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The Relationship Between Status and Rights
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Abstract
Undocumented migrants are usually conceptualised as individuals who have crossed borders illegally, have been smuggled or trafficked into the country and who are living in the shadows, working in the semi-legal and sometimes illegal economies. But in reality undocumented status is more complex. Using data from recently completed research, this paper explores how in the UK, where the state conceptualises migration status as fixed – either documented or undocumented - the reality is that migrants experience status transitions that can have a fundamental impact on their working lives. The paper argues that this has important consequences for how undocumented work should be perceived. The paper also explores the impact of ever-changing state policies on migration, which can shift workers from documented to undocumented status overnight. The paper additionally looks at the consequences, for individual workers, of a state policy that is inconsistent and based on the targeting of some minority ethnic groups. The paper furthermore demonstrates that the consequences of undocumented work are very poor pay and conditions with patterns of low pay among undocumented workers that can only be explained by conscious employer exploitation of their status. It also shows that attempts by the state to impose tougher sanctions on employers have largely been limited to action against ‘easy’ visible targets like minority ethnic businesses, even though in reality, given the estimates of the number of undocumented migrants in the UK, most must be working for ethnic majority employers, UK nationals operating in the formal sector.

Key words: agencies; employment; ethnicity; immigration policies; undocumented migrants; legal status
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Undocumented migrants are usually conceptualised as individuals who have crossed borders illegally, have been smuggled or trafficked into the country and who are living in the shadows, working in the semi-legal and sometimes illegal economies. But in reality undocumented status is more complex. Individuals may begin their migration journey as documented workers and may fall into undocumented status, for example, when work permits expire. Or they may be pushed into undocumented status because the immigration rules are so restrictive as to not allow them to work sufficient hours to maintain themselves and/or their families. They may also start their migration as undocumented workers, but due to changes in state legislation, may acquire documented status through a regularisation programme, through marriage or in some other way. For these reasons it is important to conceptualise undocumented working (often pejoratively described as ‘illegal’ working) as the outcome of state legislative actions and not as a consequence of the individual’s conscious actions. Migrants do not set out with the desire to be undocumented, it is the legal regimes that they find that place them in this category and also that oblige them to negotiate pathways into work, by whatever possible means.

Methodology

The paper is based on the findings from 30 interviews with undocumented migrants currently working in the UK, together with around a dozen interviews with key experts at UK and EU level. Most interviews were conducted in the period between October 2007 and April 2008, following two changes in UK immigration law. The 30 migrant interviewees were accessed through a variety of methods, including through snowballing and through community and trade union organisations. We used gatekeepers in a few cases, but primarily, other than in the case of those accessed through the current undocumented campaigns, contact was made on an individual basis. Most of the interviews were conducted either in London or in the south of England, mainly Brighton. London was the primarily focus of the research and is also the major geographical area of undocumented migrants. Brighton was chosen due to existing links. A demographical breakdown of the interviewees shows that there were 13 countries of origin among the 30 interviewees. We interviewed 15 men and 15 women.

1 The first change affected workers in the care sector and imposed, on the employer, an obligation to pay, to migrant labour only, a rate of pay higher than the statutory national minimum wage and indeed higher than the industry rate. This policy change had resulted in many workers loosing their jobs, as employers were not unsurprisingly unwilling to increase wages above the ‘going rate’. The aim of the policy was to ‘price’ out of a job migrant workers who had entered the country with valid work permits. The effect was to turn documented workers into undocumented workers overnight. The second change, which came into force on 29 February 2008, increased the financial and criminal sanctions on employers of undocumented workers. A fine of £5,000 on employers found to be hiring undocumented workers was doubled to £10,000 and accompanied by possible imprisonment of up to two years. A consequence has been large-scale dismissals, reflected in the stories of some of the migrants interviewed.
Fourteen were currently undocumented; four were semi-documented and 12 were currently documented. Most of the interviewees had changed their status at some stage since their arrival in the UK and all had been undocumented at some stage. The earliest had come to the UK in 1989; the latest had arrived in 2007. Not all had been continuously in the UK, two had left and returned on one or more occasions. In terms of self-reported English language competence, ten were fluent; seven were relatively proficient; ten had minimal English and three had no English.

On commencement of each interview, interviewers completed standard questionnaires providing some basic demographic information. The interviews were in-depth qualitative interviews, mostly each lasting between 60 and 90 minutes. Some of the interviews were recorded but most were not, as interviewees were generally reluctant to participate in recorded interviews, due to their undocumented or semi-documented status. This was not un-expected. Members of the research team conducted the majority of the interviews. In addition two fieldworkers, one conducting interviews with Turkish women (four interviews) and another, conducting one interview with a Kosovar refugee, were used. Interviews were conducted in Bulgarian and Turkish as well as in English. In the case of the Chinese undocumented interviewees, an interpreter from a Chinese campaigning group assisted; an interview with an Algerian migrant was partially assisted by another respondent fluent in both Arabic and English.

