



Mapping of Policies and Policy Analysis- the UK case

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**Integration of Female Immigrants in Labour Market and Society.
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Introduction

This report aims to map out the main policies relating to the position of migrant women in the labour market and wider society in the UK. We consider both broader policies and those specifically aimed at migrants or minority ethnic groups. We provide an account of policies and their scope, as well as discussing their effect on our focus group. In addition, we discuss overall policy trends as they form an important context for understanding more specific policies in the 'broader' and 'migrant specific' areas respectively.

Before we begin our mapping exercise, we would like to offer a note of caution in relation to a complicating factor in the study and analysis of policy in the UK which relates to the UK being composed of four countries. This is particularly important since devolved parliaments have been established in Scotland, Wales and Northern Ireland. We will not always have the possibility of noting all the differences between the different home countries in terms of policies. Instead, we will focus on UK national policies while discussing any differences which we regard as significant within the UK.

1. Broader policies and their effects on female migrants

Since the Labour Party came to power in 1997, the UK has by and large seen a continuation of the economic policies and labour market strategies of the Conservative party previously in power. The '**Third Way**' ideology (Giddens 1998) was proclaimed as the new direction of the (New) Labour Party, aiming to combine economic growth (through free market policies) with social rights, i.e. including neo-liberal as well as social democratic elements (Schierup et al. 2006: 114), or in the words of the National Action Plan on employment, 'promot(ing) enterprise and fairness together' (HM Treasury 2005: 13). Two central elements of the implementation of this ideology relate firstly to the emphasis put on a **flexible labour market**, and secondly to reforming the welfare system by redirecting the emphasis from a 'passive benefits system' to **welfare through work**. An important influence here is T.H. Marshall's (1950) notion of citizenship, where the right to employment is a central element.

The general trends of labour market policies are to a great extent summarised by the **UK National Reform Programme** published in **October 2005** as part of the **EU's Lisbon strategy**. A strong emphasis in the programme is placed on further improving the competitive power of the UK economy and businesses in the face of expanding global markets. 'Flexibility' is the key word in relation to both the labour market and the welfare state (HM Treasury 2005, see also DTI March 2006a).

The National Action Plan identifies 'five drivers of productivity: competition, enterprise, science & innovation, skills and investment' (HM Treasury 2005: 13). In relation to competition (as well as enterprise), it seems clear from this document that the UK aims to be on a level comparable to the US. It continually emphasises the country's better position in relation to other European Member States, while 'the gap with the US remains significant' (ibid 13). Reforms of the institutional framework controlling the market is an important part of this, signalled by the 1998 Competition Act, taking further 'action against anti-competitive agreements' (ibid 15) as well as the introduction of competition into more sectors. Measures to make the UK 'the best environment in the world for starting and growing a business' (ibid 18) include improved access to finance, tax reforms and regulatory and legal reforms, aimed to simplify existing frameworks and minimising administrative burdens¹.

More specifically, female-led enterprise (as well as that of other 'disadvantaged' groups) is identified as an area in need of expansion and enablement². Government has for some time been promoting self-

¹ One suggestion here is to avoid the over-implementation of EU law.

² As for science and innovation, one notable policy is the Research and Development tax credit scheme, while more generally improved links between higher education and business are promoted. In relation to investment, proposals involved are those that improve and facilitate the 'investment chain', and the long term plan is identified as that of 'removing the barriers that prevent capital markets from functioning effectively' (27).

employment amongst minority ethnic groups. 'Ethnic entrepreneurship' has flourished in the last few decades, and the explanations for this vary. While some writers have tended to focus on what they find to be cultural pre-dispositions for entrepreneurial activities and/or success (e.g. Werbner 1990, Basu 1995), others have emphasised the structural context of exclusion and disadvantage (e.g. Kloosterman et al. 1999, Phizacklea 1990, Anthias 1992, Ram and Phizacklea 1996, Ethnogenesis 2006). In terms of the governmental initiatives taken to improve support and assistance for ethnic entrepreneurs, a notable example is the Ethnic Minority Business Advisory Forum set up in 2000 to ensure that the needs of minority ethnic groups are taken into account in the work of institutions such as the Small Business Service (SBS) and Business Link. Business Link for London currently have specific centres for ethnic minority businesses, as well as for women, designed to increase access to support for those groups and make the services more suitable.

A major goal for this government is the target of full employment (defined at 80%) and 'increasing employment opportunity for all' (HM Treasury 2005: 37). Three sets of policies are proposed to work in this direction: '*active labour market policies* – tailored and appropriate help for those without work, both unemployed and inactive, to prevent long-term detachment from the labour market; policies that make work pay – *improved incentives* through reform of the tax and benefit system, and the introduction of the National Minimum Wage; and *policies that reduce barriers to work* – including education, skills, childcare and training policies to create an adaptive, flexible and productive workforce' (ibid 37).

The idea of 'making work pay' is a crucial component of the government's strategy towards full employment, the idea being to ensure that people will be better off financially by working rather than living on benefits. The two central policies in place to ensure this are the Working Tax Credit and the National Minimum Wage. The **Working Tax Credit** was initiated in **2003** and provides additional financial support for low income households, i.e. complementing incomes. **The National Minimum Wage Act of 1998** was introduced to ensure exploitation in the workplace would not take place. When first introduced in April 1999, the adult (over 21) basic rate was put at £3.60 gross. It generally increases in October every year, and in 2005 was set at £5.05.

A related effort, relevant particularly for women, is the government's concern to 'tackle the gender pay gap', and in July **2004** the **Women and Work Commission (WWC)** was launched. The final results of this were reported to the government earlier this year through a report entitled 'Shaping a Fairer Future' (2006). In response to the Commission's recommendations, the government has recently expressed its intention to increase women's opportunities in the British labour market. Practical measures include the introduction of '*equality reps*' that will function to increase awareness around flexible working rights as well as discrimination issues, an '*equality check*' to help companies monitor any patterns in gender inequality in the workplace, and *intervention at an educational level*, to increase young women's awareness of non-traditional work and career options. In terms of flexible working conditions, measures are aimed at increasing the flexible work options for all women, and in particular for those in senior positions: the latter to be achieved through providing funds for companies to increase the number of senior part-time positions. In summary, these measures aim, in the words of Government Minister Ruth Kelly, to 'establish a change in culture from the playground to the boardroom' (quoted in DCLG Newsletter 2006/0093).

The emphasis on 'flexibility' has implied a casualisation of the job market³, and a general flourishing of employee statuses in different sectors (Schierup et al. 2006). For our purposes, the main issue at

³ The notion of flexibility as used in the (2005) Lisbon strategy however seems to conflate ways in which 'flexibility' may work to the advantage of the different agents involved. We see from the overarching 'flexibility' agenda that it is intended to be flexible from the perspective of the employer, and although the issue is not extensively explored, it seems important to note that the flexibility exercised by employers is not necessarily the same type that favours the specific groups of workers (for example single parents) suggested to enjoy similar benefits from increased introduction of 'flexibility'. However a particular piece of legislation that does seem to favour the latter agent is the new flexible working law in 2003, which means parents with children under the age of six will be legally entitled to apply for flexible working (suited to their own requirements), and the employer being obliged to consider this request (DWP 2003: 22).

stake here concerns the legal framework regulating the different types of jobs. In relation to employment rights, there is a significant distinction between ‘employee’ and ‘worker’ in UK law. The definition of ‘employee’ in employment law is ‘an individual who has entered into or works under ... a contract of employment’ (ERA 1996, s.230(3)), and in turn only workers that fall within the remit of this definition have all the rights established in the **Employment Rights Act 1996**, including redundancy pay rights and unfair dismissal. However other rights extend to the wider definition of ‘worker’, such as the more recent National Minimum Wage legislation, as well as anti-discrimination legislation (see section 2.5). Another change concerns certain rules relating to deduction of wages. In the last few years, some of these rights have been further extended.

One positive development in the direction of ‘making work pay’ has been the expansion of rights for employees on part-time and fixed-term contracts, to ensure that they have the same rights as permanent full-time employees. The expansion of rights for part-time workers took place through the **Part-time Workers (Prevention of Less Favourable Treatment) Regulations of 2000 and 2001** (ensuring the same hourly rate of pay, access to pension schemes, access to training, and rights to parental leave and sick pay on the same conditions as full-time workers), while fixed-term contracts are regulated through the **Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations**, which came into force in **2002**. The latter includes the right not to be unfairly dismissed (after one year) and the right to statutory redundancy payments (after two years)⁴. The inclusion of a time ‘condition’ in relation to these rights highlights a generally important distinction in relation to employment rights relevant for the purpose of our study, namely the number of statutory rights that are achieved through **continuity of employment**.

As part of the move towards a more flexible labour market, the government in 2002 published a consultation document regarding employment status and employment rights, the results of which were published earlier this year. The question concerned the extent to which statutory employment rights should be further extended to include atypical workers, particularly casual and temporary workers. The responses from the different stakeholders usefully highlight some of the crucial tensions, divisions, and differences in interest existing between the different actors in the labour market, and notably employers and employees.

Employers (particularly in the private sector) were more or less happy with the current legislation and saw no need to extend employment rights to atypical arrangements. The flexibility offered by atypical workers not covered by statutory employment regulations was found by private employers to be a central component of the UK’s successful market – and hence retaining current legislation was regarded as the best means to ensure future competitiveness of businesses (however note that some public employers were inclined to emphasise the importance of being fair to all workers). Notably, employers, including private and public as well as agencies, all emphasised that an extended coverage would impact on their behaviour in a number of ways, including offering less atypical jobs while not at the same time increasing permanent posts, and also changing recruitment practices. They furthermore pointed out that this may work against those already disadvantaged in the labour market.

On the other side, a number of legal experts as well as organisations concerned with low pay and/or advising workers were concerned with the distinction between ‘employees’ and ‘workers’ and were in favour of an extension of rights. Unions similarly found a need for modernisation of the legislation and did not agree with the idea put forward by employers that extended rights will lead to fewer jobs. The unions were in favour of a broader definition of ‘employee’, to include ‘agency workers, homeworkers, ‘casual’ workers, officeholders, freelancers and the nominally ‘self-employed’ who are economically dependent (DTI 2006b: 7), which would enable more people to access employment rights. They furthermore highlighted the issue of continuity of service that blocks access to certain rights that have set qualifying periods. Finally, they made the point that the present scenario could function as an incentive for employers to deliberately employ atypical workers in order to limit their rights.

⁴ It is worth noting, however that this was not a UK initiative, but derives from an EU directive that implements an agreement on part-time work brokered between social partners at an EU level.

Despite such concerns, the government has for the time being decided to favour the perspectives of the former stakeholders (and notably employers) in view of the goals of flexibility, competitive power and economic growth as outlined by the DTI (DTI 2006b). Furthermore, the comments made by both employers and agencies in relation to a possible change in practice and loss of jobs, affecting particularly those ‘already disadvantaged’, could be regarded as a threat posing a particularly difficult dilemma for the government to solve.

The focus on full employment emphasised in the NAP on employment is furthermore a central element to policies surrounding both **social inclusion** and **integration**. In the NAP on social inclusion, the link between economic growth and social justice is emphasised as part of the ‘UK’s anti-poverty strategy’. Focus is put on strengthening the economy, making it more flexible to ensure ‘that work is available to all who can work’, and ‘developing first-class services’ (DWP 2003-5: 19) universally accessible to ensure the existence of a safety-net. The idea behind this agenda is that an improved economy will be better equipped to improve the public services – henceforth the conviction that it will favour everyone. Health, education and transport are put forward as priorities of investment in the public sector. Furthermore, it is proposed that minimising reliance on benefits will free up money to be invested elsewhere (DWP 2003: 19). However, as Schierup and his colleagues point out (2006: 111-136), the growth of the GNP is taking place alongside fast growing social and economic inequalities and the inability of many to enjoy the right to welfare in different forms.

In this introductory section we have outlined the main general developments in the UK economic and labour market framework. Aside from providing the general context in which migrant women’s work is situated, the framework is crucially important also for understanding the UK’s current immigration policy, which is developing according to similar goals: improving market success while relieving supposed pressures on the welfare state.

1.1 Policies regulating employment in sectors with high participation of migrant women

1.1.1 Policies regulating domestic and care work

The policy scenario with regards to work in these sectors is rather complex, and status and rights for workers depend on a number of factors, such as the employer and the employment contract. For example, workers employed first hand by hospitals or nursing homes differ from those employed in a private household. In turn, agency workers or those employed by a company providing domestic services differ from both of these by being employed through a mediating body. With regards to migrants the scenario is even more complex, considering a range of entry-points and the different rights attached (see the UK ‘points system’ of immigration described in section 2.1). As our research is concerned with migrant women specifically, we will attempt to outline some important distinctions within this group, and the rights attached.

In terms of the specific conditions for migrants working in the domestic sector, migrants employed in this immigration category do not require a work permit, although they need to obtain prior entry clearance (permission to stay for 6 or 12 months). There is a **Domestic Worker Visa** (since **1998**) available only for workers accompanying employers (coming together with their employer). However, employers may employ domestic workers who are already in the UK on a range of different visas including student visas, WHM visas, business visas, au-pair visas etc (Anderson and Rogaly 2005). Otherwise, the only legal way to apply for household help from abroad is the *au-pair scheme*.

Under the current rules regulating the rights of workers that have a specific Domestic Worker visa, such workers can move to another household as long as the work is in the same sector. If the migrant is no longer working as a domestic worker, she/he has to apply for permission to stay. Indefinite leave to remain may be granted after five years in the UK. In terms of employment rights, these are agreed between the worker and the employer, and should conform to the general rights of workers. Historically, work taking place in the employer’s household has been exempted from a number of the

rights outlined above, including those provided by discrimination legislation. However, this weakness has been increasingly rectified with time, and in relation to discrimination, these workers are now protected by the Sex Discrimination legislation (since 1987) and Race Relations legislation (since 2003) (see further section 2.5).

A written contract is important for setting out rights of domestic workers, and an employer is required to provide this within two months of work. However, even without a written contract workers are entitled to certain rights, such as the minimum wage, holiday and maternity rights. One important issue concerns continuity of service which determines access to a number of statutory rights: e.g. seven months is required for full entitlement to maternity rights (with a distinction between ordinary and statutory maternity leave)⁵.

