

RETURNING IRREGULAR MIGRANTS

IS DEPORTATION
THE UK'S ONLY OPTION?

BRIEFING

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ABOUT THE PROJECT

'Beyond Irregularity' is a major international project led by IPPR which focuses on irregular and transit migration from sub-Saharan Africa through Morocco to the European Union. The project has five partners: Sussex Centre for Migration Research at Sussex University, UK; Eaves Housing for Women Ltd, UK; Platform for International Cooperation on Undocumented Migrants (PICUM), Belgium; the Council of the Moroccan Community Abroad (CCME), Morocco; and the Development Research and Project Centre (DRPC) in Nigeria.

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INTRODUCTION

The estimated number of irregular migrants¹ in the UK is one of the highest in the EU. While there are no official figures, estimates suggest that the stock of irregular migrants could be in the range of 417,000 to 863,000 (Gordon et al 2009). Although there is considerable uncertainty even about this range of estimates,² this figure is substantially higher than in other European countries such as Spain, which had an irregular population of 280,000 to 354,000 in 2008 (Vollmer 2012). This could be partially explained by the fact that the UK has not had any systematic policy of providing amnesties or regularisations to its irregular migrant population (as countries like Spain have done) and instead relies heavily on its policy of returning irregular migrants alongside strategies to prevent future irregular migration.

Although the UK continues to improve on its policies of return – for example, by agreeing to reduce drastically the length of time children and their families spend in detention prior to deportation – concerns have been raised again recently about the backlog of immigration and asylum cases that needs to be cleared. The number of outstanding cases in the UK increased by 25,000 over three months between March and June 2012, bringing the total to more than 300,000 (Casciani 2012). Delays in resolving immigration and asylum cases increase the risk of overstaying, and commentators have since voiced concerns that in an effort to clear the backlog people may effectively be granted amnesty, irrespective of the merits of their case.

In our view, **it is very unlikely that the backlog will spur any sort of open or official regularisation programme providing amnesty to irregular migrants.** The survey data on UK attitudes in 2010 suggested that fewer than one in four people support regularisation (Transatlantic Trends Immigration 2010) and there is little to indicate that minds have been changed since the Coalition government came into power. While amnesties do occur as part of the case resolution process, the Conservative party is as publicly opposed to granting amnesty as Labour was. In the absence of any formal programme to resolve the backlog, the UK Border Agency (UKBA) is being asked to answer for what appears to be an inefficient and ineffectual system of processing immigration and asylum claims and returning those that are refused.

A promising alternative to regularisation for clearing the backlog of cases and returning irregular migrants in greater numbers may be a programme of assisted voluntary return (AVR). In much of Europe the consensus has long been that AVR programmes are the preferred method for managing irregular migration. These programmes are also increasingly favoured over enforced return as they tend to be less expensive; garner more support from non-governmental organisations (NGOs) and the public for being safer and more dignified; and have the potential to reduce migrants' propensity to re-migrate by improving the reintegration in their home country.

The UK has made strides in developing AVR programmes, but still uses deportation as its primary means of return, in line with the rest of Europe. We argue here that **there should be a stronger focus on AVR as this appears to be a better option for maximising the return of irregular migrants, and does so in a cost-effective, humane and sustainable manner.** AVR programmes can also act as a deterrent since they facilitate rapid returns of irregular migrants and those whose asylum claims have been rejected, thereby providing the clearest possible message to people smugglers and potential

1 We define an irregular migrant as every immigrant who is breaching any immigration rule.

2 This estimate does not include those who are legally resident but illegally working (clandestine workers).

irregular migrants that they will not succeed (IOM 2012). Above all, this is a more politically sustainable option for managing irregular migration than granting amnesties.

At present, take-up of AVR programmes in the UK is low. In the year September 2011 to 2012, only 3,699 people in the UK opted to return through an AVR programme (Home Office Control of Immigration Statistics 2012). **The volume of voluntary returns could be greatly increased if the UK turned its attention to incentivising irregular migrants to choose facilitated return packages.**

In this short briefing we aim to highlight the limitations in the UK's system of return. First, we contextualise the UK's approach to the return of irregular migrants; and second, we assess how the UK manages returnees. We also distinguish how return and reintegration differ for trafficking victims, whom the UK government has undertaken to protect. The intention is to provide context for IPPR's forthcoming report on the experiences of irregular Nigerian returnees from the UK and how we might ensure sustainability in the return and reintegration of these migrants.

