



I-CLAIM

Improving the Living
and Labour Conditions
of Irregularised Migrant
Households in Europe

Country report

The Legal and Policy Infrastructure of Irregularity

United Kingdom

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Executive Summary

This report examines the legal and policy infrastructures of irregular migration in the United Kingdom (UK). It investigates the intersection between immigration, labour and welfare regimes and how they contribute to the irregularisation of migrants and determine their living and working conditions.

The analysis of legal and policy frameworks in the UK is informed by the concept of *irregularity assemblage*, whereby irregularity is understood as produced by policies, practices and narratives occurring in different fields and sites and across different levels of governance and policy domains. This approach not only enables us to move away from essentialising understandings of irregular migration as a clear-cut phenomenon, and irregularity as an intrinsic and fixed characteristic of some individuals on the move, but also to account for a wider range of factors that come into play in the production of the condition of irregularity at a particular time and place. We argue that irregularity is produced at the nexus of different regulatory frameworks and embedded in specific labour market and welfare regimes, and unevenly impacts individuals depending on their national origin, gender, class and belonging to racialised communities.

The EU enlargement in the 2000s marked a significant transformation in the population of irregular migrants in the UK. It also highlighted the impact of changing regulatory frameworks in making and unmaking some migrants as 'irregular' and viceversa, as in the case of the transition of central and eastern Europeans from Third Country Nationals subject to immigration control into EU citizens. The policy measures introduced by the UK government since the early 2010s to create a hostile environment for irregular migrants define the contours within which irregular migrants enter and settle in the UK. Brexit and the end of freedom of movement for EU citizens has dramatically transformed the socio-demographic profile of the new migrant population into the UK and produced new forms of irregularisation for migrants. The New Plan for Immigration launched in the early 2020s captures the changing politics of migration and connects it to the new ideological project of 'Global Britain'. Over the last few years, rising anti-immigrant hostility and the fight against irregular immigration in the UK, particularly around so called 'small boat crossings' has come to shape the overall narrative on migration. The criminalisation of asylum has gained traction in this period and is a pillar of the 2023 Illegal Migration Act. The emerging post-Brexit immigration regime takes the Australian Point-based System as a reference point but has some significant differences which make it more employer-led. The sponsorship system that underpins the immigration system creates structural conditions that can lead to the exploitation of migrant workers.

This report identifies the co-option of private and public actors into the role of immigration control as a key feature of the hostile environment. This form of everyday bordering further confines and restricts the lives of irregular migrants, pushing them further under the radar and making them vulnerable to exploitation and abuses, particularly in the absence of safe reporting pathways. The precarisation of status and the intensification of the bureaucratic checks and requirements associated with visas contribute to a further irregularisation of migration and migrants, making the transition from regular to irregular status easier. Finally, we argue that immigration controls also impact on the labour market and working conditions available to individuals with no or precarious legal status. Moreover, the increased role of the platform economy is creating new opportunities and vulnerabilities for irregular migrants.

The report is part of the Horizon Europe and UKRI-funded *Improving the Living and Labour Conditions of Irregularised Migrant Households in Europe* (I-CLAIM) project. The main objective of I-CLAIM is to understand the various forms of irregularity experienced by migrant workers and their families and the factors that determine and amplify them. The research is carried out in six European countries (Finland, Poland, Italy, Germany, the Netherlands and the UK) and at the EU level.

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Introduction

This country report has been written as part of the Horizon Europe and UKRI-funded *Improving the living and labour conditions of irregularised migrant households in Europe* (I-CLAIM) project. The main objective of I-CLAIM is to understand the various forms of irregularity involving migrant individuals, particularly migrant workers, the factors that determine and amplify them and their repercussions for the family dynamics of these individuals. The research has been carried out in six European countries (Finland, Poland, Italy, Germany, the Netherlands, the UK) and at the EU level.

The analysis of legal and policy frameworks has been informed by the concept of *irregularity assemblage* (Gonzales et al., 2019; Sigona et al., 2021), whereby irregularity is produced by policies, practices and narratives occurring in different fields and sites, and across different levels of governance and policy domains. This approach not only enables us to move away from essentialising understandings of irregular migration as clear cut, and irregularity as an intrinsic and fixed characteristic of some individuals on the move, but also to account for a wider range of factors that come into play in the production of the condition of irregularity in a particular place and time. In our understanding, therefore, irregularity is not just the ‘dark side’ or a side-effect of immigration laws and policies, but is actively produced from the interplay of competing interests and agendas at the intersection of different regulatory regimes, namely immigration, welfare and labour market, and unevenly impacts individuals depending on their national origin, gender, class and belonging to racialised communities (Sigona and van Liempt 2024 forthcoming).

This report draws on an extensive desk-based review of academic and grey literature, and expert interviews with seven academics, advocates and practitioners with expertise in this area (see annex). The discussion with the I-CLAIM UK Stakeholders’ group in December 2023 provided useful insights that informed our analysis of the policy and legal infrastructures of irregularity in the UK.

After a brief discussion of labels and estimates regarding the irregular migrant population in the UK which highlights the nexus between legal and bureaucratic labels and their impacts on who counts as an irregular migrant, we focus on the mechanisms of production of different forms of irregularity, particularly at the intersection of immigration, labour and welfare regulatory regimes. The notion of *irregularity assemblage* enables us to avoid fixing this nexus and rather points to its contingent and transient nature, where different agendas, actors and narratives collide and sometimes crystallize, and others fall apart. To emphasize the processual dimension of irregularity, we use the term *irregularisation of migration* and *irregularised migrants*. These terms also enable us to highlight how over time, changes in the policy and legal domain may make and remake individuals who were ‘regular’, even as EU citizens in the case of EU nationals in the UK, into irregularised migrants.

The report consists of three sections. The first section provides an overview of the general trends and features of the specific national context related to irregularity. The following section focuses on the relevant policies, legislation and practices contributing to the production of conditions of irregularity. Special attention is paid to the links between employment and residence permits, the challenges of renewing residence permits, the impacts of a person’s undocumented or precarious legal status on other family members, and the ways out of irregularity. In the third section, drawing on the concept of irregularity assemblage, we explore how irregularity is produced and shaped in practice at the nexus migration, employment and welfare regimes, paying special attention to the dynamics of irregularity and exploitation in two macro-sectors: the delivery of food and goods, and the provision of cleaning services and domestic work.