However, as noted by Anderson and Rogaly (2005), in many cases the employer can exercise considerable power over the domestic worker, and excessive working hours and low pay are often serious problems for migrants working in this sector. Furthermore, more recently the Home Office has been reconsidering the conditions currently in place and proposed to restrict the time of the Visa (to six months) while withdrawing both the right to change employer and the possibility of future settlement. The idea of restricting the time is related to the intention that the employer should, within that period, be able to find an EU national to take up the position. This is in line with the UK's general migration policy, intended to 'phase out' labour immigration from non-EU countries through the labour force provided by the new accession countries (see section 2.1). These suggestions are part of a wider transformation of the British immigration system, and the development of a so-called 'points system' for labour immigration. This system, generally, and the consequences for different groups of migrant workers, such as domestic workers, specifically, are discussed in section 2.1.

Employment conditions for domestic workers who do not have the specific domestic worker Visa to some extent differ, such as for those who have entered as part of an au-pair scheme. Here, employment rights are limited, as this form of activity is regarded as part of a cultural exchange rather than work per se. Au pair Visas are given to single people (the person must not have any dependants) from certain countries (mainly countries on the EU's eastern border) between the ages of 17 and 27 who want to come to the UK to study the English language. Work is restricted to five hours a day, and au pairs are entitled to a guaranteed two full days off every week. The host family must provide the accommodation, and the recommended rate of payment is £55 per week. Au pairs may stay in the UK for up to two years, and they must be self-sufficient, in other words they do not have recourse to public funds⁶.

In terms of the overall agenda of the UK government, as outlined above, an important feature affecting the domestic and care sector and migrant women on a more general level concerns its expansion, and the consequent need to fill increasing gaps in the workforce. In its pursuit of expanding the care sector, the UK government has opened up legal routes for large scale labour immigration to fill some of these gaps (see further section 2.1). In relation to migrant women workers, the case of overseas nurses is notable, and it is an example through which we can observe some differences in approach to labour immigration between different European countries: the UK being that which to a greater extent than most other countries has created such legal routes. However, the recognition of a need for migrants to fill gaps in the labour market has not greatly extended to the less skilled areas, where jobs are in abundance while legal routes to access them remain limited.

1.1.2. Policies controlling prostitution

Whilst prostitution is legal in the UK, there are a number of pieces of legislation that function to control it in scope and form. With the **1956 Sexual Offences Act**, keeping a brothel or landlords/tenants allowing for prostitution to take place in one's premises was made illegal. Through

⁵ www.kalayyan.org.uk, accessed 17/05/2006

⁶ http://www.ind.homeoffice.gov.uk/working_in_the_uk/en/homepage/schemes_and_programmes/au_pairs.html, accessed 19/05/2006

the **1959 Street Offences Act**, loitering and soliciting became offences, which extended the ability of the police to regulate prostitution on the street, and with the later **1985 Sexual Offences Act**, kerb-crawling was made an offence. The **Criminal Justice and Police Act of 2001** made advertising prostitution an offence.

A recent and important piece of legislation is the **2003 Sexual Offences Act**. This Act regulates a number of actions in relation to children and prostitution, and a number of offences are introduced making it illegal to pay for the sexual services of a child, as well as causing, inciting or controlling children in relation to prostitution and/or pornography. In relation to adult prostitution, it legislates against causing, inciting and/or controlling prostitution for gain. Furthermore, this Act specifically addresses the issue of trafficking for sexual exploitation (covering both children and adults, see further section 2.7). Finally, the Act has also functioned to gender neutralise the 1959 and 1985 Acts mentioned above. Another relevant piece of legislation is the outcome of the **Domestic Violence, Crime and Victims Bill (of 2004)**. It includes new police powers to deal with domestic violence and extended protection of victims, including a code of practice for the agencies dealing with victims, extended use of restraining orders, and generally an increased say of the victims in relation to their need of protection. Although this does not specifically relate to prostitution, it bears relevance to women as victims of men whilst being involved in the sex trade.

In July 2004, the government published a consultation paper on prostitution, the results of which were reported in '**A Coordinated Prostitution Strategy**' in **January 2006**. The consultation paper outlines a number of initiatives to complement legislative developments, noting that not all of these are particularly about prostitution, but relevant areas (for example the Child Poverty Review announced in 2003). The recent strategy proposed by the government indicates a move towards a more zero-tolerance policy which is becoming particularly restrictive, especially with regard to street prostitution⁷. This can be understood by the strategy's four key objectives: to challenge the view that street prostitution is inevitable and is here to stay; achieve an overall reduction in street prostitution; improve the safety and quality of life of communities affected by prostitution including those directly involved in street sex markets; and reduce all forms of commercial sexual exploitation (Home Office 2006a). In particular, the government has rejected the proposed idea of Managed Prostitution Zones based on its recognition of the overwhelming negative effects that street prostitution has on communities, and the lack of choice exercised by prostitutes working on the streets.

The government's exclusive focus on street prostitution has been criticized for neglecting other areas where exploitation could occur, and in particular the impact more restrictive laws concerning the street sex industry may have on trafficking and on the visibility of the most vulnerable victims of exploitation⁸. Another aspect of the strategy which has attracted much media attention is the proposal to allow mini-brothels. This is intended to increase the safety of women working on their own, while limiting the brothels to two or three people so as not to cause disturbances to neighbours. Critics of this include the organisation Rights of Women, advocating that whilst this will offer women a new level of safety, it should only be part of a wider strategy to empower women to leave prostitution through exit routes with appropriate and long-term support⁹. They also criticise the disproportionate focus on the 'community' as the victim of prostitution, rather than the women in prostitution.

Analysing shifts in the policing of prostitution, Teela Sanders and Keith Sothall (2006) suggest that an emphasis in the 20th Century was put on public order, morality and the protection of citizens from exposure to offensive behaviour (the **1957 Wolfenden Report** on prostitution and homosexuality significantly reflected this approach and the current strategy). The authors argue that the distinction between the public and the private was central here in relation to what should be policed. The 1959 law did not really interfere with non-street prostitution, which the authors suggest left a loophole for prostitution to take place legally indoors – in turn having the general effect of pushing it 'out of sight',

⁷ A notable measure concerns the use of the so-called Anti-social behaviour orders (ASBOs).

⁸ http://www.hero.ac.uk/uk/inside_he/street_talking.cfm, accessed 13/09/2006

⁹ http://www.rightsofwomen.org.uk/pdfs/focus_on_women_4.pdf#search=%22focus%20on%20women%2C%20prostitution%22, accessed 13/09/2006

something that they argue was to become a general trend in the area of social legislation in the 1960s. In the 21st Century we see a general shift towards the ‘public protection’ role of the police, in the face of a number of social processes, including organised crime and the perceived threat of terrorism. This shift is discussed further in the introductory part of section 2. Sanders and Soothall suggest that there is an increased recognition of the specificities of the two different markets of outdoors and indoors prostitution, and while a ‘zero tolerance’ has been announced towards the former, increasingly the latter has become less of a target (blurring the boundary between policing and regulating). However, at the same time it is important to note the increased emphasis put on controlling and inciting prostitution, notably in relation to trafficking practices, to be discussed in section 2.7. Aside from changes in legislation surrounding prostitution, we have also seen a shift in who does the policing of it, where there has been ‘an ongoing transference of regulatory responsibility back to welfare agencies, public health authorities, localised systems of licensing, multi-agency partnerships, communities and a return to the expectation of individual responsabilization’ (Sanders and Soothill 2006: 16).

1.2 Unemployment policies

Echoing the National Action Plan on employment, the **National Action Plan on social inclusion 2003-2005** is similarly focused on full employment, here presented as a means for achieving general social inclusion. Priority areas include older people, people on disability allowance, lone parents, ethnic minorities, and people living in disadvantaged areas. Furthermore, a catch-phrase of the social inclusion agenda in the UK in recent years has been the target of ‘eradicating child poverty by 2020’ (e.g. DWP 2003). The dominant idea is a reform of the welfare state from a ‘passive’ model to one centred on active labour market policies, relying largely on a type of conditional benefits system requiring the recipient to engage in various labour market measures. Notions of individual responsibility and compliance have become important aspects of the revised welfare regime¹⁰ (DWP 2003 and 2006).

There are two notable overall trends with regards to unemployment policies: firstly, the establishment of a system of means-testing in relation to unemployment policies, including payments to and measures for the poor and unemployed. The idea here is to identify the specific need, and target groups in need of help and support. Secondly, we see a broad aim to get people into work, ultimately to reduce the costs to the state. In relation to benefits, this implies principles of conditionality and compulsion. A good example concerns the so-called jobseekers allowance, a new version of income support to which active labour market measures are attached. This entails receiving support on the condition that you comply with the measures set out for you, including attending meetings, seeking work, and going to job interviews when offered. However, the government has carefully worded this strategy as not one of compulsion but of ‘empowerment’: empowering people to work and helping them out of unemployment and welfare dependency. The ultimate aim of policies in this area is to break the so-called ‘dependency culture’ by tying benefits to signing up for interviews and so on..

Because the main agenda of the current UK government is social inclusion through work and a reformed welfare regime along those lines, the more specific measures are covered in the following section, concerned with policies in place for (re)entering the labour market.

1.3 Social policies for re-entering the labour market

The main institutions and initiatives put in place as part of the government’s strategy of ‘Welfare to Work’ include the **Jobcentre Plus, the New Deal, Employment Zones, Action Teams for Jobs and Intermediate Labour Markets (ILM)**. Furthermore, the strong insistence on entrepreneurship as a means both to achieve economic growth and overcome unemployment is an importance feature of UK employment policy (see the introductory part of section 1, including the brief discussion of measures in place for minority ethnic groups and women).

¹⁰ Critics such as Schierup et al. (2006) argue that this type of welfare regime – termed ‘workfare’ – has the function of pushing people into low-paid (as well as unsatisfactory) jobs from which they have previously enjoyed the right of withholding their labour.

One important measure linked to the target of full employment is the introduction of **Jobcentre Plus** offices (launched in 2002). A significant change here is the introduction of a type of income support linked to active labour market measures through a principle of conditionality (however there are certain groups who are exempted, such as the severely disabled). Other interlinked measures are the '**New Deal**' programmes (launched firstly in 1998), currently taking place through the Jobcentre Plus offices, giving intensive support towards employment, and targeting specific groups identified as facing particular difficulty. The groups currently targeted are people on incapacity benefits¹¹, lone parents (measures include increasing childcare facilities and the availability of flexible work) and older people (measures include raising the pension age and developing policies against age discrimination, the latter is to be implemented later this year).

Other groups identified are ethnic minorities and people in deprived areas. In relation to ethnic minorities, an important initiative is the so-called **Ethnic Minority Employment Task Force**, concerned to target and combat the main factors that lead to minority ethnic disadvantage in the labour market, and to emphasise their specific needs. The task force was established following recommendations from the government's Strategic Unit (designed to propose measures for improving the employment performance of minorities) in 2003. The recommendations, and the work of the taskforce, centre on three main points: 'Action to improve employability by raising levels of educational attainment and skills; Action to connect people with work by reforming existing employment programmes, tackling specific barriers to work in deprived areas, and promoting self-employment; and Action to promote equal opportunities in the workplace through better advice and support to employers, and through more effective use of levers such as public procurement'¹².

Employment Zones is another intensive programme designed to get people into work. It works by appointing people as personal advisors, and the idea is to individually tailor measures by identifying individual preferences and skills as well as the obstacles encountered, and helping and supporting people through the job search as well as starting work. The work is done by contractors in different areas of the country. People can be referred to Employment Zones by their Jobcentre, and some people (those who have been dependent on jobseekers allowance for extended periods of time) are obliged to participate. Some people can get involved in Employment Zones even if they do not display such a history, but they suffer from circumstances that create difficulties in finding work. **Refugees** and persons who have gained **exceptional leave to remain** in the UK are two such groups mentioned on the Employment Zones website. Once a person has joined the programme, they have to fulfil a range of requirements, such as meeting appointments set up, and generally following the action plans. If these requirements are not met, sanctions involve reduction or withholding of Jobseekers allowance for a period of time¹³. **Action Teams for Jobs**, run through the Jobcentre Plus, is a similar programme, targeting the groups most excluded from the labour market, including ethnic minorities, and addressing their obstacles, helping people to gain the skills and confidence needed to enter the labour market. One notable difference from the former programme is that in this case, according to the website, 'you set the pace', i.e. the requirements are not emphasised, and no sanctions are mentioned¹⁴.

Intermediate Labour Markets (ILM) refers to the creation of temporary jobs for individuals that suffer particular difficulties entering the active labour market. Through such jobs, individuals are meant to gain skills and training that will make them more confident and employable. The jobs created are normally in areas 'added' to the labour market, such as local regeneration activities or community work. Partners managing ILMs can get funding from a number of different sources, including the New Deal and the European Social Fund. A (2000) Joseph Rowntree Foundation study of ILMs was

¹¹ The plan identifies as a great problem the increased number of people of working age currently on incapacity benefit, and aims to encourage greater levels of return to work amongst people currently designed as incapable to work because of a disability or long-term illness.

¹² <http://www.emetaskforce.gov.uk/taskforce.asp>, accessed 10/04/2006

¹³ <http://www.employmentzones.gov.uk/key.htm>, accessed 10/04/2006

¹⁴ <http://www.jobcentreplus.gov.uk/JCP/Customers/Programmesandservices/Actionteams/>, accessed 10/04/2006

positive about its effects on both individual participants and the local communities benefiting from their work, but pointed out the uncertainties relating to funding posing a problem¹⁵.

The focus on skills in the NAP on employment is an area with particular relevance for our purposes, and more specifically the policies and measures in place for adult individuals to gain skills. The **Learning and Skills Council** was set up in **2001** ‘to make England better skilled and more competitive [and] make sure we have a work-force that is of world-class standards’¹⁶: in other words a strong emphasis on increasing skills in relation to the needs of employers. A problem is identified in relation to the number of adults lacking basic skills, and several measures are proposed to solve this, including free tuition in England for adults up to upper secondary level of education, provided either through Further Education colleges for individuals or via employers through the National Employer Training Programme (programmes will start in 2006-7). The provision of skills training will be closely linked to labour market needs (overseen through Sector Skills Councils (2005) and Skills Academies (2007-8). Furthermore, a simplification of the vocational qualification system is proposed¹⁷. Further examples of recent initiatives in the area of adult education include the Union Learning Fund, the Adult and Community Learning Fund, Community Access to Lifelong Learning, and New Deal projects, such as Work Based Learning for Adults.

