
**Migration Policy and Irregular Workers
in the United Kingdom**

Danièle Joly

Khursheed Wadia

February 2012



**Center for Migrations
and Citizenship**

The Institut français des relations internationales (Ifri) is a research center and a forum for debate on major international political and economic issues.

Headed by Thierry de Montbrial since its founding in 1979, Ifri is a non-governmental and a non-profit organization.

As an independent think tank, Ifri sets its own research agenda, publishing its findings regularly for a global audience.

Using an interdisciplinary approach, Ifri brings together political and economic decision-makers, researchers and internationally renowned experts to animate its debate and research activities.

With offices in Paris and Brussels, Ifri stands out as one of the rare French think tanks to have positioned itself at the very heart of European debate.

*The opinions expressed in this text
are the responsibility of the authors alone.*

ISBN: 978-2-86592-985-6
© All rights reserved, Ifri, 2012

IFRI
27, RUE DE LA PROCESSION
75740 PARIS CEDEX 15 – FRANCE
Tel: +33 (0)1 40 61 60 00
Fax: +33 (0)1 40 61 60 60
Email: ifri@ifri.org

IFRI-BRUXELLES
RUE MARIE-THERESE, 21
1000 – BRUXELLES – BELGIQUE
Tel: +32 (0)2 238 51 10
Fax: +32 (0)2 238 51 15
Email: info.bruxelles@ifri.org

WEBSITE: ifri.org

Authors

Danièle Joly joined the Center for Migrations and Citizenship in September 2011. She also is a resident research Professor at IEA-Paris. Before this date, she was Professor and the director of the Center for Research in Ethnic Relations (CRER) at Warwick University. She gained a PhD from the University of Aston. She is an active member of various European networks of researchers on refugees and asylum. She has extensively researched issues of ethnicity, race, and religious diversity in Britain and Europe. Her publications notably include: *Les musulmans en prison en Grande-Bretagne et en France* (with James A. Beckford and Farhad Khosrokhavar), Louvain, Presses Universitaires de Louvain, 2007; *L'émeute*, Paris, Denoël, 2007 ; *Blacks and Britannity*, Burlington, Aldershot, Ashgate, 2001; *Scapegoats and Social Actors*, Basingstoke, Macmillan, 1998; *Haven or Hell: Asylum Policy and Refugees in Europe*, Oxford, Macmillan, 1996. Danièle Joly has a DLitt from the University of Warwick.

Khursheed Wadia is Principal Research Fellow in Ethnic Relations, at the University of Warwick. She has written and researched on different aspects of gender, ethnicity, politics and policy. She has recently completed (with Danièle Joly) a four-year investigation of Muslim women and politics in Britain and France, funded by the ESRC (RES-062-23-0380). She has also researched on migration processes and policy and the integration of migrants in EU destination countries and has written a number of reports (e.g. Cultural Diversity in European Nation States 2005; Integration Indicators and Generational Change in the UK 2006) for the EU Commission. Relevant books include *Women and Politics in France: 1958 – 2000* (with Gill Allwood, Routledge, 2000), *Refugee Women: Hoping for a Better Future* (with Schlenzka, Sommo and Campani, Edition Parabolis, 2004), *Gender and Policy in France* (with Gill Allwood, Palgrave Macmillan, 2009) and *Refugee Women in Britain and France* (with Gill Allwood, Manchester University Press, 2010).

Contents

AUTHORS	1
CONTENTS	2
INTRODUCTION	3
THE POLITICS AND POLICIES OF UNDOCUMENTED MIGRANTS IN THE UK: 1948 – 2000S	4
REGULARISATION OF ‘ILLEGAL’ MIGRANTS	6
THE UK AND EU	7
NATIONAL AND LOCAL GOVERNMENT	8
Employment.....	8
Services.....	10
CONCLUSION.....	12
APPENDIX I: KEY LEGISLATION	13
APPENDIX II: GENERAL REGULATIONS AND CONSTRAINTS REGARDING MIGRANT LABOUR	17
APPENDIX III: KEY MIGRATION FIGURES AND TRENDS IN THE UNITED KINGDOM	19
Main Points 2010	19
Immigration Statistics July-September 2011 – key facts	21
Immigration Statistics July-September 2011 – details	22

Introduction

Migration policy has become a significant issue of public interest over the last 10 years casting the spotlight of the public debate on irregularity. Regularity and irregularity are social constructions as immigration policies determine who is and who is not a regular migrant through arbitrarily determined statuses and entitlements, which evolve over time with repeated changes in the regulations. 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. Traditionally, UK policy focuses on external control, perhaps on the assumption that it can do so effectively. Increasingly tight and restrictive measures have bolstered this approach. In the last few years, however, a new emphasis has been placed on internal controls. 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. 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 govern regular rather than irregular migrants.