1. Labels and estimates

1.1. What is irregular migration? Who counts as an irregular migrant?

Irregular migration is a phenomenon firmly placed at the top of the political agenda in the UK. However, on closer inspection it is also an elusive one: what irregular migration is and who counts as an irregular migrant are hard to pin down. The main reason why this happens is that the power of defining and labelling a form of mobility or group of people as irregular is intimately connected to a particular legal regime, its norms and regulations and how they change over time.

In the UK, there is no legal or broadly accepted definition of an ‘irregular migrant’. The term is typically used to refer to individuals without the legal right to reside in the country. Other terms like ‘unauthorised’, ‘undocumented’, and ‘without legal status’ are often used interchangeably to describe people in similar situations. The term ‘illegal’, which is becoming commonly used in political jargon and has recently been enshrined in law in the 2023 Illegal Migration Act, arguably technically encapsulates the official stance on irregular immigration in a context in which residing in the UK without a valid residence permit is considered a criminal offence. Rightfully, however, this term faces resistance from civil society because of its degrading and anti-migrant associations, and its implication that individuals can themselves be illegal. Another term that is increasingly utilised, partially because it can rely on a legal definition, is that of immigrant with ‘precarious status’. Following a Supreme Court ruling in November 2018, an immigrant with ‘precarious status’ is defined as a person vulnerable to losing their legal status and basic social rights and access to services linked to it. This category includes people on temporary visas, migrants whose residential status is tied to employment, EU citizens with pre-settlement status, asylum seekers, unaccompanied children who reach adulthood and migrants who lose their right to stay due to separation or divorce (Homberger et al., 2022). In this report, we use the terms ‘irregular’ and ‘precarious’ (along with associated phrases) to describe migrants who either do not possess a residence permit or are in danger of losing it. To illustrate the procedural nature of the transition between legal statuses, we will use terms like ‘irregularised’ and ‘irregularisation’.

In this complex web of terminology, highlighting the procedural nature of irregularity, rather than merely focusing on it as a static condition, is likely to be the most effective way to define such an elusive concept. Typically, a person can become an irregular migrant in four main ways: (1) entering the UK regularly but breaching the conditions upon which the entry or stay was granted, such as overstaying a visa permit, working in a job not allowed by the type of visa granted, or, for all residence categories, having a criminal conviction of twelve months or more; (2) gaining entry into the UK without proper authorisation or by deceptive means, such as using counterfeit documents or misrepresenting the purpose of the visit, even when the intention is to claim asylum; (3) refraining from exiting the country once an asylum application has been denied and all appeal processes have been concluded; (4) being born in the UK to parents without residency rights (see Section 2.3 *Routes into irregularity* for further details).

1.2. Estimates

The UK hosts one of the largest irregular migrant populations in Europe. The baseline for current estimates is Woodbridge’s (2005) analysis of the 2001 census, which utilised a so-called residual method, a technique that subtracts known regular migrants from the total migrant population, and assumes the ‘residual’ to be irregular

migrants. Later estimates bring these figures up-to-date using more recent data from the Annual Population Survey, the Labour Force Survey, Office for National Statistics, and the Department for Work and Pensions.

Analysis of the existing evidence suggests a slight increase in irregular migrants in the UK from 2001 to 2014, with numbers stabilising from 2015 to 2017. Despite these characteristics, determining the exact scale of this trend remains difficult due to the significant distance between low and high estimates. Woodbridge (2005) estimated the number of irregular migrants living in the UK to be between 310,000 and 570,000 in 2001. A subsequent study, commissioned by the Greater London Authority (Gordon et al., 2009), estimated their number to be between 417,000 and 863,000 in 2007, including UK-born children of irregular migrants. Another study commissioned by the Greater London Authority (Jolly et al., 2020) identified that 674,000 irregular migrants were living in the UK at the start of 2017. If UK-born children of irregular migrants had been included, this number would have risen to 809,000. This aligns with the lower estimates from the Pew Research Center (2019) for the same year, which suggested that between 800,000 and 1.2 million people lived in the UK without a valid residence permit. However, unlike the previous studies, Pew's estimates also controversially included asylum seekers.

In relation to the underage population, it appears that the percentage of children and young people (those aged eighteen and under) living irregularly in the UK has increased, rising from one-sixth to one-quarter of the total number of unauthorised residents in ten years (2007-2017). Gordon et al. (2009) placed the number of children born *in the UK* without a residence permit between 44,000 and 144,000 in 2007. Building upon this, Sigona & Hughes (2010, 2012) expanded the scope to include *foreign-born* children, concluding that the UK was home to an estimated 104,000 to 216,000 irregular migrant children. Subsequent studies corroborate these results, with Dexter and colleagues (2016) leaning towards the central estimates (144,000) and Thomas and colleagues (2018) aligning with the lower estimates (80,000-100,000). According to more recent estimates (Jolly et al., 2020), the number of undocumented children in the UK has reached between 190,000 and 241,000, half of whom are UK-born.

Estimates regarding the UK's irregular population should be considered within the broader context of a significant increase in the foreign-born population. This population tripled between 2001 and 2017, growing by 6.7 million and contributing to total population growth of 7.2 million. Over the same period, the number of irregular migrants increased by 244,000, to make up 1% of the UK's 65 million residents, a lower proportion than in 2001 (Jolly et al., 2020). Just as the enlargement of the EU in the 2000s had a major impact on the irregular migrant population in the UK, with thousands of central and eastern European migrants becoming EU citizens with the right to freely move and reside in other EU member states, the UK's exit from the EU following the EU referendum is once again changing the profile of the irregular migrant population.¹ Although recent studies acknowledge only a modest increase in the irregular population in the UK since 2001, to date no estimate has considered the impact of Brexit and the new immigration regime in the UK. The short-term visa-free arrangements for EU citizens and the associated risks of overstaying may be of particular relevance for current estimates (for further analysis, see Section 3.2 *The post-Brexit immigration regime and the production of new irregularities*).

¹ For example, EU nationals are increasingly visible in immigration enforcement statistics (Benson, Sigona, Arshad, et al., 2023; Benson, Sigona, Jablonowski, et al., 2023).

1.3. Routes into irregularity

As previously highlighted, the key avenues leading to irregularity encompass visa overstays, unauthorised entries and unsuccessful asylum applications.