An institution with particular relevance for migrants in this area concerns the **National Academic Recognition Information Centre for the UK (NARIC)**, which is the official information provider concerning the recognition of foreign academic qualifications and advising on what is required, e.g. further education or training, in order to make them compatible with British qualifications. It is contracted by the **Department for Education and Skills** and is supplemented by the **National Centre for Vocational Qualifications** as well as the **National Europass Centre**.

1.4 Policies combating illicit work

There are two interrelated strands of legislation to be covered in this section: on the one hand the policies put in place to prevent and combat illicit work generally, and on the other the legal rights and entitlements of workers involved in illicit work. In relation to the former, we have recently seen a strong emphasis on combating illicit work through a policy debate that is often strongly interconnected with that of illegal immigration and trafficking (more specifically discussed in sections 2.6 and 2.7). The **1996 Asylum and Immigration Act** introduced penalty fines (up to £5,000) for any employers who employed people without the correct documentation (i.e. permission to work in the UK). More recently, the five year plan on immigration and asylum (see further section 2.1) has proposed the introduction of fixed penalty fines (£2000) for employers for each ‘illegal’ worker they employ. One possible risk related to this policy is that it may lead employers to be reluctant to employ anyone who may be considered as having ‘immigration issues’ (Refugee Council 1999). This could furthermore disadvantage migrants generally through the ignorance of employers towards immigration rules and statuses, or becoming an excuse for breaking anti-discrimination legislation (see section 2.5).

Another important piece of legislation in this area concerns the **2004 Gangmasters Act**, which introduced a compulsory licensing system for gangmasters (a person who supplies a worker to work for another person), and employment agencies who provide or use workers (regular or irregular) in the agriculture sector. The aim of the Act is to reduce the exploitation of workers (ippr 2006). Furthermore, a new offence is proposed in the **Immigration, Asylum and Nationality Bill 2005**, criminalising employers who use the labour of illegal immigrants knowingly. Two other notable initiatives are the **Joint Workplace Enforcement Pilot (JWEP)**, which was launched last year in order to gather information about employers using illegal migrant labour, and **Reflex**: a multi-agency task force concerned with tackling organised crime. International and bilateral cooperation is strongly

¹⁵ <http://www.jrf.org.uk/Knowledge/findings/socialpolicy/970.asp>, accessed 02/05/2006

¹⁶ www.lsc.gov.uk, accessed 10/04/2006

¹⁷ A seemingly important scheme is the ‘New Deal for skills’ targeting adults with low skills levels. Measures include facilitating access to training and skills, and simplifying the recognition of skills through so-called ‘skills passports’.

emphasised, and in relation to Reflex, measures include awareness raising and training of police of organised crime.

When it comes to the rights of ‘illegal workers’, legislation is rather complicated and somewhat unclear. When calling the public employment rights advisor helpline ACAS¹⁸, the answer was a straightforward ‘of course, if it is not legal, they have no rights’. However, legislation and the history of employment tribunal cases provide a more complex picture. A case which has attracted a lot of attention and provides a good example of the approach taken by courts in relation to illegality vis a vis rights is described below¹⁹.

X was an asylum seeker whose application had not yet been processed (it is notable that he applied in 1992), and hence he did not have the right to work in the UK. However, he managed to get employment in 1999 as part of a scheme for persons with overseas qualifications to train as teachers, by producing the necessary documents (such as a National Insurance Number) and claiming he did not need a work permit. He was dismissed from his job eight months later. X then made a complaint to the employment tribunal, claiming he had been subject to race discrimination and victimisation by his employer and colleagues, both in the workplace (harassment and unfavourable treatment) and in relation to his dismissal. On X’s behalf it was argued that his complaint has less to do with the contract per se and the right from discrimination generally. However the Court emphasised that most complaints made by X were related to the contract, and because of its illegality, these were taken to be invalid.

The decision by the Court not to allow the application to proceed was attributed to the fact that his complaints were ‘inextricably bound with the illegality of conduct in obtaining and continuing that employment’, whereby a positive decision could ‘appear to condone his illegal conduct’. The problematic aspect of such cases, as argued by the Court in relation to X’s case, concerns the tension between two areas of public policy to which there seems to be so far no easy answer. The Court of Appeal explicitly problematises the ‘application of the illegality doctrine in an all-or-nothing way’, and suggests it needs to be considered on a case-by-case basis depending largely on the relation between the illegal activity and the claim or complaint made: in turn implying that when the complaint is extrinsic to the illegal conduct, the outcome could be different (ibid). An aspect of British policy and legislation worth noting at this point concerns the role of case law, which plays a significant role compared to countries such as Sweden (Lappalainen 2004).

2. Policies targeting migrants

Before looking at the detailed policies and policy areas focused on migrants specifically, it is worth noting a more general political shift that has taken place in the last few years with great consequences for the position of migrants and ideas about citizenship, namely policies related to the so-called war on terror, which followed on from the 9/11 attacks on the US. This war, waged internationally as well as domestically in countries fearing attacks, has significantly transformed the policy landscape. It has on the one hand turned migration into a security issue, and on the other begun to significantly compromise human rights conventions and standards. In the UK, this trend has been exacerbated since the suicide bombings in London in July last year: an event that forms an important background to both anti-terrorism legislation, and the shift in migrant and minority ‘integration’ policies, to be discussed in section 2.2. In terms of the anti-terrorism legislation, a notable example concerns the government’s wish to extend the period under which a person can be detained without charge to 90 days, and the general extension of police powers in the name of security, which has clear racialised connotations.

In May this year, a debate about immigration, crime and the judicial system took place in the UK, which raised a lot of concerns about upholding human rights generally and the right to asylum

¹⁸ The role of ACAS (Advisory, Conciliation and Arbitration Service) is to provide advice and guidance to both parties in discrimination claims.

¹⁹ In order to protect the identity of the person in question, the specific references to the case have been left out.

specifically. The debate began when the party in opposition ‘revealed’ findings indicating that ‘foreigners’ who have been released from British prisons after having served their sentences were let out on the streets instead of being considered for deportation. The ‘problem’ was presented as the release of potentially dangerous foreign criminals implying a serious threat to the security of the British public, and the debate arguably led to the replacement of the Home Secretary Charles Clarke. One of the points strongly emphasised by human rights activists following the ‘revelation’ concerned the importance of looking at the situation and status of the ‘criminals’ collectively condemned to deportation through the fierce political attack and the media coverage that followed. A notable cause for concern is the fact that any decision about deportation would need to take into account the threat of persecution posed to the person through return to his/her country of origin, which in turn gives him/her the right to protection through international conventions on asylum and human rights. However, such rights are notably absent in recent responses from the government that centre on public safety (that according to the new Home Secretary John Reid ‘takes priority’, see *The Guardian* 17/5/2006), deportation (*The Guardian* 18/05/2006), an overhaul of the British justice system, and a revision of human rights legislation in light of the obstacles it is seen to pose to public safety and security (*The Observer* 14/05/2006 and *The Guardian* 15/05/2006).

A related debate similarly fuelled by ‘revelations’ and accusations levelled at the government from the opposition party concerns the number of ‘illegal immigrants’ currently present in the UK, to which a government official apparently had responded that he did not have ‘the faintest idea’, which according to the Conservatives is a sign of complete lack of control over the immigration system (*The Guardian* 17/05/2006). It is notable that the response of the government on both these accounts has not been to offer an alternative perspective on the issues. Instead, they have stressed the importance of being ‘tough’ on immigration, both by highlighting their ‘achievements’ in the area of reducing asylum applications, refusing asylum and increasing deportations, and by introducing further measures to make the regime even stricter and compromising of human rights.

2.1 Migration and naturalization policies, policies regulating residence and work

2.1.1 The 90s and onwards: towards ‘managing migration’ (and the migrant population)

Throughout the 1990s, labour market shortages became evident in many sectors of the UK’s economy. The Home Office’s acknowledgment of this led to the creation of a system of ‘managed migration’ that would facilitate the entry of an increased number of migrant workers needed by both the private and public sector. As a result, the **Highly Skilled Workers Programme (HSWP)**, the **Seasonal Agricultural Workers Scheme (SAWS)** and the **Sector Based Schemes²⁰ (SBS)** were launched, while the economic benefits of immigration were recognised. The government’s strategy was set out more fully in the **2002 White Paper** entitled ‘**Secure Borders, Safe Haven**’, and the **2002 Nationality, Immigration and Asylum Act**. The White Paper claimed to represent a ‘new approach’ to immigration in modern Britain. It presents immigration as a source of economic enrichment, while it also notes immigrants’ cultural contributions: ‘This diversity is a source of pride, and it helps to explain our cultural vitality, the strength of our economy and our strong international links’ (Home Office 2002). However, critics (Schuster and Solomos 2004 and others) emphasise the selective dimensions involved in this system pursued by New Labour since: a managed regime of migration aiming at controlling inflow of selected numbers of ‘desirable’ migrants and the exclusion of ‘undesirable’ migrants.

Furthermore, during New Labour’s first term, the **1999 Immigration and Asylum Act** significantly transformed the UK asylum regime. The Act introduced vouchers instead of cash benefits (cash was regarded as an invite to fraudulent claims), a system of dispersal on a no-choice basis, and the power to fingerprint asylum seekers. It furthermore criminalised illegal entry, while also intensifying the practice of detention, and changing the name of detention centres to ‘removal centres’. This strategy

²⁰ This type of migration is limited to 12 months: it allows return but not renewal or settlement.

was aimed at emphasizing the Home Office's will to detain only those believed to be likely to escape, and who were at the end of the asylum assessment procedure. Furthermore, the **1996 Asylum and Immigration Act** had already established a clause stating that asylum seekers who failed to claim asylum at first point of entry to the UK or had received a negative response to their application (so-called 'failed asylum seekers') were removed from the benefits system.

The 1999 Act was fiercely criticised on several grounds. The voucher system put in place was regarded as both stigmatising and humiliating for asylum seekers. Furthermore, the vouchers were set at a rate lower than the general income support level, and while the voucher system has been subsequently withdrawn, the same rate of benefits (70%) was retained, implying a lesser right to welfare for asylum seekers. Regarding the dispersal policy, this was put in place in order to relieve 'pressure' on the London area, and furthermore the government was keen to use cheap and available housing outside the capital. However, critics questioned the quality of the housing provided, and they also warned against the risks entailed in housing asylum seekers in often small and deprived areas. Indeed there was a great deal of local resistance as well as a series of attacks on asylum seekers. An asylum seeker quoted in Fekete (2001: 34) states 'We came to England to seek safety but have been treated worse than animals' (The dispersal policy is discussed further in section 2.1.3). Finally, the policy was criticised for the criminalisation of illegal entry, which goes against article 31 in the Geneva Convention on the rights of refugees to seek asylum.

The strategy developed during New Labour's second term had three main goals: to establish new channels of migration for certain types of workers, an intensification of the struggle to control the entry of asylum seekers, and a shift from multiculturalism to a policy of social cohesion or integration, including an increase in demands put on migrants. Indeed, the **2002 Nationality, Immigration and Asylum Act** included sections on citizenship that refer to the need for those migrants allowed to enter and settle to develop a 'shared sense of belonging and identity' and acquire a knowledge of the language (English, Gaelic or Welsh), and to the opportunity for the new citizens to celebrate the acquisition of their British nationality (Home Office 2002). As Schuster and Solomos (2004) observe, 'the government has shifted increasingly since 2001 towards a language of 'integration' and of the need to 'maintain and develop social cohesion and harmony within the United Kingdom''. In turn it suggests that this can be reached only if those who wish to settle in Britain respect and embrace the 'values of the host country' (Home Office 2002: 72).

The **White Paper 'Secure Borders, Safe Haven'** (Home Office 2002: Para 1.3) presents managed migration on the following terms:

'If managed properly, migration can bring considerable benefits to the UK, including improvements in economic growth and productivity, as well as cultural enrichment and diversity. Managing migration means having an orderly, organised, and enforceable system of entry. It also means managing post-entry integration and inclusion in the economy and society, helping migrants to find their feet, and enabling members of the existing population to welcome them into their communities'.

A central idea of New Labour's immigration policy is highlighted here: that the management of entry, and therefore controls, are necessary to guarantee social cohesion (Sales 2005). While the creation of categories of 'outsiders' is an important consequence, this approach is also creating a new category of so called 'insiders'. With the ongoing EU enlargement, new boundaries between those allowed to enter and to some extent 'belong', and those who have to be stopped and excluded, are being created. Note here that the UK, along with Ireland and Sweden, has not imposed entry controls for citizens of the new EU countries, and in fact the use of labour from these countries can be regarded as an important element of the UK's long-term economic and immigration strategy. The new European Union citizens from central and Eastern Europe are becoming the new 'insiders' (Sales 2005). This element is even clearer in the recent five-year strategy on immigration, discussed below.

2.1.2 The points system and the (gendered) 'stratification of rights'

The **2005 Immigration, Asylum and Nationality Bill** is part of a package of measures which includes the Home Office five-year strategy for asylum and immigration, '**Controlling Our Borders: Making Migration Work for Britain**' (Feb 2005), and the Home Office strategic plan 2004-2008, '**Confident Communities in a Secure Britain**' (Jan 2005). The five-year strategy aims at targeting migrants who are most likely to maximise growth and productivity (selective admission). Key features are: 'Only those who benefit Britain can come here to work or study; to strengthen the UK's borders; to crack down on abuse and illegal immigration; and increase removals' (IND 2005).

In turn, key measures in the strategy include a points system for those coming in the country to work or study, which is intended to reduce the complexity of the current system. Points will be adjusted to respond to the changes in and needs of the labour market rendering the system flexible but at the same time able to control the flows. The proposed points system for non-EU citizens who wish to come to the UK to work will consist of four tiers:

- **Tier 1 (Highly Skilled):** Those who will be included in this first tier, such as doctors, engineers, finance experts and IT specialists, will be able to come to the UK without a job offer.
- **Tier 2 (Skilled):** Tier 2 workers will include nurses, teachers, administrators and others with skills at NVQ level 3 (A level equivalent) and above. They will be able to enter the country only with a job offer in a shortage area, and if the employer cannot find the skills required within the UK or EU. Where additional needs will be identified in the future, the idea is to have small and tightly managed quota based schemes for specific shortage areas and for fixed periods only, with guarantees that migrants will leave at the end of their stay permit.
- **Tier 3 (Low Skilled):** The **Sectors Based Scheme (SBS)** forms part of this tier, and jobs are currently only available in the food manufacturing industries (meat and fish processing and mushroom production). As the scheme is designed to meet short-term labour shortages, stay is restricted to one year. Neither rights to settlement nor family reunion are given to migrants with this status. Moreover, following a change to the Immigration Rules introduced in October 2004, migrants entering the country under the SBS are no longer allowed to switch into permanent schemes. However, satisfactory completion of a period of leave under Tier 3, and return home, could be followed by another entry in the same or a different tier. In light of the additional labour that can be provided by the new EU countries of Central and Eastern Europe, the Government has indicated its intention to '**phase out**', in the future, **low skilled migration** schemes in the agricultural, hospitality and food processing. Note that the hospitality quota has been abolished since workers from the expanded EU have filled that particular labour-market demand.
- **Tier 4 (Students and Specialists):** This tier will bring together students and a range of schemes where there is no significant issue of competition with the domestic labour force. It includes visiting workers representing overseas governments or international companies based in the UK. It will also replace some existing work permit or work permit-free categories. Migrants entering Britain under this tier will only be allowed to stay in the country temporarily, will be subject to a mandatory entry clearance, and will not have rights to settlement.