The significant population of irregular migrants in the UK is one of the highest in the EU, estimated between half a million and one million people, comprising mostly failed asylum seekers (about 67 per cent), overstayers (20 per cent) and illegal entrants (10 per cent).

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

This whole period is characterised by two constant features:

A bi-partisan belief that the control of borders is crucial; that tight border control policies ensure successful race relations and the integration of migrants;

A 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.

Three main stages can be identified.

Stage one (1948 - late 1980s): New Commonwealth Immigration and the Reconstruction of British Nationality.

The 1948 Nationality and Commonwealth Act initially imposed few restrictions on entry for Commonwealth nationals and awarded citizenship on installation in the UK. This developed into increased restrictions on entry for these populations and tended towards treatment on a par with other 'aliens' in the 1980s.

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

Between 1988 and 2003, 4 major pieces of legislation on asylum and immigration were introduced each making asylum reception conditions harsher and more restrictive and each increasing the potential for failed asylum applicants to be placed into situations of irregularity along the following lines:

- 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.

Stage three (from 2000 onwards): Managed Migration Policy - Focusing on 'Illegal' Migrants and Issues of Control and Regularisation.

A managed approach led to strict control of the types of labour migrants recruited with a view to meet the needs of the economy, and at the same time, to the barring of entry to and removal of those considered undesirable migrants.

The main issues regarding irregular migrants were:

- tight border controls;
- increased 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.

Regularisation of 'Illegal' Migrants

Historically, UK governments have been opposed to both regularisation programmes and one-off amnesties. However, *ad hoc* regularisations were introduced by stealth. Since 2003 7,245 irregular migrants have taken advantage of a 14 years stay rule (7 years for families with children) to gain indefinite leave to remain. In 1999 around 4,000 workers benefitted from a domestic workers regularisation programme. In June 2011, a report published by the House of Commons Home Affairs Select Committee revealed that just over 161,000 asylum seekers with long-standing pending claims had been granted leave to remain in the UK

The majority of irregular migrants reside in the London area. London is home to about a million foreign residents born outside the EU including an especially significant share of asylum seekers up until 2000: 80 per cent of failed asylum seekers from before 2000 along with about 60 per cent of those after 2000. This would indicate that between 67 to 73 per cent of all UK irregular residents live in London – a best estimate of 442,000. This has projected the question of regularisation into the limelight. In the London mayoral election campaign of April 2008 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. The latter 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. These calls have also come from migrant support organisations, churches and other faith groups; trade unions; several MPs and, in unity, the current and former Mayors of London.

The UK and EU

Since its entry into the EEC in 1973 the UK has had a tense relationship with the EU as it has continued to prioritise its relationship with the USA and the Anglophone Commonwealth. 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. Prior to this, the UK had refused to be part of the Schengen agreement of 1985 so as to retain total sovereignty over border control matters. However, five years later, the UK applied and was accepted to participate in parts of the Schengen *acquis*, which included among its rules those concerning 'illegal' immigrants.

Intent on pursuing its own migration objectives the UK has consistently used special opt-in/opt-out clauses available under the Amsterdam Treaty 1999 and subsequently the Lisbon Treaty of 2007. 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.

National and Local Government

Over the last 30 years in the UK, local authorities have increasingly become the executive agents of central government as a result of a predominant trend for the latter to increase its powers at the expense of local government. This applies to the management of migrants. 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.

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 through numerous government departments. 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, a number of smaller units contribute to migration policy making and a myriad of other agencies feed into the policy process

Employment

Since 2004, five pieces of legislation have come onto the statute books to regulate migrant labour, each placing an increased onus on employers to check the immigration status of their workers. This was accompanied with heightened penalties. The latest immigration rules (2007) increased fines on employers from £5000 to £10,000 and breaching rules amounted to a criminal offence which could lead to a maximum of two years imprisonment.