1. CONTEXT: THE UK'S APPROACH TO THE RETURN AND REINTEGRATION OF IRREGULAR MIGRANTS

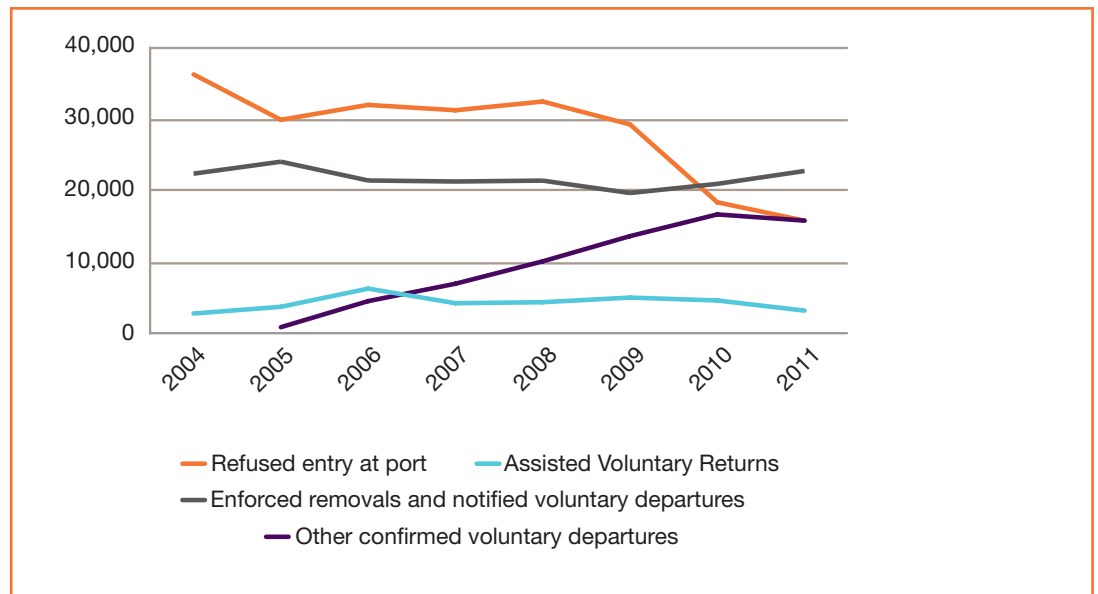
Overview

Scale of irregular migration and return

Estimates of the number of irregular migrants in the UK vary drastically.³ This reflects how little is actually known about the scale of the problem. However, whatever the actual numbers are, irregular migration of any extent is a major political problem. Managing migration flows and enforcing immigration rules is one of the ways in which governments demonstrate their competence and credibility to the public, so against this backdrop the return of irregular migrants has become an imperative.

The level of return should in theory rise in tandem with the number of irregular migrants entering the UK (excluding vulnerable persons in need of protection such as trafficking victims), but it has actually been slowing since the 1990s even though it seems likely that the scale of irregular migration has remained high or increased (Finch and Cherti 2011). As of 2011, the number of people returning from the UK is just upwards of 55,000, a figure which includes failed asylum seekers, as well as notified and other confirmed (previously referred to as unnotified) voluntary returns (Home Office Control of Immigration Statistics 2012).

Figure 1.1:
Removals and departures
by type, 2004–2011



Source: UK Home Office Immigration Statistics, July–September 2012

The lack of administrative exit data makes it difficult to pinpoint exactly how many departures are taking place. With the eBorders system still some way off, the government has no reliable data, for example, on how many people overstay their visas.

Who is being returned?

Irregular migrants can broadly be categorised into three groups. The first is comprised of irregular entrants; that is, those who either evade formal migration controls or those who

³ A credible estimate from LSE puts the number of irregular migrants in the UK at a range of 417,000 to 863,000 (Gordon et al 2009), but this range increases if migrants who are legally resident but illegally working are counted as well. However, there is considerable uncertainty about the numbers – a recent enforcement effort carried out by UKBA in checking the immigration status of people arrested in London can be read as suggesting that the number of irregular migrants across the UK is as low as 70,000 (Portes 2012). The truth is likely to lie somewhere in between.

present false papers (Gordon et al 2009). The second category consists of migrants who were at one time given permission to be present, but have since exceeded the agreed period of residence or breached the terms of their visa (ibid). Those that come under this category can be further identified as: failed asylum seekers who stayed on in spite of being refused the right to remain; overstayers whose right to reside has expired without renewal; and those who have a restricted right to reside but are violating their conditions (for example, students with limited eligibility to work). The number of asylum returnees has been on the decline since its peak in 2006, but, conversely, the number of returns for other irregular migrants is increasing (Home Office Control of Immigration Statistics 2012). The third category constitutes children born to irregular migrants in the UK who can also be considered irregular because, although they are not migrants themselves, they were never permitted the right to remain (Gordon et al 2009). For the purpose of this briefing, we are primarily concerned with the first and second categories of irregular migrants.

It is difficult to break these categories down further in terms of returns because much of the data on the grounds for removal is missing. While there is data on the number of rejected asylum applicants and foreign national prisoners returned, reasons for removal are not specified for other returns and departures so we have little indication of how these groups actually compare to each other in size (Blinder 2012).

Box 1.1 Return of trafficking victims

In 2011, the UK developed a Human Trafficking Strategy to focus on the prevention of trafficking activity and offer protection for victims. Victims of trafficking are not to be removed from the UK, although they may return voluntarily either through the use of an AVR programme or of their own accord. Although victims cannot be removed, they are not automatically entitled to remain in the UK indefinitely – the decision to grant a victim leave rests with a competent authority (either the United Kingdom Human Trafficking Centre (UKHTC) or the UK Border Agency) once the person is flagged to the National Referral Mechanism (NRM).

However, the Inter-Departmental Ministerial Group on Human Trafficking (2012) recently acknowledged that there are issues with identifying and recording the number of trafficking victims through the NRM. A recent report from the UKHTC also found that as many as 54 per cent of trafficking victims go unrecorded by the NRM, which suggests that there are trafficking victims who have been removed or are facing removal because of oversights in the system.