Visa overstayers are likely to be the largest source of irregular migrants in the UK. Calculating their numbers poses significant challenges, as it involves combining Home Office data on ‘voluntary’ and enforced ‘returns’ with data retrieved from the Exit Check System, a database launched in 2015 to track the departures of visa holders due to leave (P. W. Walsh, 2020). Despite not accounting for non-visa travellers from the EU and fifty-two other countries, these sources provide valuable insights into visa compliance (97% between 2016 and 2019) showing that around 55,000 non-EU nationals overstay per year. Notably, most overstays (75%) are visit visas, not study, work or family permits.

Irregular entries include individuals detected ‘in country’ upon arrival, in addition to attempted unauthorised entries into the UK from French and Belgian ports, and those detected crossing the English Channel on ‘small boats’. Between 2016 and 2017, the number of unauthorised entrants detected ‘in country’ decreased from 2,366 to 1,832. Additionally, attempted irregular entries from continental Europe also decreased from 53,000 to 28,000, due to enhanced border control measures and camp closures in France (Walsh, 2020). Instead, the most recent figures show a significant increase in the detection of small boat arrivals. Over the past five years (between 2018 and 2023), 88,220 people have reached the UK this way, with 45,000 of them arriving in 2022 alone (Home Office, 2023b). Significantly, 8% of all the arrivals during this period were referred to the National Referral Mechanism (NRM), a system designed to identify and protect survivors of human trafficking.² Moreover, 90% of the 2022 arrivals submitted an asylum claim, accounting for roughly half of the total number of people who claimed asylum in the year ending in March 2023. If acceptance rates persist at the levels of the previous five years, it can be expected that 64% will be granted refugee status or other leave as an initial decision (Home Office, 2023b).

A third group that has historically added to the number of undocumented people is composed of refused asylum seekers. The chances of regularising their situation following a negative application evaluation are similarly limited (see Section 3.4 *Routes for regularisation*). Data from 2010 to 2018 show an annual average of approximately 9,500 asylum denials, with only about 4,000 recorded departures (Walsh, 2020). Nonetheless, we can anticipate that more indirect routes into irregularity will impact a larger share of asylum seekers. This might occur when they are included in the overall count of irregular migrants, as per the 2019 Pew estimates, or when the ‘unlawful’ conditions of their arrival are prioritised over their right to seek asylum, as per the 2023 Illegal Migration Act. The substantial rise in the so-called ‘asylum backlog’ since the conclusion of the Brexit transition period is another factor to consider. This refers to the number of unresolved asylum applications, which primarily affects cases that are more likely to be rejected.

² Concerns with NRM were pointed out in a recent report by Labour Exploitation Advisory Group (2024).

COVID-19, Brexit and the ‘Stop the Boats’ campaign.

The Home Office (2023b) attributes the increase in irregular crossings in small boats since the early 2020s to the restrictions imposed by COVID-19 lockdowns on other forms of travel traditionally used for irregular entry and the work of smuggling networks. While these play a role in the opening of this migration route, the shutting down of all safe routes to the UK for people seeking safety, the UK's exit from the EU and the end of the transition period also contributed to creating the opportunity structure for the emergence and consolidation of the English Channel crossings in small boats. As Sigona (2023) has argued, the UK exit from the EU, and in particular the decision to pursue what has been labelled a ‘hard Brexit’ strategy, has had an impact on both pillars of UK strategy to combat ‘illegal immigration’; namely, cooperation with France, as a fellow EU member state through the 2003 Le Touquet Treaty, and participation in the EU-wide migration governance mechanism laid out in EU legislation such as the Dublin Regulations. The chart below illustrates the emergence of the irregular small boat crossings and its impact on the number of asylum applications submitted.

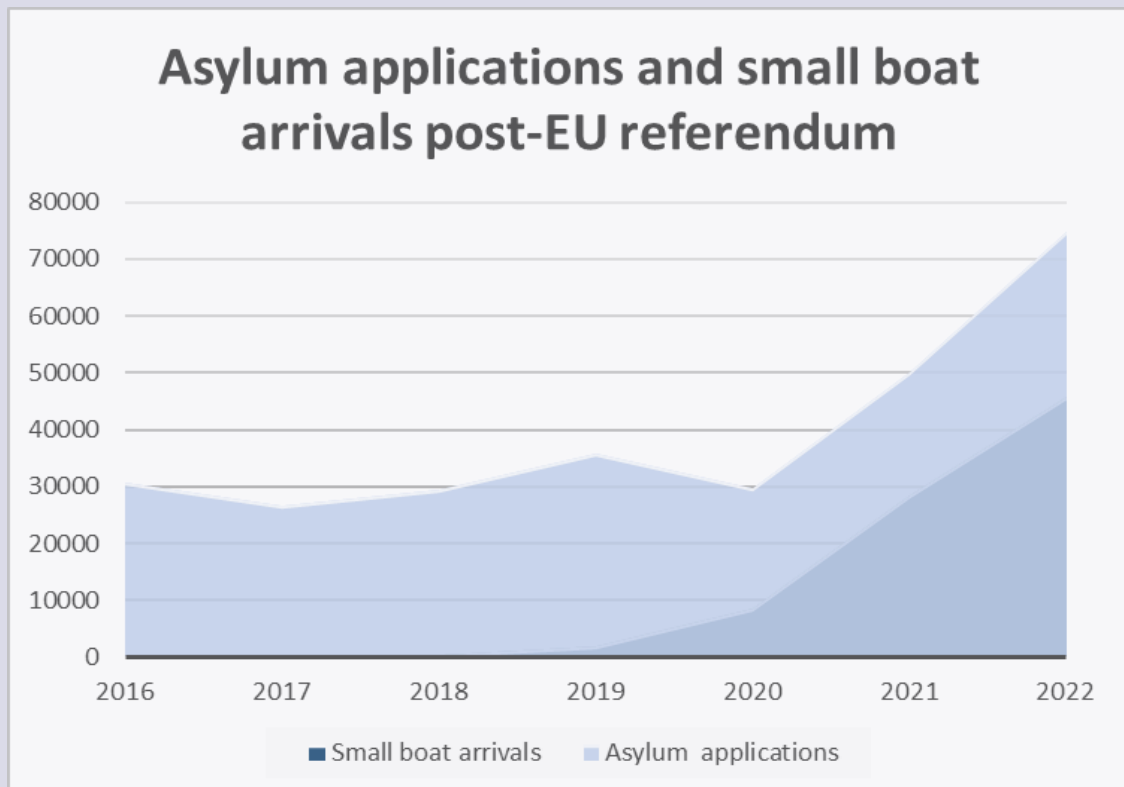


Figure 1: Asylum applications and small boat arrivals post-EU referendum (Source: Home Office 2023)