The **Working Holiday Makers** scheme (WHMs) is included in tier 4, and is a scheme aimed particularly at citizens of the Old and New Commonwealth. It is furthermore a highly feminised scheme. The rights of migrants who enter the UK under this programme have changed over the last few years. Through the 2003 Asylum and Immigration Bill, their conditions of entry and stay were significantly relaxed. However, in 2005 restrictions were introduced regarding the type of job that migrants can undertake. It was specified that the job cannot be directly related to their career, and it also sets a limit of no more than a year full-time work out of a two year stay. However, Working Holiday Makers have the possibility, after at least twelve months of living and working in the UK, to switch to a work permit for a shortage occupation, or to a highly skilled scheme, which would also grant them the possibility to settle in Britain.

Migrant domestic workers are another group for which changes in the immigration system and the rules and rights attached will have serious consequences. In section 1.1.1 we discussed the current position of these workers, including its improvement through the 1998 Domestic Worker Visa, following campaigning by NGOs and others. These organisations are now concerned that we will soon see these improved conditions being pulled back. The points system first of all does not include domestic workers, but in terms of the overall system developed, the Home Office has proposed a change in conditions for these workers. This consists in restricting the domestic worker's Visa to six months, removing the possibility of changing employer, as well as the possibility of a route to settlement. In turn this would lead to a situation where domestic workers lose some of the rights that they have significantly gained only recently, and lead to them becoming increasingly vulnerable: lacking a safety net, and being prone to exploitation as well as abuse from employers.

Going back to the points system, we see that if a 'highly skilled' migrant will be able to enter the UK without a job offer, anyone below Tier 1 will need a so-called '**sponsor**'. The sponsors are designed to share the responsibility of ensuring that migrants comply with the requirements attached to their residence/work permit. Moreover, where the Home Office considers that there is 'evidence' of previous abuse, migrants (or their sponsors) will be required to deposit a financial **bond** to guarantee that migrants will return home.

As far as **permanent settlement** is concerned, only 'skilled' labour migrants (i.e. those under Tier 1 and 2) will be eligible. In order to apply for permanent residence, they will need to have been employed and paying taxes for five years (an increase on the current four years), and they also need to pass an English test²¹. Migrants below Tier 2 do not have access to a route to settlement. Following a 'guest-worker' approach, they will have to leave when their Visas expire. Critics warn that these proposed restrictions for lower skilled and unskilled migrant workers as part of a temporary regime could first of all create a workforce vulnerable to abuse by exploitative employers, and secondly be damaging to the integration agenda²². Thus, both entry and settlement regulations create and maintain a strong differentiation between 'deserving' migrants and 'undeserving' migrants (Yuval-Davis et al. 2005).

As stated in the five-year strategy, the government and the Home Office acknowledge the vital and positive contribution that migrants can make to the country's economy, while at the same time we see a marked concern to ensure the public that the UK immigration system is run properly and with severe and strict controls that work.

'This country needs migration – tourists, students and migrant workers make a vital contribution to the UK economy. But we need to ensure that we let in migrants with the skills and talents to benefit Britain, while stopping those trying to abuse the hospitality and place a burden on our society'²³

This statement alludes also to the strengthening of pre-entry, border and in-country controls, which is seen as the precondition for ensuring the permanence of harmonious social relations in a multicultural Britain, and as an essential instrument for clamping down on 'illegal' immigration and trafficking. See further sections 2.6 and 2.7.

The selective feature of the immigration policy (e.g. the numerous advantages for highly skilled migrant workers and the possibility for Commonwealth working holidaymakers to convert their status and eventually settle) highlights also that control is not just about numbers but also about managing 'the composition of populations that may potentially alter the make-up of the British collectivity' (Yuval-Davis et al. 2005: 517), signified e.g. by the opening of borders to EEA nationals while simultaneously closing them to others (Morris 2004).

²¹ Note the recent concern of the government to make the requirements for permanent residence closer to those of citizenship (Home Office 2005).

²² <http://www.jcwi.org.uk/news/press7march06.html>, see also JCWI 2006

²³ IND 2005; www.ind.homeoffice.gov.uk/ind/en/home/news/press_releases/controlling_our_borders

Hence, it is worth taking into account the immigration status of EU accession countries nationals. Since 2004, A8 nationals (nationals of the 2004 EU accession states with the exception of Malta and Cyprus) are subject to some transitional arrangements. The **Worker Registration Scheme (WRS)** was set up in February 2004 and its purpose is to allow A8 nationals to access the UK labour market, while limiting access to certain welfare benefits and services. According to the WRS regulation, A8 nationals have to register with Work Permits UK as soon as they start a new job. If they fail to do so within the first month of their employment, their job is considered irregular. A worker needs to get a registration certificate for each job they have. After 12 months of being regularly registered without interruption, the worker is no longer obliged to register and he/she is entitled to full rights of free movement and access to the whole range of benefits in the same way as any other EEA national is. However, in many cases, migrant workers fail to register and in these case 'despite being citizens of the European Union, with a right to enter, live and work in the UK, it is possible for the accession country nationals to become irregular' (ippr 2006: 10). The reasons behind this could be multiple: misunderstanding and/or lack of information about the scheme, or alternatively a belief that the registration and the registration fee (£70) is unnecessary and unfair. The latter applies especially to those workers who do not intend to stay for long time in the UK (Anderson et al. 2006).

Critics (e.g. Kofman et al. 2005) have contravened the assumption that programmes and legislations affect everyone in the same way, and that immigration policy is 'gender-neutral', and pointed towards the gendered implications of the managed migration system generally, and the points system particularly. For example, the Highly Skilled Programme, initially launched on 28th of January 2002, and now incorporated in the Tier 1 of the new points system, includes a number of gendered implications and outcomes. Indeed, the scheme is based on points whose criteria of income, status in employment, and educational level, are likely to favour men. Men are by and large overrepresented in organisational hierarchies, and are less likely to have career breaks, which means that they can accumulate more years of work-experience. Men are also more likely to have a better pay in some countries (ibid 2005: 37-39). Another example of a policy shift with strong gendered implications concerns the aim towards putting an end to chain migration (i.e. limiting family migration).

In terms of the current immigration and asylum system at large, Kofman et al. identify a number of key axes of differentiation and stratification of rights which affect migrants' access to residence, employment and social entitlements:

- **The differentiation of rights between highly-skilled and lesser skilled** (wanted vs. unwanted). The two categories are entitled to different rights, especially in relation to prolonged residence, the switching of employer and status, and family reunification. This distinction has become the core divide in the development of the managed migration policy.
- **The distinction between 'legal' and 'illegal' or undocumented migrants.**
- **The distinctions amongst those who seek asylum**, which have been reinforced in the recent years (in 2002 the right to work for asylum seekers has been withdrawn).
- **The degree of autonomy for those whose entry is derivative. *This dimension has strong gendered implications, being of particular significance for women migrants.*** In the case of family reunification, there is a probationary period that has to be completed before the person who has entered as a dependant can gain an autonomous residence permit. During that period, the dependant has no recourse to public funds and is hence financially tied to the primary migrant²⁴. The probationary period has recently been extended from one to two years, in order to deter marriages of convenience. The only exception from the rule occurs in cases where domestic violence has been proven. The so-called **Domestic Violence Concession** was introduced in **1999** as the result of campaigning from minority feminist groups, notably Southhall Black Sisters. While signifying an important step forward in terms of women's rights, some question the extent to which it manages to protect the victims of domestic violence, considering the difficulties involved in both reporting and proving that the crime has taken place. Although in theory these categories apply equally to men and women, their

²⁴ Family dependants are not only bound to stay with their partner for two years, but may also find it difficult to enter the labour market except in an informal capacity.

impact is in reality gendered in the light of women's different patterns of immigration, family responsibilities, and access to economic and social resources (Kofman et al. 2005: 8)²⁵. Moreover, as previously mentioned, below the most highly skilled, each migrant will need a sponsor (normally their employer) who must work with the government to ensure that the person complies to the rules of entry and returns home at the end of their stay. If the migrant has entered the country through a lower tier, he/she is tied to the employer who is sponsoring or applied for the working Visa. This applies furthermore to domestic workers who enter the country with an employer, even though they do not need a work permit.

Another set of rights (or lack thereof) relates to things such as the benefits system, health services and housing. Generally, EEA nationals have much more extensive rights than non-EEA nationals in all three areas. EEA nationals are covered by the EU freedom of movement legislation which includes social security provisions. The more extensive rights also apply to refugees and stateless persons (note that the case of asylum seekers is covered in a separate section). Migrant workers from outside the EEA however 'have no immediate entitlement to social security benefits' (JCWI 2002: 58), and in fact the condition for their admission clearly states that they have no recourse to public funds. However, workers that make National Insurance contributions can gain access to certain benefits following that contribution (ibid 59).

In terms of access to healthcare, we see a similar significant distinction between EEA nationals and other migrant workers, where the former are entitled to free healthcare, while others can gain the right to this if living in the UK over a year (ibid 60). This poses problems for migrants with Visas of twelve months or less. The groups most vulnerable here, however, are those with irregular status in the UK, including overstayers as well as so-called 'failed asylum seekers' who remain in the country. A recent report by the Refugee Council (2006) points towards grave consequences for failed asylum seekers following the **2004 NHS (Charges to Overseas Visitors) (Amendment) Regulation**, whereby these were to become one of the groups deprived of free healthcare. The idea of restricting the right to free healthcare was introduced initially in 1982, and a central aspect has been the government's aim to control the phenomenon of so-called 'health tourism': meaning that people migrate in order to access a more beneficial health system than what is in place in the country they come from. The RC questions first of all the assumption of a wide-spread 'health tourism'; second, it emphasises the immense impact the regulations have had on the vulnerability of failed asylum seekers; and finally it urges for a return to the core principles of the NHS, which emphasised the importance of a universal service, and healthcare as a 'fundamental human right' (RC 2006: 18).

Another area of concern relating to the rights and welfare of migrants is housing. Issues relate to availability, prices, as well as quality of housing. Particularly in popular areas, such as London, housing is often very expensive and difficult to access by workers on low salaries (although certain employers such as the NHS provide assistance in finding suitable accommodation for their staff). While there are general measures in place to combat homelessness in the UK, it is notable here that the obligation of local authorities to house homeless families does not extend to non-EEA nationals (JCWI 2002: 59).

2.1.3 The new asylum model

The 2005 Home Office five-year strategy for immigration and asylum furthermore outlined a proposal to develop a **New Asylum Model (NAM)**, focused on the creation of a **faster and more tightly managed asylum process** and on removing applicants whose claims have been rejected. Significant features of the five-year strategy are as follows: First of all, the current policy is to grant refugees temporary leave rather than permanent leave to remain. From now on, the Home Office will be granting a **five year temporary refugee status** while keeping the situation in countries of origin under review (if the situation has not improved after five years, refugees will be granted permanent status,

²⁵ According to the data provided by the "Control of Immigration Statistics United Kingdom", 5860 women applied as dependants in 2003, while the number of men applying in the same category was of 4775 (Home Office 2004).

otherwise they will be expected to return). Secondly, a central part of the tightly managed asylum process will be measures such as **more detention** of failed asylum seekers, **fast-track processing** of all unfounded asylum seekers (including new female fast-track at Yarl's Wood), **electronic tagging** if and where considered necessary, stronger border control with finger prints of all Visa applicants and electronic checks on everyone entering and leaving the country, and removals of failed asylum seekers.

This approach has been heavily criticised by the Refugee Council, the Joint Council for the Welfare of Immigrants, and other associations dealing with asylum seeker and refugee issues. To start with, placing vulnerable groups (e.g. women, children, elderly people) within a very fast procedure, often in highly supervised accommodation, is expected to cause confusion as well as trauma. Women, for instance, may find it difficult to reveal particularly delicate details of their asylum claims in the short period of time that they are provided with. They may not be able to access adequate and impartial advice or not have enough time to build the confidence that could be necessary for making an application for asylum separately from their spouse.

Secondly, the five years of temporary refugee status will be a period of uncertainty and insecurity. People will be living in limbo for years (and this may happen after they have already been waiting for this decision long periods of time (Sigona and Torre 2006), which will prohibit them from making long-term life plans for fear of having their refugee status withdrawn. This will undermine the government's own integration strategy by giving refugees a less settled status (RC 2005). Moreover, this may also act as a disincentive to employers to employ a refugee, if he or she is subject to the possibility of being removed from the UK.

Thirdly, people who are recognised as refugees in accordance with the 1951 Refugee Convention and granted temporary leave will be eligible for a **refugee integration loan**, which will replace the former system of integration grants. The replacement of the grant with a loan, especially if seen in relation to the uncertain and precarious status of a temporary leave to remain, is considered to represent a great burden for refugees 'at a time when they need unencumbered help to rebuild their lives' (RC 2005).

While the regulations and guidelines recognise aspects of gendered violence (Home Office 2004a), and identify gendered guidelines for asylum seekers (IAA, 2000), women still face undue disadvantage when making claims for asylum. There are specific problems and obstacles that women face during the asylum process, leading to poor acceptance of claims. These can be related to a range of factors.

