepperson (2002) with reference to the two dimensions of society and collective agency.

London occupies centre stage in the unfolding of tensions concerning irregularity. It is also the site where proposals challenging central government policies have emerged in the public debate. London has acquired particular salience where irregular migrants are concerned for several reasons. In the first place, it comprises the largest number and proportion of irregular migrants-- recent estimates range between 417,000 and 863,000 (Gordon *et al* 2009: 7).

Secondly, politics in London, particularly since the 1980s, have been played out in the context of sharp rivalry and divisions between the elected London administrative authority (the Greater London Council from 1963 to 1986 and the Greater London Authority since 2000) and national government. For example, the 1980s were characterised by bitter disputes between the Labour-run GLC, its leader Ken Livingstone (later elected mayor of the GLA in 2000 and 2004) and the Thatcher governments over policies related to immigration, anti-racism and policing. In fact, Ken Livingstone and the GLC became such a source of aggravation to the Conservative government that the latter's decision to abolish the GLC in 1986 is widely viewed as entirely politically motivated. The establishment of the GLA and direct mayoral elections in 2000 has led to the re-emergence of strong local versus national policy divergences. While there are 12 other directly elected mayorships elsewhere in England, it is the debates of the London election campaigns which attract media attention and resonate throughout Britain.

London is an economically dynamic city with a constant need for migrant labour. This has led to recurring appeals, since the mid-2000s, for regularisation procedures from many of the main mayoral

1 It should be noted that since 1999, the UK also comprises devolved legislative assemblies and government in Scotland, Wales and Northern Ireland. The responsibilities and powers held by these administrations reflect, to a large extent, their individual histories and administrative structures. However, these powers and responsibilities do not extend to foreign affairs, defence, social security, macro-economic management, trade and immigration.

candidates. During the 2010 general election campaign, London's current Conservative mayor, Boris Johnson, joined the ranks of those advocating the regularisation of undocumented migrants and consequently put himself in direct opposition to his own party's national policy. As shown in the second part of this report, he emphasised the economic profit yielded by migrants and also noted the advantage accrued through being able to manage a city inhabited by citizens who are all residing and working regularly. In addition, a number of campaigns and civil society organisations, most of which are in London, have mobilised in favour of irregular migrants and asylum seekers. A great deal of the research carried out on this issue focuses on London, evidencing discrepancies between local service deliverers and employers on the one hand and central government policy on the other hand. Our report documents that the increasing pressure from central government to monitor and inform upon irregular migrants is more than often resisted by local councils, among them various London boroughs, and by health services staff, social workers and employers.

This report traces the development of immigration policies and politics pertaining to undocumented migrants. It also explains the links between different levels of policy making and implementation, before focusing on London as a case study.

The Politics and Policies of Undocumented Migrants in the UK: 1948 – 2000s

It can be argued that British immigration policy making in the post-war period has developed in three main stages. During the first stage (1948 - late 1980s), immigration policy was consistently articulated in terms of (racialised) differences between Old and New Commonwealth immigrants.² In stage two (late-1980s - early 2000s), policy makers focused on the control of asylum seekers and refugees, while policy making in the third stage (early 2000s and onwards) has been characterised by the 'managed migration' approach in which labour migrants are selected according to the UK's economic needs on the one hand and irregular migrants are targets of strict control on the other hand. While 'staging' is convenient for analysing changes in immigration policy over the last 60 years, it is noteworthy that certain continuities persist: for example, the belief amongst politicians of all parliamentary parties that the control of borders is crucial; that tight border control policies ensure successful race relations and the integration of migrants; or the general attitude of 'benign indifference' adopted by successive UK governments towards irregular migration due to pressure exerted by employers looking for cheaper means of meeting labour shortages.

Below we provide an overview of each of these main stages of UK immigration policy while highlighting where relevant and possible those policies formulated to target irregular migration and 'illegal' migrants as referred to by the state and in mainstream political and media circles.

² The British Commonwealth was formed in 1931. It is an inter-governmental organisation comprising over 50 former British dependencies. The Old ('white') Commonwealth includes Canada, Australia, New Zealand and South Africa, while the New Commonwealth comprises ex-British dependencies in Asia and Africa and several island countries in the Caribbean, Mediterranean, Indian Ocean and Oceania.

Stage One: New Commonwealth Immigration and the Reconstruction of British Nationality (1948 - 1988)

British immigration policy during the early post-war years placed few restrictions on the entry of non-nationals into Britain. The first major piece of legislation governing the entry and settlement of non-nationals was the 1948 Nationality Act, which gave male citizens of British colonies and Commonwealth countries full citizenship rights. The provisions of the 1948 Act, shaped by political concerns over labour shortages in the expanding UK public sector and Britain's status as a global power through its Commonwealth ties, paid little if any attention to those who may have considered entering Britain without the requisite documents.

However, as numbers of visibly different immigrants arrived mainly from the Caribbean, there emerged calls for immigration controls despite the fact that Labour and Conservative governments of the 1940s and 1950s had supported recruitment drives, in the Caribbean, of nursing and ancillary staff to work in the new National Health Service and of workers to staff London's transport services. But because the numbers of immigrants from the Caribbean and South Asia were insignificant in the 1950s compared with white immigrants from Ireland and South Africa, those who feared the presence of black immigrants and their ability to assimilate into British society found it difficult to build a case in favour of legislation limiting their entry and settlement. In the absence of such legislation, three processes were put into play – two functional, the third ideological – in all of which the British state played a key role.

First, colonial administrations in the Caribbean, Africa and South Asia were instructed to adopt measures to stop prospective immigrants, even those with legal entry papers, from travelling to the UK if they did not appear to have a 'firm prospect of establishing themselves' (Carter and Joshi 1987: 3). Second, black immigrant communities in 1950s Britain came under increasing state surveillance as populist ideas about social instability caused by 'alien' cultures began to grip the public mind, particularly after the 1958 riots of Notting Hill, London, which saw white gangs clash with black youths. Third, and in contradiction with the all-inclusive definition of British citizenship contained in the 1948 Act, a government cabinet committee of 1950 set about reconstructing Britishness with the aim of 'safeguarding' the British character and way of life from growing non-white immigrant populations. This racialised reconstruction of British citizenship has underpinned British immigration policy ever since. From the early 1960s, British immigration policy sought a steady reduction in the entry and settlement rights of New Commonwealth citizens, as these rights came to be defined according to a racialised reconstruction of Britishness. In doing so, it increased

possibilities for those coming from the New Commonwealth to Britain to find themselves in situations of administrative irregularity.

The idea, posited by the Commonwealth Immigration Act of 1962 and all UK immigration legislation since (see Appendix 1 - 1968 and 1971 Immigration Acts; 1980 Nationality Act), is that immigration equals non-white immigration and that non-white immigration is ultimately not a good thing for British society. This idea shaped the way in which notions of illegality emerged and how so-called 'illegal' immigrants entering and remaining in the UK should be handled.

Throughout the 1960s and early 1970s, immigration from the New Commonwealth continued to increase. Mostly single, young South Asian men and young people from the Caribbean arrived in the UK and then found themselves settling long term as jobs became scarcer and immigration laws made entry and settlement more difficult. As non-white immigrant communities settled in Britain, those implementing immigration policy were instructed by government to weed out would-be immigrants with 'suspicious' intentions of entering the UK. Consequently, immigrants found themselves treated increasingly as 'illegal' entrants and challenged about their family ties and/or employment prospects in the UK, or about the legality of their documents.

In the 1970s, a raft of policy instructions or 'rules' (some failing to respect UK immigration and European human rights law) designed to deter 'illegal' immigrants emanated from the Home Office as a result of the Home Secretary being granted unprecedented powers by the 1971 Immigration Act to make 'immigration rules'.

Some of the harshest rules of this period, designed to shut out or deport immigrants deemed 'illegal', were introduced in the late 1970s and the 1980s during years when firstly, the extreme right National Front won council seats in several London boroughs and polled well in cities such as Leicester, and secondly, when state anti-immigration rhetoric reached its peak under the Thatcher government. Thus, in 1976, the Home Office authorised the inhumane practice of 'virginity testing' for young brides (mainly from the Indian sub-continent) as a means of preventing 'marriages of convenience' and deterring 'illegal' female migration. In 1980, the Thatcher government introduced the 'primary purpose rule', which barred entry to overseas nationals marrying British citizens unless they could prove that the main purpose of their marriage was not to obtain residence in Britain. In addition, child dependants joining parents were often subjected to arguably unethical procedures such as 'X-ray testing' in order to prove their status as minors and thus the legality of their entry into Britain (Cohen 2001: 269).

Under the Thatcher government, the 1981 British Nationality Act went further in removing certain settlement rights in Britain, thus creating a greater potentiality of those whose entry or presence in Britain constituted a contravention of administrative rules and who could therefore be branded 'illegal' immigrants. Finally, during this

first post-war immigration stage, the 1988 Immigration Act withdrew the right of long-settled men from New Commonwealth countries to family reunification, again allowing possible illegalities of immigration status to increase.