2. Legal and policy framework on irregularity

“The aim is to create here in Britain a really hostile environment for illegal migration”.
(Home Secretary Theresa May, 25 May 2012)

In this section, we consider the key policies that directly or indirectly affect the living and working conditions of irregularised immigrants in the UK. Firstly, we outline the key features of the so-called ‘Hostile Environment’, a set of policies introduced by the Conservative government of the early 2010s. These policies aim to make life in the UK impossible for undocumented people, to deter new arrivals and encourage the voluntary return of irregular migrants by expanding borders in the UK and delegating immigration control to a variety of state and non-state actors. We focus on how this approach has influenced the access of migrants with no or precarious legal status to fundamental rights and services, as well as on the absence of safe reporting mechanisms and the role of criminalisation, data-sharing, and digitalisation in immigration enforcement practices. Secondly, we consider how the post-Brexit immigration regime operates and establishes connections between work visas and labour market sectors, and consider its potential impacts on irregular migration and pathways to regularisation. Thirdly, we assess the impact of the recent reforms of the asylum system (between 2022 and 2023) focusing specifically on how changes to detention and deportation regimes may influence the lives of unauthorised immigrants. Finally, we discuss changes to immigration controls and enforcement practices.

2.1. The Hostile Environment

2.1.1. *Everyday bordering*

Introduced in 2012 by the Conservative-led government, the ‘Hostile Environment’ policy has since become a cornerstone of the governance of irregular migration in the UK. While some aspects had surfaced in prior legislation under Labour governments, particularly in relation to the treatment of asylum seekers and the right to asylum (Flynn, 2005), the introduction of this policy signalled a shift in the UK government’s approach to migration, with increasing attention given to irregular migration and the conflation of this issue with broader concerns a reducing overall immigration to the UK.

‘Hostile Environment’ typically refers to any policy or practice that makes life difficult for migrants, leading to their marginalisation, criminalisation, or punishment. Indeed, a primary objective of the strategy is to deter new arrivals and encourage voluntary return of irregular immigrants already in the country by facilitating their detection and removal and severely restricting their access to public services and welfare support (Consterdine, 2018; Yuval-Davis et al., 2018).

However, focusing solely on the hostility of these policies may overlook the wider changes in border practices and social relationships prompted by the introduction and enhancement of a portfolio of less tangible, but arguably more pervasive, ‘soft enforcement’ measures that have widened enforcement efforts and dramatically increased their effectiveness (Gonzales et al., 2019; Griffiths & Yeo, 2021; Sigona et al., 2021). The defining characteristic of the ‘Hostile Environment’ policy is the ‘deputisation’ (J. P. Walsh, 2014) of border enforcement to third parties, who are made responsible for implementing and interpreting immigration policy on the ground (Griffiths & Yeo, 2021). The outcome is ‘a sprawling web of immigration controls embedded in the heart of ... public services and communities’ (Liberty, 2019, p. 7), which cumulatively contributes to a comprehensive immigration enforcement strategy that permeates the everyday lives of irregular migrants (Bloch et al., 2015) cementing ‘everyday

bordering' practices (Yuval-Davis et al., 2018) into the social fabric. Explaining what drives the UK government's prioritisation of irregular migration, a London-based migrants' rights advocate (NGO1) explains:

The importance of irregular migration for the UK government is that it contrasts with the ideal that they say they were aiming for, which was a totally managed and controlled immigration system which they still believe is still there to be attained. The only thing that's letting them down is well, there's several things that let them down. One of them is the perniciousness of the migrants themselves and all the others who can't be relied upon to play the game, and allow migration to be totally managed, and for 'illegal migration' to be abolished that way.

This policy was implemented primarily through the Immigration Acts of 2014 and 2016. However, it involves a broader network of policies spread across various Acts, rules and regulations that affect numerous sectors and policy areas. In practice, it targets regular immigrants through three main strategies. First, it mandates public servants, banks, landlords, employers, agencies, private organisations and regular citizens to assist the Home Office in enforcing immigration-related restrictions by checking the immigration statuses of their clients and denying access to services or rights if the individual cannot prove their legal immigration status (Liberty, 2019; P. W. Walsh, 2020). Commenting on the transfer of immigration checks on employers, a trade unionist (TU1) with years of experience of supporting migrant workers, explains how the checks not only impose a time-consuming burden on employers but can be exploited by the unscrupulous against their own workers.

This isn't practical. What you are doing is to give unscrupulous employers too much power and they will keep people in irregular positions. What you started seeing [was] an increase in employers and agencies taking passports away from people, exactly what I would describe as trafficking people.

Second, data-sharing arrangements across governmental and non-governmental agencies, departments and ministries allow the Home Office to use personal data gathered by other institutions like local authorities and hospitals, which was initially collected for different purposes, for immigration enforcement. The co-option of traditionally 'protective services' such as health and homelessness assistance into policing and immigration enforcement functions aims to further reduce access to services for irregular migrants, while possibly leading to their detention and removal (Liberty, 2019). Third, the 'No recourse to public funds' (NRPF) condition, implemented since the 1999 Asylum Act, has increasingly restricted access to more than twenty benefits designed to alleviate deprivation. These benefits include Child Benefit, Child Tax Credit, Council Tax reduction, Disability Living Allowance, Housing Benefit, Universal Credit, and until 2023, eligibility for free school meals (Department for Education, 2023; NRPF Network, 2024a). This restriction applies not only to irregular migrants but also to individuals temporarily in the UK, for purposes such as visiting, studying or working. It also affects migrants with a permanent residence permit during their first five years of residence (NRPF Network, 2024b). The impacts of the hostile environment policies extend far beyond irregular migrants to affect all migrants, and even British people who are racially minoritized (as recently emerged with the Windrush scandal, see the text box below) as they create an environment in which migrants' right to stay, work and access services is continually called into question. An environment, one of our interviewees (NGO1) pointed out, which is also extremely difficult to manage and that has created a sprawling, expensive and bureaucracy-heavy immigration apparatus.