- the nature of women's claims for political asylum often differs from men's in the sense that their political activity and relationship to the state differs, which has proven to be an obstacle through the use of blanket (and gender-blind) models of assessment
- the system is insufficiently sensitized furthermore to claims based on gendered forms of violence, such as rape, as noted above
- women may be less able to make claims because the claims are made on their behalf by male relatives
- dependant women are much less likely to make claims within the initial period
- they often change status from dependant to principal claimant, but then get caught out by the rules for not having applied on entry
- the National Asylum Support Service (NASS) makes women financially dependent on their husbands (Communitycare.co.uk 2001)

The Home Office policy of **dispersal** was introduced as an integral element of the asylum system by the New Labour Government in the 1999 Immigration and Asylum Act, and was implemented in April 2000. It is coordinated by the National Asylum Support Service (NASS), which is responsible for organising accommodation and providing support for asylum seekers while their claims are being processed. The rationale behind the dispersal policy was to relieve pressure on South-East England, especially London and Kent, from excessive numbers of asylum-seekers (Boswell 2001), and to act as a deterrent to would-be 'asylum-shoppers' coming to Britain, in the hope that they might view the dispersal policy as being unattractive. Prior to dispersal, the majority of refugees were located in

London where community organisations and informal networks provided a lot of support, including information and advice about employment and job seeking (Bloch 2002). While it is known that such networks may have disadvantages in limiting language acquisition and restricting access to labour market information²⁶, they are nevertheless a vital source of support for recent arrivals (Duke et al. 1999, Zetter et al. 2005), and of facilitating integration into the labour market.

Three main criteria were taken into consideration when choosing the dispersal areas: the availability of accommodation, the existing multi-ethnic populations, and the scope to develop voluntary and community support services (Audit Commission 2000: 6). In response to the 1998 White Paper that had announced the government's intention to place asylum seekers in areas where accommodation costs will be low, a number of reports have been published, including one from the Audit Commission, warning that the conditions in which asylum seekers were housed were unsafe. Furthermore, the Audit Commission noted that the location of dispersal sites was in practice problematic because only a very limited number of areas in the country would meet all these criteria. 'Different problems could emerge in different locations. While multi-cultural areas offer better community networks and minimise racial tensions, accommodation may be concentrated on run-down housing estates with few employment opportunities and over-stretched public services. Placement in such areas would risk compounding the exclusion of asylum services and may heighten deprivation in the host community. And yet placing asylum-seekers in areas that are not multi-racial can also create problems' (ibid 48-9).

What has often happened is that the availability of housing stock becomes the prevailing motivation for the selection of a dispersal site. As a result, access to appropriate housing, health services, interpreters and legal firms, or ethnic minority groups that asylum seekers could turn to for help, were particularly affected through the dispersal policies (Dumper 2002, Kofman et al. 2005: 30). Moreover, the Home Office policy of dispersal can also be seen as an example of policy that assumes the *male single* migrant as the *universal* (Harzig 2003). Indeed, it presumes a highly mobile male individual who has no dependants, which means that the difficulties that the specific issues that women may face through dispersal are not adequately considered.

In relation to **employment** issues, asylum seekers have had their right to work withdrawn since July 2002. This decision was made partly in order to deter potential asylum seekers from coming to the UK. Only those with a positive decision – that is those granted refugee status or Exceptional Leave to Remain (ELR) and more recently Humanitarian Protection (HP) – are eligible to work. Critics point out that this policy can have long term effects on people's integration due to the initial period of unemployment. It is also likely to result in deskilling, meaning that those with professional qualifications are less likely to engage in work which is proportionate with their skills (Stewart 2003)²⁷. Furthermore, refugees also face structural barriers to employment (Bloch 2004). For example, the 1996 Asylum and Immigration Act, discussed earlier, which introduced fines for employers using workers lacking the right documentation, could lead to reluctance to employ also those with the right status (Refugee Council 1999).

Note that issues of citizenship and naturalization are explored as part of the integration agenda in the following section.

2.2 Integration policies addressing migrants (language, education, culture, etc.)

Most of the discourse, policy and public understanding regarding issues of immigration and integration in Britain over the past five decades has been based on, and structured around, the experience of people who migrated from the former British colonies – the West Indies, India,

²⁶ Another concern has to do with power relations within "communities" and the exercise of power over some individuals or parts of the group, e.g. men's power over women.

²⁷ The EU Council Directive 2003/93EC, 27, which came into force on 6th of February 2005, have agreed that asylum-seekers should be able to work after one year (Somerville, 2006)

Pakistan and what is now Bangladesh – between the 1950s and 1970s. Although the immigrant population in the UK was and still is undergoing a strong diversification in terms of countries of origin as well as immigrant status, integration policies often tend to be discussed and delivered mainly in terms of the old and established ethnic minority populations (i.e. African-Caribbean and South Asian communities, see e.g. Penninx 2004). Little space is given to the new and smaller immigrant groups on the ‘community cohesion’ agenda, although these groups have in recent years significantly transformed the social landscape in Britain (Kofman 1998, Vertovec 2006, King 2002). Instead, policies have focused on established ‘ethnic minorities’ and their right to equal opportunities as well as the protection of their cultural specificities through various measures. An important body of policy concerned with building a multicultural Britain following immigration from the 50s onwards is the so-called ‘Race Relations’ legislation in place from 1976 to ensure equality of opportunity and protection from discrimination (this legislation is discussed in section 2.5).

Multiculturalism has been widely criticised from a number of angles, including left as well as right parts of the political spectrum. From the left it has been attacked on the one hand for focusing solely on cultural rights while marginalising the structural and socio-economic disadvantages faced by minority ethnic groups, and on the other for promoting and sustaining boundaries and the marginal position of minorities (see e.g. Alund and Schierup 1991, Anthias and Yuval-Davis 1992, Gilroy 1987). The right has criticised multiculturalism for failing to promote a (specific form of) national identity and for disadvantaging the indigenous population while promoting the rights of minorities (implicitly hence regarded as privileged). More recently critics argue that we have seen a ‘retreat from’ (Joppke 2004) or even ‘death of’ multiculturalism (Gilroy 2006) in the UK, as neo-assimilative tendencies have taken over from the former promotion of difference.

Aside from the events discussed earlier, and shaping the anti-terrorist agenda, a recent historical event that seems to have significantly transformed the British approach to immigrant incorporation concerns the ‘riots’ that took place in the spring and summer of 2001 in northern English cities, between the Pakistani-Muslim community, the police and members of British far-right organisations. The riots were considered evidence of the government’s failure to ‘integrate’ minority communities into British society. The Cantle report that followed the inquiry into the riots introduced the expression of ‘parallel worlds’ to indicate the lack of communication and the detachment experienced by some segments of the society²⁸. The events form an important background to the *post-entry managed integration strategy* for ‘new’ migrants proposed in the **2002 White Paper ‘Secure Borders, Safe Haven. Integration with Diversity in Modern Britain’** (Home Office 2002).

A significant redefinition characterises the shift in policy from the established promotion of multicultural ‘race relations’ to an ‘assimilationist stance’ on migrant incorporation, which adopts as its favoured lexicon phrases such as *social cohesion, social inclusion and integration* (Yuval Davis et al 2005, Zetter et al. 2006). Although the Home Office indicators deliver a definition of integration as not being ‘about assimilation into a single homogenous culture’ but a ‘two way process with responsibilities on both new arrivals and established communities’ (Home Office 2004d: 4), critics suggest that in practice, programmes and measures incline towards ‘inclusivity and assimilation as the instrument of social cohesion’ (Zetter et al. 2006: 5). As McGhee (2006: 119) notes, ‘(t)he managed post-entry integration of migrant communities reveals the present government’s assimilationist strategy. This is a migrant-focused strategy dedicated to scouring away the surface of cultural distinctiveness of ethnic and religious minority groups in order to break down the cultural barriers to their fuller integration’.

Indeed, already the strategy developed within the ‘Secure Borders, Safe Haven’ White Paper consists of measures and programmes created by looking at what the government considered as main barriers to migrants’ inclusion and active participation in economic, social and political life, namely the knowledge of English (supposedly very poor amongst many immigrants), and a weak sense of belonging to British society, which is translated into a weak sense of citizenship (Home Office 2001).

²⁸ The Cantle report 2001 furthermore led to the establishment of the Home Office Community Cohesion Unit, but also the Social Exclusion Unit, the Performance and Innovation Unit and the Neighbourhood Renewal Unit.

In order to overcome these 'barriers', the White Paper puts a strong emphasis on migrants' integration, 'particularly through the **promotion of citizenship** as a more meaningful process by which immigrants gain a sense of belonging within Britain' (Sales 2005: 449). **The meaning of citizenship, therefore, goes beyond formal status and becomes a means for integration into a cohesive community.**

The process of **gaining citizenship**, unless the migrant is basing her claim on ancestry, has to be pursued in one of the following categories: **naturalisation after five years in the Britain** or naturalisation after **three years in the Britain as a spouse of a British citizen**. Only after naturalisation, full equal rights and entitlements are secured. As for the *preparation* for citizenship, the **2002 Nationality, Immigration and Asylum Act** sets out a number of requirements that have to be fulfilled before applying, including **language training** and **education for citizenship**. Furthermore, the Act established **citizenship ceremonies** celebrating the acquisition of the British citizenship.

As of November 2005 all applicants have to pass the '**Life in the UK**' test before submitting their application. All those who wish to gain British citizenship must thereby demonstrate knowledge of English to the standard of English for Speakers of Other Languages (ESOL) Entry Level 3 (special arrangements will be made for people who wish to do so using the Welsh or Scottish Gaelic languages) as well as knowledge of life in Britain. Information about how to prepare for the test is contained in the handbook '**Life in the United Kingdom: A Journey to Citizenship**', published in December 2004. Language courses incorporating information about life in the UK are provided for those whose ability in English is below ESOL Entry Level 3. Successful completion of the classes will indicate that the applicant has met both language requirements and the expected knowledge about life in UK (Home Office 2005c).

The acquisition of English language and knowledge of 'British life' are seen as the core of successful integration of migrants into economic and social life. As stated in the White Paper, the government's intention is to:

'offer language teaching and light touch education for citizenship for those making a home in the UK [...]. This will strengthen the ability of new citizens to participate in society and to engage actively in our democracy. This will help people understand both their rights and their obligations as citizens of the UK, and strengthen the bonds of mutual understanding between people of diverse cultural backgrounds. It will also help to promote individuals' economic and social integration' (Home Office 2002: 11).

ESOL classes are available nationally, and the main providers are Further Education Colleges, Adult Education Colleges, training organisations and voluntary and community groups (Griffiths 2003: 3). Nevertheless as Griffiths (2003) observes in his study of the ESOL provision for English language training for refugees, some problems are inherent in the provision of these services. These include:

- shortage of classes and long waiting lists across London and the regions
- commonly, lack of advice and guidance about ESOL prevents immigrants (especially refugees) from gaining access to courses, and particularly the right types of courses
- ESOL classes could be better tailored to suit the needs of illiterates and semi-literates
- on the other hand, the level of English on most ESOL courses is too low to provide any real help for trying to gain entry to the UK labour market at a more professional level
- ESOL providers should consider differences that exist between migrants (e.g. age, gender, class) and how these may impact on the individual's capacity to access ESOL provision. For instance, women may have difficulties in attending classes because of childcare responsibilities, and hence different times, or free or low-cost crèche facilities, would be helpful.

Guided by the idea that there is a 'need to develop a sense of civic identity and shared values, and knowledge of the English language (or Welsh language or Scottish Gaelic, which are provided for in the British Nationality Act 1981' (Home Office 2002), the aim of the 2002 White Paper is that of 'preparing' migrants for citizenship through a process of 'becoming British'. This means

transforming citizenship acquisition from a 'bureaucratic exercise, with almost no effort made to engage new members of the community with the fundamentals of our democracy and society' (Home Office 2002: 11), into a more 'ceremonial' 'act of commitment to Britain' (ibid 32).

'The Government believes strongly that the acquisition of British citizenship should be recognised and celebrated as a crucial stage in integration into British life. To that end it has introduced citizenship ceremonies and has taken powers to specify the knowledge of language and life in the United Kingdom which new citizens should possess' (Home Office 2005b)

However, despite the more positive approach towards labour migration and the recognition of the benefits that migrant workers bring to the British economy and society, and despite the emphasis on migrants' inclusion, the major part of the "2002 Secure Borders, Safe Haven" deals with ways and methods to deter and manage entry. Moreover, knowledge of language and notions of citizenship are presented as imposed duties rather than opportunities to learn. This does not take into consideration the fact that the process of learning a new language can be particularly difficult for some groups and may, as a result, exclude some people from the possibility of acquiring citizenship status (e.g. elderly people, asylum seekers or other immigrants who suffered trauma, and some female migrants, see e.g. Sales 2005).

Furthermore, considering the differentiation between migrant workers implied by the points system, it is possible to see that the opportunity of becoming a citizen, and therefore to integrate on the government's terms, is given to those migrants who are included in the so called 'skilled' categories, while those without such skills are offered only temporary short-time stay, furthermore without the right to family reunification. This brings to the fore two main concerns. The first one regards 'integration' projects that may include only skilled migrants (or refugees), while lesser or un-skilled migrants will be left outside, in turn widening the divide between desirable and undesirable migrants (Sigona and Torre 2006). The second concern, which is deeply interrelated with the first, pertains to the temporary status of un-skilled migrants. Those allowed only temporary stay, but also 'irregular' migrants and asylum-seekers, are often forced to spend only short periods of time in a given place, either due to the nature of the working permit, the search for work, or because of relocation by employers or authorities (this being the case of dispersal by NASS). Most 'integration' policies and programmes therefore do not reach or apply to people with temporary status (Vertovec 2006: 18, Spencer 2005). This system will therefore deepen the separation amongst migrants as well as between some groups of migrants and mainstream society and its services, with strong repercussions for the integration process (Sales 2005). Hence, the notion of inclusion presented in the 2002 White Paper is restricted, as the majority of the measures proposed are concerned with the creation of 'axes of differentiation and stratification' among migrants, and the exclusion of those not believed to be deserving of inclusion (Kofman et al. 2005, Sales 2005).

The 2004 '**Integration Matters: a National Strategy for Refugee Integration**' (Home Office 2004c), defines 'rights and responsibilities of refugee status' and puts emphasis on the importance of 'gaining the skills to give something back to the community'. The strategy sets out some key measures:

- replacement of the automatic back payments of income support with a **loan system** (see section 2.1)
- introduction of **caseworkers** who will be giving one to one support in finding work, accommodation and updating specialist skills. This measure is part of the **Sunrise Programme** which started as a pilot programme in spring 2005.
- housing assistance for asylum seekers is provided by NASS only in **dispersal** areas (see section 2.1)
- creation of stronger relationships and partnerships with the voluntary sector, community organisations and other stakeholders in order to provide more and better services and support

In the same year the government also launched its '**Strength in Diversity**' consultation, which has been described as a combination of community cohesion discourses, concerns with tackling 'race inequalities', and immigration and asylum strategies (McGhee 2006). Within this programme, active citizenship and participation are emphasised also as core elements for integration: 'Building this

wider notion of active citizenship through participation, volunteering and civic action, underpinned by a sense of shared values, is one of the main ways in which we can strengthen the relationships and connections between communities' (Home Office 2004d: 6).