Stage Two: Asylum Seekers and the Creation of a Sizeable Population of Irregular Migrants (1988 – early 2000s)

During this stage, immigration policy makers responded to the emerging fact of large-scale and long-term refugee migration across and into Europe and the increasing demand in asylum applications in the UK. The response to the flows of asylum seekers who crossed UK borders after long, arduous journeys and who made claims for asylum led to the establishment of new asylum system(s). Between 1988 and 2003, four major pieces of legislation on asylum and immigration came into effect (see Appendix 1), each introducing new asylum reception procedures, each making asylum reception conditions harsher and more restrictive and each increasing the potential of placing failed asylum applicants into situations of irregularity. The restrictive nature and harshness of the systems in place is put down to political reaction to public concern over the numbers of asylum seekers, their 'dubious' intentions in coming to Britain and the desire to placate those calling for tough sanctions against 'bogus asylum seekers' (the term being used to imply that substantial numbers of migrants entered the UK with ill-intent, hence 'illegally').

In the 1990s, asylum seekers and refugees became the focus of public attention at both the national and local levels. Media reports fuelled an increase in negative ministerial statements on 'bogus asylum seekers' who exploited the UK's welfare system and lived the good life. The result was increased hostility towards asylum seekers and refugees, particularly in areas where the level of knowledge and experience of refugee communities was low. The policies resulting from the desire to appease hostile public opinion were aimed first at deterring asylum seekers from coming to Britain and second at removing the 'undeserving' already present in the UK. Asylum and immigration legislation during this stage were shaped by the following thinking:

- that asylum seekers should be separated from the rest of society where the provision of social security and welfare was concerned;
- that the majority of asylum applications would receive negative decisions on the basis that such claims were at best suspicious;

- that where claims were rejected, the right to appeal should be limited and that removal from UK territory should follow as quickly as possible.

So, for instance, in order to separate asylum seekers' social security and welfare provision from that of majority society, the 1996 and 1999 Asylum and Immigration Acts were enacted and applied. These withdrew social security benefits from asylum seekers and replaced cash benefits with benefit vouchers (later withdrawn). The 1993 and 1996 Asylum and Immigrations Laws restricted access to housing, while the 2002 Nationality, Immigration and Asylum Act removed the children of asylum seekers from mainstream education despite charges that Britain was contravening the UN Convention on the Rights of the Child.

Underpinning the Asylum and Immigration Acts of 1996, 1999 and 2002 was the idea that the majority of asylum claims would be refused due to irregularities and illegalities in applications. Therefore, these acts introduced or reinforced 'fast-track' procedures in refugee status determination and drew up or added to the 'white list' of so-called safe countries from which asylum claimants arrived and whose claims therefore would be refused.

Finally, the premise that rights of appeal should be restricted (e.g. shorter time periods in which appeals could be lodged and the imposition of penalties for appeals without merit) and that detention of failed asylum seekers and their removal from the UK should immediately follow the rejection of their claims, underscored the legislation of 1993, 1999 and 2002.

The incorporation of all such beliefs into policy during the 1990s and early 2000s created routes to irregularity for thousands of asylum seekers. As claims were rejected in large numbers, those threatened with detention and removal simply disappeared within local communities because they did not believe they would receive fair treatment from UK immigration authorities. Estimates vary as to how many failed asylum seekers remained in Britain during this period. A report commissioned by the Greater London Assembly places the number of failed asylum seekers in the UK in 2001 at 286,000 (2009: 5), whereas the estimated number of failed asylum seekers given by the conservative-leaning think tank Migration Watch for the period 1997 to 2007 is 239,000 (Migration Watch 15 April 2004). In addition to failed asylum seekers who remained in the UK during the 1990s and early 2000s, the population of irregular migrants also comprised students and visitors who had overstayed the period of their visa either deliberately or due to circumstances beyond their control, and who then acquired irregular status, particularly after 1993 when the Asylum and Immigration Act of that year disestablished their rights of appeal.

Stage Three: Managed Migration Policy – Focusing on ‘Illegal’ Migrants and Issues of Control and Regularisation

This stage of policy making is marked by the ‘managed migration’ approach. This approach developed from the early to mid-2000s as part of the New Labour government’s drive to modernise immigration policy. It also developed in response to the acknowledgement by the heads of leading EU nations that their countries’ economic success was dependent on highly skilled labour immigration. Thus a managed approach entailed strict control of the types of labour migrants recruited to meet the needs of the economy, and at the same time, the barring of entry to and removal of those considered undesirable migrants. The managed migration approach was set out in the government’s five-year strategy document entitled *Controlling our Borders: Making Migration Work for Britain* (2005).

The focus in this section will be on the second aspect of managed migration, i.e. barring entry to irregular migrants and removal policies to deal with those already in the UK. During this stage of migration policy, political decision makers grappled with four questions in relation to irregular migrants:

- tight border controls;
- the internal control and fast removal of failed asylum seekers;
- compliance with UK law in the matter of ‘illegal’ migration;
- and the question of whether or not to integrate irregular migrants already in Britain into society through regularisation programmes or amnesties.

Border control

First, as far as border control is concerned, a number of measures were introduced during this five-year period. The 2006 Asylum and Immigration Act, which was based on Labour’s five-year strategy, *Controlling our Borders*, gave wide powers to police to share information with the UK Border Agency³ and customs officers on

³ The Immigration and Nationality Directorate, a Home Office shadow agency which supplied immigration and asylum officers and case workers, was replaced by the Borders and Immigration Agency (BIA) in April 2007. This change was meant to reflect the emphasis being placed on border control. In April 2008, the BIA was replaced by the UK Border Agency (UKBA), which brought together the BIA, the UK visas agency and the detection functions of the HMRC (Revenue and Customs).

potential illegal entrants or those who wished to enter legally but were suspected of threatening national security. It also provided for the development of biometric identification technology. The increased workload created from this cooperation between agencies was met by an increased border control police contingent of 400 constables and 40 sergeants who, in addition to the existing 360 newly hired officers, were put on specialised border control duty with the aim of reducing the number of 'illegal' migrants (Workpermit.com 2006). In addition, a Human Trafficking Centre was opened in Sheffield in October 2006 to combat human trafficking. The 2006 Act was followed quickly by the 2007 UK Borders Act, which required Third Country Nationals to acquire biometric IDs if they considered coming to the UK. Biometric data was also shared with French border control police, especially at Calais.

Internal controls

Second, on the question of asylum seekers, policy focused on a 'super fast track' (or detained fast track - DFT) asylum decisions system in which people could remain in detention throughout the asylum application and appeals process. It was intended that up to 30 per cent of asylum seekers would be fast tracked while in detention, although this target was not reached due to shortage of detention space. The obsession with processing claims within short time limits meant that asylum decisions became increasingly poor during this stage. The overwhelming majority of asylum seekers were given a negative decision and faced detention. In October 2006, the government doubled the deportations budget to nearly £300 million. It also funded a crime stoppers programme to encourage members of the public to inform on 'illegal' migrants. It is estimated that the number of deportations that had taken place by the third quarter of 2006 totalled 5000 (Ibid). The majority of these detentions were achieved through DFT. However, removal targets of failed asylum seekers not in detention centres were far more difficult to achieve, and those identified for removal more often than not absconded during this period and have remained in the UK on an irregular status basis.

In addition to focusing on detention and deportation, policy makers also targeted human trafficking as part of the crackdown on asylum seekers with irregular status. The British Refugee Council has claimed repeatedly that the majority of migrants surveyed by them have relied on 'agents' (both human smugglers and traffickers) to help them across borders. Much of the population 'helped' across the UK border include young women and children who subsequently end up in sex work. Consequently, a specialised task force of police and immigration officers was set up in February 2006 to combat human trafficking in operations dubbed 'Pentameter 1' (2006) and 'Pentameter 2' (2007). While the operations led to raids on almost 400 brothels in the UK and over 150 arrests for offences related to trafficking, police have since been criticised by senior politicians for

not sufficiently tackling the demand and achieving far too few numbers of convictions (*Lancashire Evening Post* 8 November 2010).

Compliance with UK law

Third, managed migration policy has emphasised compliance with UK law where 'illegal' migrants and employment are concerned. The only legal routes to employment in the UK for third country nationals, under the managed migration approach, are through the highly skilled migrant programme (HSMP), the seasonal agricultural workers' scheme (SAWS) or the working holiday makers' scheme. In addition, domestic workers may come to Britain with their employers, as may those with work permits linked to a specific job. All other routes are illegal (e.g. by initially enrolling as a student in order to subsequently find a job). However, employers have been happy, over many decades, to employ those in an irregular situation without asking questions about or by ignoring immigration status. Under the managed migration approach, however, the government has increased obligations on employers and businesses to comply with the law through naming, shaming and prosecuting employers who provide unregulated jobs and wages to irregular migrants. The naming and shaming is carried out by posting names of businesses on the UKBA's web pages each week. The UKBA claimed that in March and April 2008 (in the two months following new immigration rules⁴ on the employment of 'illegal' migrants), 137 businesses were caught employing illegal immigrants, and that between May and October 2008, over a million pounds was collected in civil penalties. This represented ten times the number of businesses found employing irregular migrants and a more than doubling of prosecutions compared with the whole of the previous decade (*Caterersearch* 2008). The overwhelming majority of employers targeted belonged to the ethnic catering sector.

