PERCEPTIONS

Policy Brief

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UK asylum and immigration policy in focus: improved security or increased insecurity?

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Executive Summary

From the 2002 'Secure Borders, Safe Haven' white paper to the 2022 'Nationality and Borders' bill, UK immigration and asylum policies have increasingly combined a security framework with a humanitarian narrative. Border controls and strict immigration regulations have been implemented in the name of the protection of human rights, and more particularly to protect people wanting to immigrate to the UK irregularly from dangerous crossings and human smugglers. At the same time, these policies have been highly criticised by civil society organisations and human rights lawyers for criminalising migration and breaching basic human rights. This policy brief questions the possibility for strict border, immigration and asylum policies to effectively improve security. Using insights from interviews with migrants, practitioners and law enforcement agencies, it shows how policies implemented over the past years have increased insecurities for both migrants and for society at large. Based on these findings, we draw recommendations for asylum and immigration policies that take a humanitarian approach on security.

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Introduction

Since the early 2000s, the UK has implemented several policies aiming at tackling irregular migration. These policies have increasingly taken a securitisation approach whereby migrants, including asylum seekers, are framed as 'threats' to the UK society and identity.[i] These policies aim at intervening at the different stages of the migration journey by:

1. Using information campaigns to deter prospective migrants from engaging in irregular travels (e.g., The Migrant Project)[ii];

2. Reinforcing border control to stop irregular entries through fences, police patrols, and surveillance technologies;

3. Creating what former Home Secretary Theresa May called a 'hostile environment' for irregular migrants in order to encourage voluntary returns and facilitate deportation. The hostile environment is implemented through a set of policies that include indefinite detention, and the limitation to access to rights, welfare and key domains of everyday life such as housing and employment.

Key Issue

Current asylum and immigration policy in the UK focuses on increasing security measures in the name of protecting human rights but can they achieve this announced goal?

These policies have been criticised by researchers and civil society organisations for breaching human rights, forcing people into more dangerous routes, and increasing their precariousness.[iii] The UK, like other states in the Global North, responded to this criticism with a change of discourse justifying the implementation of stricter immigration and border policies with the need to not only protect the security of states, but also that of individuals putting their lives at risk by crossings borders.[iv] The arrival of small boats and dinghies from 2019, which has made visible the scenes of immense human suffering involved in irregular migration journeys, led to an increased association of security policies with a humanitarian narrative. This narrative is particularly visible in the 2022 Nationality and Borders bill where new policies, such as the introduction of a four-year prison sentence and the creation of an inferior 'temporary protection status' for asylum seekers who came via irregular routes, are framed as aiming to protect people from criminal networks:

> *'Illegal immigration is facilitated by serious organised criminals exploiting people and profiting from human misery. It is counter to our national interest because the same criminal gangs and networks are also responsible for other illicit activity ranging from drug and firearms trafficking, to serious violent crimes. And if left unchecked, illegal immigration puts unsustainable pressures on public services. It is also counter to our moral interest, as it means people are put in the hands of ruthless criminals who endanger life by facilitating illegal entry via unsafe means like small boats, refrigerated lorries or sealed shipping containers.' (UK Government, New Plan for Immigration, March 2021)*

This framing of the new bill attempts to reconcile two conceptions of security: 1) security as the personal safety of people migrating irregularly, and 2) security as the protection of the country from unwanted people who would put 'pressures on public services'. Yet, can these two conceptions be reconciled? Can stricter immigration and asylum legislation lead to an increased security for both people migrating to the UK and the UK society at large?

In this policy brief, we explore these questions based on findings from the H2020 PERCEPTIONS project. This project investigated the links between security and migration behaviour, experiences and policies through in-depth qualitative interviews conducted with people who have immigrated to the UK, third sector practitioners working with them, as well as policy experts and law enforcement practitioners. Based on these insights, we discuss the impact of past immigration and asylum policies on rights and security. This allows us to draw recommendations for policies that would improve security for both migrants and the broader society in practice.

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Key research findings

Findings from the H2020 PERCEPTIONS project show that the **strict border, immigration and asylum policies** implemented in the past 10 years *did not* **stop people from migrating to the UK via irregular routes, nor from staying in the UK without regular status or with a temporary one**. They also show that these **policies *did not* lead to more security**, but rather **increased insecurities.** Here, we provide key points to understand why these policies did not reach their announced goal.