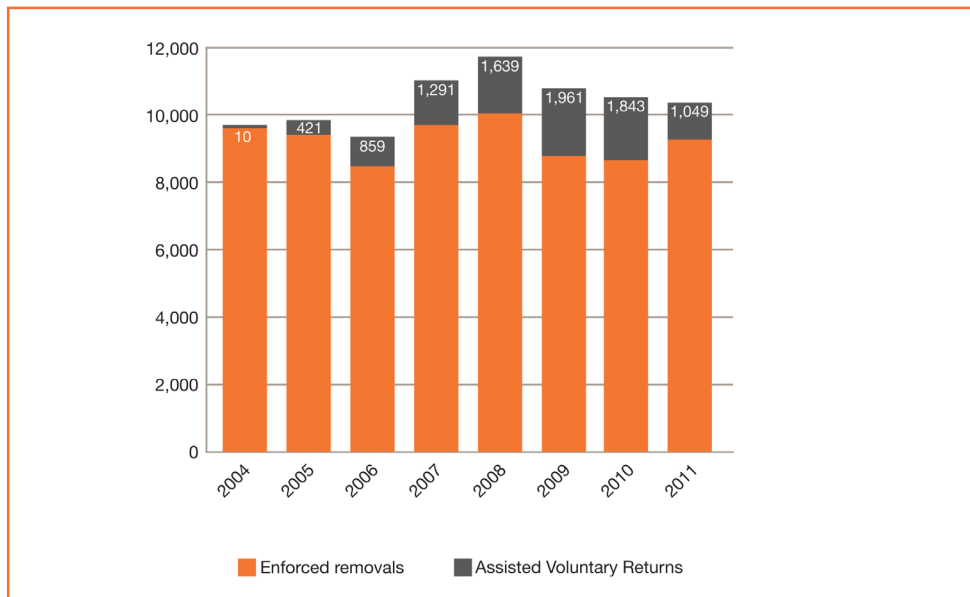
In a previous report, *Beyond Borders: Human Trafficking from Nigeria to the UK*, we shed some light on the methods and routes used by traffickers to transport individuals from Nigeria to the UK (Cherti et al 2013). We also proposed a comprehensive strategy to stop people from being trafficked into exploitation in the UK.

How are people being returned?

The UK Border Agency (UKBA) is responsible for enforcing removals as well as providing AVR options for irregular migrants, migrants with temporary leave to remain and migrants whose asylum applications have been refused. UKBA works with other actors, who differ according to the type of return, in order to carry out their objectives.

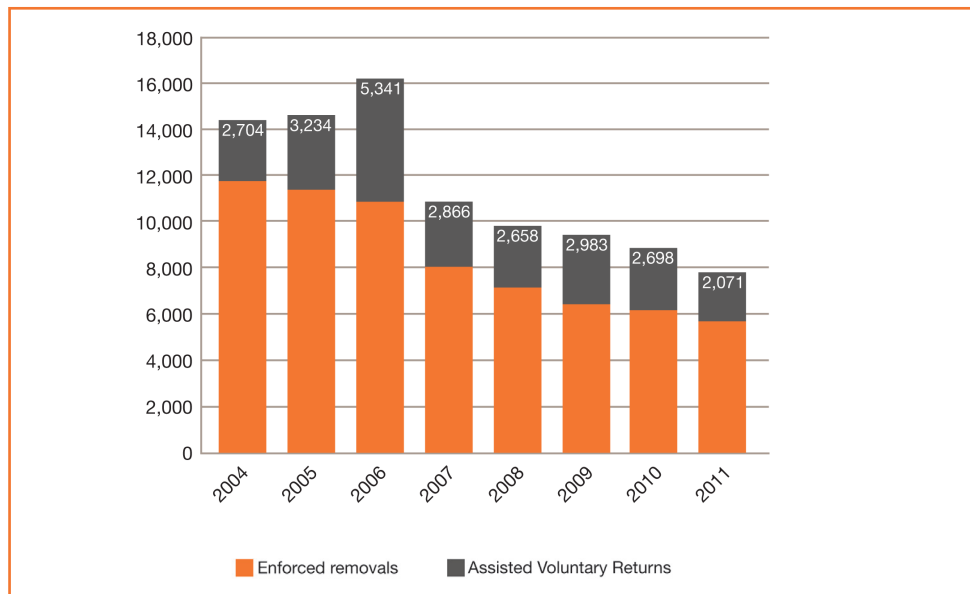
The types of return mentioned can essentially be grouped as voluntary and involuntary, although the International Organisation for Migration (IOM) makes further distinctions: voluntary without compulsion, when migrants decide at any point to return home at their own volition and cost; voluntary under compulsion, when persons are forced by limited circumstances (such as facing the end of legal status) to return of their own volition; and involuntary, referring to when the authorities of the host state order deportation (IOM 2012).

Figure 1.2:
Removals and departures
by type, non-asylum,
2004–2011



Source: UK Home Office Immigration Statistics, July–September 2012

Figure 1.3:
Removals and departures
by type, asylum,
2004–2011



Source: UK Home Office Immigration Statistics, July–September 2012

Voluntary return can be facilitated through the use of an AVR programme, although whether such a choice was made freely or under compulsion will depend on the individual and their circumstances.