Creating illegal migrants is a by-product of proliferating immigration rules and a burgeoning bureaucracy of immigration control, and the more rules that there are, the more opportunities for rules to be infringed and to be broken, or at least confronted.

2.1.2. Racial profiling and social cohesion

While the Hostile Environment policies have been successful in obstructing access to rights and services for irregular immigrants, they have also affected individuals and communities with regular residence permits. As highlighted by several participants in the first UK Stakeholders Group, the repercussions of initiatives such as the Rwanda Deportation Plan are felt strongly among migrant communities irrespective of their status. However, contrary to its intended purpose, research has shown that there is no evidence that ‘a hostile environment for illegal migration’ deters new arrivals or encourages departures (Düvell et al., 2018). Quite the opposite, the rising cost and complexity of immigration applications, widespread document checks, Home Office data errors, cuts to legal aid and more stringent rules on right of appeal contribute to the creation of irregular immigrants (Griffiths & Yeo, 2021).

In this context, it is important to note that the impact of everyday bordering on the lives of irregular migrants varies depending on factors such as age, gender, ethnicity and entry routes (Bloch et al., 2015; Humphris & Sigona, 2019). For instance, unlike in many countries, the UK’s ‘Hostile Environment’ policy does not mandate universal identity checks to access basic services (Griffiths & Yeo, 2021). Consequently, it fosters racial profiling by encouraging checks on individuals perceived as ‘foreign’ due to their skin colour, foreign-sounding names or accents. This not only impacts targeted immigrants but also extends to racially minoritized individuals of all immigration statuses (Liberty, 2019), who may be asked to produce their papers to rent a home or receive medical treatment. The racial implications of Hostile Environment policies partly stem from a broader tendency of those deputised to check status to fear severe penalties for mistakes, such as fines, criminal charges and imprisonment. This, coupled with confusion over the complex immigration system and frequent policy changes, results in excessive and incorrect application of immigration enforcement rules, and in immigrants with regular residence permits and British citizens being prevented from accessing essential services (Griffiths & Yeo, 2021; Yeo et al., 2019).

The Windrush Scandal

The Hostile Environment policies require multiple and frequent checks on one’s right to stay and work in the UK by a range of institutional and non-institutional actors. This can potentially cause issues for regular migrants and even British citizens of colour, particularly those lacking documental proof of identity or immigration status. One clear illustration of the devastating consequences of this policy emerged with the so-called Windrush scandal. The term ‘Windrush generation’ refers to British subjects who migrated to the UK from Caribbean countries between 1948 and 1973, with a significant portion arriving as children on their parents’ passports. With the enforcement of the Immigration Act 1971 in 1973, those already residing in the UK were granted ‘Indefinite Leave to Remain’ (the permanent residence permit). However, they were not given any documentation to verify this status. Forty years later, the introduction of the ‘Hostile Environment’ policy led to a crisis for many of these individuals, now in their 60s or 70s, who lacked the required documentation to demonstrate their right to stay in the UK. The Windrush Scandal surfaced in 2017, revealing that hundreds among the Windrush generation had been incorrectly detained, deported and denied legal rights due to their lack of documentation. The media began extensively covering these individuals’ stories and Caribbean political leaders brought the

issue to the attention of the then-prime minister, Theresa May. A compensation scheme was later established, but faced criticism for its strict evidence requirements and the absence of legal aid. This issue was exacerbated by the Home Office's decision, in the transition from analogic to digital border checks, to destroy thousands of landing cards and other records. As a result, many affected individuals continue to experience financial difficulties and restricted access to public services. The scandal laid bare the severe effects of the hostile environment policy on British citizens, highlighting the human rights issues linked to this policy and the systemic racial and class biases fostered by selective checks. It also revealed how the 'Hostile Environment' policy has conflated being 'undocumented' with being 'unlawfully resident', further complicating the definition of 'irregular migration'.

The Hostile Environment policies have also drawn criticism for their impact on society as a whole. This approach has been accused of altering everyday interactions between public sector workers, such as nurses, police and teachers, and the broader public, damaging relationships between public servants and the communities they serve, fostering suspicion and undermining trust in public services, and ultimately harming social cohesion (Liberty, 2018, 2019). As observed elsewhere, these broader, negative impacts of the hostile environment are not unintended but central to its operation. The effectiveness of 'everyday borders' lies precisely in instilling feelings of instability and anxiety (Flynn, 2015), leading to the creation of chronically insecure, dehumanised, and 'deportable' individuals (Bloch et al., 2015; De Genova, 2002).

2.1.3. *Datafication of migration enforcement*

Key tools introduced by the Hostile Environment policies are bulk data-sharing agreements between the Home Office and various governmental departments for immigration enforcement purposes. Memorandums of Understanding regulating bulk data-sharing currently exist or have recently existed between the Home Office and the following departments: Health and Social Care (DHSC), Work and Pensions (DWP), Education (DfE) and Revenue and Customs (HMRC). Agreements were also signed with the Driver and Vehicle Licensing Agency (DVLA) and Cifas, a major anti-fraud agency. These schemes enable the Home Office to request the personal data (such as patient records, employment and welfare benefit records, and children's school records, as well as information about driving licences and bank accounts) of individuals suspected of immigration offences. In some cases, they allow entities to check a person's immigration status and provide updated contact information to the Home Office (Liberty, 2018). These agreements have mainly come to light through Freedom of Information Act requests, especially following the Windrush scandal. Awareness of these data-sharing agreements is quite low, even among frontline workers, contributing to reduce transparency for users. Civil society organisations have expressed concerns about immigration enforcement not meeting the exception criteria when interfering with access to essential services (PICUM, 2020) and warned that these changes may erode data protection for all, impacting people of all immigration statuses and nationalities, including UK nationals (Liberty, 2018).

2.1.4. *Access to work, welfare, and fundamental rights*

In this section, we discuss issues related to access to work and basic welfare services that directly or indirectly enable the enjoyment of the fundamental rights outlined in the Human Rights Act 1998 that everyone in the UK is entitled to. These rights include the right to life, freedom from torture and inhuman or degrading treatment, freedom from slavery and forced labour and the right to education.