Regularisation of 'illegal' migrants

Finally, within the framework of managed migration policy, politicians have had to deal with the question of what to do with those irregular migrants and their families already living and working in the UK. In considering this question, the debate has turned mainly on the question of regularisation policies and one-off amnesties for a number of reasons. First, at between half a million and one million people, the significant population of irregular migrants in the UK is one of the highest in the EU. Second, senior civil servants and police chiefs have, over a number of years, acknowledged the practical and financial impossibility of mass deportations of irregular migrants (Papademetriou and Somerville 2008: 17). An estimate offered by

⁴ According to immigration rules introduced in February 2008, employers could face fines of up to £10,000 for each 'illegal' migrant employed and an eventual jail sentence if the offence was repeated over a period of time.

The Guardian (3 May 2009) put the cost of removing the UK's irregular migrant population at £9 billion over 34 years. Third, programmes such as the Assisted Voluntary Return of Irregular Migrants (AVRIM), which provided help (in obtaining travel documents and paying air fares, but not in resettlement assistance) for irregular migrants to leave the UK have made little if any impact in terms of reducing the overall population of irregular migrants. In fact, this programme was closed in August 2010. This has led to a number of high-profile politicians (mainly Labour MPs) to consider regularisation policies, which have been advocated by many leading migrant support organisations over the years.⁵ The characteristics, merited or otherwise, of regularisation programmes and amnesties have been covered at length elsewhere and will not be rehearsed in these pages. (The interested reader can refer to the following sources, among many: Papademetriou and Somerville 2008; Gordon *et al* 2009, chapters 4 and 5; Levinson 2006; OECD 2000; Migration Watch, briefing paper 11.17 undated).

Historically, UK governments have been opposed to both regularisation programmes and one-off amnesties in contrast to countries such as Spain and France, where such measures have been used not infrequently since the 1970s. However, UK immigration policy has included a number of 'behind-the-scenes' systems of regularisation. For example, in 2003 the New Labour government introduced an immigration rule whereby irregular migrants who have lived continuously in the UK for 14 years, or families with small children who have lived continuously in the country for seven years, are granted indefinite leave to remain unless immigration officers have concerns over a person's criminal history or similar causes for doubt. Since the introduction of this little known rule, it is estimated that 7,245 irregular migrants have won the right to remain in Britain (Barrett 2010). In addition, the government ran a domestic workers' regularisation programme in July 1998 and October 1999, which offered domestic workers the opportunity to obtain legal status. Approximately 4,000 workers took advantage of this scheme, although many more who did not have the requisite documentation (valid passports) were left out. Finally, it can be argued that when the UK granted freedom of movement to citizens of the EU accession states in May 2004, it effectively put into place a programme of regularisation for the thousands of Polish and other workers who were already in the UK.

Given these circumstances, the calls for regularisation have gathered pace over the last four years. These calls have come from migrant support organisations, such as the Joint Council for the

⁵ In May 2007, six MPs including Diane Abbott (Labour), John Cruddas (Labour), Jon Bercow (Conservative), Evan Harris (Liberal Democrat), Neil Gerrard (Labour) and Karen Buck (labour) signed an Early Day Motion calling for a regularisation of thousands of 'illegal' migrants in the UK through a two-year work permit scheme subsequently followed by ILR (Indefinite Leave to Remain) where appropriate.

Welfare of Immigrants and Migrant Rights Network to name but two; churches and other faith groups; trade unions; several MPs and, in unity, the current and former Mayors of London, Boris Johnson (Conservative) and Ken Livingstone (Labour) respectively, who have emphasised the particular situation of London as home to about two-thirds of irregular migrants in the UK. In 2006, the London-based group London Citizens launched its campaign 'Strangers into Citizens' for a regularisation of London's irregular migrants. The campaign's work has received considerable support since 2006 as was reflected by the turnout of marchers it attracted at a rally organised in London on 4 May 2009. The campaign has argued in favour of a regularisation programme (rather than a blanket, 'no questions asked' amnesty), which would in fact provide 'a pathway to citizenship', first via a two-year work permit, and then via indefinite leave to remain if conditions relating to citizenship action (including learning English) are met.

Following the growing calls for regularisation, it is not surprising that this issue became one of the debating points during the 2010 General Election campaign when the Liberal Democrat Leader, Nick Clegg, defended arguments in favour of an amnesty for 'illegal' migrants during a televised debate of the party leaders. Since then, of course, the Liberal Democrats in coalition government have dropped mention of amnesties and regularisation programmes and have rubber-stamped initial ideas of tightening up processes that allow temporary migrants to become permanently settled in the UK. Since March 2011, these ideas have been expressed by the government in terms of even tougher border controls, including the creation of a special border police force and more stringent conditions for settlement in relation to unspent criminal convictions, salary levels for economic migrants and competence in English.

However, the issue of regularising 'illegal' migrants through amnesties or other means is not likely to disappear from public and political agendas. It re-surfaced most recently in June 2011, when a report published by the House of Commons Home Affairs Select Committee revealed that just over 161,000 asylum claimants (whose claims formed part of 450,000 'legacy cases', i.e. cases which had been left pending since the 1990s and 2000s) had been granted leave to remain in the UK. Many of the Select Committee's members argued that granting leave to remain to such a large number of claimants amounted to an amnesty (Travis 2011).

Multi-Level Immigration Policy Making and Implementation

The UK and EU

Historically the UK has always placed its relationship with the USA and the Anglophone Commonwealth before that with Europe and has rejected an 'identikit Europe' which could weaken British sovereignty. Thus, since its entry into the EEC in 1973, the UK has had a tense relationship with the EU and has accepted 'Brussels power', policy measures and directives rather grudgingly. This is true for all areas of policy, including migration.

In principle, the UK agreed to cooperate with other EU member states on a common approach to migration and asylum since the signing of the Maastricht Treaty of 1992, acknowledging that EU states faced similar problems and challenges in this area. Prior to this, the UK had refused to be part of the Schengen agreement of 1985 because it wished to retain total sovereignty over border control matters. However, five years later (along with Ireland and Denmark), the UK applied and was accepted to participate in parts of the Schengen *acquis*, which were brought into the EU legal order. The Schengen *acquis* included among its rules those concerning 'illegal' immigrants.

It was the Treaty of Amsterdam (1999) which established a firm agenda for the development of migration and asylum policies within a framework of five-year programmes and which would set out guidelines for the development of common policies. Since then three such programmes have been introduced: the Tampere Programme (1999 - 2004), which laid the groundwork for common immigration and asylum policies within the Common European Asylum System (CEAS); the Hague Programme (2004 - 2009), which initiated strategies on the integration of migrants and developed the European Pact on Immigration and Asylum; and the Stockholm Programme (2009 - 2014), which has proved most controversial as it has sought, according to some (Bunyan 2010), to securitise migration through increased surveillance of movement and personal data and to militarise border control in order to root out illegal migration while introducing a new status for 'legal' migrants. The Stockholm Programme is also criticised for not putting forward substantively new proposals for the integration of migrants.

On the whole, these programmes have been aspirational and since 1999 have led to limited convergence on issues of immigration – legal or otherwise – given the provisions of the Amsterdam Treaty (and subsequently the Lisbon Treaty of 2007) for certain member states to opt in or out of various immigration measures adopted under Title IV of the EC Treaty on a case by case basis. The UK has been one of the states which has consistently used special opt-in/opt-out clauses in order to pursue its own migration objectives. On the whole, the UK has adopted most EU proposals concerning asylum policy, fewer measures on irregular migration, and has tended to opt out on measures concerning regular migration, borders and visas.

For example, between 2000 and 2009, the UK opted into all measures concerning asylum. However, it only opted into five out of 14 measures on legal migration and two out of 35 measures on borders and visas. As for irregular migration, the UK opted into 11 out of 17 measures during this period (Peers 2009: 21-23).

The tense relationship between the UK and EU and the former's reluctance to consider, let alone adopt, EU policies is captured well in a blog written by Franck Duvell about his attendance at two meetings, in January and February 2011 respectively.

Duvell recounts that, at a high-level meeting of representatives of 27 European governments on a European-inspired approach to global migration, the UK only sent embassy staff rather than representatives from the Home Office or other relevant government department. At a second meeting on circular migration, organised by the UKBA, Duvell notes that, 'the opening presentations and closing remarks made no reference at all to any EU policy'. He heard presentations on comparative (im)migration from Tonga, Vanuatu to New Zealand, for example, but states that on the whole, 'This meeting took an exclusively UK perspective, was completely ignorant of any EU law or policies, took national interests as the starting point for any considerations and asked, "What can we learn from the experiences of other EU countries?" but not, "What can we do together?"'. This anecdotal evidence may help explain the UK's relations with the EU where policy-making and implementation on migration and other issues are concerned. However, it may also confirm that the UK's ties with the global community of English-speaking countries (including 'old' ex-colonies such as Australia and the USA) impacts on its capacity to 'throw in its lot' completely with the EU.