Voluntary return is considered the preferable option by governments because the alternative – forced deportation – is expensive, legally cumbersome, and can attract negative attention from the media, community organisers and the public at large (Black et al 2011). Forced return usually entails periods in detention and supervision on the plane home, whereas voluntary returns are far less expensive due to their more modest requirements – covering little more than airfare and a reasonable financial incentive. However, the idea of ‘rewarding people for breaking the law’ is politically controversial, which is why there is more of a focus on deportations.

Both voluntary and involuntary forms of return share the express aim of returning migrants without regular status or those who have exhausted their asylum claims. However, there is a secondary goal in the case of voluntary return, which is to ensure ‘sustainable return’ – that is, a return in which the migrant is able to succeed in the country of return (and possibly contribute to broader development aims), and where the likelihood of subsequent irregular migration is reduced. We argue that it would in fact help to place greater emphasis on achieving sustainability if only to break the cycle of irregular migration. Voluntary return, particularly AVR, has the potential to lead to a more sustainable outcome than involuntary or enforced return because it allows for measures to be taken to prepare migrants for reintegration in their home country. The offer of support for reintegration also helps to incentivise migrants to take up voluntary return opportunities.

How are voluntary returnees reintegrated?

Since there is no consideration of reintegration in instances of forced return, help for irregular migrants resettling in their country of origin is typically only on offer through voluntary routes of return. While reintegration policies differ by programme, the overarching goal is to ensure that the migrant’s resettlement is as stress-free and sustainable as possible. This entails providing the migrant with a package of support, which in some cases includes financial assistance, but is usually focused on preparing the migrant to depart and get in touch with relatives or local organisations that can help them follow through with reintegrating.

For example, prior to departure, caseworkers in the UK can

- contact friends and family in the returnee’s home country
- find out what the situation is like in that country
- plan how returnees will get from the airport to their final destination
- find local healthcare and education where the returnees will be living
- discuss options and priorities upon return, such as education, training, business opportunities, settling into a community, health issues and more
- contact local organisations able to provide help and advice upon arrival.

Box 1.2 Reintegration of trafficking victims

In many AVR schemes, victims of trafficking can request family tracing when they wish to return to their own communities (Talens and Landman 2003). The NGO responsible for this can inform and sensitise family members about what has happened while the victim was abroad. If the victim is at risk of rejection then locally based NGOs can be called upon to mediate with family members and advise on how to heighten the likelihood of acceptance.

In addition to getting in touch with the family, NGOs can provide pre-repatriation assistance: such as temporary shelter; medical and psychological services; security measures in instances of threat; food, and clothes (ibid). NGOs are also able to make all of the necessary arrangements for return on behalf of the migrant, including obtaining travel documents and organising transport. NGOs in the host country may connect with other organisations in the returnee's home country to ensure that the migrant is met at the airport and informed about possible assistance and offered transportation home. A partner NGO in the migrant's local area can follow up and provide support as needed.

Politics, policy and practice in the UK

British governments have generally taken a hardline approach to confronting irregular migration. Under the last Labour government considerable efforts were made to strengthen border controls and reduce irregular entry into the UK (including the introduction of so-called juxtaposed controls). Attempts were also made to remove irregular migrants and failed asylum applicants where possible. Following a dramatic increase in asylum claims in the late 1990s, the government also sought to reduce the number of asylum applications; a number of the measures aimed at reducing irregular migration were also intended to reduce the number of asylum claims (Spencer 2010). The Labour government also focused on the creation of a 'hostile environment' to deter new arrivals and encourage refused asylum seekers, and others without the legal right to reside, to leave.

Since 2010, the Coalition government has picked up where Labour left off. The home secretary, Theresa May, recently expressed her determination to 'make the UK a hostile environment for anyone who seeks to evade the law' (2012). Her new efforts to do so include making it more challenging for irregular migrants to obtain credit – these measures will mean they will be unable to access overdrafts from the bank, credit cards or mobile phone contracts (ibid).

IPPR's previous research does not suggest that irregular migrants can be driven out of the UK in sufficient numbers by simply making their life difficult through a strategy of creating a hostile environment (Finch and Cherti 2011). Forthcoming research based on case studies from Nigeria and Morocco suggests that migrants are also not deterred en masse by the sheer unpleasantness of conditions in the UK, especially when taking into consideration the comparative advantage of toughing it out abroad as opposed to remaining in a dire situation at home.

However, it seems likely that the government will continue to press on with this strategy because it is politically important that it is seen as exercising control over immigration, and, in particular, cracking down on irregular migrants.

The government will also seek to enforce return whenever possible. In no uncertain terms, May declared, 'We will always remove illegal immigrants we catch.' She then went on to give an example of an operation launched in May 2012 that succeeded in returning thousands who overstayed, and noted that the police are also involved in targeting and removing those that are nearing the end of their visa.

Underpinning this crackdown is the Coalition government's commitment to reducing net migration to the UK to the tens of thousands by 2015. Various policies have been introduced in an effort to achieve the target set, but they are limited in their effectiveness, especially since the UK cannot legally restrict immigration from within the EU. It would appear that clamping down on irregular migration is one of the most straightforward and publicly supported ways in which the government can influence these numbers.⁴

UK policy

The UK uses three different methods of enforced return depending on the manner in which the migrant is in breach of the law: the removal of irregular entrants at the border, administrative removal or deportation.