The interviews were conducted as part of the Undocumented Worker Transitions Framework Six Project, funded by the European Commission. The project brings together seven partner research groups in Austria, Belgium, Bulgaria, Denmark, Italy, Spain and the UK.

A history of immigration

The UK has been a country of mass immigration since the end of the 19th Century. Migrants initially came from other European countries fleeing persecution and pogroms. They also came as a result of Empire, from Ireland, the Indian Sub-Continent, the Caribbean, Africa and the Middle East. Typically migration represented a permanent decision to move, but there were always elements of circular migration, particularly from Ireland – Britain’s first colony and still today one of the larger migrant groups residing in the UK, with 1.2m Irish nationals recorded as residing in the UK in the 2001 Census. The census also recorded 2.2m people of British/Caribbean or African origin and 4.4m of British/Indian, Pakistani or Bangladeshi origin. Until the early 20th Century there were no restrictions on entry to Britain. Passports did not exist and those who had the means to travel could just as easily move from Istanbul to London as they could from Manchester to Birmingham. The Aliens’ Act 1905 changed all this, by defining some groups of immigrants as ‘undesirable’ and therefore making entry to the UK discretionary rather than automatic.

At the end of the Second World War, national liberation movements in most of the then British colonies began successfully to claim sovereignty. However, this was at a time when the UK government needed foreign workers. Originally they came from Europe, under a ‘European Voluntary Worker Scheme’ with around 350,000 workers coming from Italy and Poland. When this supply dried up, the UK turned to its existing or ex-colonies. Labour was sought from the recently reformed Commonwealth,

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2 The members of the research team were Professor Sonia McKay, Dr Eugenia Markova, Dr Anna Paraskevopoulou, Tessa Wright. The project administrative worker was Jawad Botmeh.
principally from the Caribbean and from the Indian Sub-Continent. Once the needs for foreign labour reduced, the first law to control Commonwealth immigration was introduced in 1962. Rights to enter were further restricted through the Immigration Act of 1971. During the 1970s and 1980s only strictly limited economic migration was permitted for skilled workers through a work permit scheme and further requirements were imposed for those seeking family reunification. Restrictions on economic migration continued until the mid-1990s when employers started putting pressure on the government to permit them to use more migrant labour. But at the same time the government was seeking to control the numbers of asylum-seeking refugees, whose numbers had increased from the late 1980s, and maintained a distinction between those who arrived in the UK as asylum seekers and who were not allowed to work (despite their skill levels) and those who were eligible as economic migrants (Baldaccini, 2003).

Since the election of the New Labour government in 1997 immigration has been high on the political agenda, with measures to control the numbers of asylum seekers entering the UK, and then a policy of ‘managed migration’ to encourage economic migration where it was seen to benefit the UK economy. The government’s Secure Borders, Safe Haven White Paper in 2002 (Home Office, 2002) went further in developing its policies on ‘managed migration’, referring to the economic and social benefits of migration, but also the need for social integration of migrants, community cohesion and routes to gaining citizenship of the UK. Flynn (2005) argues, though, that migration policy was being shaped by the needs of business both for skilled labour and unskilled labour, whose rights in relation to length of stay, family reunification etc., varied according to the scheme under which they entered and depending on employer demand for labour. Both immigration policy and immigration flows have therefore changed significantly during this period and are continuing to do so.

Undocumented or ‘illegal’ migration has also become an increasing focus of interest, with concern from many quarters about the exploitation and conditions of migrants, particularly following the death of at least 21 Chinese migrant workers in Morecambe Bay in 2004 while picking cockles. At the same time the government has introduced increasingly stringent policies in relation to border controls and tackling what it describes as the ‘abuse’ of the immigration system. These, it is contended, have themselves contributed to the rising numbers of undocumented migrants.

