

Global Migration and Modern Regulation

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About the Transatlantic Council on Migration

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I. Introduction¹

As governments address the challenges of high net inward migration and the need to command credible public support for their policies, the effect of relevant regulatory and quasi-regulatory issues should not be overlooked.² Such issues contain important insights to the causes of patchy public support for immigration and several potential remedies that are pertinent to public opinion and strategic reform. This short paper is a summary of my early thinking (as part of ongoing research into governance and opinion on immigration) on the answer to the “how” question — how good governance can shift attitudes on such a crucial issue.

This paper highlights the long-term gains that can be made through more rigorous use of independent, public interest-minded institutions and processes that are charged to perform fairly and transparently, while promoting flexibility and innovation.

Earlier in this volume, Will Somerville notes the significant policy consensus on immigration reform that operates across the major parties in the United Kingdom, although partisanship and electoral competition serve to polarize the migration issue. He suggests that the oppositional nature of parliamentary politics has partially obscured a convergence of thinking on the policy model to deal with immigration and the sizeable migrant inflows that are expected. For instance, the system allows in students and workers but also ensures tough rules on illegal immigrants and asylum seekers, and proposes institutional change to ensure better management and control of flows.

II. Is There a Policy Consensus in UK Politics?

Higher immigration rates pose considerable difficulties in terms of securing and maintaining sufficient public support for immigration reforms. In particular, it is important to stress that the limited inter-party policy consensus that exists within the United Kingdom at present is itself an important base to build on.

However, it is a partial consensus and one that is highly dependent on achieving positive outcomes in areas such as tackling illegality, efficiently filling skills gaps, and securing external borders. Those kinds of outcomes are the prerequisite building blocks of positive outcomes in terms of obtaining public support. The central proposition I would like to set out is that such outcomes are more likely to be attained if the regulatory issues are properly identified and thought through at the outset.

¹ The author has the following associations in the UK policy and regulatory communities that are relevant and should be declared: Non-Executive Chairman, Legal Complaints Service, Law Society of England & Wales; Member, Rating Regulators Panel, Consumer Focus (formerly the National Consumer Council); Member, Futures Advisory Board, Office of Fair Trading; Member, Customer Impact Panel, Association of British Insurers; Member, Advisory Board, “The Future of Poverty and Inequality,” Fabian Society; and Member, Advisory Board, UK Household Longitudinal Study, Economic and Social Research Council.

² Aspects of this paper draw upon a larger, privately commissioned report by the author carried out for the Barrow Cadbury Trust, spring 2009.

The aim is threefold:

1. Develop the tools of policy that are sufficiently robust to withstand the normal pressures of inter- and intra-party politics, and also help combat the appeal of populist, fringe parties;
2. Utilize modern regulatory principles and practices that support migration policy to meet the mobility challenges that have been described; and
3. Nurture an independent regulatory mindset that conditions voters, parties, and leaders to achieve much greater accountability on migration policy.

III. Key Regulatory Principles and Issues

It is worth remembering that the regulatory issues under discussion are not self-contained. In fact, these are subsets of a larger question concerned with acquiring the most appropriate tools to help achieve strategic policy goals and also inform the nature of those goals. Therefore, this paper seeks to refresh awareness of that link and to raise additional questions about how the work of existing regulatory agencies may need to adapt to meet better the challenges of creating an effective migration policy.

The regulatory dimension of the discussion can be captured by examining three overarching and inter-related regulatory principles that condition, and are conditioned by, global migration. These, in turn, help to unpack the more specific regulatory issues that arise.

Independence

First, there is a need within the current policy consensus to develop and champion the role of independent agencies that act, statutorily if necessary, in the public interest. This position has been, in large part, the product of longstanding unease with the role of politicians in shaping both high-level policy (frequently) and operational priorities (occasionally).

The examples to illustrate this dissatisfaction and the drift towards a more central role for public interest-minded bodies are numerous and familiar. These include, inter alia, the following:

- The setting of policy objectives and targets for labor market-driven policies;
- Frontline, operational responsibilities in areas such as case handling of asylum applications; and,
- The issuance and monitoring of entry visas and labor market and social welfare rights.

In all cases, the suspicion that policy and resource may be driven by short-term, political interests has been commonplace. The effects of such suspicions, even when unfounded, have been corrosive in terms of the United Kingdom's reputation domestically and abroad. Voters and the media often simply do not believe the claims made about the delivery of efficient and effective migration policy programs. In electoral terms, voters' suspicions have been fueled by a lack of trust in the credibility of large-scale programs.

Introducing fresh institutional and accountability arrangements to bolster independence has been the inevitable — and welcome — outcome. This tendency is now clearly embedded in areas such as the verification (or not) of relevant data through to the measures used to demonstrate the efficiency (or not) of visa, passport, and removal systems.

Independence matters in a most central way: it enables an (ongoing) judgment to be made about the degree to which existing agencies have discharged the responsibilities that they have been given by government. If they have not, there is every reason to think that this feeds directly back into the anxiety and distrust of voters who view, mostly casually, the balance between political promises and policy results. Gaps between the two, where these exist, are the reasons why voters punish not just political leaders but also the political arrangements that have made such gaps possible and likely.

Performance

A related aspect of regulatory independence is the question of the performance of government in respect of publicly declared policy objectives. It is, for example, crucial to be able to track and evaluate whether particular numbers of visas, entries, citizenship rights, working opportunities, deportations, etc, have been fulfilled over a given period. This is what allows ministers to make and defend claims about (mostly inward) migration. This also allows opposition parties, backbench select committees, the press, and NGOs the ability to scrutinize the validity of such claims.