Irregular entrants are considered to be persons who enter the country without permission or by deception, persons for whom there is no evidence of lawful entry, and persons who enter in breach of a deportation order (IOM 2012). Those served with administrative removals are individuals who overstay, work in breach of their conditions of entry and have gained, or seek to gain, permission to remain through deception (ibid). The final category of people to whom deportation applies is comprised of those who have refused a lawful order to leave the country, committed criminal offences, or whose deportation would be in the interests of the public good.

In the case of irregular entrants and administrative removals, migrants are served with an order for removal, as well as a notification of any appeal rights. They are provided with directions and details for their removal, which will be at the government's expense. At this point in the process, migrants can choose to depart voluntarily on their own (although under compulsion), or through an AVR scheme.

In instances where migrants do not follow instructions to depart or arrange to do so voluntarily, the UKBA will enforce return, usually culminating in a deportation. In recent years, the UK has tried its best to speed up the process of removing irregular migrants, particularly because it is believed to undermine the credibility of the immigration system if those who have no right to remain in the UK continue to live and work here. Under this agenda, the UK has limited rights of appeal for refused asylum seekers and is working towards reducing the scope for judicial review of decisions to remove.

Another way in which the UK attempts to accelerate return is through the use of the Detained Fast Track system, which is for asylum seekers and other immigrants who are considered to have 'manifestly unfounded cases.' These migrants are immediately directed from port of entry into the detention estate, processed within one to three weeks and with minimal legal support (Finch and Cherti 2011).

The message this sends is one of the UK unafraid to be tough on irregular migration. Such a message is further reinforced through the use of raids. Arguably there may be times when it is appropriate to carry out raids with teams of enforcement officials trained

4 Only certain types of irregular migration will affect the net migration target, specifically those who fall into irregularity as opposed to illegal entrants.

and equipped to deal with violent situations, but research has shown that some of these raids are needlessly and disproportionately heavy-handed (ibid). Likewise, the UK has been criticised for its use of force while detaining migrants, although detention itself is regarded by the UKBA as a necessary tool for managing irregular migration as it allows governments to resolve immigration claims, facilitate removals or establish the identities of migrants (Silverman and Hajela 2012).

All of the aforementioned approaches are questioned by organisations supporting migrants' rights, who often contest actions by using the courts to delay or even prevent deportations. However, if care is exercised to ensure that people have access to a fair process and that correct decisions are made (in practice a big 'if'), then there should be no principled reason why the UK cannot resort to enforced removal, deportation and detention. Whether these means are necessary, or the most effective response to the challenge of irregular migration, given alternatives such as AVR programmes, is another question.

While AVR is offered, the UK government publicly fixates on enforcing removal to avoid political backlash over what can be construed by some as 'bribing' irregular migrants to return home. AVR programmes are far less costly and more beneficial to migrants than deportation, but they can be a difficult sell because of public perception and are consequently not a focal point of the government's return policy.

Practice in the UK

i. Enforced return

Enforced returns are primarily carried out by G4S, a security firm contracted by UKBA. The company has repeatedly come under criticism for using 'unacceptable force' in their interactions with detainees and during removal. The most recent criticism was detailed in a report by Her Majesty's Inspectorate of Prisons (2012) following an announced inspection of Cedars Pre-Departure Accommodation, where families are detained for up to a week before removal. The report found that G4S were using 'non-approved techniques' to effect the removal of detainees, including one pregnant woman.

Deportations are the most expensive means of returning irregular migrants, and compare poorly with the cost of running an AVR programme. Although the Home Office does not publish data on the costs of deportations, the Migration Observatory notes that in parliamentary written answers immigration minister Mark Harper revealed that the cost of deportation flights totalled nearly £28.4 million in the year 2010–11 (Blinder 2012). In addition to this, data from a 2005 National Audit Office (NAO) report suggested that the cost of removing an individual failed asylum seeker was £11,000, which broke down into: £2,800 for detection and arrest, £5,800 for detention, £1,500 for obtaining travel documents and other administrative charges and £900 for the actual removal. Under AVR the average cost of repatriation was approximately £1,100 per person in 2003–04, according to calculations made by the NAO in 2005 (ibid).

ii. Assisted voluntary return

There are currently three major programmes of AVR in operation, run by the NGO Refugee Action and funded by the Home Office and the European Return Fund.

AVRIM (Assisted Voluntary Return for Irregular Migrants) assists illegal entrants, trafficked people, smuggled people and those whose leave has expired of any nationality (apart from UK, European Economic Area (EEA) or Swiss nationals) to return to their country of origin, subject to eligibility criteria including whether removal arrangements are in place. It is not

open to those who have been in the asylum system. If accepted for the programme, up to three months is allowed for the process, unless in detention, during which time enforced removal will not be pursued. Assistance includes help and funds in acquiring travel documentation to return as a normal passenger; support and advice to prepare for return; flight paid to country of origin and onward domestic transport; and airport assistance at departure, and if needed in transit and at arrival airports. No reintegration assistance is provided.

VARRP (Voluntary Assisted Return and Reintegration Programme) came into being in 1999. It is only open to certain categories of irregular migrants, including asylum applicants who have been refused, or who were given only limited leave to remain. As part of VARRP, Refugee Action provides current and former asylum seekers with assistance in obtaining travel documents and booking flights, as well as a 'package of help' with resettlement in the home country. This package is worth up to a total of £1,500 per person and may include assistance to set up a business, education, a job placement, or training for a particular job. The precise nature of support is agreed with the applicant prior to their departure from the UK. These elements of support are an added incentive for individuals to take advantage of voluntary returns and may improve the sustainability of reintegration. To qualify, applicants must have made a claim for asylum, which has either been rejected or is still pending.