Tightening migration policies

Work now provides the main route into the UK but the rules have changed and consequently the ability to obtain legal permission to work in the UK is restricted either to those with very high levels of qualification or income or to nationals of the European Union. In 2008 all previous visa and work permit systems were replaced by a single points-based system, made up of five tiers. Tier 1, was introduced in February 2008 and includes only highly skilled professionals and entrepreneurs and offers a route to settlement, possibly after two years (Home Office, 2006a). Tier 2, for skilled workers with a job offer from a UK employer, who may apply for settlement after five years’ residence, came into force in November 2008. Tier 3 was for low-skilled workers, limited by quota, where UK and EU labour is not available and offers only temporary residence for a maximum of 12 months with no right to bring dependants or switch to another route and is currently limited to Bulgarian and Romanian applicants. Tier 4 is for students, with leave tied to a sponsoring educational institution and limited to the duration of the course, although most will be entitled to bring their dependants and work
part-time. This too only came into effect in November 2008. Tier 5 covers youth mobility schemes and temporary workers who might not qualify under Tier 2 but who are allowed into the UK for cultural, charitable, religious or international development reasons (Home Office, 2006a). The new scheme has been criticised for potentially exacerbating the vulnerability of migrant workers and their families, as critics fear that the effect is to curtail legitimate labour migration routes and increase the likelihood, in the words of the chief executive of the Immigration and Advisory Service1, that ‘more workers will be sucked into the economy via smugglers and traffickers, with appalling consequences of exploitation’ (UNA – UK, 2005).

On 1 May 2004, when the A8 countries of Central and Eastern Europe joined the European Union, nationals of these countries were granted the right to work in the UK, although they were required to register under a Worker Registration Scheme. The latest data (March 20093) shows that there have been 989085 applicants registering between 1 May 2004 and 30 June 2008, of which 949,145 were accepted. Although there is no official data, the available research evidence suggests that many of those who have registered had previously been in the UK as undocumented workers. Thus while the UK government continues to assert that it is implacably opposed to regularisation, it has overseen one of the largest regularisation programmes in Europe.

The legal changes already referred to have meant that the main routes for migration into the UK are limited. There are three possible ‘legal’ entry routes: as an asylum seeker, for family reunion or for work.

The government’s current policies in relation to asylum have been to deter asylum seekers from arriving, to make the regime for claiming asylum as repressive as international law permits and to deal with and expel those deemed not ‘genuine’ refugees, as quickly as possible. In 2005 the UK government published a five-year strategy for asylum and immigration (Home Office, 2005), which continued its focus on tightening up the asylum system to deter those it perceived as ‘economic migrants’ rather than ‘genuine refugees’. Asylum seekers are now denied access to the legal labour market and all the evidence suggests that this forces many into undocumented work.

There are rights to family reunion for a restricted group made up of spouses, fiancé(e)s, unmarried and same sex partners of those who are settled in the UK, or in a category leading to settlement. Dependent children, aged under 18 and unmarried, can also apply to join their parent(s) and settle.

Workpermit holders were the largest category of entrants, until abolition of the scheme in 2008. The work permit scheme had been granting rights to work to in excess of 100,000 applicants a year. The government has claimed that 12 per cent fewer applications have been approved under the new scheme since February 2008.

In addition to the above categories, the number of students coming to the UK has more than doubled over the last decade, from just fewer than 60,000 in 1994 to more than 157,000 in 20074. Students have the right to work for a limited number of hours, and many students do work, in some cases in excess of their permitted hours, putting themselves into semi or undocumented status.

At the same time as reforming the routes to labour migration, the government is

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taking an increasingly ‘tough’ approach to border controls and ‘illegal’ migration, including measures such as the introduction of compulsory identity cards, containing biometric data, for non-EEA nationals living in the UK and these were to be in force by the end of 2008 (Home Office, 2006b). The most recent proposals further stress the distinction between ‘good’ (perceived as beneficial to the UK economy) and ‘bad’ (said to be abusing the system) migrants, who are equated with those without permission to reside or work.

Pathways to the UK

Migration has never an unproblematic choice. Journeys to the UK have often been associated with financial costs to the migrant or their family, paid to agents or others assisting their passage to the UK. These were often incurred through taking out high interest bearing loans. Employment agencies have been instrumental in migration decisions, acting as a contact point in the country of origin, encouraging migration, providing ‘information and advice’ on the available work in the destination country, but often demanding large fees from clients, fees that would have been illegal if levied in the UK. Many of those interviewed in our research referred to making payments to agencies or to gangmasters, to assist in their passage to the UK. The amounts paid out varied, dependent on the country of origin, with workers from China generally paying out much larger sums of money than workers from other countries. Four of the six interviewees who had migrated from China offered information on the sums they had paid and these ranged from £17,000 to £20,000. However, it was not just Chinese workers who had to pay large sums of money for their passage; although the amounts were smaller, Filipino workers had also paid out to agencies to come to the UK, only to find that, as a result of changes to the law, they had lost the right to work. One interviewee had paid £1,500 to his agency and had obtained a loan to pay the fee. Another had paid an agency in Bulgaria to issue him with a new work permit. At the same time he had also paid for a permit to work in Cyprus and worked there for eight months until his UK work permit came through.