National and Local Government

The predominant trend in the UK since 1945 has been for central government to increase its powers at the expense of local government. Post-war governments have drastically reduced local government responsibility and powers for the planning and delivery of education, housing and other services in order to redistribute it to

'quangos' (government appointed bodies), NGOs and private companies, to name just a few. In addition, the powers of local authorities to gather or raise funds for services and capital projects have been reduced through central government caps on local taxation and cuts in core central grants. Hence, there is a stark difference between a large, pre-war authority like Birmingham which had, at the end of the 19th century, bought local gas and water companies; paved and lit streets; created public parks; and introduced public transport and urban regeneration in order to improve citizens' lives, and today's city council, which struggles to build a new public library.

It can be argued that, over the last 30 years, local authorities have increasingly become the executive agents of central government, not very different from other central government departments (House of Commons CLG Committee 2009: 7). This process may be traced back to the early 1980s and the accession to power of the Conservatives under Margaret Thatcher. Successive Thatcher governments launched initiatives to weaken local government, in particular the large metropolitan authorities controlled by Labour that were most resistant to the ascendant neo-liberal agenda. This occurred during the 1980s, when the Greater London Council (GLC) and metropolitan county councils were abolished, government departments over-rode local decision-makers on ideological grounds, and local authorities were compelled to introduce competition in service provision. Furthermore, the 1987 Local Government Act stopped councils from imposing local rates based on property values and instead forced them to raise revenue through levying a poll tax on individuals which hit the poorest people hardest. The lack of funds coupled with the fragmentation of service provision has impacted negatively on local people and the services they receive.

Numerous organisations at the local level are involved in responding to the consequences of migration, including statutory bodies (such as healthcare trusts), housing associations, community associations, employers of migrant labour and so on. The role of local authorities is to provide strategic leadership and to coordinate the action of these social partners in order to deliver an array of services to different migrant populations. Many local authorities have planned their responses to migration by working through 'multi-agency' partnerships or forums. However, results are uneven and are most successful in areas which have a history of migration. Councils in the newer 'cluster' areas identified by central government for the dispersal of migrants have been less efficient in influencing different agencies and tackling tensions that arise in local communities. Smaller councils are also obliged to establish and coordinate multi-agency partnerships/forums on shoestring budgets.

While the implementation of migration policy and service delivery to migrant populations is part of the brief of local authorities, migration policy is formulated at the national level. Numerous government departments are responsible for migration policy. The Home Office is the lead department and is responsible for entry, reception

and removal/return policies. It shares responsibility for integration policy with the Department for Communities and Local Government (DCLG). In addition to these main government departments, a number of smaller units contribute to migration policy making; for example, the Migration Directorate of the DCLG coordinates work across government departments and supports local authorities and communities, and the Government Equalities Office contributes to policies designed to reduce inequalities among migrant populations. Beneath these departments and units lie a myriad of other agencies which feed into the policy process; for instance, the Equalities and Human Rights Commission (EHRC), the Advisory Board on Naturalisation and Integration (ABNI), the Community Development Foundation (CDF), the Migration Advisory Committee (MAC) and the Migration Impacts Forum (MIF).

Given the plethora of national policy-making organs, it is difficult to see how government objectives of a coherent immigration policy that would seamlessly join issues of migrant reception, integration and return can be met. Moreover, the criss-cross of linkages and lines of communication generated between numerous policy makers at the national level and service providers at the local level can only produce a situation fraught with competing policy agendas and implementation goals in which the objects of policy making lose out.

The Case of London

London is home to about a million foreign residents born outside the EU and who have not acquired UK citizenship. The capital city has had a disproportionately large number of almost all types of migrant to the UK, but an especially significant share of asylum seekers up until 2000. A report commissioned by the GLA in 2008 estimates that 80 per cent of failed asylum seekers from before 2000 reside in London, along with about 60 per cent of those who entered the UK after 2000. This would indicate that between 67 to 73 per cent of all UK irregular residents live in London – and a best estimate of 442,000 (Gordon *et al* 2008 p8).

The last London mayoral election campaign of April 2008 brought up the question of an amnesty for irregular migrants. All the main candidates, including the Conservative candidate Boris Johnson acting against the official policy of his party, agreed to support a regularisation policy in the future. On 9 April 2008, *The Independent* reported that the mayoral candidates had united in a call for an irregular migration amnesty. It stated that, 'all four major candidates in London's mayoral election join religious and business leaders in proposing a radical solution for illegal immigrants'. Labour's candidate, Ken Livingstone, called for a 'fresh start' for migrants without regular status who 'contribute hugely to the economic, civic and cultural life of London and the UK'. He blamed the 'deep-rooted failings in the immigration system' for their insecure status. Significantly, the government 'steadfastly refused to agree' to such policy proposals of a one-off amnesty, since it deemed that it would stand for an incentive for irregular migrants to come to the UK (*The Independent* 9 April 2008). Liam Byrne, the incumbent Immigration Minister, reaffirmed the government's strategy to combat businesses employing foreign workers illegally. Most recently, the London mayor Boris Johnson called for an 'earned amnesty' for irregular migrants living in the capital and launched 'a review into the feasibility of granting an amnesty to an estimated 400,000 people living illegally in London', (Vollmer 2008: 37). The London scene occupied front of the stage on this issue with Boris Johnson's press release of 9 March 2009, stating, 'Mayor condemns government immigration failure'. Johnson said, '... [I]t is time for a twin track approach to this issue. Firstly, we need far tougher border controls to control the flow of people into our country. Secondly, we need a frank debate about what to do with the half a million in the capital who are not able to join the economy legally. I believe we should carefully consider the merits of an earned amnesty for long-term migrants to maximise the econo-

mic potential of these people so they can pay their way... I do not want to be the Mayor of two categories of people in our great city, one group who live normally and another who live in the shadows, unable to contribute fully to the rest of society', (Gordon *et al* 2009: 17).

The mayoral candidates are not the only ones to contest central government policies tightening up on irregular migrants. The remainder of this section considers the key service sectors that seem to constitute the most apparent contested areas of differing approaches between the local level and central government.

Employment

The question of employment features as one of the most noticeable in terms of research related to irregular migrants. There does not exist any comprehensive review and analysis of a specific location. Nonetheless, most research and reports derive their data and fieldwork notes from London case studies. This is why we have included this section within this part of the report devoted to the local scene.

General Regulations and Constraints Regarding Migrant Labour:

- The Gangmasters Act (2004) introduced an obligatory licensing system for gang masters and employment agencies that supply or use workers involved in agriculture in order to reduce exploitation. A notable aspect of this act is that it includes both regular and irregular workers (Anderson & Rogaly 2005). Supplementary measures were introduced to manage low-skill temporary inflows such as the Seasonal Agricultural Worker Scheme and the Sector Based Scheme. However, the current dismantling of these schemes and the proposed scaling back of low-skill migration from outside the enlarged EU may increase incentives for irregular migration (Farrant *et al* 2006 p10).
- Under Section 8 of the Asylum and Immigration Act (1996) it became a criminal offence to take on a new employee whose immigration status would prevent them from legal employment. Employers have thus been required to check the right of their employees to work in the UK since 27 January 1997; offences were punished by a £5000 fine. Employers were to check one of 13 documents (as specified by the guidance document).

- The Nationality, Immigration and Asylum Act (2002) (in force as of May 2004) established two lists of documents: documents in list one could be checked individually; documents in list two needed to be checked in specific combinations with one another every two months.
- The Immigration, Asylum and Nationality Act (2006) introduced new enforcement regulations that came into force in February 2009, increasing employers' responsibility for checking the immigration status of their workers. In a guidance document for employers on the new regulations, the Home Office stated its aims as 'to take tough action against those employers who seek to profit from exploiting illegal labour' and to 'work together with employers to ensure that illegal workers cannot obtain work in the UK', (MRN 2009: 19).
- In 2007, the government set out a 'seven point plan' '... to shut down illegal working'. This was bolstered in 2008 by the creation of a 'watch list' of immigration offenders to be tracked down, and local immigration teams were also established to assist in this process (Burnett & Whyte 2010: 22). In accordance with the Immigration Asylum and Nationality Act (2006), sections 15-25 of the Act established a 'civil penalty regime' as of 29 May 2008. Section 15 of the Act raised the penalty imposed on employers who fail to check their workers' entitlement to work in the UK from £5,000 to a maximum of £10,000 per unauthorised worker at any point during their employment and not only when they are hired. Section 21 made it a criminal offence, leading to prosecution and a maximum two-year prison sentence (MRN 2008 p8). A reduction of the fine is possible if the employers cooperate with immigration authorities during 'compliance' visits (MRN 2008: 9).