The Points-Based System (PBS) introduced in 2008 aims to function alongside the civil penalty regime. The PBS was designed to replace approximately 80 immigration routes into 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. These new measures, doubled with a complex set of conditions and procedures to govern recruitment, have

meant that the PBS has failed to provide a satisfactory answer to the need for migrant labour.

Impact on Employers and Workers

Several regulations have led to tightened controls in the workplace: regular enforcement operations on employers are conducted each week in the shape of raids in workplaces, particularly in London.

For employers the whole exercise has entailed increased cost in terms of training staff, fines and time spent in the related administrative procedures. For some businesses relying heavily on labour from abroad whether skilled or unskilled, it has also meant difficulties in finding staff. Small ethnic businesses bear the brunt of such disadvantages and are clearly targeted by enforcement agencies.

Where irregular workers are concerned heightened risks are involved in finding employment as they have become more vulnerable to exploitation and abuse on the part of employers, some of whom use the procedure to intimidate, threaten or dismiss activists and those involved in trade-union action. In addition, this situation affords undocumented workers little protection in terms of health and safety despite legal provisions applying to all workers.

Main Employment Sectors and Characteristics

Irregular migrants tend to work in sectors that pay low wages but have high demand for labour. One recurrent feature is that there are significant numbers of hard-to-fill vacancies in low paid occupational groupings as shown by the National Employer Skills Survey 2004. 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) or roughly equivalent to that produced by the whole of the manufacturing sector. The sliding in and out of different sectors of employment has an impact on the 'regularity' of immigration statuses.

De-industrialisation and deregulation stimulate the expansion of the small business and service sectors, paradoxically both areas of employment often dependent on irregular workers. 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 and skill levels (Ahmad 2008a: 870). Regular status has more of an impact in large enterprises.

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. In addition, irregular migrant workers do not have any access to benefits that are based on National Insurance contributions. Healthcare and education do not count as public funds. All children in the UK are entitled to state education until age 16. With proof of age, education is also free for children in school between ages 16 and 18.

Health

A number of international instruments deal with the right to healthcare. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (18 December 1990), in effect since 1 July 2003 guarantees the right to health and explicitly addresses the rights of certain categories of undocumented migrants.

Nonetheless, 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.

In practice, trusts or overseas visitors' managers undertake this role rather than doctors or nurses. In general, charges apply to all forms of secondary care except in the following cases:

- 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.

The delivery of healthcare to irregular migrants remains patchy and inconsistent. These regulations run the risk of unintended consequences for patients and governmental health strategies to eliminate AIDS and other communicable diseases. The issues involved include the following: delayed diagnosis, increased cost of

treatment, higher risk of transmission and problems of mistaken identity.

Social Services

Irregular migrants may be eligible for care and support from social services if they are part of vulnerable groups with specific needs; e.g. migrants with disabilities including those with severe mental illness, women fleeing domestic violence and destitute families with children who cannot return to their homeland.

According to the 2002 NIA Act, local authorities as well as other statutory agencies 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.

Conclusion

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. This situation generates loud and tough discourses on asylum and irregular migration which remain closely related issues in Britain today. While migration policies have traditionally concentrated on border controls, new parameters are being implemented which have introduced increasingly tight internal controls while restricting legal migration. They have also placed a heightened onus on employers and service deliverers to act as proxy immigration officers. The implementation of internal controls has been fraught with difficulties and faces substantial resistance. It has created difficulties for both employers and migrants. It also hampers the work and deontology of local authorities and service deliverers. Migration policy in the UK has thus failed to meet the needs of all directly concerned.

Appendix I: Key legislation

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'.

Appendix II: 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. 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.

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'.

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. 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. A reduction of the fine is possible if the employers cooperate with immigration authorities during 'compliance' visits.

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. 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. Furthermore, educational establishments must also monitor attendance at lectures.