For a sizeable number of those interviewed, migration specifically to the UK had not been their ultimate life goal, but rather that their decisions were instrumental and dependant on their overall goals regarding migration and work. For example, around one in four of those interviewed had previously worked in other EU countries and there was considerable movement around the EU. In such cases they were able to compare those experiences with their current experiences in the UK. This comparison did not always result in a view that their current experience was preferable. Moving in search of work did not provide a continuum of improved circumstances.

Eight of the 30 interviewees had worked in other EU countries before coming to the UK. This either indicates that where migrants found themselves was subsidiary to their desire to migrate or that they found that migration journeys were more successful where they were conceived as being a series of migration phases, rather than as a single trajectory from country of destination to country of origin. This also meant that a few of those interviewed had returned to the UK on more than one occasion.

For some interviewees, pathways into the UK were particularly challenging and could be dangerous, where they had been smuggled into Europe. One interviewee had reached Spain hidden in the container of a cruise ship. He was then smuggled into France where, through the help of friends, he had obtained work in co-ethnic owned shops. From France he was smuggled into Belgium and from there he made it to the
UK. For migrants who had come from China, in particular, the journeys were even more arduous, could take many months and up to a year in one case, and had very high financial costs. For example, the family of one interviewee, a 31-year-old female, had borrowed £20,000 to pay for her journey.

Some of those interviewed had also returned to their country of origin at some stage and then later had come back to the UK. One had come to the UK in the mid 1990s, having originally moved from Bulgaria to Germany where he had applied for asylum. There he had worked only for Turkish employers, a pattern repeated when he came to the UK. He had left the UK after a year and had returned to Bulgaria to run a small business. However, when this failed he ended up back in the UK where he applied for asylum and currently has indefinite leave to remain. This gives him a documented right to work. A second Bulgarian interviewee similarly had worked in the UK, had returned to Bulgaria and then had come back to the UK, once he had been able to organise a new work permit.

**Status transitions**

There are no reliable statistics for the number of unauthorised migrants in the UK. The available data (although fairly out of date in the light of the many changes to migration rules) provided a range from a lowest figure of 310,000 (0.5 per cent of the UK population) to 570,000 at the highest (1 per cent), with a midpoint of 430,000 (0.7 per cent) (Woodbridge, 2005). It seems clear that while the regularisation of A8 workers will have reduced that number, the tightening of immigration controls will have had the opposite effect, and our estimates suggest that if anything the numbers of undocumented and semi-documented migrant workers have grown.

Nor is there any reliable data on the demographic profile of the UK’s undocumented population. Those studies that have been produced tend to rely on small samples, which are acknowledged as not sufficiently robust (Black et al, 2003). Our own study also suffers from being based on a small sample. However, it was constructed to reflect the known demographic profile of undocumented migrants as revealed in earlier studies – young, relatively well educated, and a majority have some form of skill or qualification. There are many ways in which undocumented migrants may enter the country, either legally or illegally, and many ways in which their work status may become irregular. The main categories of undocumented migrants are:

- Illegal entrants (without valid leave to enter country), includes those who entered the country clandestinely, evading immigration control, and those who come through immigration control and obtained leave to enter by deception (i.e. with false documents);
- Overstayers, those who entered legally as visitors, students, with a work permit or for family reunification, but who have not left the UK after their leave to remain has expired;
- Failed asylum seekers who have no further right to appeal and have not left the UK;
- Asylum seekers with ‘insecure status’, facing problems on account of inappropriate or not recognised documentation;
- Asylum seekers who lose contact with the authorities before their case is decided.
The majority of interviewees in the UWT study had experienced status transitions. Thus while we set out to interview undocumented workers we found that many had, at some point, been documented. Some had arrived as refugees and had claimed asylum, while others had initially arrived as work permit holders and had then become undocumented when their permits had expired and had not been renewed or when they had felt it necessary to leave their work permit job. Only eight of the 30 interviewees had always held the same status (in each case they had always been undocumented). Looking at the remaining 22 interviewees, seven had initially arrived in the UK as refugees; four had arrived as tourists; four had work permits on first arrival; and four had arrived as undocumented workers but had later changed their status; one had arrived in transit and had remained in the UK; and two had arrived as students.

In the UK the main sectors in which undocumented migrants work are construction, agriculture, textiles, hotels and restaurants, cleaning, care work and domestic work, which are also sectors where there are high levels of informal working. This finding is replicated in the research conducted by the UWT partners in Austria, Belgium, Bulgaria, Denmark, Italy and Spain. In addition to these sectors, Bridget Anderson, in a study of undocumented migrants in London, reports finding undocumented migrants working as mini-cab drivers and in small enterprise trades (i.e. garages or workshops). In the UK there is some ambiguity over the use of the term informal economy but the literature generally agrees that the informal economy covers work involving the paid production or sale of goods or services that is unregistered or hidden from the state for tax and employment law purposes, but otherwise is a legal activity (Ram et al, 2004). Undocumented migrants account for only a part of the informal sector, although the size of this part is hard to gauge.