The Points-Based System (PBS) introduced in 2008 aims to function alongside the civil penalty regime. The PBS intends to replace approximately 80 immigration routes for work or study in the UK by creating five 'Tiers': highly-skilled migrants (Tier 1), skilled migrants with a job offer (Tier 2), unskilled migrants (Tier 3), students (Tier 4) and temporary labour/youth schemes (Tier 5). Tier 3 has been indefinitely suspended. Under the new system, employers wishing to recruit migrants from abroad under Tiers 2 or 5 will need to become approved 'sponsors' and follow a Human Resources (HR) audit and registration process with UKBA (MRN 2008: 9). The new Points-Based System for immigration has introduced additional duties for employers, education-providers and other licensed sponsors of

migrants applying to come to the UK for work or study. Under the new system, all licensed sponsors must cooperate with the UKBA requirements if they wish to bring migrants to the UK for work or study. These requirements include keeping records on their sponsored migrants and ensuring compliance and cooperation with the immigration rules. Sponsors are required to report any behaviour that they find suspicious to the UKBA, including, for example, a foreign student failing to attend the first day of the academic year at their sponsor institution (MRN 2009: 17). Furthermore, educational establishments must also monitor attendance at lectures.

Impact on Employers and Workers

In the wake of these regulations, the government has tightened controls in the workplace. For instance, in 2007 the Border and Immigration Agency (succeeded by the UKBA in 2008) reported that around 60 enforcement operations on employers were conducted each week in London (MRN 2008: 10). One prominent example of a workplace raid, referred to during this course of research, took place in October 2007. In this incident, over 100 immigration and police officers descended on London's Chinatown during lunchtime, storming the premises of five Chinese restaurants. Officials removed 49 workers suspected of being undocumented; however, only seven were eventually deported (MRN 2008: 12). Around 6,300 'compliance visits' were conducted in 2007, leading to the arrest of 5,060 individuals suspected of immigration offences. By mid-June 2008, 265 civil penalty fines accumulated to the amount of £2.3 billion (MRN 2008: 11).

The whole exercise has entailed increased cost for employers in terms of training staff, fines and time spent in the related administrative procedures. For some businesses relying heavily on labour from abroad, it has also meant difficulties in finding staff. Small ethnic businesses bear the brunt of such disadvantages and are clearly targeted by enforcement agencies. While 62 out of 91 affected businesses, or 68 per cent, were ethnic minority businesses often run by small families (Bangladeshi, Chinese, Indian or Turkish), only 163 undocumented workers were identified (MRN 2008: 11, 22).

Heightened risks are involved in finding employment for irregular workers who have become more vulnerable to exploitation and abuse on the part of employers, as quoted in the Minority Rights Report (2008: 20). Indeed, the report shows how some employers have used the procedure to control and dismiss surplus and outspoken workers. The procedure is used to intimidate, threaten or dismiss activists and those involved in trade-union action. The two following examples are worth quoting:

- The Justice for Cleaners Campaign:

In the summer of 2008, many London public transport cleaners involved in the Justice for Cleaners' Campaign were subject to threats and intimidation by

employers. In August and September 2008, document checks were used to threaten the dismissal of those involved in action. The latter were also suspended until their documents were checked.

- The Living Work Campaign:

Contracted workers in major London universities who took part in the Campaign were subjected to threats related to document checks. Moreover, several examples have been cited of employers ambushing their workers to deliver them to UKBA immigration officials. It has also been shown that denunciation and prison are real threats that render undocumented workers even more vulnerable to exploitation and abuse by employers. The Migrants Resource Centre (2010: 22) sites two of its informants who have spent time in jail. Burnett and Whyte (2010: 23) report that employment agencies do not hesitate to brandish denunciation as a tool to quell dissent.

In addition, this situation affords undocumented workers little protection in terms of health and safety despite legal provisions. In the UK, the Health and Safety at Work Act (1974) and the Management of Health and Safety at Work Regulations (1999) universally bind employers by health and safety law regardless of the status of their workers. Furthermore, the Health and Safety Executive and local authority safety enforcement departments are responsible for protecting all workers. In other words, there is no distinction in law made between the regulatory protections granted to documented and undocumented workers (Burnett and Whyte 2010: 26-27). In practice, however, workers are generally not aware of this entitlement and are not able to avail themselves of legal provisions relative to health and safety since fear of deportation prevents them from taking their cases to a court of law. As a consequence, undocumented workers are at risk for their health and safety and may fall victims of serious accidents. In Burnett and Whyte's view, this illustrates another 'basic contradiction at the heart of the state', (2010: 34).

Main Employment Sectors and Characteristics

It is more than often the case that irregular migrants work in sectors that pay low wages but have high demand for labour. The National Employer Skills Survey 2004 has shown that there are significant numbers of hard-to-fill vacancies in low paid occupational groupings such as personal services, sales, customer services and elementary occupations (Farrant *et al* 2006: 11). It seems that a good proportion of irregular migrants are likely hold jobs that could be characterised as dirty, difficult and dangerous (Farrant *et al* 2006: 11). According to Evans *et al.* (2005), many migrants in London work as cleaners on the London Underground, in care work and in hospitality (Farrant *et al*

2006: 11). A kind of concentration of different nationalities exists in particular occupations: for instance, Slovaks are often employed in personal service (Ibid). Research carried out by Queen Mary University and Oxford University's COMPAS Research Institute finds that irregular migrants tend to work both in the informal and the formal low-paid sectors: hospitality, care, office-cleaning, coffee shops, parking lots, luxury hotels, laundry shops and restaurants. Some of the employment opportunities are located in ethnic enterprises. Irregular migrants form a significant proportion of the two million vulnerable workers who are employed in the informal economy, estimated to represent about 12.3 per cent of the UK's GDP (MRN 2009: 12). Haidinger (2007: 14) identifies the main sectors of work for irregular workers as construction, agriculture, tourism (restaurants and hotels), sex industries and domestic services, health care, entertainment and ethnic businesses. Regularity and irregularity are fluid and unstable statuses for many workers. Indeed, the sliding in and out of different sectors of employment has an impact on the 'regularity' of immigration statuses. For instance, migrants who had obtained permits to work in agriculture through the Seasonal Agricultural Workers Scheme (SAWS) and were subsequently hired by other companies were in breach of their work card conditions (Farrant *et al* 2006: 11).

Governments have proposed the introduction of 'flexibility' to the labour market as a means of delivering competitiveness in a globalised economy. The Coalition Government is committed to extending the 'right' to flexible working conditions to all employees (Burnett and Whyte 2010: 12). Authorities have heralded this flexibility as satisfying the needs of both employers and employees. Burnett and Whyte put forward that, on the contrary, it constitutes a transfer of risks from employers to employees and that economic flexibility is exchanged for increasing the physical risks experienced by undocumented workers (2010: 33). In a similar argument, Ahmad posits that such flexibility derives from the changing nature of employment in Western societies as a result of neo-liberal capitalism (Ahmad 2008b); hence planning for the long-term becomes impossible. 'Flexibility' operates a socially constructed risk associated with precariousness: flexible hours, long-working shifts, poor working conditions, no days off or holidays. For irregular migrants, this situation is even more pronounced for several reasons. The cost of migration and costs associated with continued stay require that migrants pay back a debt to smugglers or to their families. This means that they must utilise their insecure length of stay in the UK to maximum extent (Ahmad 2008b: 310). The improvement of their working conditions and upward mobility are thus limited.

Deindustrialisation and deregulation stimulate the expansion of the small business and service sectors, paradoxically both areas of employment often dependent on irregular workers. In particular, Ahmad's research on irregular Afghan and Pakistani workers in London notes that they tend to occupy a niche in the ethnic business

sector where they often work alongside regular migrants and rely on their ethnic networks (Ahmad 2008a: 861). In these micro businesses, regular status does not seem to make a great deal of difference to levels of pay and opportunities for upward mobility, which are determined instead by locally established historical and geographical realities (those of nearby shops and businesses) and skill levels (Ahmad 2008a: 870). Regular status has more of an impact in large enterprises.

It has been found nonetheless that some migrants and employers exercise a certain degree of agency vis-à-vis the state's legal migration framework (Ruhs and Anderson 2008). Some employers operate a kind of semi-compliance, employing migrants who reside legally but work illegally. Employment is thus a contested space of (il)legality managed by both employers and migrants to maximise mutual economic benefit. This results from the tension between the need for immigrant labour and the government's decision to control immigration. Nonetheless, it seems that the state establishes a hierarchy of irregularities. In enforcing such rules, the state explicitly recognises a wide range of violations including offences that could be classified as semi-compliance (Home Office 2007; 2008a). The policy suggests that enforcement will focus on types of illegality that cause the most 'harm', i.e. those significantly influenced by perceptions of costs and benefits to the UK (Ruhs and Anderson 2008: 20). However, Ruhs and Anderson warn against the conclusion that the state tolerates irregularity. Burnett and Whyte (2010: 34, 35) adopt a more severe standpoint, putting forward that the 'pattern of structural subordination cannot be simply understood, as the government would have it, as a consequence of rogue employers who tarnish the reputation of the majority of responsible businesses (Home Office: 2008b)' but that 'the origins of the violent subordination and victimisation of this section of the workforce can be found in the careful planning and execution of government policy'.