AVRFC (Assisted Voluntary Return for Families and Children) is the third programme operated in the UK. Established in April 2010, this programme applies to asylum applicants, refused asylum seekers, individuals with temporary leave and irregular migrants of non-EEA citizenship with at least one child. It consists of a cash relocation grant of £500 per person and a package of reintegration assistance of up to £2,000 per person, and offers a similar support structure to VARRP (Webber 2010).

In the following section we explore how effective the government's attempts to return irregular migrants have been, and what the implications are, particularly for vulnerable groups such as trafficking victims.

2. ASSESSMENT: THE UK'S RETURN OF IRREGULAR MIGRANTS

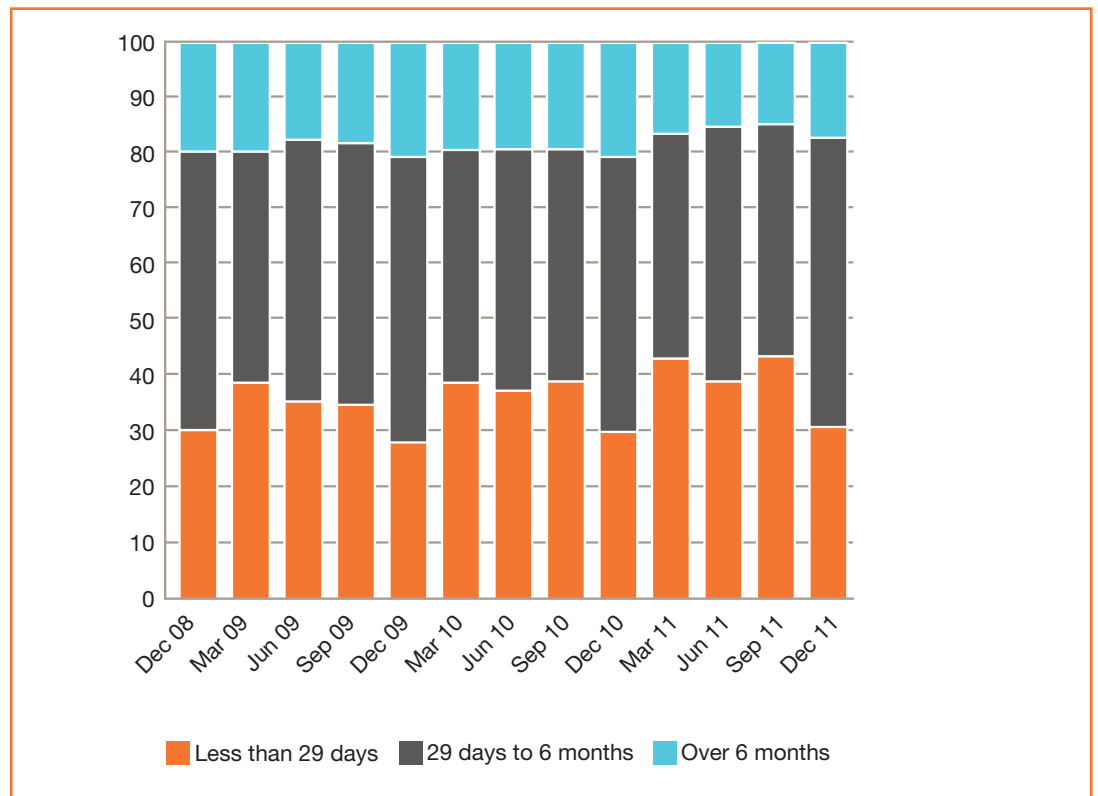
Preparation for return

Detention

The UK detains between 2,000 and 3,000 migrants at any given time in some of the largest facilities in Europe (Silverman and Hajela 2012). This amounts to almost 30,000 migrants detained annually, without accounting for the number of persons held in police cells, Prison Service establishments, short-term holding rooms at ports and airports and those detained under both criminal and immigration powers, or their dependents (ibid).

Over the course of 2008–2011, detention most commonly ranged between one to six months. However, on average, about a fifth of detainees were held over the EU's recommended maximum of six months. The typical length of detention can give us an indication of how much the UK can expect to spend on detaining individuals.

Figure 2.1:
Length of time in
detention, 2008–2011



Source: UK Home Office Immigration Statistics

The average cost of one bed per day in the immigration detention estate was estimated at £120 in 2010 (Hansard 2010). The Migration Observatory puts this expense into perspective by working out that an immigration removal centre (IRC), such as Campsfield House, operating at 90 per cent of capacity with 194 (out of a possible 216) migrants detained, would cost roughly £8,497,200 per year.

Since detention is so expensive, it would seem sensible for the UK to reduce its use of detention. Any costs spared as a result could go towards investing in and promoting AVR programmes.

There should be a full-scale review of the use of detention for immigration purposes.

In accordance with article 5(1) of the European Convention, detention is only permissible where action is being taken towards removal with due diligence. A maximum time limit, which ought to be as short as possible, should be determined by law. From our perspective, **detention in the UK is currently used too widely and for lengths of time that cannot be justified.** Other than for very high-risk irregular migrants, it should be used only immediately prior to removal.