Many of those interviewed in the UWT project described situations of employer complicity in undocumented working, in particular prior to the legal changes of February 2008, which increased the sanctions on employers (including penal sanctions). This complicity continues, particularly in those sectors that have not been the focus of the UK Border Control authority, which has turned its firing power primarily on small and visible minority ethnic businesses. One interviewee spoke of being paid less than the national minimum wage because the employer knew that she was undocumented. The interviews also suggest that the increased sanctions on employers had changed behaviours, with some employers, particularly those employing workers in highly visible occupations, such as construction and hospitality, moving to dismiss those whom they believed were undocumented even where they had been working for the employers for many months, and in some cases years. One interviewee stated that in the past none of the employers he had worked for were concerned about the conditions attached to his visa. All they wanted to know was that he had a permit; even if it was not for the work they were employing him to do. But the new immigration regime had changed all this. In his last job he was suddenly ‘asked to resign’. Another interviewee also spoke of his employer suddenly starting to press for documents, shortly before the change in the law, and eventually being told to leave. In this case, a similar experience had occurred in France where he had lived prior to moving to the UK. There increased police raids had forced him to leave a job that he was enjoying and which the employer trusted him to do. A 21-year-old Algerian worker, working with a forged French passport, told of how his employer had stopped paying him because he was ‘illegal’. The new sanctions also meant that the ‘window’ within which undocumented workers could work had narrowed considerably. As one interviewee noted, while previously it might have taken 18 months
for an employer to get round to demanding documents proving a right to work, this period had narrowed to less than two months. Undocumented workers thus had to be continually changing employer to stay ahead of potential raids.

Five of the six of the Chinese migrants we interviewed had become much more vulnerable as a result of changes to immigration laws. There had been widespread dismissals within the Chinese owned restaurant sector, which was targeted for police raids, and which therefore had reacted by dismissing workers without documents. One 31-year-old married woman had not had a full-time job in the three months since being asked to leave her place of work because there was the risk of police raids. She said that she was now ‘lucky’ if she got one or two days work a week, covering for staff on leave. Work was sourced through Chinese friends. A 37-year-old male had been working in construction, earning £60 a day for 10 hours’ work. After two years and just before the increased employer sanctions came into force, the employer asked him for his papers. Since he did not have any he had stopped going to work. He described being frightened of going out in case the police stopped him. At most he now gets a day or two’s work on construction sites. Another 32-year-old male, who had worked as a second chef, also lost his job because the employers did not want problems with the police. A woman had lost her job after having worked in the same Chinese restaurant for several years. Again it was the increased number of police raids that had forced her to leave her job. For these workers the outcome had not been that undocumented work had ended, but rather that they had been forced into even more exploitative forms of casual labour.

For some workers the government enforcement campaign and increased penalties for employers of undocumented labour had additional negative consequences, as they were unable to return to their countries of origin. The large amounts that they had borrowed to pay the gangmasters who had arranged their journey to the UK had not been paid off, and indeed it is difficult to conceive how they could ever be paid off, given that the average debt was in excess of £15,000 and their average rate of pay was under £4 an hour. Most workers, even when they had been able to make payments towards the debt were merely covering the interest charges. The debt itself rarely reduced. In one case, the interviewee reported that having already been late with a couple of payments, debt collectors in China had begun to harass his family which had borrowed more than £20,000 to pay for his journey to the UK. These realities of living as an undocumented worker in the new era of immigration controls are completely ignored by the UK government.

These changes to the immigration rules and greater enforcement, when previously irregularity had been widely ignored, have had a devastating effect on peoples’ working lives. For example one young woman interviewee had established herself in a job related to her qualifications with no complaints about her working conditions, was suddenly thrown into uncertainty when a technical difficulty in her application form, for a renewal of her work permit, threw her into an undocumented status and caused her to lose her job. A male Algerian interviewee had been working in a pub making pizzas, but once the new sanctions had come into force he was asked to leave. Getting new work was proving difficult. These difficulties were not confined to those seeking low-skilled work. Even for the highly skilled, which the state claims it wants to attract to the UK, the continually changing and punitive immigration rules caused difficulties. On female doctor spoke of finding herself in a permanent dilemma as each time she adopted a new strategy, to cope with a change to the immigration rules, no sooner had she overcome...
the existing obstacles, the rules changed again. After five years of trying to have her Colombian qualifications as a doctor recognised, the rules concerning training positions for non-EU doctors under the Highly-Skilled Migrant Programme changed and her view was that she would never be able to work in her profession in the UK. The ‘goal posts’ shifted too often.

