

IET0005

Written evidence submitted by

Dr Andrew Jolly & Dr Bozena Sojka

Institute for Community Research and Development (ICRD),

University of Wolverhampton

About the Authors

Dr Andy Jolly is a Research Associate at the Institute for Community Research and Development at the University of Wolverhampton. His academic background is in social policy and social work, and his research focuses on the welfare needs of undocumented migrant children in the UK.

Dr Bozena Sojka is a Research Fellow at the Institute for Community Research and Development at the University of Wolverhampton. Her interests are in understanding the social and policy dynamics of migrants' experiences of inequality, working at the intersection of human geography, sociology and social policy.

Note on funding

The authors received funding from Paul Hamlyn Foundation and the Greater London Authority for the research projects referred to in this paper. All opinions are those of the authors and not the funders.

Key points

- Numbers of undocumented migrants* in the UK are increasing, but at a slower rate than the UK population as a whole.
- The size of the population of undocumented migrants is inflated by Home Office policy such as the cost of registering as a British citizen, which makes it more difficult to regularise status.
- Policies such as the NRPF rule do not save money, but instead displace costs away from central government towards local government.
- Policies such as the NRPF rule result in poverty, food insecurity and child deaths which the child welfare system is not able to prevent.

1. Reducing the size of the illegal* population

Numbers of undocumented* migrants in the UK

Recent research for the Greater London Authority (Jolly et al. 2020) uses the same ‘residual’ methodology as the Home Office estimate for 2001 (Woodbridge 2005). A comparison between the two central estimates suggests that the size of the undocumented migrant population grew by around 240,000 people between 2001 and 2017 (See Table 1).

Table 1: Size of the undocumented population in the UK

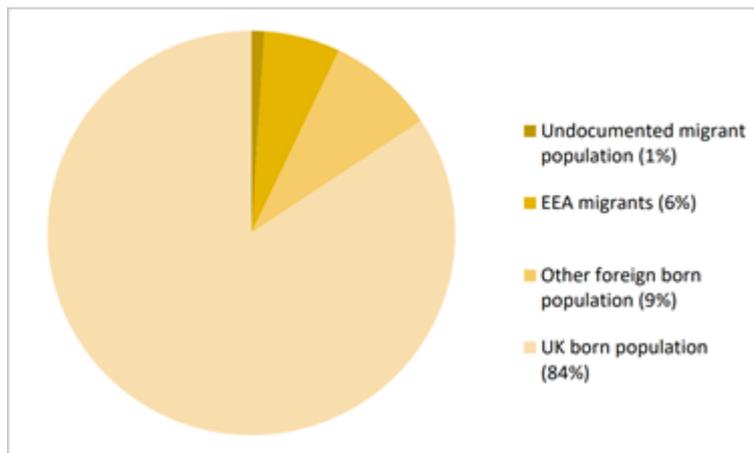
	Undocumented population in 2001 (Woodbridge, 2005)	Undocumented population in 2017 (Jolly et al., 2020)
Central estimate	430,000	674,000
Range	310,000-570,000	594,000-745,000
Percentage of UK population	0.7%	1%

However, these estimates do not include the numbers of UK-born children with undocumented migrant parents. Sigona and Hughes (2012) estimate that 56 percent of undocumented children were born in the UK, which would mean that an additional 120,000 children can be added to the total undocumented population, taking the total to 794,000 (Jolly et al. 2020).

This apparent rise in numbers of undocumented migrants in the UK is because removals and regularisations of status account for less than the increase in people becoming undocumented, and babies born to those who are undocumented. Increased border controls are unlikely to make an impact on this group because relatively few are illegal entrants, and the most common route into becoming undocumented is likely to be events since arriving in the UK such as overstaying on a visa (Vollmer, 2009).

Despite the increase in absolute numbers of undocumented migrants, the undocumented population has declined as a proportion of the total foreign-born population by nearly half. This is due to the demographics of the foreign-born population in the UK. The vast majority of the increase in the foreign-born population since 2001 has been from EEA+ nationals, particularly from A2 and A8 countries in Central and Eastern Europe. EEA+ born migrants to the UK represented more than a third of the total foreign-born population in 2017, in contrast, the undocumented population only accounted for just under seven per cent of the foreign-born population (down from twelve per cent in 2001). The current size of the undocumented population compared with EEA+ migrants in the UK, and the total foreign-born population can be seen in Figure 1 below.