Risk assessment protocols

By determining the barriers that irregular migrants will face upon return it is possible to assess the likelihood that they will attempt to re-migrate as a consequence. Risk assessment protocols help calculate this probability and are usually exercised when administering AVR schemes – especially when the returnee is explicitly recognised as vulnerable, such as a victim of trafficking.

Risk assessments are routine in cases of recognised victims of trafficking who are willing to return home, but it is unusual when it comes to enforcing return of refused asylum seekers and irregular migrants. There is currently no policy in place that requires risk assessment protocols to be employed either before or after return, which means that aside from the appeals procedure (which adheres to narrow criteria for conferring refugee status) migrants are unable to voice what may be legitimate concerns about returning. Without knowledge of potential barriers to reintegration, there is no way to resolve issues that may otherwise result in an effort to re-migrate.

It is our view that the use of risk assessment protocols should be more widespread.

Refused asylum seekers and irregular migrants should be risk assessed prior to enforcing return. It should then be possible for these groups to enrol in an AVR scheme if their concerns about returning are allayed.

Box 2.1 Risk assessment for trafficking victims

Trafficking victims in the EU who are involved in an AVR programme may be risk assessed before and after return. When preparing trafficking victims for return, organisations such as the IOM conduct screenings to ascertain their intentions and motivations prior to departure for their country of origin (Talens and Landman 2003). A psychologist carries out a case assessment as part of the process for formulating a reintegration strategy that is tailored to the migrant's needs.

In the IOM's AVR programming, an organisation in the receiving country (either an NGO or the IOM itself) is expected to perform a risk assessment, which includes evaluating any security risks for the returnee (ibid). On occasion, this will entail a meeting with the family or partner as the family situation and willingness to welcome the migrant back is likely to affect ease or otherwise of reintegration. The organisation can then build a plan of action for the migrant's reintegration by drawing on locally available resources and services.

Considering that in 2011 as many as 54 per cent of the 2,077 potential victims of trafficking appear not to have been recorded by the NRM (UKHTC 2012), there is a real need to implement risk assessment protocols under wider circumstances of enforced return, as it seems likely that many victims of trafficking (who are not formally recognised as such) face enforced removal.

Return

Harmonisation with EU countries

The purpose of the EU Returns Directive was to regulate and harmonise the process of return throughout the EU (Cassarino 2006), particularly with regard to minimum standards of treatment for irregular migrants. There has been much debate over whether the directive has succeeded in establishing appropriate minimum standards; concerns have been raised, for example, over the provision that allows migrants to be detained for up to 18 months in exceptional cases – a substantially longer period than many member states' previous maximum limits. While there is no maximum limit to lengths of detention in the UK, people are detained for less than a year on average. The UK could still stand to reduce the use and duration of detention, but signing the directive would not ensure that.

When the UK was prompted to clarify its reasons for not signing up to the directive, the government argued that it makes returning illegally staying third country nationals more difficult and more bureaucratic. The UK takes the view that by introducing explicit restrictions on detention, obligating the provision of legal aid to irregular migrants, and increasing the possibilities for challenging the return decision – over and above the strong protections already in place in EU law for refugees and asylum seekers – its ability to return irregular migrants would be limited by the directive (European Parliament 2008). In our view, signing the directive would not guarantee that the UK would return migrants in a more cost-effective, humane and sustainable way than it currently does. We also believe that the UK is entitled to manage migration in accordance with its own priorities as a nation and should thus not harmonise its policies with the rest of the EU simply for the sake of harmonising.

Encouraging take-up of AVR programmes

Take-up of AVR programmes may be poor because they may not be as attractive as they need to be to draw a wider group of applicants, particularly when it comes to irregular migrants. AVRIM does not provide any reintegration assistance, thereby failing to address a major concern of many irregular migrants – the desire for a smooth transition back into their home countries. While the government does not want to encourage or reward any criminal breach of the law, including irregular migration, in order to maximise return it may be advantageous to explore scenarios in which reintegration assistance could be granted (for example, to people who fall into irregularity and volunteer their presence to the authorities).

Many migrants are entirely unaware that they are eligible for AVR schemes, or that such schemes even exist. It has been suggested that contacting failed asylum seekers immediately after their application is rejected increases participation, although this has not been proven across the board (Black et al 2011). Simplifying the application process and involving relevant NGOs and community groups in making information and advice about these schemes more widely available appears to boost take-up, in part because these actors are more trusted by potential returnees than government officials (ibid). It may also be worthwhile to pursue the option of introducing a gateway process to AVR for detainees, so that migrants can choose to return voluntarily as soon as they are detained rather than remain in further detention only to face eventual deportation.

Reintegration

Scope of support

For migrants who are eligible for and choose to participate in VAARP and AVFRC there is some reintegration assistance available. On arrival at the airport, the participant will be met by a caseworker from Refugee Action's 'Choices' team who will provide travel documents and tickets for their journey. They will also be given a 'Start Card', which is a payment card containing the first £500 of their reintegration payments. This first £500 can be spent on whatever the participant chooses, such as rent or education. A further £500 will be provided following return for essential spending limited to: housing, medical expenses, excess baggage, business start-ups, business-related vehicles, education, mentoring, training or apprenticeship and job or employment-related necessities such as work clothes and transport. The assistance is meant to last for a period of six months and must be spent within this time frame.