Appendix III: Key migration figures and trends in the United Kingdom

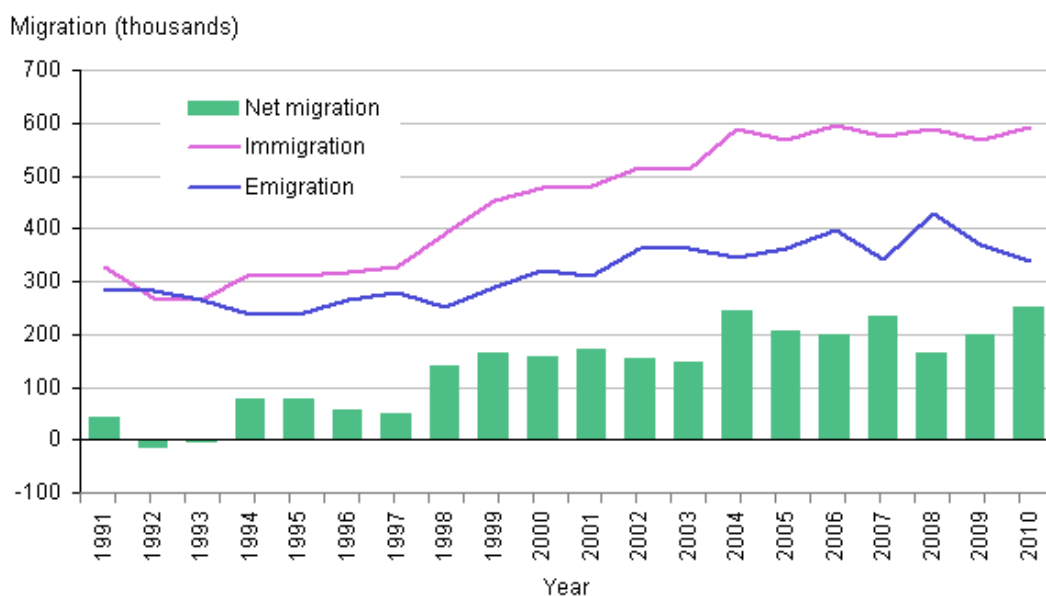
Main Points 2010¹

- Net migration to the UK: 252,000 → the highest figure on record.
- Emigration from the UK: 339,000 → lowest figure since 2001.
- Immigration to the UK: 591,000 → remained steady.
- Students migrants: 238,000 → the highest figure on record.
- 88.2 per cent of the UK population is UK born.
- India is the most common non-UK country of birth for UK residents (693,000 in 2010).
- 92.6 per cent of the UK population are British nationals.
- The most common non-British nationality was Polish (576,000 residents).

The authors want to thank Katharina Natter for her essential research work gathering and putting together the information presented in this Appendix.

¹ <http://www.ons.gov.uk/ons/rel/migration1/migration-statistics-quarterly-report/november-2011/msqr.html#tab-1--What-are-the-latest-total-figures-of-international-migration->

Figure 1.2: Total annual long-term international migration estimates, UK, 1991–2010



Source: Office for National Statistics

Figure 1.3: UK residents by non-UK country of birth and by non-British country of nationality

	Thousands		Thousands		
	Estimate	CI	Non-British country of nationality	Estimate	
Non-UK country of birth					
India	693	36	Poland	576	33
Poland	550	32	Republic of Ireland	356	26
Pakistan	433	28	India	332	25
Republic of Ireland	406	28	Pakistan	155	17
Germany	297	24	United States of America	140	16

Table source: Office for National Statistics

Immigration Statistics July-September 2011 – key facts²

- **Student immigration** has seen a **general increase** since 2005, rising particularly rapidly in 2009;
 - The latest data for the year ending September 2011 indicate that numbers of study visas have fallen since a peak in the year to June 2010.
- Work-related immigration has fallen overall since 2006;
 - The latest data for the year ending September 2011 indicate that work visas may be starting to fall.
- Family immigration has shown a slow overall decrease since 2006.
 - The latest data for the year ending September 2011 indicate that visas for family reasons fell by 8%.
- **Settlement permits** have shown a **harsh decrease** to 180,131 → 25% lower than the previous year (241,586).
 - This may suggest a peak has been passed, following the completion of the asylum backlog case review which contributed to the previous rise.
 - There was a decrease of the work (-22%), family (-30%) and other discretionary (-37%) categories.
- **The granting of citizenship grants** shown an **overall decrease** of 9% down to 179,613 people.
 - The fall was mainly due to smaller numbers based on marriage and to children related to British citizens.
- **Asylum applications** show a **momentary increase** due to an increase in applications from nationals of Pakistan, Iran and Syria, but continue to be significantly lower than levels seen in the early 2000s.
- **Detention numbers show a slight increase:**
 - During the third quarter of 2011, 6,834 people entered immigration detention. This was a slight increase from 6,771 in the third quarter of 2010.
 - Of these 6,834, 30 were children, which compares with 48 in the third quarter of 2010.