Figure 1: Migrants as a proportion of the total UK population



Source: Jolly et al. (2020)

2. Impact of policies

Irregularisation

Home Office policies have a role in creating undocumented migrants. The ‘Windrush Generation’ scandal is an example of these processes, where a cohort of people who had the legal right to be in the UK became de facto undocumented and subject to removal from the UK, as a result of not being able to prove their right to stay in the UK, and through the destruction of records by which they could demonstrate their status in the UK. Processes of irregularisation can be seen in other contexts. For instance, research for the GLA about migrant children in the UK suggests that only a small minority of children who would be eligible for regularisation ever apply (Jolly et al. 2020). Although there are an estimated 215,000 undocumented children in the UK, since 2012 there have been only 15,177 applications for regularisation on family life grounds for children and young people, and 6,131 on private life grounds. Reasons for the low take up of regularisation schemes are complex, but there are considerable barriers to accessing regularisation. These barriers include high application fees (CCLC, 2017); the complexity of immigration law and policy;

the lack of free, good quality legal representation following the removal of legal aid for most areas of immigration law (Dorling et al. 2017); and Home Office decision making which is inconsistent and does not take into account the best interests of the child (Valdez et al., 2014).

Value for money

When assessing whether the ‘hostile environment’ represents value for money, the effect of immigration policies in shifting cost from central government to local government must be considered. This occurs in three ways, first, by preventing access to the social security system, the NRPF rule has the effect of displacing people in need of financial support away from DWP administered support, towards local authorities under their duties under the Care Act (2014) and Children Act (1989). Second, the costs of immigration applications prevent undocumented migrants from regularising their status (Dorling et al. 2017). For those who have an outstanding application for leave to remain delays in Home Office decision mean that local authorities have a duty to provide financial support for people for a more extended time - local authorities support people with NRPF for an average of 665 days (Rowney, 2015). Due to case law (*R v. Clue*), when a family have an application pending with the Home Office, local authorities cannot preempt the Home Office decision by discharging their duty to a family by buying a ticket back to a country of origin. Finally, the decision in 2012 to apply the NRPF condition to people with limited leave to remain in the UK increased the financial burden on local authorities as it prevented people who previously would be eligible for mainstream social security from accessing benefits.

The total costs to local authorities of supporting people with NRPF are unknown, but a survey of 51 local authorities in the 2009/10 financial year found they spent a combined total of £46.5 million a year on supporting people with NRPF (NRPF Network, 2011). In 2015,

London Councils found that the number of people with NRPF being supported by local authorities in London was proliferating and a sample of 17 London Councils reported that support for people with NRPF cost them £25 million a year (Rowney 2015). Lewisham Borough Council's Overview and Scrutiny Committee reported that in 2008 the annual cost of support for families with NRPF was £242,000. But by 2012, the costs had risen to £2,244,000 and by 2013 had increased again to £5,368,000 (cited in Jolly, 2019).

Early indications from service providers suggest an increase in numbers approaching local authorities for support since the COVID-19 pandemic, which will, in turn, increase the costs to local authorities (Jolly et al. 2020). This has been exacerbated by the expectation from the MHCLG that local authorities should 'bring everyone in' to prevent homelessness during the pandemic, irrespective of immigration status (MHCLG, 2020).

Food poverty and insecurity

We know from other policy areas that policy is enacted in the mundane and everyday interactions of decision makers and public sector officials working in their specific organisational settings, subject to material, political, cultural and other socio-institutional constraints. Much of these issues are problems or concerns about how policies unfold in practice (Bartel, 2018). For instance, the example of how policies such as NRPF unfold at the local level (that we focused our research on). Research amongst undocumented migrants with NRPF in Birmingham indicates that 9/10 were food insecure, and 6/10 experiencing very low food insecurity (Jolly 2020), indicated by "multiple indications of disrupted eating patterns and reduced food intake." (Coleman-Jensen, et al., 2019). This compares with only 8 percent of the population of England, Wales and Northern Ireland, who were food insecure in 2017 (Bates et al., 2017).