The Choices team also works with organisations in other countries which deliver essential services and can be paired with returning migrants who are in need of such help. These organisations can help migrants' transition by supporting them in finding employment, enrolling in training and education, and accessing healthcare.

Conversely, irregular migrants who will only qualify for AVRIM do not receive payment of any kind under this scheme and cannot access reintegration support even if they do want to leave voluntarily through an AVR programme. These migrants will need to independently seek out organisations or services in their home country that may help them reintegrate.

There is currently no reintegration assistance for irregular migrants facing enforced removal. From our standpoint, reintegration assistance for these migrants need not be as extensive, but there should be recognition that migrants may not be arriving home to a supportive network of friends and family. Preparing them for this reality by linking them to other avenues of support could go a long way in facilitating their process of resettlement and preventing further irregular migration.

Box 2.2 Reintegration programmes for trafficking victims

Our example of reintegration programming for trafficking victims is drawn from Nigeria. The National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP) was established by the federal government as a follow-up to the signing of the 2003 Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (Aborisade and Aderinto 2008). In addition to rehabilitating the victims they also intercept, arrest, investigate and prosecute the traffickers (ibid).

NAPTIP operates in collaboration with the IOM which donates buildings and facilities in addition to providing assistance with capacity building and other logistics.

Ensuring a sustainable return

Too little is known about the success of reintegration, particularly in the medium to long term, to draw any firm conclusions about the sustainability of the UK's return policies and practices. Many AVR programmes lack the capacity to monitor their impact, but many returned and reintegrated migrants could provide valuable evidence to fill this gap in knowledge and inform the development of return schemes (Development Research Centre 2005). It would be helpful to compare the outcomes of involuntary returnees and

their level of reintegration with those who were given more support as participants of AVR schemes. Ideally, **the government should strive to narrow this disparity in support by developing tailored reintegration assistance that takes into account barriers on a case-by-case basis for all irregular migrants.**

Policies of monitoring and evaluating those who return under voluntary schemes need to be more rigorous. The UK Home Office is of the opinion that their AVR programming is very successful (Vranken 2010), but this is contested. The IOM carried out a monitoring exercise to see how people who returned during the period 2002–2005 were progressing in order to assess the impact of reintegration assistance and identify ways in which the UK's VARRP could be improved (IOM 2008).

The exercise was conducted by staff from 27 IOM missions worldwide, as well as IOM UK, and 1,074 returnees were interviewed – roughly half the number of returnees who received assistance during this period (the remaining returnees could not be reached for reasons such as security concerns, road blocks, other geographical constraints or because the returnees had not maintained contact with IOM). Eighty-one per cent of those interviewed chose to start a small business, of which 77 per cent are still operational (although it was not clear how long these businesses had actually been in operation for and whether these were managing to operate above subsistence levels), while 7 per cent elected for job placement and 4 per cent decided to continue their education. The IOM has said that 46 per cent of the returnees found the reintegration assistance 'very helpful' and a further 46 per cent expressed it was 'helpful'. However, independent studies paint a less rosy picture. For example, a study by Sussex University, based on interviews with 56 returnees to Sri Lanka, found that 80 per cent of the small business projects undertaken with VARRP had failed (that is, businesses had closed or were operating below subsistence levels with no optimism about improvement), while 75 per cent of the migrants said that they would not have made the same decision to return had they known this would be the outcome (Vranken 2010).

There needs to be greater transparency in evaluations, and more of them. These evaluations should examine the impact of return beyond the initial six to twelve months typically assessed. Monitoring and evaluation also currently occurs because of voluntary communication from returnees, but this is unlikely to capture those who have had challenging experiences after they return home (Sward 2009). The next step would be to monitor return programmes in terms of their sustainability.

The probability of sustainable return may also be increased if drivers of irregular migration are addressed through a development agenda. There are some AVR programmes that do make an effort to mix return and development objectives, such as the German AGEF in Afghanistan and the Danish Refugee Council in Kosovo (Vranken 2010). These initiatives focus on the returnee, but also endeavour to include members of the receiving community by establishing more extensive vocational or job placement programmes and, on occasion, connecting to microfinance facilities that are open to other beneficiaries (ibid).

CONCLUSION

Irregular migration is a serious public concern in the UK – as many as 71 per cent of UK respondents in a recent major international survey report they are ‘worried’ by it, and 90 per cent of respondents agree with the need for stronger border measures and tougher penalties for those who employ irregular migrants (Transatlantic Trends Immigration 2010).

Governments have the right to control their own borders and decide on their own immigration laws. Deterrence, compliance, enforcement and return are integral parts of the process. Migrants and those who represent them are right to challenge the UK government if it takes enforcement action which violates basic human rights, but this does not mean that all enforcement action per se is a violation of migrants’ rights – the UK ought to be able to respond reasonably to irregular migration and to act to prevent or reduce it in the interests of its citizens.

However, the UK may not be managing the return of irregular migrants as efficiently as it could – and certainly not in a cost-effective, humane and sustainable manner. As discussed above, **there is scope for increasing returns through the use of AVR programmes, consistent with the best practices in the EU.** By prioritising AVR and making changes to increase its success – for example, through introducing risk assessment protocols more widely, amending criteria for eligibility and focusing on sustainability – the UK has the potential to improve its ability to return irregular migrants.

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