1.1.1.1. *Employment*

Since the late 1990s, employers have been required to check individuals' ID documents, though their role in immigration enforcement was initially minor. However, the 2014 Immigration Act changed this by establishing a new criminal offence termed 'illegal working', which refers to work performed by an immigrant without a residence permit or in violation of visa conditions. The Act established a prison sentence of up to five years for employing an 'illegal worker', and doubled the associated maximum fine of up to £20,000 per employee (Griffiths & Yeo, 2021). It also gave new powers to immigration officials to seize property or earnings and shut down businesses (Liberty, 2019). The 2016 Immigration Act extended the criminal offence of knowingly employing workers with no legal status to include cases where employers have a 'reasonable cause to believe' that their employees are not permitted to work (Griffiths & Yeo, 2021). Since then, the offence of 'illegal working' can mainly be identified and managed through two methods: employers conducting 'right to work' checks and labour inspectorates reporting to the Home Office. Moreover, the UK government recently tripled civil penalties for employers employing people without the right to work, in an effort to ramp up anti-migrant policies (Home Office, 2023c).

'Right to work' checks require employers to verify an employee's immigration status either manually or online before employment begins, and continuously when the right to work is temporary. Although not legally mandated, these checks can help employers avoid penalties for 'illegal employment' (Migrants' Rights Network, 2022). In 2023, a campaign called 'Challenge the Checks' was launched by the Migrants' Rights Network, Migrants at Work and Open Rights Group, with the objective to address the harmful effects of immigration law enforcement in the workplace. The campaign draws attention to several issues related to the increasing digitalisation of 'right to work' checks,³ including errors, personal data concerns, technical problems with checking services and third-party apps, potential bias by facial recognition software, and discrimination towards those digitally excluded. Furthermore, the campaign highlights the issue of unfair dismissals, which is particularly relevant for individuals with pending applications at the Home Office, despite legislation aimed at preventing them from becoming 'overstayers' while awaiting a decision (Migrants' Rights Network, 2023).

Labour inspectorates play a key role, not necessarily in identifying and reporting instances of 'illegal work' (as the number of inspections is relatively low), but in creating an atmosphere of uncertainty due to the fear of potential reporting and subsequent immigration enforcement action. In this way, they not only fail to protect irregular migrants from labour exploitation and modern slavery, but also exacerbate their vulnerability and marginalisation, contributing to the very issue they are mandated to address. In the UK, there are six labour market and law enforcement agencies tasked with protecting workers' rights, addressing workplace violations and combating labour exploitation and modern slavery: the Revenue and Customs Department National Minimum Wage team (HMRC-NMW); the Employment Agency Standards Inspectorate (EAS) within the Department of Business and Trade; the Gangmasters and Labour Abuse Authority (GLAA), sponsored by the Home Office; the Health and Safety Executive (HSE), sponsored by the Department for Work and Pensions (DWP); and the Mayor's Office for Policing and Crime (MOPAC) and Metropolitan Police Commissioner.

³ As of April 6, 2022, 'right to work' checks in the UK are conducted online for individuals with biometric residence permits, EU Settlement Scheme frontier worker permit, and certain visa categories (UKVI, 2023).

A study by LEAG (2020) revealed that although these agencies are not required to report ‘illegal workers’ to the Home Office, they all have mechanisms in place to involve immigration enforcement teams in their inspections, participate in operations led by the Home Office, or report irregular migrant workers to the Home Office, an activity they have undertaken since 2016 with varying frequency.⁴ Notably, these agencies are not obligated to check the status of migrant workers, but they may become aware of such information during their normal operations. The Metropolitan Police is the only force (the police service for the Greater London area) known to actively identify potential ‘illegal workers’ and report their status to immigration authorities (LEAG, 2020). The dangers of data-sharing and the call for a firewall to protect migrant workers and enable safe reporting was raised by a coalition of civil society organisations (JCWI et al., 2022). Information on a worker’s immigration status is typically communicated through active reporting, where agency staff deliberately report such cases, or passive reporting, which occurs when an individual’s immigration status becomes available to Immigration Enforcement through joint inspections, shared databases, bulk data-sharing, Home Office advice and information channels, embedded immigration officers, or chain referrals (LEAG, 2020).

The implementation of ‘right to work’ checks and cooperation between labour inspectorates and the Home Office has profound consequences for irregular migrants. Firstly, these measures do not prevent them from working but push them further into the informal economy (Liberty, 2019), where they are more likely to encounter abusive employers who can trap them in exploitative situations or withhold their salaries under the threat of reporting them to authorities (JCWI et al., 2022). Secondly, the conflicting goals of labour inspectorates, which are charged with the task of safeguarding victims of labour market exploitation and modern slavery as well as identifying immigration offences, often result in the latter overshadowing the former (LEAG, 2020). Consequently, irregular migrants fear that reporting these violations could lead to immigration repercussions like arrest, detention, or removal. This fear leaves the labour rights violations they experience unaddressed (FRA, 2019). After Brexit, documented workers such as EU citizens with pre-settled status (LEAG, 2020), increasingly share this insecurity, which is exacerbated by the new Points-Based System (PBS). In this system, many people in the UK have an immigration status that relies on employer sponsorship, which grants employers further power, leaving workers more susceptible to exploitation (see Section 3.2 *The post-Brexit immigration regime and the production of new irregularities*).

Asylum seekers in the UK are usually not allowed to work while their claim is pending but may be permitted to work in jobs on the Shortage Occupation List if their claim has been pending for over twelve months through no fault of their own. The government justifies restrictions on asylum as a deterrent for ‘economic migrants’ and a means to expedite protection for ‘genuine’ asylum seekers and survivors of trafficking. This distinction has been crucial in the adoption of the New Plan for Immigration and recent stringent reforms of the asylum system.

⁴ Between 2016 and 2019, GLAA shared 89 reports of potential ‘illegal working’ with the Home Office, while both HSE and HMRC-NMW reported 12 cases each. EAS has not reported any such cases since 2018. In terms of joint operations with Immigration Enforcement, HSE is the only agency that has conducted any, whereas HMRC-NMW has conducted the most, with a total of 446 joint operations (LEAG, 2020).