A further significant initiative in the area of integration concerns the recent idea suggesting the introduction of **'British values' classes** in schools as a way of encouraging young students to embrace these, while minimising the risk of separatist tendencies, and notably young Muslims turning to extremist Islamic groups (again in the wake of July 7). So-called citizenship classes were already introduced four years ago following recommendations by then Home Secretary David Blunkett, and those classes are designed to teach students about the UK in terms of political and civil society. Hence the recent proposal is significantly different in the sense that it makes an explicit attempt to define the 'core values' of British culture and society (values that, vaguely defined, integration policy has already asked/requested migrants and minorities to conform to as part of the integration and citizenship regime discussed above), and proposing to teach these as part of the national curriculum. Amongst the central 'values' mentioned in the media debate are tolerance, democracy and rights. What is particularly notable with regards to 'British values' classes, is the aim to define such values as specifically 'British'. This ignores first of all the wider global context in which they have been formed as well as the influence of other cultures and traditions on their trajectories. Secondly, and following on from that, is the underlying assumption that because they are 'British', 'others' do not understand and/or have them, and hence have to be taught them as part of becoming part of British society. Finally, defining these values as specifically 'British' at a time when they are to some extent being compromised in favour of 'security' and as part of 'anti-terrorism' initiatives, as discussed earlier, could be regarded as a particularly pressing paradox of the current policies pursued by the UK government.

2.3 Implementation in the national context of EU employment policies

As we saw earlier, the government's employment strategy and social inclusion agenda merge at the point where work is proposed as the ultimate solution for both economic growth and the eradication of poverty and social exclusion. Both action plans refer to the importance of the role played by the European Social Fund (ESF) for fulfilling the general goals stated. A key feature of the ESF is the Equal programme, and the purpose of the Equal programme is to test and promote new means of combating all forms of discrimination (particularly those based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation) and inequalities in the labour market, both for those in work and those seeking work (Equal 2001). The programme aims to inform policy development and ensure that lessons are learnt from other Member States, while also aiming to form part of the integrated European Community strategy to combat discrimination. Whilst the Equal programme draws upon previous EU employment programmes such as 'Adapt' and 'Employment' and the new Objective 1, 2 and 3 Structural Fund, it is distinct in its thematic approach to testing new ways of delivering policy priorities in the framework of the European Employment Strategy (EES), and by its emphasis on transnational co-operation. The aim behind the thematic approach is the ability to explore new ways of tackling the problems common to different types of discrimination and inequality, rather than focusing on a specific target group. The programme is delivered by a number of Development Partners (DPs).

In terms of the implementation of the Equal programme in the UK, this is centred on the four main themes of the EES: employability, entrepreneurship, adaptability and equal opportunities. The more specific strategy of the UK, corresponding to the overall themes, is centred on the following issues:

- enabling access to the labour market, including re-entering into the labour market, by on the one hand identifying obstacles and needs of the people in question, while on the other preventing and/or combating discrimination
- improving the position of ethnic minorities (implicitly included also in relation to other issues)
- business creation and support for this, importantly through identifying the needs of particularly exposed/excluded groups
- a strengthening of the social economy: emphasising its importance for the creation of jobs and the economy, but also for serving the needs and interests of the community

- ‘promoting life long learning and an inclusive work practices’, aiming to reach people normally excluded through ‘innovative approaches’
- promoting adaptability of employers to make them more inclusive and focusing on the importance of work/life balance
- gender equality: this is included as a specific point, whilst at the same time stressing the importance of mainstreaming as well as incorporating gender into all other points is emphasised
- the integration of asylum seekers: measures include education, training and generally increasing employability, and the general idea is to facilitate and improve asylum seekers’ involvement in society, while enabling those who gain refugee status to move quickly into the labour market²⁹.

For each of the UK themes, priority issues are developed in relation to gaps or ‘weakness’ in the UK labour market and employment policy. These priorities are delivered by the DPs, and during their implementation, these have engaged with a wide range of groups, including community and voluntary groups, employees and statutory agencies, which has proved to be a key factor in the success of providing new services and pilots for the programme. In a recent assessment of the Equal programme by the DWP, DPs report positive achievement in a number of different areas, including gender segregation and equal pay, labour market discrimination, increased access and equal opportunities (Research Report 311, 2006).

2.4 Policies giving access to political rights and participation, and enabling migrants to establish associations

Voting Rights in the UK are regulated by the [Representation of the People Acts of 1983 and 2000](#). Registration in the Electorate Register gives the right to vote and, principally, nationality is at the base of the eligibility process. Therefore, British, Irish and Commonwealth citizens are eligible to vote in Westminster elections, while nationals of the European Union states can vote in local elections, in elections for devolved assemblies (i.e. Mayor of London, Scotland and Wales) and in European parliamentary elections. Along with nationality restrictions, some immigration restrictions are also included in the [Representation of the People Act 2000](#). This is to say that people who do not have leave to enter or remain in the UK are not included in the electoral register (House of Commons 2005). Therefore, a person who entered the country ‘illegally’ may not register. However, as Duvell (2005: 21) notes, ‘registration practise allows for considerable discretion’. Indeed the electorate registration questionnaire, received every year by each household in Britain, asks about the number and names of each Commonwealth citizens in the household, while there are no questions with regard to immigration status, and furthermore very few checks are made (see Duvell 2005 for further discussion on the topic).

Within the policy discourse, **migrant and ‘community’ organisations** are regarded as essential for the integration process into both the migrant community and wider society (Rex and Josephides 1987, Duvell 2005). Indeed, ‘ethnic’ organizations may be fundamental for the affirmation of ethnic identity and as a means for empowerment (Cohen 1974), but they also play important roles as mediators between migrants and the host society, influencing policy, and having an impact on social life. The UK’s multi-ethnic model of integration embodied within its race relation framework allows for a multiplicity of community based organisations, representing minority interests and often acting in the interface between the state and minority groups (Soysal 1994, Zetter et al. 2005). Research on ethnic associations has noted a variety of functions filled by the associations, ranging from cultural to political and welfare issues (see e.g. Cheetham 1985, Rex and Josephides 1987, Werbner and Anwar 1991).

The **Local Government Act 2000** aimed to bring together key public agencies and representatives of business, community and voluntary sectors, in order to achieve important political goals, particularly in the areas of regeneration and tackling deprivation. Since it was published, the British government

²⁹ <http://www.equal.ecotec.co.uk/themes/>, accessed 19/05/2006

has also been increasing its efforts to encourage strong and active community participation in the voluntary sector through the creation of regional schemes targeting ethnic minority, immigrant and refugee communities (Duvell 2005). In fact, the National Strategy for Refugee Integration 2004', the '2004-08 Home Office Strategic Plan' and the '2004 Spending Review' all recognise the crucial role played by the voluntary sector in the process of integration, the reduction of 'racial' inequalities and improvement of 'community cohesion'.

Compact³⁰ is the agreement between the government and the voluntary and community sector in England, in place to improve their relationship for mutual advantage, including an improved support for the communities they serve. In 2001, Compact published the Compact Black and Minority Ethnic (BME) Code, which acknowledges the significant role that the BME voluntary and community sector plays in building stronger communities (noted are faith groups, refugee and asylum seeker organisations). The Code, therefore, highlights the importance of letting BME organisations play an inherent part of consultation and policy processes, and their concerns and recommendations are channelled to the government through the Compact framework³¹.

The 'race relations' model discussed earlier as centring on established ethnic minorities is important in relation to this discussion, as it shapes patterns of political mobilisation. As Layton-Henry (1999) observes, immigration and race relations have been and still are considered and dealt with as two different and separate policy fields, which has implied different positions and treatment of different migrant and/or minority groups. And notably formal access to citizenship is a significant vector determining level of political involvement, not only through the right to vote but also through organisations. Therefore, minorities with access to formal citizenship 'are able to draw on their resources of legitimacy and access to politics, embedded in race relations, and have a greater share in the politics about them, than minorities without such rights' (Statham 1999: 6).

On the contrary, minorities who do not have access to such rights, and who make claims e.g. in the immigration/asylum domain, face many more difficulties and 'depend more heavily on the altruism of human-rights, welfare and pro-minority organisations such as the **Joint Council for the Welfare of the Immigrants**' (ibid 7) or national refugee organisations such as the **British Refugee Council**, a membership organisation gathering mainly Refugee Community Organisations (RCOs). Therefore, this differentiation points to the ways that national policies and laws governing citizenship and naturalisation can impact, offering differentiated opportunities for integration, and different patterns and possibilities for participation and collective organisation by minorities and migrants (e.g. Brubaker 1992, Castles 1995, see also Patrick Ireland 1994 for a discussion of these institutional frameworks as either enabling 'political opportunity structures' or as constrains/obstacles).

If many of the national voluntary sector organisations working in this field are core-funded by the Home Office, there are also community-based support groups and refugee community organisations (RCOs) whose work is done through volunteer effort. In Britain, the voluntary sector and several NGOs have traditionally dealt with issues regarding refugee reception and settlement. In this field, NGOs are organisations that, even if funded in large part by the Home Office, are formally

³⁰ <http://www.thecompact.org.uk/>

³¹ This agreement gives the appearance of a move in the direction towards corporatist decision-making processes that used to be an intrinsic idea to the role of ethnic associations in Swedish society, until more recently when the government has taken a step back from political influence to emphasise instead their role in the 'integration' process (see Swedish national report), a step that has been criticised for minimising the power and influence given to the associations. Hence it is interesting to see the UK seemingly taking a step in the opposite direction, i.e. increasing the political influence of migrant associations. However one aspect that seems important to emphasise here concerns elements other than political influence forming the government's intentions, namely those concerned with managing difference and controlling the activities of the associations. Although this has not been an explicit feature of how the government has chosen to present this initiative, it is worth keeping in mind when critically analysing policy. The emphasis the government has put recently on cooperating with leaders of South Asian and Muslim community leaders in order to break trends towards Islamic extremism amongst young Muslims comes across as a good example of how these collaborations may work in practice: in short as a way of managing difference.

independent from the government. Some examples of these are the Refugee Council, **Refugee Action** and the **Refugee Housing Association**. All of them liaise directly with different departments of the British government, but often occupy very critical positions with regards to the government's activity (see further sections 3 and 4). Within the broader voluntary sector, there is a whole range of organisations that are less directly linked to the government's funding or policy agenda, e.g. some church based or welfare organisations. Some of them are local and ethnically based organisations, for example **Refugee Community Organisations (RCOs)**.

Some of the associations are organised and work for migrant women. They are guided by the belief that nationality-based organisations are not designed to deal sufficiently with the specific needs of female migrants. The specific needs may be related to issues such as domestic violence, health, the asylum determination process, and confidentiality. Nationality-based organisations are less likely to be as sensitive to the importance of gender-based persecution, for instance, as women only organisations (Zetter et al. 2005: 88).

In their detailed study of refugee community organisation and dispersal policies, Zetter et al. (2005) analyse the role that organisations play in the integration process. While their research is particularly focused on RCOs, the findings constitute a good platform for further and wider analysis. They argue that despite the policy and academic literature which stresses community organisations' functionality for both migrant groups and the wider host society, RCOs have a restricted role in effectively providing a platform for a two-way process of integration between refugees and host society, and they note that 'informal networks may be more important than formally constituted organisations in the integration process' (ibid 5).

2.5 Anti-racism, anti-discrimination, equal opportunities and affirmative action policies

The main piece of primary legislation in the area of racial or ethnic discrimination, onto which following pieces of legislation or regulation have been added, is the **Race Relations Act 1976**. The Act made it unlawful to discriminate against anyone on grounds of 'colour, race, nationality or ethnic or national origins', and the areas covered are 'employment, training and education, housing allocation, public functions, the provision of goods, facilities and services and certain other specified activities' (CRE 2004: 22). It prohibits direct and indirect discrimination, as well as victimization. While direct discrimination means unfavourable treatment on grounds of a person's 'colour, race, nationality or ethnic or national origins', indirect discrimination refers to cases where there are apparently general conditions of treatment but where these in fact negatively affect persons disproportionately because of their 'colour, race, nationality or ethnic or national origins'. Victimization implies the punishment of individuals who have made complaints about discrimination and/or given evidence in such complaints. In relation to employment, specific areas include 'recruitment and selection ... terms and conditions of employment ... access and opportunity for promotion, transfer or training, or other benefits ... dismissal or other detriment', and the Act covers not only employers but a number of related bodies, such as trade unions, professional bodies and employment agencies (CRE 2002: 11). Positive discrimination is illegal in the UK Race Relations legislation (ibid 12).

The 1976 Act also established the **Commission for Racial Equality (CRE)** that functions to monitor race relations legislation, promoting good practice, and advising and campaigning on race relations issues, as well as giving advice and support to individuals who feel they have been subject to discrimination (at times giving legal support during proceedings; however its capacity to do so is limited). The CRE furthermore 'has the power to issue "statutory codes" setting out recommendations for best practice' (ibid 14).

The **Race Relations (Amendment) Act 2000** imposes a positive duty on all major public bodies to eliminate unlawful discrimination and promote equality of opportunity and good race relations (including the making and implementation of policy), and it is regarded as a crucial step in the fight against discrimination. It applies to employment, training, housing, education, and the provision of

goods, facilities and services³². Diversity training initiatives is one area where results of the Act can be seen. Furthermore, a number of public bodies have been given additional duties of ethnic monitoring of their employees regarding recruitment, training and promotion, as well as cases of disciplinary action and dismissal, etc (ibid 12-3). Generally, the Act could be seen as an attempt at mainstreaming race equality (ibid 51). However, there are notable areas not included in the positive duty, such as private employers³³.