Food insecurity amongst migrant families with NRPF can have tragic consequences. In 2012, a child with NRPF starved to death in Kent (Smith 2018). The serious case review into the death concluded that: "It is clear...that lawful and efficient responses are not always enough to compensate for the very particular vulnerabilities of the extremely marginalised group represented by those who have no recourse to public funds." (Smith, 2018).

Although there is no national monitoring of child deaths where the family has NRPF, analysis of the NSPCC case repository suggests that this is not an isolated incident. The NSPCC Knowledge and Information Service has published a summary of risk factors for first-generation migrant, asylum seekers and refugees. The summary reports that one of the three reasons for case reviews being commissioned for this group was that: "children died or were seriously injured after parents' legal status left them unable to access the support and care they need" (NSPCC, 2014).

While all benefit claimants are subject to conditionality, for migrants, such conditionality is interwoven with their citizenship, migration and residence status in complex and overlapping hierarchies of belonging (Carmel and Sojka 2018, 2020). As families with NRPF have no access to mainstream social security benefits, support from local authority children's services is sometimes the only means to prevent destitution. However, support rates are too low to prevent poverty. Table 2 presents findings from an analysis of subsistence support rates paid by local authorities to families with NRPF to prevent destitution.

Table 2: Comparison of weekly payments to families with poverty lines

	Inner London mean	Outer London mean	Regional mean	Total mean
Weekly section 17 payment for parent and 2 children	£133.56	£115.90	£106.18	£118.15
Percentage below HBAI poverty line	56%	62%	65%	61%
Percentage below minimum income standard	68%	72%	74%	71%

Source: Jolly (2019)

Using the households below average income (HBAI) measure of relative poverty, the poverty line is currently £306 per week after housing costs for a family with one parent and two children aged 5 and 14 (DWP, 2018). Rates of subsistence support were on average 61 percent below the poverty line (See Table 2), with inner London boroughs paying the highest, and non-London authorities paying the lowest. The majority of rates were lower than other mainstream social security or asylum support, and the lowest weekly amount of the surveyed local authorities corresponded to only £3.10 per day per household member. The highest was £10.72, but all rates were below the HBAI poverty line.

An alternative indicator of deprivation is the Joseph Rowntree Foundation minimum income standard (Davis et al. 2018). This measure is based on a consensus of the cost of everything which a household needs to ‘achieve an acceptable living standard’. The standard is similar in intent and wording to the threshold for section 17 support under the Children Act of ‘maintaining a reasonable standard of health or development’. Section 17 rates for families with NRPF were even further below the minimum income standard than the HBAI. In 2018,

a household of one parent with two school-age children would need £412.35 per week after housing costs and excluding the cost of council tax and childcare to achieve an acceptable living standard. However, the mean weekly rate of support across all authorities was 72 percent below the minimum income standard. Overall, authorities outside London were further below the poverty line than those in the capital, with inner London authorities having rates that were the closest to the poverty line and minimum income standards.

3. Conclusion

Based on recent evidence on the size of the undocumented population, the Home Office does not appear to be achieving the aim of reducing the size of the population, and the unintended impact of some hostile immigration policies may even be to increase the size of the undocumented population.

Second, current policy does not appear to reduce the harm of undocumented migration, rather there are specific harms caused by hostile environment policies which exclude people from access to welfare support, which are particularly acute for children, and which have an impact beyond undocumented migrants to all British residents and citizens (Yuval-Davis et al. 2018). During the current COVID-19 pandemic, it is vital for public health that people can access support and are not discouraged from accessing support because of their immigration status (Jolly et al. 2020).

Finally, policies to reduce numbers of undocumented migrants do not appear to provide value for money, but rather displace costs from one area of the public sector to another, creating particular difficulties for local authorities.