- **Increased border security does not deter irregular crossings, but it pushes people to take more dangerous routes**

As seen in the introduction, the humanitarian narrative used to justify border, immigration and asylum policies generally focuses on irregular entries via small boats and lorries. Over the past years, the UK put a lot of efforts and resources in making irregular channel crossings more difficult, using police patrols, building walls and fences in around Calais' motorway, ferry port and Eurotunnel, and implementing surveillance technologies to detect people hiding in trucks or aboard trains. Yet, **instead of stopping crossings, this border control apparatus led people to take a new dangerous route** across the Channel: an unprecedented number of **28,526 people were detected arriving via small boats in 2021**, leading to at least **45 deaths**.[v] In comparison, they were 8,466 in 2020, 1,843 in 2019 and 299 in 2018.[vi] While irregular migration is by definition difficult to evaluate, the dramatic increase of small boat crossings indicates that the securitisation of the French-UK border did not lead to more secure crossings. Research from the PERCEPTIONS project also indicates that it **did not deter people from wanting to attempt to cross** either. Indeed, most people appear to be **aware of the risks** involved in the crossing. They have already undertaken long journeys across the Mediterranean and across Europe and have been exposed to great risks along the way. After the investment and sacrifices that they have already made, they will continue their journeys to reach the UK, even if it means risking their lives further. The reasons they give for continuing are also related to the **poor conditions** that they have experienced in France. This includes having their camps constantly dismantled and on occasion being victims of violence and human rights abuses, including discrimination from the police. If the increased securitisation of the UK border did not reduce the risks, but rather led people to take more dangerous maritime routes, **a different policy approach is needed to create a safe and secure border**.

> *'They've crossed seas before so they know it's risky but like for them it's not a bit obstacle because they live in horrible conditions in Calais so it can't get that worst for them' (Practitioner in Calais)*

- **Hostile environment policies do not deter people from coming to the UK**

One of the aims of the **hostile environment policies**, primarily framed through the 2014 and 2016 Immigration Act, was to **limit access to welfare benefits and other rights** so that they **do not act as incentives** for individuals to immigrate via irregular routes and **encourage voluntary returns**.[vii] Yet, our research shows that *before* their arrival, people who have migrated to the UK generally perceive it as a **rich, democratic country** where their **human rights** will be respected. It is seen as a **place of opportunity**, where they can find a job and earn a higher wage than they would get in their own country, although not necessarily easily or immediately. In the case of asylum seekers, the UK is perceived as a place where they can find **safety and rule of law** after fleeing for their lives. For those who chose to go to the UK specifically, this decision was influenced by **colonial links**, and/or the fact that they had **family or friends** living there who could help them and that they spoke the language.

However, their **knowledge of the welfare system and of the rights** of migrants, including asylum seekers and undocumented persons, is **limited**. This is accentuated by the fact that in general, people tend **not to communicate about their negative experiences** (e.g., destitution, detention, etc). This can be because they feel like they would

not be believed, because they do not want their family to worry, because they are ashamed and want to avoid being judged as having failed by people who have made sacrifices for them to be able to leave, or because they are afraid their experiences would seem trivial compared to what people are facing back home. This indicates that **access to benefits does not act as an incentive**, and that **limitations to the rights of undocumented persons do not act as deterrent**. In addition, our research shows that **push factors are generally more important than pull factors** in people's decision to migrate: most people engage in migration journeys because of adverse circumstances in their countries of origin; perceptions of opportunities at the destination are secondary.

> *'Nothing has been effective in preventing or deterring migration. I'm not sure it's encouraged it, but we've not made a dent in those numbers. [...] The decision was made by the government that employers would be liable to check their employees had a right to work. People who were renting houses had an obligation to check that individuals had a right to be in the UK. We reduced their access to benefits, to state support after the first asylum decision. All this did was drive people more underground.' (Law enforcement officer)*

- **Hostile environment policies do not encourage returns**

Return is often not an option for people who become undocumented, as it can mean going back to a country where they would face **persecution**, where they will **not be able to provide for their family**, or where they have accumulated **debts** that they will not be able to repay by working in that country, thus putting them and their families at **risk**. Return can also come with a **change in social status**, which can lead individuals to be **excluded from their communities** and end up in even worse situations. Thus, living in the UK, albeit without a regular status and associated rights, is often seen as the **only viable option**.