An important background to the 2000 Act was the MacPherson report on institutional racism in the London Metropolitan Police force, which responded to the alleged failures of the investigation following the murder of black teenager Stephen Lawrence in 1993. The report was important in establishing a notion of 'institutional racism' in British political discourse, and more specifically the idea that people are not necessarily wittingly committing an act of racial discrimination, but can do so in a number of ways unwittingly: through either the existence of latent racist stereotypes, or institutional practices functioning to disadvantage certain ethnic groups without the necessary presence of racist ideas (for a discussion of the notion of institutional racism in relation to the MacPherson report, see Anthias 1999, Holdaway 1999, Solomos 1999).

Provisions against indirect discriminations were further strengthened by the **Race Relations (Amendment) Regulations 2003**, which implemented the EU Directive on race discrimination. The main changes include a new definition of indirect discrimination (widening the scope of the areas and circumstances covered), a freestanding definition of racial harassment (previously an implicit part of the general 1976 discrimination law, included in the notion of direct discrimination) and changes to the burden of proof. In relation to the burden of proof, changes has meant that this is shifted from the complainant to the defendant: in other words, while previously it has been the former party carrying the responsibility of proving that an act of discrimination had taken place, it is now the latter who has to prove that it did not. Other important changes are the extension of areas covered by the discrimination regulations/legislations, and importantly for our purposes including *work in private households*, and in relation to employment, the extension of regulation beyond the period of employment, hence the ability to include e.g. the giving (or not) of references (CRE 2004: 22-5). The 2004 RAXEN report on legislation points out some complexities and inconsistencies in legislation/regulation following the implementation of the EU directives: for example earlier race relations legislation in the UK have a more extensive list of grounds for discrimination. The EU directives do not apply to colour or nationality, which is included in the 1976 Act, hence claimants appealing to these as grounds of discrimination are not covered by the 2003 extended regulations (ibid 24-5)³⁴.

Other recent regulations related to the EU Framework Equality directives include the **Employment (Religion or Belief) Regulations 2003**, covering 'direct and indirect discrimination, harassment or victimization in employment and vocational training' (ibid 25). While welcome as filling a long-standing gap in UK anti-discrimination policy, its coverage does not extend as far as the legislation surrounding race, and furthermore it is subject to regulation rather than primary legislation. In relation to policy in the area of religion/belief prior to these regulations, there has been an important difference between Northern Ireland and the rest of the UK following respective histories. Where Northern Irish law has included religion in discrimination legislation (while notably race discrimination legislation was not in place there until 1997), in the other home countries any complaints in this regard have had to be made related to ethnicity in order to be covered by law, which has been problematic particularly in relation to minority religious fractions of wider 'ethnic' groups (ibid 25-6).

³² Note that the equivalent Northern Irish legislation of 1998 has extended this duty to other areas of grounds covered by discrimination legislation (including race, religion, gender, sexual orientation and age).

³³ The government runs the Equality Direct website www.equalitydirect.org.uk to provide employers more generally with information about race relations legislation.

³⁴ Employment related complaints are dealt with by Employment tribunals, while other complaints are heard by local crown courts.

While all laws and regulations concerning discrimination covered so far are part of civil law, there are related offenses that are part of criminal law, namely the Public Order Act of 1986, the Protection from Harassment Act of 1997, and the Crime and Disorder Act 1998. The **Public Order Act 1986** includes a clause on incitement to racial hatred, covering furthermore the publishing and/or dissemination of material likely to have such effects. This clause has recently been extended through the **Racial and Religious Hatred Act 2006** (extending to England and Wales only), supplementing the previous law with religion as a ground. Note that it include groups both defined by religious beliefs and lack of religious beliefs. This Act already has a long history in parliament and could be regarded to some extent as part of the government's concern to tackle the perceived threat posed by extremist religious groups in the country. The final Act of 2006 is a relatively watered down version compared to earlier attempts from the government. Through the **Protection from Harassment Act 1997**, victims can claim compensation for damages caused by harassment as well as gain extended support for protection. Finally, the **Crime and Disorder Act 1998** introduced a clause on 'racially aggravated offences', targeting racist violence and harassment. Again, critics have emphasized the blurred area of religion in relation to such crimes, although it is argued that many will nevertheless be covered, providing there is also a racial dimension involved.

The apparent contradiction between extending race relations legislation while at the same time restricting immigration policy has been explained by some writers through the existence of an underlying assumption that 'good race relations' are dependent on limiting the number of new entrants (Solomos 2003, Schuster and Solomos 2004). Such limits in turn have been disproportionately applied to specific groups of migrants in terms of both nationality/ethnicity and levels of desirable skills and qualification (crucial particularly today). Critics emphasise the recurrent risk of a restrictive immigration regime, combined with increased stigmatisation of asylum seekers in both political and mass media discourse, in undercutting any positive progress made in the area of Race Relations legislation, for both new migrants (regular as well as irregular) and established ethnic minorities. For example in the 2004 RAXEN report on legislation (CRE 2004), a more holistic approach in this area is favoured.

The other important strand of legislation/regulation for our purposes concerns the area targeting Sex Discrimination. The **Sex Discrimination Act 1970** prohibits direct and indirect (see the distinction described in relation to the 1976 Race Relations Act) discrimination on grounds of sex, as well as victimisation. The areas covered are employment (including both employers and other bodies, such as workers/employers organisations and training/employment agencies), education (including educational establishments – with the exception of single sex establishments – and educational authorities), the provision of goods, facilities, services and premises, as well as membership in organisations. This Act furthermore established the **Equal Opportunities Commission (EOC)**, given the role of working towards the elimination of sex discrimination, promoting equal opportunities, and to monitor sex discrimination legislation as well as the Equal Pay Act, discussed below. The EOC also has the power to produce codes of practice on equal pay for employers. A notable exception in the Act when first formulated was, similarly to the 1976 Race Relations Act, **work in private households**; however for the purpose of the SDA this was amended in **1987**. The **Sex Discrimination Act (Amendments) Regulations 2003** extended protection to former employees to pursue a complaint. The most recent legislative changes in this area is the **Employment Equality (Sex Discrimination) Regulations 2006**, and significant changes include an explicit definition of sexual harassment, which had so far been part of the general protection against sex discrimination, as well as some small changes to the definition of indirect discrimination.

The **1970 Equal Pay Act** is specifically concerned with contractual arrangements. It sets out to ensure equal pay between men and women for work that is either the same/equivalent or regarded as of equal value. It also covers other aspects of the employment contract, such as entitlements to sick leave and holiday, etc. Complaints in relation to this act must include a 'comparator' of the opposite sex in relation to whose contract the complaint can be assessed. It is then the responsibility of the employer to justify this difference in contracts with reference to factors other than sex. Similarly to SDA, the **Equal Pay Act (Amendment) Regulations 2003** extended the time limit for cases to be brought (now within six months of leaving the job) as well as the arrears covered.

In relation to the different employment statuses discussed in the first general section of this report, it is important to note that discrimination legislation in the areas of race relations as well as sex apply more widely than the limited notion of 'employee'. According to the EOC, the SDA applies more widely than the Employment Rights Act (ERA), and for the purpose of the SDA (as well as the Equal Pay Act), employment is defined as 'employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour'³⁵, hence including e.g. some self-employed persons, office holders, and contract workers. Contract workers are protected from discrimination by both the 'principal' (for whom the work is ultimately done) and the 'employer' (e.g. an organisation employed by the principal or an agency providing workers for the principal).

Recent proposals have been made towards a joint body dealing with discrimination issues on any grounds. There are currently three separate bodies: the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission³⁶. The arguments in favour of a joint body emphasise the advantages of a coherent effort at combating discrimination in various forms and in different arenas, hence addressing the gaps and inconsistencies in current legislation and implementation. Other arguments include current difficulties in responding to discrimination cases with multiple grounds (e.g. both ethnicity/nationality and gender). The arguments against it emphasise the risk of dilution, and of insufficient attention paid to the specificities of various discriminatory practices and processes. The **2006 Equality Act** has recently been passed, allowing for the establishment of a joint body, indicating that this will take place shortly.

As we have mentioned earlier, UK discrimination legislation in the areas discussed here is often criticised for being patchy and inconsistent, particularly since the implementation of EU directives, which has increased protection on the one hand while at the same time contributing to further complexities and inconsistencies on the other. However, while moves towards increased consistencies in discrimination legislation/regulation would be important, we must also at this point consider the limits it nevertheless entails. One important issue here concerns the issue of illegality and the extent to which discrimination legislation provides protection to illegal workers; the other concerns knowledge of the legislation for those in theory protected by it. Tariq Modood and John Wrench argue that equality legislation will mean little to those most exposed to exploitation: as an example they mention minority ethnic women with limited English language skills (discussed in CRE 2002: 47).

In terms of international regulatory mechanisms, the UK has ratified **The International Convention on the Elimination of All Forms of Racial Discrimination (in 1969)** and **the International Covenant for the Protection of Civil and Political Rights (1976)**. However in the most recent RAXEN report on legislation, CRE (2004) suggests that these have not been mainstreamed in legislation. In terms of Human Rights legislation, EU directives functioned to establish the **Human Rights Act of 1998**. Notably, this Act has been used to address the human rights implications of asylum legislation and specifically the limitations of welfare support of asylum seekers (ibid 4-5, 35-6, for further information see section 2.1). However, what is most notable in recent UK policy in the area of human rights is the tendency to regard it as a nuisance and an obstacle in the way of fighting terrorist threats and ensuring domestic security, as discussed earlier. PM Tony Blair's announcement that 'the rules of the game have changed' since the suicide bombings in London last year seems to entail serious implications for the international conventions and domestic legislations currently in place to protect individuals against human rights abuses.

2.6 Policies combating illegal immigration

Policy in place for managing and controlling 'illegal' or 'irregular' migration consist first of all in rigid border controls (e.g. implementation of electronic borders to monitor people's in and out of the UK: see the discussion of migration and asylum policies in section 2.1). However, the government

³⁵ www.eoc-law.org.uk, accessed 24/04/2006

³⁶ Note that a joint body dealing with discrimination issues and legislation/regulations is already in place in Northern Ireland since 1999.

furthermore plans to introduce more and stronger internal controls through identity cards and electronic tagging for asylum applicants, through removals and voluntary return programmes, and by clamping down on the informal economy and introducing tougher employer sanctions (see further section 1.4).

2.7 Policies combating trafficking of human beings

In terms of criminalising the trafficking of human beings, a number of recent Acts have been significant. The **Asylum and Immigration (Treatment of Claimants etc) Act 2004** introduced an offence encompassing all forms of labour exploitation, while sex trafficking specifically was addressed in the **Sexual Offences Act of 2003**, as noted earlier (section 1.1.2). Another important piece of legislation is the **Gangmasters (Licensing) Act 2004** which established arrangements for licensing as well as make it an offence to ‘enter into agreement with an unlicensed gangmaster’ (Home Office 2006a: 13). Furthermore, the UK has signed (and hopes to ratify soon) the **UN Convention against Transnational Organised Crime (UNTOC)** or the so-called **Palermo Protocol in 2000**.

However what the UK has not as of yet signed is the European Convention on trafficking, which many other countries have already adopted, and in fact a lot of the criticisms of the government in the area of trafficking centres on its reluctance to agree to what is regarded as a basic minimum required in order to deal with the problem. The particular issue on which the government hesitates has to do with the policy of granting an automatic reflection period for the victims (for which they are given a temporary right to remain). Instead this is currently done on a case by case basis. In the government’s consultation paper on human trafficking, published in January this year, we can see the recounting of a commonly used argument in the UK’s broader immigration agenda more recently in relation to the possibility of an automatic reflection period. It states that ‘We have a serious concern that implementing such provisions might act as a “pull” factor to the UK. For example, they could be misused by individuals seeking to extend their stay in the UK, where they do not have a genuine claim as a victim of trafficking’ (Home Office 2006a: 17-18)³⁷.

Apart from emphasising the government’s reservation against the reflection period, the document emphasised three areas of work found to be central to the development of a coherent policy and action plan in the area of human trafficking: prevention; investigation, law enforcement and prosecution; and providing protection and assistance to victims (2006: 3). Furthermore, three areas of trafficking are emphasised in the document: trafficking for purposes of sexual exploitation, for labour exploitation, and child trafficking.

The idea of ‘preventing trafficking at source’ include addressing the root causes and awareness raising amongst people particularly vulnerable to traffickers, as well as various means of prohibiting them from coming to the UK. In relation to root causes, work already taken place mentioned in the report is that of the Home Office, the Foreign and Commonwealth Office (FCO) and the Department for International Development (DfID), working with various initiatives related to trafficking, forced labour and illegal immigration specifically, and the tackling of gender inequalities more generally, e.g. through UNIFEM and by working to further implement the Convention of Elimination of All forms of Discrimination against Women (Home Office 2006a: 8-9). In terms of prevention, the further and future measures proposed are centred mainly on the latter part, namely prohibiting traffickers and trafficked persons from coming to the UK (although a continuation of root causes measures will continue, there are no specific additions to these). The measures proposed are training airline and Visa-issuing staff to be aware of trafficking problems and signs, as well as tightening up Visa procedures for minors. Another one is the extended publicisation of cases of successful prosecutions against traffickers, in order to deter future traffickers from coming to the UK. Other measures are included in the general immigration policy agenda, and specifically in the areas of illegal migrants and illegal work (see sections 1.4, 2.1 and 2.6).

³⁷ Furthermore, in relation to the possibility of an extended period of reflection, the issue of whether that could mean that ‘the trail could run cold’ in the investigation is emphasised as a reason against it (ibid 18).

In terms of the second area of policy around trafficking, a central development has been the coming to life of the organised crime agency **SOCA** through the **Serious Organised Crime and Police Act 2005**. SOCA has been called ‘the British FBI’ (The Guardian 02/04/2006), and its priority is drugs and organised immigration crimes, in that order. Other relevant measures are mentioned in sections on combating illicit work and immigration policy.

Finally, in terms of protection and assistance to trafficked persons an important initiative is the so-called **Poppy Scheme**, a pilot scheme run by **Eaves Housing for Women** (mentioned in section 1.1.2). This scheme provides women with shelter, support and care, including counselling, healthcare and legal advice. The pilot has recently been evaluated, and an extension of its services is proposed in the present document. In terms of their immigration status, the document states that ‘(a)t present, there is no specific provision within immigration legislation to allow those who are identified as victims of trafficking to remain purely on the basis of their status as a victim’ (Home Office 2006a), although they can apply for asylum, the application which be assessed on an individual basis (note the tightening up of the right to asylum discussed in section 2.1). Other relevant initiatives include the Department of Health developing guidelines for treatment of trafficked victims, by finding out about and emphasising their specific needs.