The changes to the rules on work permits for senior care workers had also thrown mainly Filipino workers into undocumented status. This had happened to one male interviewee, who had lost his job when the rules had changed and had been unable to get a new job offer at the rate set by the government that would allow him to stay in the UK. This had other consequences, as workers who had already built up years of UK residence, would be unable to use these towards claiming their rights to permanent residence, which otherwise would have been available after five years working in the UK. One Filipino male nurse had realised that his work permit was coming up for renewal and had been assured by his employers that the renewal application was in hand. On the day before its expiry, he was called into the manager’s office and his contract was terminated. This had occurred just months before he would have reached his five years of temporary residency and could have applied for permanent residency. Another interviewee too had lost his work as a care worker, in December 2007. If he had been able to work until June 2008 he would have gained his permanent residency rights. The effects of his loss of work was to push his wife into irregular work to support them – she had previously been working legally due to her dependant status attached to his work permit, but could not continue this job once her husband lost his employment. The couple felt it was safer for her to work private households with less chance of detection by the authorities. Again this demonstrates that the tightening of controls has the potential to increase undocumented work.

Workers in these situations relied heavily on compatriots providing them with moral and economic support, speaking of housemates and friends giving support during the months when individuals had been unable to access work.

The box below shows the status of the interviewees and their status transitions where these had occurred. The most likely transition was from documented or semi-documented to undocumented status. While in only four of the 22 cases listed below did individuals start as undocumented, in relation to their current status 11 of the 22 were currently undocumented (Table 1).

Although it might be assumed that workers once regularised would shift into less precarious work, this had not necessarily been the experience of interviewees. One Filipino woman worker regularised in Italy had nevertheless continued to work in the same job she had prior to regularisation. For another obtaining legal status did not result in a change in the work that he did. He continued to work in the semi-formal economy and a significant part of his work remained undeclared. In his view, and in conditions where he did not have sufficient English to enable him to move out of the ethnic enclave that he worked in, whether or not a person was documented had no impact on their working conditions.

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5 In the remaining eight cases they were always undocumented and had not experienced any status change.
Only for a minority of interviewees had a change to legal status resulted in a fundamental change to their conditions of employment, instead it had given other improvements like the right to access services and to seek work more confidently. One woman had moved from informal work, mainly cleaning in private houses, to formal work, once her asylum status had been confirmed. Other changes meant a right to receive statutory benefits and to access professional training. Another felt that since she had acquired refugee status and a right to work she had better opportunities in terms of looking for work. There was also less stereotyping by employers and agencies.
Pathways to work

Agencies had been used not just to assist in journeys to the UK but also as the source for work in the UK. One interviewee had accessed his first job through an agency in Bulgaria, which had obtained a two-year work permit for him. He had worked as a cook in a pub, alongside other Bulgarians. Following changes to immigration rules in early 2008, he had again been forced to go back to the Bulgarian agency, paying it another £300 to try to get a visa to come back lawfully to the UK. Three interviewees from the Philippines had found work through agencies based in the Philippines. In cases like this the work provided was generally considered to be worse than promised and workers had often paid significant sums of money to the agency for this service. In one case, the interviewee stated that he had eventually been forced to leave the job obtained for him by the agency due to bullying at work.

Some interviewees had sourced work through agencies in the UK. A Nigerian interviewee had used an agency to find him jobs in hotels, working in six different hotels over a six-month period. A Chinese 31 year old female had found her first job, in a food factory, through a Chinese agency in London. Even though it is unlawful in the UK for agencies to charge workers for their services, she had paid a registration fee of £200 to an agency. Others had paid similar amounts.

For those who did not source work through agencies, contacts in minority ethnic communities already established in the destination country or through communities that shared elements of culture, history or language, were a significant source of work, not just for first jobs but also for subsequent jobs. In this way the undocumented migrants have different experiences from documented migrant workers, who, while they may source first jobs through existing networks, are more likely to source future jobs through different channels.

The notion of ethnic solidarity was wider than one that was directly associated with country of origin. Being a migrant, of itself, provided some interviewees with a common sense of identity and a willingness to provide support. Of course it might also be argued that established migrant employers were also more aware of the needs for work of new arrivals and of their willingness to accept almost any offer. However, most of the interviewees had at some stage sourced work through ethnic networks, although not necessarily through co-ethnics. These were the most successful routes into employment and, for most interviewees, were not used solely as the first entry point into work. Continued employment in the UK was dependent either on personal friendships or on established networks. Chinese workers were more likely to use contacts in their own ethnic communities to source work in other ethnic enclaves. For example, one interviewee had found work in the construction sector though using his contacts in the Chinese community. But the construction employer that he had worked for was Eastern European, as were most of his co-workers.