> *'I can't imagine if I go to Iran… They will hang me in the airport' (Refugee from Iran)*

- **Hostile environment policies push people into precariousness and exploitation**

Despite the current legitimising of stricter policies and security measures and border control in the name of humanitarianism, the research from the PERCEPTIONS project shows that existing policies have **detrimental effects on the safety and security** of migrants. **Policies that limit access to rights for people with a precarious or no legal immigration status increase poverty and both physical and mental health problems**. They create **vulnerability factors to exploitation**, **thus reinforcing criminal networks** and **complicating the work of the police**.

Vulnerabilities are first due to the **difficulty to obtain a stable legal immigration status**. Options to obtain a leave to remain in the UK are limited. For people fleeing conflict and persecution, getting international protection is a long and difficult process. Those who are refused asylum tend to remain in the UK due to the reasons mentioned above. As legal pathways are limited, those who arrive in the UK via an irregular route and have not fled direct and recent conflict and persecution have **no alternative option to asylum**, leading some to register a claim that is later rejected, or to remain 'under the radar' from their arrival. Some people also **become undocumented after being on short-term migration schemes and visa**, such as the Seasonal Workers Pilot Visa Scheme, as getting a new **leave to remain is complex and expensive**. This leads many people who had a limited right to remain at some point, as asylum seekers or visa holders, to **stay underground** and live undocumented.

Precariousness is also increased by a **lack of appropriate access to key domains of society and to the welfare system**. Asylum seekers, individuals going through the National Referral Mechanism for people victims of trafficking, and individuals without leave to remain are **not allowed to work**. This hinders their future integration by **delaying integration** into the labour market. Their **rights are also limited**, having to regularly report to an immigration reporting centre, being housed on a no choice basis and often in poor conditions, and receiving limited financial support. Similarly, people on short-term visa are subjected to the **No Recourse to Public Funds (NRPF)** condition,

which means that people are unable to access benefits, homelessness assistance, a local authority allocation of social housing, childcare schemes, and sometimes free school meals. Finally, people who have no right to remain do not have access to public funds either, and can be reported to the Home Office when applying for a job, accommodation or a bank account.

This lack of access to full common rights creates vulnerabilities to **exploitation,** as people's legal and financial precariousness mean that they have often **no other choice but to work in the grey economy**. Once in an exploitative situation**, people cannot report it to the authorities** because that will most likely mean being returned. Thus, the PERCEPTIONS project shows that these policies **complicate the work of law enforcement agencies**, as they lead more individuals to disappear into the informal economy and be exploited by criminal networks, and to refuse to talk with the police by fear of being detained and returned. In addition, stringent or hostile immigration policies contribute to increase **anti-migrant sentiment** in the media, leading to more **discrimination and hate crime** in the population.[viii] Thus, instead of countering crime and human rights issues, the securitisation approach adopted in current immigration and asylum policies lead to **increase insecurity both for individuals who fall into exploitative situation and are victims of hate crime, and for society at large**, which cannot benefit from the labour produce in the grey economy and does not see a reduction of crime.

> *'Once that person realises what has happened to them isn't legitimate, if they have restrictions on their visa, or they don't have a sort of status here, then there is a real fear of going to the law enforcement, or reporting what's happening' (Law enforcement officer)*

- **Hostile environment policies have a negative impact on people's health**

It is also important to note that immigration and asylum policies have a **detrimental effect on people's health**. Risks to health are notably due to destitution or being housed in inadequate conditions (e.g., army barracks).[ix] Asylum seekers are five times **more likely to have mental health illnesses** than the general population (e.g., symptoms of depression, post-traumatic stress disorders). Mental health illnesses are exacerbated by the **length of the asylum process**, the **uncertainty** of getting a secure status, **poor housing conditions**, and the experience of **not being believed**.[x] The **culture of disbelief** that is embedded in the asylum system contributes to these issues.[xi] Indeed, within the asylum determination process, decision-makers seek to prove that claims are unfounded. The **burden of proof** is placed on the applicants, who are often unable to provide the material evidence required due to the complex conditions in which they had to flee their country. This approach is **contradictory to the European Court of Human Rights'** advice to shift the burden of proof to the State.[xii] It makes the asylum process less efficient. It also has **detrimental effects on people's mental health**, as their accounts are systematically called in to question and they live with the uncertainty regarding their right to remain in the UK for a long period of time.