Services

A distinction must be established between public funds and services. Irregular migrants have no access to public funds which are defined by immigration rules (see UKBA 2009) to include the following:

- Attendance allowance
- Carer's allowance
- Child benefit
- Child tax credit
- Council tax benefit

- Disability living allowance
- Housing benefit
- Housing under the homelessness provisions
- Income-based jobseekers' allowance
- Income support
- Pension credit
- Social fund payments and working tax credit

In addition, irregular migrant workers do not have any access to benefits that are based on National Insurance contributions such as:

- Contribution-based jobseeker's allowance
- Incapacity benefit
- Retirement pension
- Widow's benefit and bereavement benefit
- Guardian's allowance
- Statutory maternity pay

(See Home Office undated, in Gordon *et al* 2009: 60.)

Healthcare and education do not count as public funds. All children in the UK are entitled to state education, and all those legally resident in the UK (excepting temporary visitors) can access NHS treatment.

The GLA report cogently argues that some of the government agencies are concerned with the quality of service delivery rather than procedures of exclusion, monitoring and reporting, and it finds there are definite indications that such is the case. The Improvement and Development Agency (IDEA), a local government improvement body, devotes a significant area of its website to migration. Like the Audit Commission, it concentrates on ways of improving services for all migrant populations and also on strengthening local cohesion. Communities and local government, the main sponsoring department for councils in England, is similarly concerned with accommodating migrants fairly and cohesively. The approaches taken by the Home Office, the DCLG, the Audit Commission and the IDEA seem to indicate that the main focus of government outside the Home Office is to ensure that people are treated fairly and to attend to everyone's problems, including migrants. According to the GLA report, there is a powerful desire in most of Whitehall and its regulators to ensure that public services for migrants accommodate their needs. There

appears to be little interest, apart from a small number of references by the Home Office, in ensuring that irregular migrants do not access public services. Indeed, according to the GLA Report, the prevailing ethos in most of the UK's public services at both central and local levels appears to be 'needs' driven above all else. Those who administer and deliver services are concerned about treating people fairly and according to their needs. As far as possible, those involved in the delivery of services wish to do so without regard to the status of the individual or group concerned (Gordon *et al* 2009: 86-87).

The GLA report on London states that interviews with a number of public service 'gatekeepers' in London suggest that many do not currently monitor the migration status of their clientele (Gordon *et al* 2009: 21). Overall, it finds that the majority of interviewees in the different sectors delivered service on the basis of need without checking entitlement and immigration status. The report specifically mentions GPs (general practitioners) who use their discretion mainly to treat irregular migrants without questioning status.

In contrast with these findings, Duvell and Jordan reveal that enforcement agencies claim that services are beginning to give information on irregular migrants. 'They are starting to let their barriers down', (2003: 333).

Social Services

Irregular migrants may be eligible for care and support from social services if they are in vulnerable groups with specific needs. Social services departments support migrants with disabilities including those with severe mental illness, women fleeing domestic violence and destitute families with children who cannot return to their homeland. In cases where an irregular migrant has a child, or is a vulnerable or destitute adult, social services may take responsibility for their care in cooperation with UKBA. These services come from general budgets so that costs directly affect the services available to other users. Most people so helped are women who have arrived regularly in the UK as wives, but whose marriages have since broken down as a result of domestic violence. Such women may apply for the Home Office to grant them specific permanent residence status for victims of domestic violence, although this can take months to be arranged. While they wait, the local authority bears the costs of supporting them. Other irregular migrants usually come to the attention of social services only when something goes wrong: illness, disability, family breakdown or loss of income (MRN 2009: 26). London interviews gathered by the GLA report suggest service is being provided in response to vulnerability and the emergency nature of most situations (Gordon *et al* 2009: 90).

However, on the question of requirements to 'report' irregular migrants, the situation is not clear-cut. According to the 2002 NIA Act,

local authorities are under duty to provide information on any resident suspected of unlawful presence and to report any failed asylum seeker or other who tries to claim community care provision. Research reveals that the organised voice of the social work profession has generally remained silent and has failed to challenge these rules, although some significant micro-practices can be found (Briskman and Cemlyn 2005: 718). Some researchers, however, raise alarm bells. According to Humphries (2004), social work is in danger of adopting an uncritical position vis-à-vis the government's narrow concern with regulation and risk. While the current drive for evidence undermines previous policies aimed at 'evaluating, monitoring and legitimating' policies and replaces them by a drive towards 'effectiveness, efficiency and economy of policy' (Humphries 2004: 94), Humphries discerns evidence of willingness on the part of social work to collaborate with a particular form of social authoritarianism, thus causing the loss of its radical transformatory potential. Indeed, the 1970s witnessed social work involved in a good number of initiatives to mobilise against discrimination and racism (Joly 2007). Training is now oriented towards competence and managerialism with a minimal role for knowledge of social sciences, which Humphries deems a conservative practice (Humphries 2004: 94). A number of cases illustrate this kind of attitude. Research in Manchester discloses that checking status is perceived by social workers as an irritant rather than an ethical dilemma. Less benign comments were uttered in Oxfordshire, where the Social Service Department criticised 'economic migrants' for abusing the system and complained that the Home Office did not have 'realistic objectives' for 'speedy removals', (Humphries 2004: 102-103). This is further documented by the Migrant Resource Group (2010: 28), which reports that none of their informants, including those housed by Social Services, named social workers as a source of support.

Health

A number of international instruments deal with the right to health-care. The 'enjoyment of the highest attainable standard of health' has been recognised as a 'fundamental right' since the adoption of the World Health Organisation (WHO) Constitution in 1946. Subsequent international treaties stipulate obligations regarding healthcare such as the International Convention on Economic, Social and Cultural Rights (1966), put into force on 3 January 1976. Government obligations comprise the underlying conditions necessary for health and the provision of healthcare. The most recent human rights instrument, in effect since 1 July 2003 and guaranteeing the right to health and explicitly addressing the rights of certain categories of undocumented migrants, is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (18 December 1990):

Article 28:

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment (quoted in Scott 2004).

Since 1 April 2004, the Department of Health guidelines on NHS procedures charge non-eligible patients and stipulate that all NHS trusts, foundation trusts and primary care trusts providing secondary care have a legal obligation:

- to establish whether a patient is 'ordinarily resident' in the UK;
- if not 'ordinarily resident', to assess whether they are liable to pay for their treatment; and
- to charge those liable to pay.

Department of Health (2004) Implementing the Overseas Visitors Hospital Charging Regulations: Guidance for NHS Trusts in England, HMSO, London, p8

In practice, trusts or overseas visitors' managers undertake this role rather than doctors or nurses. Overseas visitors' managers work with trust finance departments and external debt recovery agencies (Kelley and Stevenson 2006: 7). In general, charges apply to all forms of secondary care. Nonetheless, anyone who presents themselves are entitled to some NHS services free of charge, including:

- treatment given in an accident and emergency (A&E) department or in an NHS walk-in centre that provides services similar to those of an A&E department;
- treatment for certain infectious diseases (in the case of HIV/AIDS, free services apply only for the first diagnosis subsequent counselling);
- compulsory psychiatric treatment; and family planning services'33.

(The UKBA website quoted in Gordon et al 2009).

In total, 34 communicable diseases are listed as exempt from charge. Treatment provided by clinics for sexually transmitted diseases is also free, except treatment for HIV/AIDS. 'Emergency' treatment given in any other hospital department than A and E. is still subject to charge. For instance, a patient treated in A and E and then transferred to an intensive care unit becomes chargeable.

Most of the research on health and irregular migrants has been carried out in London. Although none of it offers a comprehensive evaluation of the level of healthcare awarded and/or refused, it does yield a number of pointers. There is evidence from official publications that hospitals which admit non-resident patients are under pressure to identify those who should be charged for their services due to their status as overseas residents who do not qualify for 'free' NHS treatment. Nevertheless, the GLA report notes some potential areas of discretion open to hospitals to waive charges in the UKBA formulation: 'If you are not in one of the categories that are able to receive free treatment, you may be asked to pay for any hospital treatment you receive', (Gordon *et al* 2009: 94).

The delivery of healthcare to irregular migrants remains patchy and inconsistent. Pregnant women only have access to ante- and post-natal care in case of emergency or assistance by midwives in the community. Otherwise, they can only obtain assistance at the point of delivery (HUMA 2010: 18-19). Instances are known of patients that have been subjected to intrusive visits from immigration officials and Overseas' Visitors Managers or that have been charged for emergency hospital treatments to which they did not agree. (Thomas *et al* 2009: 528). With respect to failed asylum seekers, a Refugee Council report quotes 37 cases wherein the regulation had a deleterious impact on patients. In one instance, 17 women (from China, Vietnam, Somalia and the Democratic Republic of the Congo) interviewed were denied maternity care. One woman was told that she would be charged £3,000, threatened with the pursuit of a debt collection agency and her information would be made available to the Home Office. Several patients were asked to pay several thousand pounds up front before receiving care. For others unable to pay, details were sometimes forwarded to their GP, who then turned them away (Kelley and Stevenson 2006: 11). These are only a few of the cases documented by the Refugee Council.