Some interviewees thus had located work through other ethnic networks that were regarded as supportive. For example, an interviewee from Bulgaria had accessed work in a Greek-Cypriot business, using the Greek Church as a route into this community, accessing cleaning work in a hotel. Another, an interviewee from Morocco had found work through his brother and was working in an Iranian restaurant. The pay was low and the conditions poor and after a year he found a job in a take-away, whose owner was Jamaican. The pay was better, the conditions good, but the business failed. Since then he has worked in more than a dozen restaurants. A Nigerian interviewee had found his first job through a Jamaican friend who introduced him to an agency that was able to
send him to jobs. Thus individuals were open to going outside of their own ‘communities’ either because these were not well established, or because other communities, which shared some common elements of culture, language or history, were better placed as a source of work. This suggests first, a willingness to go beyond obvious ethnic groupings and an active assessment of what are the best opportunities for work, particularly when routes to work were limited. It also reflects a concern not to reveal too much of their personal business to members of immediate ethnic communities, particularly where concern was expressed that this personal information could be fed back to the family and friends at home.

There was a view that ethnic enclaves were more accepting of undocumented workers and that they did not necessarily treat them differently from other workers. In ethnic businesses it was more about trust, rather than having the right documents. If the employer trusted the workers they would pay them more, give them more work and promote them in the business. It was a combination of ethnicity and of the existence of high trust factors and not status that determined employment conditions.

There was an expressed a preference for working in private households, even where these offered poor pay and conditions and put the worker in a particularly vulnerable position as against their employer. Their reasons for choosing private household work were to do with their feeling that they would be less exposed if working in such environments; that police and immigration raids were much less likely and that therefore as an undocumented worker they could avoid attention being placed on them. Private household employment was described as ‘more secure’ because ‘the police can’t easily come and check a private home for undocumented migrants’. They also felt that working in a private household removed them from environments where they often had experienced bullying and harassment from co-workers. For women interviewees this meant that they favoured work in childcare or in domestic cleaning. For male undocumented workers too, work within private households was considered a safer option. This was shown in an expressed preference for working in the domestic construction sector. Where this type of work was not available then workers still expressed a preference for working ‘out of sight’ for example, by working at nights in restaurant kitchens after the premises had closed.

One interviewee from Bulgaria while undocumented had first worked as a cleaner in a private household. She had started with one house and had then been recommended to other clients, eventually cleaning five or six houses a week. However, she had held back from expanding further as she was concerned that this would put her at greater risk of detection from the authorities. Another interviewee, a Filipino worker, had also always worked in private homes, as without documents this was the only type of work she could access. However, even in this case her latest employer was starting to express concern about her status. A Chinese interviewee had recently taken up work in a private household, following the increased number of police raids against Chinese owned restaurants, where she had traditionally worked. A 40-year-old Filipino male, who had been bullied when working on large construction sites because he was undocumented had shifted to work only in private homes. For him it felt safer to work alone on small construction projects in private homes. He had also been advised to look for work outside London, where he had been told that police raids were less likely. Another worker, although a qualified builder, was no longer able to access work on construction sites due to employers being wary of the increased sanctions and relied on recommendations from friends or past clients to do small projects in private homes.
We also noted that very few interviewees had been involved in collective organisation with trade unions. This was generally because trade unions were not active in the industrial sectors where undocumented migrants worked. It did not reflect unwillingness on the part of migrants to collectively organise. Indeed, in their pathways into the UK and into work, interviewees exhibited a strong reliance on collective organisation, through community and social networks.

**Ethnicity and employment**

One of the experts interviewed for the project had suggested that while employers did not necessarily prefer particular nationalities, the nationality of the supervisor was a predictor of the nationality of the workforce and that employers at least manipulated these different groups. The trajectories of the migrant interviewees confirm this typology. Most of those we interviewed did not work for minority ethnic employers, but they did work with other migrants. The table below shows the ethnic background of the current employer in the 30 UK interviews. It reveals that only a minority of the 30 interviewees (27 per cent) were currently or had recently worked for co-ethnic employers, while a further 17 per cent worked for an employer from another minority ethnic group. However, in terms of their co-workers, our interviewees were more likely to work either with co-ethnic workers or with workers from other ethnic communities. Only a minority were in workplaces where the workforce was primarily from the UK (Table 2).
### Table 2: Origins of employers and co-workers

<table>
<thead>
<tr>
<th>Interviewee</th>
<th>Employer</th>
<th>Other ethnic</th>
<th>UK</th>
<th>Workforce</th>
<th>Mixed ethnic/host</th>
<th>Primarily British</th>
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<td>Total</td>
<td>8 (27%)</td>
<td>5 (17%)</td>
<td>16 (53%)</td>
<td>12 (40%)</td>
<td>7 (23%)</td>
<td>11 (37%)</td>
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</table>

*Source: Fieldwork, 2007-2008.*

The fact that individuals had been working for UK employers in workplaces, where the majority of the workforce was UK British did not mean that they necessarily had better terms and conditions. Of the nine workers in this category, two were working without documents in a private home, three were working in small restaurants or pubs on low wages, one was doing unpaid voluntary work, one worked as a trade union organiser and one was working in a bank. Only the last two workers perceived their jobs as
equivalent to their qualifications and skills.