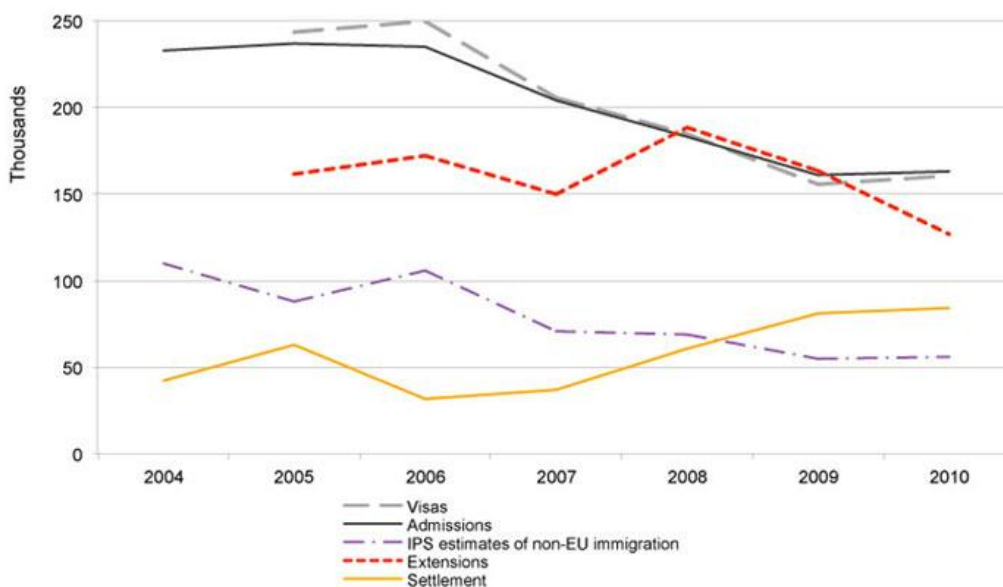
² <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/immigration-q3-2011/immigration-q3-summary>

- **Removals and voluntary departures have widely decreased :**
 - During the third quarter of 2011, 13,253 people were removed or departed voluntarily, a 13% fall from 15,261 during the third quarter of 2010. → second lowest quarterly figure since the third quarter of 2001.

Immigration Statistics July-September 2011 – details

Work

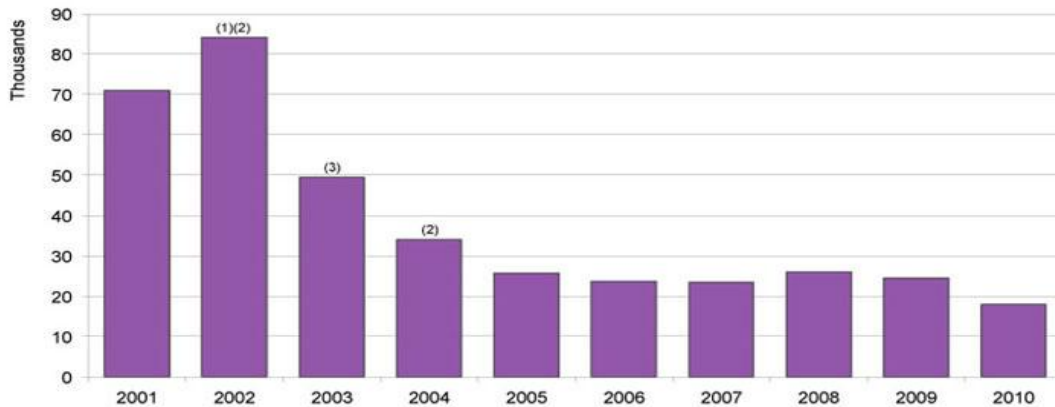
- **6% fewer visas** issued compared to the previous year, 152,000 compared with 161,000
- **7% fewer extensions** for the purpose of work (129,000) compared to the previous year (139,000).
- Work-related **settlement permits fell by 22%** from 89,000 in the year ending September 2010 to 69,000 in the year ending September 2011.
- In 2010 there were 1.2 million non-EU foreign nationals living and working in the UK, of whom :
 - 477,000 were in the 'Professional, employers, managers' socio-economic group.
 - 302,000 worked in the 'distribution, hotels and restaurants' sector;
 - 222,000 worked in the 'banking and finance' sector; 427,000 were classified under 'Other'
 - More than half lived in London (515,000) or the South East (211,000).