Even eligible patients have sometimes been turned away because admission staff is not clear about the regulations. In principle, those with open lists can only refuse someone with 'reasonable grounds', and treatment deemed to be 'immediately necessary' must be given regardless of registration. In practice and according to the regulations, GPs decide whether to accept irregular migrants as patients. This means that they act as gatekeepers for primary care and other services such as medicine on prescriptions (HUMA 2010: 17). A piece of research on the HIV treatment of South African migrants in London evidences that accessing healthcare can be challenging, particularly as documentation requested by frontline staff could constitute a barrier in many practices (Thomas *et al* 2009: 528).

These regulations could have unintended consequences for patients and governmental health strategies to eliminate AIDS and other communicable diseases. Sometimes patients use false identities to gain treatment, running the risk of an erroneous assessment. They often do not take up the opportunity to undergo HIV testing,

seeing no reason to be tested if they cannot access treatment (Thomas *et al* 2009: 528). There is therefore widespread reliance on A and E hospitals. Patients wait until they are ill enough to require an ambulance rather than walk into a hospital with the fear that staff would ask questions and become suspicious. The consequences of the regulations on charges raise a number of important issues identified by Thomas *et al* (2009: 530) as the following: delayed diagnosis, increased cost of treatment, higher risk of transmission and problems of mistaken identity. Altogether, these issues can severely undermine domestic strategy on reducing HIV.

Education

Seeing as the rules regarding access to education are clear, little research is available on the topic. All children are entitled to education until age 16. With proof of age, education is also free for children in school between ages 16 and 18. The distinction in fees is made according to whether the student is subject to immigration control, with the exception of refugees and those with Exceptional Leave to Remain (ELR) status. We have not encountered research evidence of schools reporting the children of irregular migrants. However, higher education institutions are required to monitor the attendance of their students and to report absences. So far, some universities appear to monitor all students on the basis of duty of care without establishing a separate regime of foreign students.

No Recourse to Public Funds

Regarding destitute migrants, a number of court cases, lodged by 'No Recourse to Public Funds' (NRPF), won support from local authorities under the Human Rights and the Children Act. In addition, homeless families with children can be transferred to Children Services and some adults can be considered as 'Vulnerable Single' under the National Assistance Act. Expenses incurred fall upon local authorities' budgets. Such expenses amounted to £33.4 million (for 3,910 individuals). In London they amounted to £23 million in 2007/8 (Gordon *et al* 2009: 92). As a consequence, a NRPF network of local authorities is lobbying the central government for reimbursement.

Public Opinion and Civil Society

A dichotomy of views seems to exist in public opinion, described by the Clandestino report as a contrasting public awareness influenced by a demonising tabloid landscape while also engaging in anti-

deportation activism in civil society (Clandestino 2008: 44). An active network of religious and community organisations in London and Birmingham are fighting against deportations. The Strangers into Citizens campaign, as well as the umbrella organisation of the National Coalition of Anti-Deportation Campaigns (NCADC), called for a one-off amnesty. In April 2007, Strangers into Citizens initiated an opinion poll asking UK citizens whether or not irregular migrants who have been residing in the UK for more than four years, are employed and pay taxes should obtain leave to remain. The outcome was 66 per cent of UK citizens were in favour of the regularisation (Strangers into Citizens 2007). In May 2007, a 15,000-strong rally staged a protest in Trafalgar Square (PICUM 2009: 20). In London, a large public consensus on the issue of an amnesty for irregular migrants seems to exist (Clandestino 2008: 47). As already mentioned, the April 2008 mayoral election campaign in London included the issue of an amnesty for irregular migrants. Notably, all three candidates--including the Conservative candidate, Boris Johnson, acting against the official policy of his party--agreed to support such a policy in the future. Civil society organisations have demonstrated their readiness to offer support. A report from the Migrant Resource Centre (2010: 28) reveals that some of their informants also gained assistance from faith groups (not necessarily their own) and from charities.

Conclusion

Over the last 10 years, the public debate regarding migration in the UK has cast its spotlight on irregularity. While migration policies have traditionally concentrated on border controls, new parameters are being implemented which have introduced increasingly tight internal controls. Such controls constitute the main factor in the development of tensions and discrepancies between the national and local levels, between central government and local government, and between policy formulation and implementation. In fact, both public and private sector organisations and agencies (local government departments, health providers, employers and even universities) have been asked to seek out, monitor and report on irregular migrants/workers to the relevant immigration authorities. Failure to do so can, in some cases, result in heavy fines; for instance, fines are enforced for employers using irregular migrant labour. In other words, such organisations and agencies are compelled to become proxy immigration officers.

It is clear that irregularity is constructed according to the twists and turns in migration policy. The trend, however, leans undoubtedly towards heightened restrictions both in ante- and post-entry controls. Moreover, irregularity is defined both in terms of immigration and integration status. No distinction is established between irregular entry, irregular residence and irregular work, thus multiplying instances of 'irregularity'. This is compounded by the fact that breaches of many immigration regulations fall into the category of criminal rather than administrative offences. On the whole, irregular work and irregular access to services such as healthcare give rise to further accusations of general irregularity even when in possession of regular entry and/or residence. This has created a mass of irregular migrants, the largest proportion of whom constitute failed asylum seekers while a smaller contingent is composed of overstayers rather than illegal entrants. This would explain the current shift to internal controls. However, this process is taking place against the backdrop of enhanced deregulation of the labour market and a neo-liberal economic agenda, meaning that there is an acute need for migrant labour. However, compounded by the demographic deficit in the UK as in other industrialised countries, immigration policies clearly prevent the fulfilment of this need. The new Points Based System (PBS) introduced in 2008 has failed to provide an answer to this conundrum. In fact, it has made matters worse as, in principle, no opportunities are open for some form of regularisation.

The regularisation of irregular migrants is not part of the traditional British framework for dealing with migrants. Nonetheless, the practice is not unknown, and has been implemented by stealth, and under certain conditions, where long-term irregular residents and failed asylum seekers are concerned. In addition, there are a number of grey and contested areas. Irregular migrants are entitled to a number of services. In healthcare, this includes access to: Accident and Emergency departments in hospitals; treatment for a number of infectious diseases; psychiatric treatment deemed compulsory; and family planning. In terms of primary care, the decision is left to the discretion of the GP. In social services, irregular migrants are granted assistance in case of disability, where victims of domestic violence are involved, and in the case of destitute families with children who cannot return to their homeland. In addition, children and vulnerable adults requiring 'care and attention' can be helped under 'the temporary disruption of funds' rules, or if it can be shown that a failure to provide support would constitute a breach of human rights. All children, including those who reside illegally in the UK, are entitled to special assistance and education. Many local authorities and social services extend this special assistance to the parents or families of illegally resident children under the terms of the Children's Act (1989 and 2004) where the child's interests are paramount. Even at the national level, some government agencies stress the human rights dimension and quality of services provided to irregular migrants on the grounds that the policy of integrating migrants into society runs counter to the marginalising effects of internal controls and exclusion from health and welfare services.

Two broad dimensions are involved in the question of implementing internal controls with the collaboration of institutions and organisations at local level: interests and ethics that also overlap.

Employers find it detrimental to their interests to be unable to hire the labour they need, as and when they need it. The government's requirement that employers allocate resources and time to training, checking and monitoring the immigration status of their employees creates complications and extra costs. Employers also run the risk of being 'named and shamed' and fined if found employing irregular migrants. Because of their reliance on migrant labour, ethnic and small businesses are particularly affected by this requirement.

From the point of view of the country's economy, the informal sector contributes significantly to the UK's GDP - roughly equivalent to that made by the whole of the manufacturing sector. Among service providers and municipalities, the implementation of internal controls also diverts initiative and consumes time in training and administrative procedures. In terms of health, these controls make it more difficult to pursue policies aimed at eradicating certain communicable diseases, as migrants may not present themselves to health practitioners for fear of being reported to immigration authorities.

Where migrants are concerned, these policies marginalise them further and make them increasingly vulnerable to unscrupulous employers who may use the threat of denouncing them to immigration authorities as a means of imposing lower wages and worse working conditions, and of quelling any attempt at unionisation and collective action. The migrants' health, wellbeing and potential contribution to British society is thus greatly reduced.

The second site of resistance to internal controls is motivated by ethical considerations. For instance, the deontology of health practitioners and social care workers tends to lead them to provide services on the basis of need, regardless of the recipient's legal status. Solidarity campaigns within civil society have given rise to civic associations and networks in support of irregular migrants and against their deportation.