> *'From the point where they set foot in this country, they are totally insecure. They are at the risk of deportation [...] security of living and integration into a community have been shown to be the most effective strategies for helping people with PTSD, but you can't do that if your asylum claim is uncertain, or if you've not got indefinite leave to remain. The threat of being sent back to where you were traumatised is always hanging over.' (First-line practitioner)*

Finally, people who are undocumented or with the NRPF condition face important **barriers to healthcare** due to the **charges** and to the fact that their **data may be passed from NHS trusts to the Home Office**, putting them at **risk of detention**.[xiii] Evidence also shows that the hostile environment creates a **fear and mistrust** amongst migrants that deters them from accessing healthcare, even when they have a visa and are eligible to free healthcare, and even **during the pandemic**.[xiv] Yet, healthcare is an important factor for the safety and security of the population.

Recommendations

This brief demonstrated that the implementation of strict border, immigration and asylum policies increase insecurities instead of improving security. The fact that the new Nationality and Borders bills builds on a similar approach shows that is it not research informed. Here, we highlight research-informed policy recommendations that would improve security in practice.

1. Creation of safe legal migration pathways for low skilled workers. Legal pathways to the UK are currently lacking, especially for low skilled workers who do not qualify for asylum. The **creation of a new tier visa scheme for low skilled migrants** and **extension of temporary and seasonal visa scheme for domestic and agricultural workers** would reduce reliance on irregular migration routes, avoid people becoming undocumented after being refused asylum or after the expiration of a short term visa, and would facilitate circular migration.

2. Reduction in visa charges. Current visa charges are often unmanageable and once people fall into irregularity, it is very difficult to live due to the measures of the hostile environment, leading them to disappear in the grey economy**. Reducing visa charges will ensure that migrants can "stay legal"** and contribute to society.

3. Responsibility sharing schemes and bilateral agreements with EU countries. Before claiming asylum in the UK, many people cross Europe and suffer abuse on the way. Responsibility sharing schemes and bilateral agreements with EU countries could facilitate the **registration of an asylum claim in the UK from a transit country,** and would allow for a safe access to asylum. **Processing asylum claims at the UK-France border** in Calais, or allowing asylum seekers to enter the UK by ferry or train to register their claim, would save lives by stopping the reliance on smuggling networks and small boats crossings.

4. Promotion of a rights-based asylum system focused on **greater protection** for all those seeking asylum **regardless of their mode of entry**. This would include creating **safe, humanitarian corridors** to enable asylum seekers to avoid dangerous, irregular journeys. Greater adherence to the **Global Compact for Migration** would be beneficial, including greater protection for pregnant women, children, and LGBTQ+ refugees. Greater efforts need to be put on ensuring **adequate accommodation**, ensuring that temporary accommodation does not exceed the stated amount and that asylum seekers are not housed in army barracks. Unaccompanied minors should not be housed with adults, to ensure safeguarding, and the **detention of asylum seekers should be prevented**. Giving the **right to work to all asylum seekers** will allow them to improve their living conditions and mental health, and reduce reliance on irregular work and associated risks of exploitation. Finally**, applying the European Court of Human Rights' advice to shift the burden of proof to the State** rather than to asylum seekers would ensure the effectiveness of the asylum system, by avoiding re-traumatisation of vulnerable people and increasing the numbers of accepted cases on first decision rather than on appeal.

5. Removal of the NRPF condition. Providing full access to rights and support to people who have a limited leave to remain will **enhance their financial and legal security**, and **improve their health**. It would also result in a substantial **benefit to the UK's finances**.[xv]

6. Foster the creation of positive narratives surrounding migration. While current immigration and asylum policies and information campaigns have led to a rise in racism and abuse against migrants, the promotion of positive narratives via information campaigns around migration will contribute to **stop the rise in hate crime and xenophobia** against all migrants, not just asylum seekers, thereby protecting human rights.

7. Promotion of evidence-based policy making to ensure **policies are monitored and improved based on research**. This could be done through **co-creation labs** organised via the current UK Home Office policy lab and strategic migration partnerships. This would **enable policy makers to collaborate with experts and practitioners**, such as those from the Asylum Reform Initiative, and to **build policies based on the experiences of different migrant groups** (e.g., unaccompanied minors, victims of trafficking and modern slavery, pregnant women. etc).

For more information

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