1.1.1.2. *Healthcare*

Everyone in the UK, including those without legal immigration status, can access primary healthcare and accident and emergency (A&E) services without charge. This coverage extends to family planning services (excluding pregnancy termination), care in secure mental health environments and treatments for certain infectious diseases and sexually transmitted infections. However, other services are mostly subject to charging, either before or after the service is provided.

The collaboration between the National Health Service (NHS) and the Home Office is long-standing and today affects two intertwined areas: charges for treatment and routine immigration checks. On the one hand, under the 2014 Immigration Act, visa applicants are required to pay an Immigration Health Surcharge (IHS) that currently amounts to £624 for adults per year and £470 for children and students (UKVI, 2024). Various groups are exempt, including asylum seekers, refugees and individuals with permanent residence permits. However, these high costs can be a significant barrier to renewing temporary residence permits, potentially leading to irregular status for individuals and households with limited resources. On the other hand, data-sharing agreements between the NHS and the Home Office plays a significant role in immigration enforcement. In 2014, it was revealed that the NHS had provided more than 7,700 responses to the Home Office over the previous five years, aiding in the prevention or detection of immigration offences (Partridge, 2014). In 2017, a Memorandum of Understanding (MoU) was signed that enabled Immigration Enforcement teams to request patient addresses from more than 11,000 NHS records (Liberty, 2018). Although this was withdrawn in 2018, following a legal challenge by the Migrants' Rights Network, the NHS charging and debt reporting programme for non-exempt immigrants continues to share data with Immigration Enforcement (Liberty, 2019).

Beside conflicting with medical ethics and the doctor-patient relationship, data-sharing affects both irregular and precarious immigrants, who despite being entitled to basic health treatment feel it is not safe to access it knowing that their information could be shared with the Home Office (Doctors of the World, 2017; Russell et al., 2019; Sigona & Hughes, 2012).

1.1.1.3. *Housing*

The Immigration Act of 2014 stipulates that individuals without the necessary permission to enter or remain in the UK, such as irregular immigrants, are prohibited from renting. This law requires landlords and agents to verify the immigration status of prospective tenants, making sure they have the 'right to rent' before signing a lease (Liberty, 2019). The 2016 Immigration Act further intensifies the regulations, making landlords liable to criminal charges if they knowingly or have 'reasonable cause to believe' they are renting to ineligible tenants. This offence can be punished by up to five years in prison. Moreover, this law allows landlords to evict tenants who are disqualified from renting due to their immigration status (Liberty, 2019).

The 'reasonable cause to believe' clause tends to make landlords favour 'low-risk' choices, such as British citizens and those who do not appear 'foreign' (Liberty, 2019). This clause affects racially minoritized individuals disproportionately, irrespective of their immigration status. Research has demonstrated that due to this policy, BAME individuals, including British citizens, spend approximately twice as long searching for rental properties compared to white British individuals (Hill & Taylor, 2019). Additionally, 44% of landlords are hesitant to rent to those who appear to be immigrants (Shelter, 2016), and 58% turn away ethnic minorities without British passports (Grant & Peel, 2015).

Housing has become an area subject to policing and criminalisation of immigrants with no or precarious legal status, extending beyond the rental of private properties. In May 2016, the UK Home Office declared rough sleeping an ‘abuse of EU citizens’ right to freedom of movement’, enabling the arrest, detention and removal of homeless EU nationals from the UK (Liberty, 2019). To enforce this, local councils, London boroughs, the Greater London Authority and charities began sharing information about rough sleepers, including their location and nationality, with the Home Office.

1.1.1.4. *Primary, secondary and tertiary education*

Article 28 of the UN Convention on the Rights of the Child recognises that every child has a right to education but only commits states to making primary education compulsory and free. In the UK all Local Education Authorities (LEAs) have a duty under Section 13 of the Education Act 1996 to provide a school place to every child between the ages of four and sixteen who is residing on a temporary or permanent basis in their geographic area. Successive governments have chosen to retain this right, recognising the importance of education for all children in the UK, not only for their benefit but for the benefit of society (Spencer & Pobjoy, 2011). However, the geographical qualification can imply that residency must be proven, which is likely to pose significant difficulties for irregular migrants. The situation of irregular minors of post-compulsory age is different. The latest Funding Guidance for Young People (Education & Skills Funding Agency, 2023) states that a learner must be lawfully resident in the UK to be able to obtain a free place in further education and that a person subject to a deportation order will ordinarily be ineligible for funding until his or her situation has been resolved (Sigona & Hughes, 2012).

Since 2015, a data-sharing agreement enables the Department for Education (DfE) to share pupils’ personal information, including nationality and country of birth (from 2016-2018), with the Home Office to identify potential immigration violations. Critics argue that this agreement discourages children and families with no or precarious legal status from accessing education, as it transforms schools from protective spaces into threatening ones. This not only negatively impacts the relationships between teachers, pupils and communities but may also deter parents from enrolling their children in school or even increase the likelihood of school dropouts (Liberty, 2018, 2019).

With regard to tertiary education, universities have since 2008 been mandated to perform immigration checks (Griffiths & Yeo, 2021, p. 529). More recently, they have been increasingly enforcing immigration laws to avoid the risk of losing their licenses, leading to the accusation that they are fostering a divisive, discriminatory environment for international students (Liberty, 2019; SSAHE, 2020).

A significant development occurred in 2012 with the removal of the Post-Study Work visa, which had permitted international students to live and work in the UK for up to two years after graduation. Although this visa was reintroduced in 2021 as part of the new post-Brexit PBS, successful applicants are still required to attend credibility interviews, show they can meet the minimum maintenance requirement beforehand, and prove that their planned studies represent ‘academic progression’ (Liberty, 2019). These additional restrictions on the application process are a result of the government’s misguided attempt to differentiate between ‘genuine’ students and those thought to be exploiting the system (Liberty, 2019).

2.1.5. *Policing and the lack of safe reporting mechanisms*

Although immigration offences such as overstaying visas and unauthorised entry were criminalised by the 1971 Immigration Act, these offences were rarely enforced by the police. Historically, police forces have maintained that their involvement in immigration enforcement negatively affects policing and community relations (Griffiths & Yeo, 2021). However, since the implementation of the 'Hostile Environment' policy, there has been a rise in collaboration and data-sharing practices between the Home Office and the police.