References

- Andersson, R. (2014) *Illegality Inc. Clandestine Immigration and the Business of Bordering Europe*. University of California Press, Oakland.
- Andersson, H.E., Nilsson, S. (2011) Asylum seekers and undocumented migrants' increased social rights in Sweden. *Int. Migr.* 49, 167–188. <https://doi.org/10.1111/j.1468-2435.2009.00586.x>
- Bartels, K. (2018) *Policy as Practice*. in R Hoppe & H Colebatch (eds), *Handbook on Policy, Process and Governing*. Edward Elgar Publishing Ltd., Cheltenham, pp. 68-88.
- Bates, B., Roberts, C., Lepps, H., and Porter, L. (2017) *The food and you survey: Wave 4*. London: FSA. Available at:
https://www.food.gov.uk/sites/default/files/media/document/food-and-you-w4-combined-report_0.pdf
- Bloch, A., Kumarappan, L., McKay, S. (2014) Employer sanctions: The impact of workplace raids and fines on undocumented migrants and ethnic enclave employers. *Crit. Soc. Policy* 35, 132–151. <https://doi.org/10.1177/0261018314545600>
- Carmel, E. and Sojka, B. (2020) 'Beyond welfare chauvinism and deservingness. Rationales of belonging as a conceptual framework for the politics and governance of migrants rights.' *Journal of Social Policy* [forthcoming]
- Carmel, E. and Sojka, B. (2018) 'Social security and the 'management' of migration', in J. Millar, *Understanding social security: issues for policy and practice* (3rd ed.), Bristol: The Policy Press
- CCLC (2017) *Briefing: A Settlement for European Children in the UK*. London: CCLC
https://www.childrenslegalcentre.com/wp-content/uploads/2017/08/CCLC-briefing-EUchildren_November_2017_Final.pdf

- Coleman-Jensen, A., Gregory, C and Rabbitt, M. (2019) *Definitions of Food Security*. Washington: USDA. Available at: <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-us/definitions-of-food-security.aspx>
- Davis, A., Hirsch, D., Padley, M. and Shepherd, C. (2018) *A Minimum Income Standard for the UK 2008–2018: continuity and change*. York: JRF
- Dorling, K., Hurrell, A., Lagrue, M. and Trevena, F. (2017) *'This is my home': Securing permanent status for long-term resident children and young people in the UK*. London: Coram Children's Legal Centre
- Dorling, K. (2013) *Growing up in a hostile environment: The rights of undocumented migrant children in the UK*. Children's Legal Centre, London.
- DWP (2018) Households Below Average Income, 1994/95 to 2016/17 Table 2.4ts: Equivalent money values of overall distribution mean, median, and 60 per cent of median income for different family types in 2016/17 prices, United Kingdom.
- European Commission (2001) *Communication from the Commission to the Council and European Parliament on a common policy on illegal immigration*. Commission of the European Communities, Brussels. Available at: <https://www.refworld.org/docid/3ddcf2a24.html> Accessed: 17/05/20
- Home Office (2013) *Immigration Act 2014. Briefing Note*. Home Office, London. Available at: <https://www.gov.uk/government/collections/immigration-bill> Accessed: 17/05/20
- Jolly, A., Sojka, B., Dickson, E., Qureshi, F., Stamp, D., & Morgan, B. (2020) Local Authority Responses to people with NRPF during the pandemic: Interim project findings briefing *Sage Advance*. Available at: <https://doi.org/10.31124/advance.12356648.v1>
- Jolly, A., Thomas, S., & Stanyer, J. (2020) *London's children and young people who are not British citizens: A profile*. GLA: London