3. Specific institutions designing migration and integration policies

The central body that designs and implements policies in the area of migration and integration is the **Home Office**. The Home Office is responsible for a wide range of policies, including tackling and preventing crime and assisting the victims of crime, tackling and preventing so-called anti-social behaviour and drugs, policies setting out the work of the police force as well as the criminal justice system and the prisons services, and finally policies in the areas of security, immigration and nationality on the one hand, and equality, diversity and ‘communities’ on the other. As can be seen from our policy discussions above, notions of ‘security’, ‘integration’, ‘social inclusion’ and ‘cohesion’ have been the leading stars for the Home Office in recent years.

Aside from the Home Office, two important institutions with an important role to play in the policy making process with specific relevance for our research is the **Commission for Racial Equality (CRE)** and the **Equality of Opportunity Commission (EOC)**. These are both publicly funded and run bodies. Their work is centred largely on monitoring and further strengthening the implementation of Race Relations and Sex Discrimination legislation, but they also engage extensively in both research and playing advisory roles in the policy process.

4. Bottom up activities

(NGO’s, Associations of female migrants, Human rights Movements, Women’s movements, Public Discourses)

Before we go on to list some of the ‘bottom-up activities’ relevant for our purposes it is worth making a note about the recurrent difficulty of determining where to locate the different actors that play a part in the policy process in terms of ‘above’ and ‘below’. As could be seen from the discussion about migrant associations in section 2.4, some institutions that are in fact close to the government in terms of either being established by the government and/or given a significant advisory role in relation to the government, or being (partly or entirely) funded by the government, nevertheless display a very critical stance towards the government’s policies at times. For example this is often the case of the CRE, some of whose critiques have already been noted in this report (notably its attack on the tension between the race relations and immigration/asylum legislations).

In terms of significant ‘bottom-up activities’ in the UK policy scene, there are first of all two ‘general’ organisations that play an important part in the area of migrants and minorities, namely the **Joint Council for the Welfare of the Immigrants** and the **British Refugee Council**. The latter is a

membership organisation gathering mainly Refugee Community Organisations (RCOs). Examples of other notable actors include organisations such as the **Institute for Race Relations**, **Kalayaan: justice for migrant domestic workers**, **Asylum Aid**, and **Anti Slavery International**. Furthermore the **Trade Union Congress (TUC)** is active in promoting anti-discrimination and equal opportunities legislation generally and protecting and/or lobbying for migrant workers specifically, as are a number of trade unions, such as the **Transport and General Workers' Union**.

When it comes to gender equality, notable actors include the **Women's National Commission**, which functions to advise the government on a number of different gender issues. Aside from equal gender rights generally, prioritised areas of the organisation include the upholding of women's human rights domestically and internationally, combating violence against women, and ethnic minority women's rights. Examples of other important organisations are the organisation **Rights of Women**, working to inform women about their legal rights in the UK, and **Women's Resource Centre**, providing help and support to women's organisations.

As discussed in section 2.4, we have seen recent attempts by the government to encourage further collaboration between itself and migrant/minority organisations. At a national level, two umbrella organisations were set up in 1999 for Black and Minority Ethnic (BME) organisations: the **Council of Ethnic Minority Voluntary Sector Organisations** and the **Ethnic Minority Foundation**. They represent over 9000 BME community organisations, and their main aims are to build capacity within minority ethnic community organisations and to influence policy and practice at local, regional and national level³⁸.

The migrant and minority organisations that play important roles on the scene both in terms of influencing policy and working on the ground to improve the work and life conditions of people are too numerous to be listed here. Aside from being high in numbers, organisations vary immensely in terms of their structure as well as focus. While many are ethnically or nationally based, others cut across ethnic boundaries and identify needs and work with and interests shared by different migrant and/or minority ethnic groups. Yet other organisations address specific groups amongst migrants, such as asylum seekers, refugees, or migrant workers. Furthermore, amongst all of these types of organisations, we see both those that are gender 'neutral' and those that target women specifically. In relation to the latter, the view, as to some extent discussed earlier, is often that mainstream organisations fail on the one hand to sufficiently address the specific needs of women, and on the other address the gendered power relations at play in different groups or communities.

In terms of the policies pursued by these different organisations, we have discussed a number of critical viewpoints throughout this paper, in relation to describing existent policies or policy trends and assessing their impact on migrant women specifically. Hence, rather than repeating all of those here, suffice it to summarise some of the main view-points and perspectives, while referring back to the specific policy sections for more detailed elaborations.

In relation first of all to wider changes in labour market policy, many organisations are concerned with the groups left vulnerable in the scenario of a 'flexible' labour market through the growth on the one hand of temporary and insecure employment conditions and on the other of the undocumented segments of the workforce, often exploited by employers desiring as cheap workers as possible and taking advantage of the deregulation of the labour market. In terms of the policies proposed in relation this, these centre largely on the extension of rights to both atypical workers and undocumented workers, which is regarded as a crucial step towards tackling both deprivation and exploitation.

When it comes to policies aimed at migrants and minorities specifically, arguments and discussions centre to a great extent on what is regarded as the selective and discriminatory nature of British

³⁸ For a sample of Ethnic Minority and Refugee Member Organisations see Duvell (2005) and Zetter et al. (2005). For a list of ethnic community organisations in London specifically, see MODA Directory of Ethnic Community Organisations in London & Resource Pack (2005), London: MODA - Migrant Organisations' Development Agency.

immigration and asylum policy: the distinction between the 'desirable' and 'undesirable', and concerns for the groups most likely to suffer from this in terms of class, gender and country of origin. Aside from the distinction between people who are welcome and who are not, we see strong criticisms from different organisations against the so-called stratification of rights generally, and in relation to its gendered implications specifically. The conclusions drawn with regards to current policy in this area is to some extent similar to those mentioned in relation to the deregulation of the labour market: boiling down to the increased vulnerability and lack of rights of a growing number of people. Hence, similarly here, proposals of 'bottom up policies' centre on the importance of giving people access to rights, and the ability to enforce those rights, in a number of different areas, including the workplace, healthcare and the social security system.

In relation to the increasingly restrictive immigration system, some organisations point towards the discrepancy between this and the 'integration' agenda, which is being pursued alongside it. The main criticism consists in a questioning of the insistence of the government that everyone needs to endorse British values and develop a sense of belonging to British culture and society, while at the same time it is in the process of establishing something of a guest-worker system for all but the most desirable migrants. Note also that a temporary regime has recently been proposed to structure also the asylum system, through the five-year temporary leave to remain becoming the norm when asylum status is granted. The question is how can you expect people to conform to the desired belongings while keeping them at arms length and in a precarious future situation? A related criticism has to do with the principle of on the one hand treating asylum seekers in what many regard as an inhumane manner, seemingly following the 'principle of deterrence', while on the other expecting them to similarly and happily endorse a 'British way of life' once granted status. Such discrepancies, critics suggest, risk jeopardising the entire 'integration' agenda of the UK.

Another policy regarded as being at risk through these distinctions and discrepancies is the UK's race relations legislation. Pointing towards the differences between different groups in terms of their inability to access rights and protection through that legislation, some organisations, and particularly those concerned with the rights of asylum seekers and refugees on the one hand, and undocumented migrants on the other, emphasise the importance of enabling all migrant to access rights and opportunities. Hence, we come back to the for most organisations' crucial issue of a rights-based approach for migrants, proposed to substitute the government's current sanctions-based approach. To organisations such as the TUC and the JCWI, this is regarded as a crucial overall policy step that needs to be taken in a number of areas: including asylum, undocumented workers, and trafficking.

Finally, when it comes to the success of 'bottom up policies' to achieve impact on the UK's policy scene, a few examples are worth recounting here. First of all, related to the labour market and the vulnerable position of undocumented workers, we saw the emergence of the Gangmasters Licensing Act in 2004, following lobbying from the unions, and notably the Transport and General Workers' Union. The policy was by and large put together by this trade union and put forward to the parliament through an individual Member of Parliament. The issue and policy gained urgency to a large extent through the Morecombe Bay tragedy, where a number of undocumented Chinese cockle pickers died, which put further pressure on the government to adopt this policy, which has subsequently been regarded as a crucial step forward for undocumented workers generally.

A second example concerns the Home Office's endorsement of gender guidelines in relation to the asylum determination process, which was the result of several years of campaigning of a group concerned with a gender-blind policy insensitive to the needs of women as well as the specific nature of their claims. The gender guidelines are carefully monitored by the Refugee Women's Resource Project, part of the organisation Asylum Aid, and they have recently criticised the Home Office for 'paying lip service' to the guidelines: that is, endorsing them in practice while failing to implement them in practice. Hence, while successful in getting the issue of gender on the government's asylum agenda, questions pertains as to the actual effects of this shift in policy.

Yet another example of successful lobbying in relation to women migrants specifically is the domestic violence concession, which could enable migrants who are under the probationary period of the family

reunification process, and hence tied to and heavily dependent on their spouse, to be relieved of that dependency in cases where domestic violence can be proven. The introduction of the concession was largely down to the work of the organisation Southhall Black Sisters, concerned with the abuse of women being under this type of immigration control. While the policy is indeed now in place, some critics point towards the difficulties involved in both reporting and proving domestic violence, which may nevertheless leave many women in an abusive situation. Furthermore, the recent extension of the probationary period from one to two years is seen to have increased women's vulnerability.

A final example of a 'bottom up' policy succeeding on the UK policy scene concerns the domestic worker's Visa, which followed campaigning by the organisation Kalayaan, in turn supported by a number of other organisations. The policy that was put into place in 1998 was regarded as a crucial step forward in terms of the rights and possibilities of this group of workers, and as was outlined earlier, improved their conditions to a great extent, while at the same time minimising the risk of exploitation. However, as we have also discussed, this policy is currently at risk of being withdrawn, which would mean a significant step backwards for migrant domestic workers in the UK.

An important general point that comes out in relation to this concerns the fact that policy development is never a one-way stable phenomenon, but always shifting in light of new events and influences. Hence, it seems important for organisations concerned with policy to remain vigilant even at times when positive steps have been taken, as is the case for those concerned with the welfare and rights of migrant domestic workers, where recent policy progress is now at great risk of being pulled back. One broader area where we see that continuous work is needed despite apparent progress for many years is that of gender equality more broadly, which to some extent has declined in importance on the political agenda, while women's organisations keep insisting that there is much more work to be done. Hence, in the face of the threats posed to many women-only organisations following proposed changes to the funding structure in the UK, the Women's Resource Centre launched a campaign entitled 'Why Women?', to try and emphasise the importance of the work done by voluntary and community organisations in terms of women's rights and life chances, and the crucial need for securing their future funds.

5. Summary/Discussion

In this report we have looked at the different policies and levels of policy affecting the position of migrant women in the UK. To conclude, we would like to note a few overall trends that have emerged from this 'mapping' exercise.

A first general trend is found in the approach taken by the government to simultaneously promote economic growth and combat social exclusion through a work-strategy. Closely linked to this approach is the transformation of the welfare state from a 'passive' model to one guided by active labour market measures, concerned to push people into work, partly through a benefits system designed according to principles of conditionality and compliance. Crucially, the government is concerned to minimise the population's reliance on benefits. A central guiding principle of this labour market and 'social inclusion' approach is that of 'flexibility', supposed to improve the competitiveness of the UK market while at the same time 'suited' the needs of workers. One consequence of the government's insistence on flexibility is that in practice, the rights of workers differ substantially, and particularly those that work in 'atypical' jobs and casualised sectors of the labour market have lesser rights and securities than other workers. These are more likely to be both women and/or migrants.

In turn, this general trend is clearly visible also in changes to the UK's immigration policy, which is developing according to similar goals of improving market competitiveness while relieving pressures on the welfare state. In practice this has led to the establishment of a 'managed migration' regime, facilitating the entry of migrants contributing to the economy (such as the highly skilled) while further restricting the entry of 'undesirable' migrants (undesirable in terms of either entailing a burden on the welfare state or coming from certain cultures/countries). What characterises the UK's current approach to immigration is a selective attitude, favouring highly skilled migrants and EU citizens while

disadvantaging asylum seekers and migrants from outside of the EU. In addition, the managed migration regime has serious gendered implications in terms of the rights (implicitly) given to men and women respectively.

A second general policy trend concerns the shifts that have taken place since the ‘threat of terrorism’ came to occupy a central position on the UK’s political scene. As argued earlier, this has turned migration into a security issue while at the same time compromising human rights conventions and standards. Human rights in the UK have in fact more recently come to be seen less as an intrinsic part of a modern society and more as a nuisance and an obstacle in the way for ensuring the security of the British people. Furthermore this focus on security and public protection can also be seen in specific policy areas, such as that of prostitution, where we have seen a strong emphasis towards tackling the types of prostitution that are in the face of the moral majority, while being more lenient towards that which seems ‘hidden away’.

Anti-terrorist measures have had serious implications for not only immigration policy, but also the integration agenda. A former multicultural approach, promoting cultural differences and a society of distinct ‘ethnic minorities’, has been superseded by a focus on integration and ‘social cohesion’. In relation to this focus, difference is regarded as a threat, while a ‘sense of belonging’ to majority society and adoption of British values and ‘way of life’ is not only promoted but becoming compulsory. However notably this integration agenda is developing alongside a selective attitude to immigration, and the establishment of a de facto ‘guest worker’ system in the UK. Following on from this we see that only those migrants designated as ‘desirable’ by the government gain access to the integration process. The message seems to be that only certain migrants are to be invited to inclusion and belonging, while others should be kept at arms length in preparation for their return ‘home’ as the labour market need for them and their right to stay has expired (note that this idea is very similar to the earlier German immigration regime, and what Castles and Miller (1998) name the ‘differential exclusionary’ model of immigrant incorporation).

However, as we have argued, this selective attitude, and the differential rights attached, poses a serious threat to the government’s integration and overall ‘security’ agenda, as it entails a significant segmentation of the UK labour market and society, which in turn is likely to breed alienation and a sense of injustice amongst the groups exposed to the downsides of the ‘flexible’ and differential approach to both the labour market and immigration. This brings us back to a fundamental tension in UK policy in the area of migration and minorities that has been referred to at different points throughout this report, namely the improvement of the ‘race relations’ legislation as well as an insistence on inclusion and cohesion on the one hand, taking place alongside the gradual tightening up of the immigration regime: posing a serious threat to aims relating to both ‘security’ and ‘social cohesion’, on the other. This tension needs to be resolved if the issues are to be properly dealt with.

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