But the common thread is the capacity to measure performance and to do so in a way that allow policymakers to be better informed about the impacts of existing policies and the merits of alternative solutions.

Moreover, performance against goals and specific targets matters most of all because migration as a political issue often involves brutal examination of whether and why policies are delivering, or not. And it also matters because performance-type issues increasingly characterize daily political life. Voters thus observe government's performance in respect to migration policy in much the same way as they treat the performance of government in health or education policy. Clear, attainable, and verifiable policy targets are inherently valued by voters, and success against these is amply rewarded — or at least not punished — at the ballot box. Conversely, ambiguously defined and poorly monitored targets are treated with skepticism at best. And patchy performance against such goals can, and often is, harshly punished by voters who, in the United Kingdom at least, have grown weary of political obfuscation on matters of migration.

The appropriate response to this regulatory principle is to seek greater consensus on policy objectives that are informed by evidence and are therefore realistically achievable. To a large extent, such a policy consensus already exists at inter- and intra-party level in the United Kingdom. Building on that in a way that rewards success proportionately more is therefore a logical next step to take.

Innovation

Finally, regulatory agencies handling aspects of migration have to be instructed to work in a way that is flexible, open, learning-oriented, and quickly able to capture the fruits of policy learning and transfer. This much might be desirable of regulatory policy in general. But, in the case of migration, it is especially pertinent so as to minimize the social costs

of immigration and convert it into productive capacity. That capacity may be narrowly defined in two ways:

- In economic terms (i.e. workers swiftly filling demand needs and thus assisting in a better allocation of resources at a micro and macro economic level); and/or
- In social terms more broadly (i.e. in equipping the United Kingdom to utilize the softer, yet potentially important, elements of diversity in shaping a more inclusive and fairer society).

Some examples best illustrate the point:

First, innovation and learning have to be fully embedded in the priorities of existing mainstream regulators responsible for coping with the spillover effects of inward migration. For instance, environmental regulators will need to pay attention to this pressure when considering the balance of interests between preservation of the countryside as against rising demand for housing partially fueled by immigration-driven population growth. Equally, food safety regulators have to be minded to encourage and promote culturally diverse diets (as part of individual lifestyle choices) but at the same time not neglect the need to protect consumers.

Secondly, policymakers must better recognize and address the social costs and externalities of migration in immigrant-sending countries. For instance, where outward migration leads directly to a depletion of productive capacity in the sending country, it is important to assess how far this has been accompanied by remittances and similar transfer payments. The job of trade and aid regulatory agencies is to identify tools that can assist in making that judgment, which in turn will shape policy.

Finally, migration effects have to be viewed in the wider perspective of trade, aid, and development flows. This means that when particular countries are favored in trading agreements, there is a regulatory judgment to be made as to how far such beneficial treatment affects migration patterns. The interdependencies are potentially vast. However, the recurring point is that particular kinds of migration can be accelerated or decelerated by virtue of the side effects of trade and investment policy. This implies that regulatory agencies operating in these fields need to be attuned to these links and the opportunity to cross-pollinate the lessons of particular interventions in specific markets.

IV. Conclusion

This short paper has highlighted the main regulatory issues that arise when considering likely long-term trajectories for migration and the main threats that stem from skeptical, even hostile, public attitudes. I would emphasize that issues that arise are as relevant for existing (mostly economic) regulators as they are for regulatory bodies charged with specific migration responsibilities.

The heart of a positive long-term strategy will be the test of independence and accountability. Skeptical public attitudes are not solely the result of voters disagreeing with governments' policies. Voter hostility is often caused by a lack of faith in the implementation of, and accountability for, policies that are publicly supported.

This might be best described as what has become known as the Gieve dictum³: “Not so much the wrong policy versus the right policy, badly applied.” Many are in fact supportive of immigration in principled and pragmatic terms. The difficulty arises when voters sense that policy exists more in name than in reality. Regulators and regulatory tools can be put to good use to test government and oppositional claims. In doing so, there is every reason to conclude that public attitudes will grow to have more confidence in not just immigration policy but also in its effective implementation.

³ After Sir John Gieve, former Permanent Secretary to the Home Office, in conversation with myself, circa January 2004.

V. About the Author

Shamit Saggat is Professor of Political Science at the University of Sussex and Chairman, Legal Complaints Service, The Law Society of England & Wales. Previously, he was a Senior Policy Advisor in the Prime Minister's Strategy Unit, Cabinet Office; and a Reader in Political Behavior at Queen Mary, University of London. He is a Member of the Rating Regulators Panel, Consumer Focus (formerly the National Consumer Council); the Futures Advisory Board, Office of Fair Trading; and also serves on the Customer Impact Panel, Association of British Insurers; the Advisory Board for "The Future of Poverty and Inequality," Fabian Society; and the Advisory Board, UK Household Longitudinal Study, Economic and Social Research Council. Professor Saggat has consulted with a range of organizations, including the Equality Commission for Northern Ireland, the Commission for Racial Equality, the Office of the Deputy Prime Minister, the Department of Constitutional Affairs, the BBC, the Danish Ministry of Integration, and the US National Intelligence Council. His research interests include migration, electoral behavior, public policy regulation, and social exclusion. His writings include *Race and Representation: Ethnic Pluralism and Electoral Politics* (Manchester University Press) and *Western Muslim Communities and the Politics of Religious Extremism* (Oxford University Press).