The consequences of undocumented status

There is also little published research specifically on the work experiences of undocumented workers in the UK, but those that do exist all point to poor working conditions and pay, harsh treatment by employers (and in some cases by co-workers) and employment in precarious work, with casual, temporary and agency work predominating. There is also little evidence of their relationships with wider civic society, for example, their ability to access services. Historically, migrants had access to health services in the UK, without checks on their immigration status but this right to treatment has come under attack with new government policies aimed at preventing health care workers from providing all but emergency care to those without the right of residence, with recent high profile cases of the deportation of individuals with major health problems, regardless of their ability to access appropriate care in their country of origin. The introduction of compulsory identity cards for foreign nationals from the end of 2008 is intended to enforce the denial of forms of social care provision.

Few of those interviewed had ‘successfully’ moved into regular and more valued work that generally was associated with work outside ethnic enclaves. A woman from Bulgaria was in a minority of interviewees who had moved into professional work, although in Bulgaria she had worked as a factory worker. Having begun working in the UK as a cleaner in private households, once she had been granted asylum she had found a job in a dental practice. With support from the practice she had qualified as a nurse. Her experience was that the grant of refugee status had provided her with a professional opportunity that would not otherwise have been available to her. Another interviewee had arrived in the UK in 1999 as a refugee, at a time when asylum seekers had the immediate right to work. This had meant that she could at once take up appropriate work. She eventually attended university and since has worked in a number of City financial institutions. She said:

I feel lucky in that when I arrived I was given the right to work and obtained employment in the mainstream. Nowadays there is a limited right to work and people have to survive and can end up in the ‘black’ market.

But these were the exceptions. The clear majority of the interviewees did not experience a continuum of improvement and indeed had accepted that they would have to always work in jobs below their qualifications. For example, one interviewee, a qualified dentist from Nigeria, was working as a security guard.

There was also significant evidence of bullying and harassment and in cases where this was raised, individuals spoke of it having either begun or escalated once they were known or suspected of being undocumented. These poor social conditions of work were also accompanied by poor working conditions themselves, with long working hours, work in the most ‘undesirable’ locations being frequently mentioned. Pay was generally very low and none of the interviewees received any supplements for night work or overtime. Although the UK has a national minimum wage of £5.52,\(^6\) in 17 of the 27 jobs that interviewees did, where pay information was provided, they were being paid

\(^6\) At the date of the interview, it is currently £5.73 an hour for adults over the age of 22.
less than the national minimum; indeed seven of the 17 earned less than two-thirds of the national minimum. Three interviewees had rates of pay of £1, £1.49 and £1.80 an hour respectively. Although those who were currently undocumented generally were in the most exploitative situations, being documented was not a guarantee to having the national minimum. Indeed, documented workers were doing seven of the 17 jobs paid below the legal minimum.

Interviewees sometimes conceptualised their poor terms and conditions as being associated with their lack of fluency in English and those who were more fluent believed that they were better able to assert their rights and less likely to be exploited. However, in practice pay levels and fluency were not directly related. Of the 17 jobs where individuals were being paid below the national minimum, migrants who were fluent or at least proficient in English occupied six of them.

**Conclusion**

In the 30 interviews conducted for the UWT project there were a number of recurring themes. Most interviewees referred to their constant fear of discovery by the authorities and this influenced not only where they choose to work, but also the conditions under which they accepted work. They spoke of being constantly in fear of discovery and of accepting work that offered inferior terms and conditions, but which could be ‘hidden’ from the police authorities. This drove undocumented workers into marginal areas of the economy, in particular into work in private homes or work in ethnic enclaves. Their fear of discover influenced where they worked, the jobs that they did and the conditions that they worked under.

The research suggests that social networks composed of co-ethnics are not necessarily the chosen routes into employment. However, a more general ‘community of migrants’ was the move effective path to employment and to progression. The research also shows that while status influences job opportunities and career paths, there are other factors that are of equal importance and that regularisation by itself may not automatically produce better outcomes.

Most importantly, the research demonstrates that the impact of undocumented status is to create a hidden army of labour, working in the shadows, at night, in private spaces, unable to enforce their rights and unwilling to complain. These are the real consequences of government policies aimed at limiting migration routes.
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