- Jolly, A. (2020) *Household food security amongst undocumented migrant families in Birmingham: a mixed methods study*. Birmingham: University of Birmingham
- Jolly, A. (2019) From the Windrush Generation to the 'Air Jamaica Generation': local authority support for families with no recourse to public funds. *Social Policy Review* 31.
- Koser, K. (2010) Dimensions and dynamics of irregular migration. *Popul. Space Place* 16, 181–193. <https://doi.org/10.1002/psp.587>
- MHCLC (2020) *Letter from Minister Hall to local authorities on plans to protect rough sleepers*. London: HM Government. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876466/Letter_from_Minister_Hall_to_Local_Authorities.pdf
- NRPF Network (2011) *Social Services Support to People with NRPF: A National Picture*. NRPF Network: Islington. Available at: http://www.nrpfnetwork.org.uk/policy/Documents/NRPF_national_picture_final.pdf
- NSPCC (2014) *First generation immigrants, asylum seekers and refugees: learning from case reviews: Summary of risk factors and learning for improved practice*. London: NSPCC. Available at: https://learning.nspcc.org.uk/media/1337/learning-from-case-reviews_first-generation-immigrants-asylum-seekers-and-refugees.pdf
- Rowney, J. (2015) *No Recourse to Public Funds*. London Councils: London
- Schuster, L. (2005) The continuing mobility of migrants in Italy: shifting between places and statuses. *J. Ethn. Migr. Stud.* 31, 757–774. <https://doi.org/10.1080/13691830500109993>

- Sigona, N. and Hughes, V. (2012) *No Way Out, No Way In. Irregular Migrant Children and Families in the UK*. Oxford: COMPAS Available at:
https://www.compas.ox.ac.uk/2012/pr-2012-undocumented_migrant_children/
- Smith, F. (2018) *Serious case review - Ellie overview report*. Chatham: Medway Safeguarding Children Partnership. Available at:
<https://www.medway.gov.uk/mscb/downloads/file/163/2018-serious-case-review---ellie-overview-report>
- Triandafyllidou, A. (2010) *Irregular migration in Europe. myths and realities*. Ashgate, Aldershot.
- Valdez, S., Naik, S., Bohmer, C., Williams, L., Patel, H. and Segrove, N. (2014) *Systemic Obstacles to Children's Registration as British Citizens: Legal Research Report*. London: Ealing Law Centre
- Vollmer, B. (2009) *Undocumented Migration: Counting the Uncountable. Data and Trends across Europe*. Brussels: European Commission. Available at:
https://www.compas.ox.ac.uk/wp-content/uploads/PR-2008-Clandestino_UK.pdf
- Woodbridge, J. (2005) *Sizing the unauthorised (illegal) migrant population in the United Kingdom in 2001* London: Home Office Available at:
https://www.ons.gov.uk/file?uri=/aboutus/transparencyandgovernance/freedomofinformationfoi/illegalimmigrantsintheuk/migrantpop_in_uk.pdf
- Yuval-Davis, N., Wemyss, G., and Cassidy, K. (2018) 'Everyday Bordering, Belonging and the Reorientation of British Immigration Legislation', *Sociology*, 52(2), 228–244.
<https://doi.org/10.1177%2F0038038517702599>

* Note on Terminology:

There is no universally accepted term to describe the status of people who live or work in a state without the state's legal authorisation. Terms such as 'illegal alien', 'illegal immigrant', 'undocumented migrant', 'irregular migrant', 'sans papiers', and 'clandestine migrant' have all been used in different contexts. The term 'illegal immigrant' remains the preference of both the European Commission and the UK Government (European Commission, 2001; Home Office, 2013). However, the term is controversial and is no longer used in the Associated Press style guide (Andersson and Nilsson, 2011). The phrase is inaccurate for several reasons. First, it implies criminality or illegal entry, neither of which necessarily apply (Andersson, 2014). Second, it technically only refers to the 'flow' of people who cross a border, rather than the 'stock' of those who remain in the country, such as those who overstay a temporary visa (Triandafyllidou, 2010). Third, it can serve to legitimise the removal of rights for those migrants who are labelled as 'unauthorised' such as the removal of the right to access public funds which has lethal consequences (See Smith 2018). Finally, the dichotomy of legal/authorised and illegal/unauthorised immigration is itself misleading because many migrants change immigration status over time, moving from authorised to undocumented and back again (Koser, 2010). Schuster (2005) argues that geographical mobility is often matched by a "status mobility" where it is common to experience many immigration statuses over time and to even slip back and forth between them (2005, p.758), and even 'authorised migrants can be impacted by restrictive conditions such as the NRPF rule and the NHS surcharge. A more commonly used current description in the literature is 'undocumented migrant' (Bloch et al., 2014; Dorling, 2013) and this is the term used in this paper to refer to people who live in the UK without government authorisation.