The conjuncture regarding migration and irregularity has spurred the current divergence between central government departments and those who work and provide services and care at the local level. The implementation of internal controls has been fraught with difficulties and faces substantial resistance. For reasons already mentioned, London has become the site where such difficulties and resistance are played out. London is the beacon city in terms of debates on irregular migrants. While some of the debates are relevant specifically to London, they have nevertheless resonated throughout Britain. The dominant discourse among leading local politicians in London has favoured the regularisation of irregular migrants on a variety of grounds. The latter have highlighted the contributions made by irregular migrants to the UK economy and the loss of substantial tax revenue. They have emphasised the needs of the local and national economies for foreign labour. They have stressed how irregularity breeds insecurity for migrants and has a deleterious effect on the social fabric. They have raised the issue of potential criminality arising from situations where irregular migrants are isolated and hounded rather than integrated. They have called attention to the insuperable difficulties involved in managing a mass of unacknowledged populations. The proposed solution is a planned and organised regularisation programme emanating directly from the local level in opposition to central government policy.

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Appendix

1948 British Nationality Act established the single status of citizen of the United Kingdom and Colonies (CUKC), conferred that status upon all those born within the Commonwealth of Nations, defined the rights of British subjects to work and settle in the UK and to bring their families with them.

1962 Commonwealth Immigrants Act introduced the requirement of entry vouchers (also referred to as entry certificates) for Commonwealth citizens. These vouchers were issued according to the skills and qualifications of individuals and thus undermined the principle of equal citizenship rights for all British subjects regardless of country of birth.

1968 Commonwealth Immigrants Act introduced a distinction between UK passport holders with right of abode (ROA) and those without. Those with ROA were 'patrials': that is, a) those born/adopted, naturalised or registered as British citizens; b) those with a parent or grandparent entitled to British citizenship; c) British overseas subjects who had settled and lived in Britain for five years. This distinction favoured citizens of the Old Commonwealth countries who were more likely to have British parents or grandparents than those from the New Commonwealth.

1971 Immigration Act reinforced the distinction between patrials and non-patrials. Not only were non-patrials denied the ROA, they were further restricted from UK entry unless in possession of a work permit for a particular job. This measure effectively put an end to primary labour migration from New Commonwealth countries. The 1971 law also gave unprecedented powers to the Home Secretary to make immigration rules whose purpose is to specify the conditions of entry of an individual as part of a particular category of entrant. Immigration rules have become a source of immigration law and, controversially, give considerable scope for interpretation to immigration officials.

1981 British Nationality Act did away with the centuries-long principle of *jus soli* - the granting of citizenship automatically to British-born children of non-British parents. Whereas legislation since 1948 had preserved the single category of CUKC (citizenship of the UK and Commonwealth), encompassing the notion of subject-hood, the 1981 Act sought to redefine 'Britishness' more narrowly through the creation of three distinct categories of citizenship (British citizenship, British Dependent Territories citizenship and British overseas

citizenship) of which only one (British citizenship) accorded full automatic citizenship rights in legal, national and cultural terms to those born in the UK of British-born parents or grandparents.

1987 Carriers Liability Act allowed for the levy of fines on owners or agents of airlines and ships carrying passengers not in possession of required travel and immigration documentation.

1988 Immigration Act removed the unconditional right of entry for family members of primary migrants from Commonwealth countries long-settled in the UK, thus undermining the principle of family reunification. It also accorded immigration officials greater powers to deport those deemed 'illegal' immigrants.

1993 Asylum and Immigration Appeals Act integrated the 1951 Geneva Convention and 1967 New York Protocol on the status of refugees into immigration rules and established asylum reception procedures including those for the determination of refugee status. While it extended in-country appeal rights to those arriving 'illegally' in the UK without requisite documentation, it also set strict time limits within which appeals could be heard and disestablished the right of appeal for students and visitors who had overstayed.

1996 Asylum and Immigration Act contained provisions for: the further acceleration of appeals procedures in asylum cases and the restriction of in-country rights of appeal against removal to safe third countries in the EU (and North America, Norway, Switzerland) in order to prevent so-called 'asylum shopping'; the strengthening of penalties (including arrest) in criminal law against those obtaining or helping others to obtain entry or leave to remain through deceptive means; the replacement of cash (welfare) benefits by a benefit voucher system for destitute asylum seekers.

1999 Asylum and Immigration Act was passed after measures relating to the withdrawal of welfare benefits, which were part of the 1996 Asylum and Immigration Act, and subsequent legal challenges under the National Assistance Act of 1948 led to a muddled situation where support for asylum seekers was concerned. Thus the 1999 Asylum and Immigration Act introduced far-reaching changes to the way in which asylum seekers were supported while awaiting a decision about their claim. Among its main provisions were those related to the removal of all remaining social and welfare benefits to asylum seekers and to the creation of the NASS (National Asylum Support Service). Under the Home Office, the NASS was obliged to provide accommodation, support vouchers and other services. It was also tasked with the dispersal of asylum seekers to other nominated towns and cities in the UK to relieve pressure on local authorities in the London and South-East regions. This law also gave immigration officers comprehensive powers to enter premises and to search, arrest and detain asylum seekers suspected of contravening any conditions of bail, as well as to arrest and detain asylum seekers charged with trying to enter or remain in the UK using deception.

2002 Nationality, Immigration and Asylum Act focused on the control and removal of failed asylum seekers. To this end, its provisions included limiting local authority support to certain categories of migrants, in particular those living unlawfully in the UK and asylum seekers who failed to comply with removal procedures or asylum seekers who had not applied for asylum immediately following their arrival in the UK. The 2002 Act also gave powers to immigration officers to remove immediately an asylum seeker whose claim was deemed unfounded and to apply removal orders to his/her family including any children born and brought up in the UK. In addition, the law introduced 'non-suspensive' appeals for those whose asylum claim was deemed unfounded in that they had arrived from a 'safe country'. In other words, such claimants would have to return to the 'safe country' of origin and lodge their appeal from there rather than from the UK. Finally, the provisions of this law included a number of measures designed to prevent 'illegal working', for example, new Home Office powers to gather information on individuals, increased penalties for human smuggling and the introduction of the new offence of human trafficking for prostitution.

2004 Asylum and Immigration (Treatment of Claimants, etc.) Act brought in a new single-tier appeal process and the abolition of back-dated support payments. One of its most important features was the criminalisation of undocumented migrants and of those considered un-cooperative during the removal procedure. Thus, entry into the UK without legal documents to establish one's nationality and identity became an offence attracting up to two years imprisonment, even though this provision contravened Article 31 of the Refugee Convention. In addition, the Act gave immigration officials powers to make inferences of credibility based on a claimant's outward behaviour. Finally, the Act made provision to increase the number of countries deemed safe for the return of failed asylum seekers and undocumented migrants.

2006 Asylum and Immigration Act was based on the then-government's five-year strategy on asylum and managed migration: 'Controlling our borders and making migration work for Britain'. The majority of this Act's provisions related to restrictions on appeals, the employment of migrants and illegal workers. However, some sections outlined measures impacting asylum seekers, namely certain exclusions from refugee status as defined in the 1951 Convention. The Act, therefore: restricted appeals from people refused entry to work, study or join their family; permitted immigration officers to confiscate travel documents and to record and verify biometric information about people entering Britain; allowed police to gather advance passenger information on passengers and crew of air and shipping carriers arriving in and leaving Britain; targeted 'illegal' workers and their employers with civil (fines) and criminal (imprisonment) sanctions; refused asylum to anyone who carries out or encourages terrorist activity; allowed the Home Office to rescind refugee status from a person if that person is deemed to be a terrorist or dangerous criminal

(asylum seekers accorded refugee status were no longer given indefinite leave to remain but had to undergo a review of their status after five years).

2007 UK Borders Act aimed to give the UKBA ‘vital new powers to do their job better, to secure our borders, tackle the traffickers and shut down “illegal working”’, (Liam Byrne, Immigration Minister, *The Guardian* 19 January 2009). It introduced extensive measures for the control of UK borders by immigration officers. It imposed compulsory biometric ID documents for Third Country nationals (including those under 16 years of age if deemed necessary) and granted the Home Secretary significant powers for the retention and sharing of biometric and other immigration information. It gave immigration officers discretionary powers to keep targeted migrants under regular surveillance and to deport people imprisoned for specific offences or those imprisoned over a year.

2009 Borders, Citizenship and Immigration Act focused on border control on the one hand and citizenship on the other hand. Where border control was concerned, it created new powers allowing immigration officers to share information with customs officers, thereby increasing opportunities for the detection of any illegal activity on the part of migrants. It also allowed for measures such as fingerprinting of those liable to deportation. This Act also introduced amendments to available routes to citizenship. For example, the required residence period in the UK (effected on the basis of particular types of visa) for successful naturalisation to British citizenship, was extended to eight years except through marriage where a residence period of five years was sufficient. Both these periods may be reduced if the applicants meet the ‘activity’ condition whereby they have been engaged in recognised community service on a voluntary basis. In addition, the Act created a new category of temporary leave to remain entitled ‘probationary citizenship leave’ which extended the period during which migrants are denied access to certain services and welfare. Finally, the Act imposed a duty on the Home Secretary to ‘safeguard and promote the welfare of children regardless of the migration status of their parents while in the UK’.