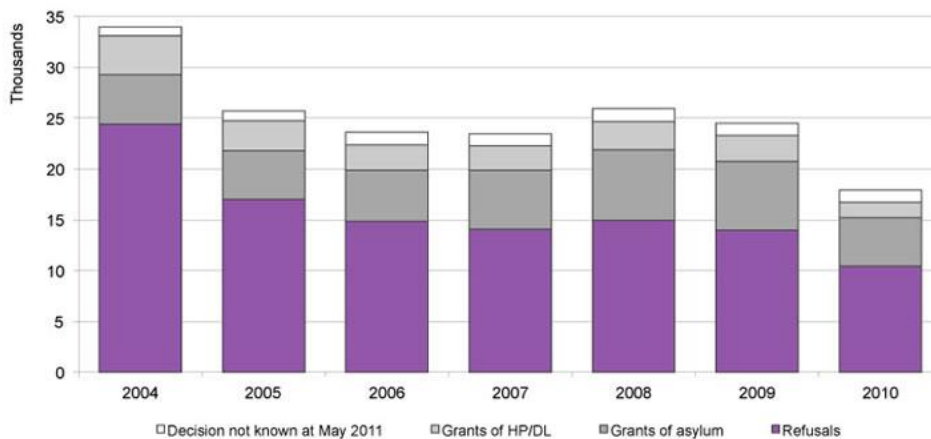
- **Nationalities arriving for work:** India (28%), United States (17%), Australia (10%), Canada (4%), the Philippines (4%), Pakistan (4%), New Zealand (3%), Japan (3%), China (3%) and Nigeria (2%). Together these accounted for 78% of such admissions.
- **Nationalities granted with most extensions of stay:** India (31%), Pakistan (9%), China (8%), Nigeria (7%), the Philippines (5%), Turkey (5%), United States (4%), Sri Lanka (3%), Bangladesh (3%), Australia (2%). Together these accounted for 76% of such extensions.
- **Nationalities accounting for the largest shares of settlement permits** in the work category were: India (29%), the Philippines (9%), South Africa (8%), Pakistan (6%), China (5%), Zimbabwe (4%), Australia (4%), Nigeria (4%), United States (3%), and New Zealand (2%). Together these accounted for three-quarters of such permits.

Asylum

- The numbers of asylum applications have been relatively stable since 2005, having fallen substantially from a peak in 2002: all quarters since the fourth quarter of 2009 have seen fewer than 5,000 asylum applications.
- Changes in the last decade:
 - 2002 introduction of a process preventing certain nationalities from appealing a decision while in the country.
 - The opening of juxtaposed controls in France and Belgium in 2002 and 2004.



- Of the **20,261 initial decisions in 2010**, 3,488 (17%) were decisions to grant asylum, 1,707 (8%) to grant a form of temporary protection (humanitarian protection or discretionary leave) and 15,066 (**74%**) were refusals.
- In 2010, a total of 13,928 main applicants requested asylum appeals, **68% of appeals were dismissed in 2010** while 27% of appeals were allowed.
- The **total proportion of applications granted asylum** or a form of temporary protection at initial decision or appeal in 2004 was 26%, and had gradually increased year-on-year to **38% in 2009**.



Removals and voluntary departures

- In recent years, **the number of people departing has decreased**, compared to the peak in 2008;
- **60,244 people departed during 2010**, down 11% from the peak of 67,981 during 2008.
 - 43% were from Asia, 21% from Africa and 20% were from the Americas.
- During the third quarter of 2011, there were 2,120 people who had claimed asylum (19% lower than during the third quarter of 2010) and 11,133 non-asylum cases (12% lower than during the third quarter of 2010).