Although police are not legally obligated to share data about irregular survivors or witnesses of crimes with the Home Office, unsolicited data-sharing appears to be common practice. More than half of UK police forces referred such individuals for immigration enforcement in 2017 (BBC News, 2018). Other forms of collaboration include joint raids involving the police, immigration enforcement officials and occasionally other public authority staff, such as labour inspectorates (Liberty, 2019).

The criminalisation of irregular migration coupled with a lack of clear guidance on crime prioritisation, blurs the lines between policing and immigration enforcement. This overlap discourages individuals with no or precarious legal status from reporting serious crimes like assault, domestic violence and labour exploitation, due to the fear that their immigration status will be exposed (Liberty, 2018).

Migrant and workers' rights organisations in the UK campaign for the establishment of safe reporting mechanisms, also known as 'firewall', to safeguard the fundamental rights of people in an irregular situation. These are mechanisms designed to ensure that survivors and workers with no or precarious legal status can report crime or exploitation without facing negative consequences such as arrest, immigration detention, or deportation. In practice, this would mean preventing the sharing of personal information between public bodies approached by individuals seeking support or assistance and the Home Office (JCWI et al., 2022).

Current legislation, instead, is seen to contribute to a cycle of impunity that puts fair employers at a disadvantage, directly or indirectly pressures workers in low-paid sectors to endure worse wages and conditions (long working hours, unhealthy and unsafe working conditions, lack of payment), and obstruct efforts to prevent modern slavery offences and prosecute exploitative employer (LEAG, 2020).

2.2. The post-Brexit immigration regime and the production of new irregularities

Brexit has changed the demographics and terms of those migrating to the UK, as well as who is more likely to face immigration enforcement and removal (Benson et al., 2024). The 'New Plan for Immigration' (Home Office, 2021) launched in 2021 sets out 'the vision for our border and legal migration system of the future'. The plan notably emphasises the government's commitment to combating irregular migration and criminalising 'illegal entry'. Against this backdrop, and in response to the UK's exit from the EU on 31 December 2020, the new Points-Based System (PBS) was launched on 1 January 2021. This system essentially rebrands existing visas, and introduces new requirements and conditions for applicants, with higher costs for eligible workers adding an additional selective component to the policy. The system introduces three primary categories of UK work visa, each with different sets of requirements and conditions for applicants: (1) long-term employer-sponsored visas, encompassing Skilled Worker, Health and Care, and Specialist Worker routes; (2) long-term unsponsored work visas, encompassing Global Talent, Innovator Founders, Ancestry and British National (Overseas) routes; (3) temporary work visas, encompassing both capped routes, such as the Seasonal Worker, Overseas Domestic Worker and Youth Mobility Scheme visas, and

uncapped routes, such as the International Student visa, the Government Authorised Exchanges visa, and Frontier Workers Permit.

The new system marks a shift from the previous immigration regime, which relied heavily on the availability of EU migrant workers and offered limited opportunities for non-EU nationals to access the labour market. The new approach, which is branded by the UK government as fairer, initially targets workers classified as middle- or high-skilled according to the Government's Regulated Qualifications Framework (RQF), who have been offered a minimum salary of £25,600, although exceptions apply (P. W. Walsh, 2021).

Originally, the PBS created limited opportunities for work in jobs classified as low-skilled, with the Seasonal Worker and Overseas Care Worker visas being the only specifically designed to allow employers to sponsor migrant workers in such positions (Sumption & Brindle, 2023, p. 4). But soon the challenges to fill low-wage jobs became evident forcing the government to expand the occupations listed in the Shortage Occupation List (SOL) and, from 2022 onward, allowing care workers to apply for the Health and Care Workers visa even though they are considered low-skilled (Sumption & Brindle, 2023, p. 12). Although the new PBS is often depicted as adopting the Australian model, it differs from it in two significant ways. First, it typically requires applicants to have a job offer, tying them to specific jobs or employers, making it an employer-led system similar to what operated in the UK before Brexit. Secondly, it emphasises the job rather than the individual's characteristics, providing applicants limited flexibility in achieving the 70 points threshold (P. W. Walsh, 2021).

The new PBS has introduced additional costs for eligible migrant workers applying for work visas. This has made the UK immigration system among the most expensive worldwide, due to a combination of application fees and extra charges that pushes some to lose their regular status because they cannot afford the escalating fees to renew their visa (JCWI, 2021). The centrality of sponsorship in the current system produces structural inequalities and makes migrants particularly vulnerable to exploitation by employers. As an immigration solicitor we interviewed pointed out (LAW1):

The sponsorship mechanism can lock migrant workers in particular sectors of the labour market and in particular contractual arrangements with extremely negative consequences on their livelihood.

2.2.1. **Impact on immigration trends and low-wage jobs**

Arguably, the most transformative aspect of the new system is that, for the first time in decades, EU citizens (excluding Irish citizens who can live and work in the UK without a visa) are treated the same as those from the rest of the world. While they face more restrictive requirements, increased costs and administrative hurdles compared to the past, for citizens from the rest of the world, the policy reflects a notable liberalisation in terms of requirements and settlement opportunities. Notably, this policy shift has intertwined with other changes driven by more structural factors such as Brexit and the COVID-19 pandemic to trigger a gradual change in the composition of the immigrant population in the UK, which involves a reduction in EU immigration and an increase in non-EU immigration to the UK. On the one hand, EU immigration had already begun to fall after the 2016 Brexit referendum, before any new immigration policy came into force. The COVID-19 pandemic has also contributed to the departure of EU workers, who saw a reduction in the number of jobs (-6%) twice as high as that among UK workers (-3%), and which at the end of 2022 was still below pre-pandemic levels, with 159,000 fewer EU employees than in 2019 (Sumption & Brindle, 2023, p. 6). Future estimates, according to the government's Impact Assessment of the PBS,

projected that over the first 10 years of the policy, inflows of long-term EU migrants would fall by between 80,000 and 90,000 per year (P. W. Walsh, 2021). On the other hand, recent data has confirmed an increase in the number of non-EU workers. After a 40% fall in the award of work visa grants in 2020, non-EU work visa demand exceeded pre-pandemic levels, with 241,000 visas granted in 2022 compared to 137,000 in 2019 (Sumption & Brindle, 2023). Although the numbers of EU visa applicants will probably increase as employers become more familiar with rules on how to sponsor them (Sumption & Brindle, 2023), in the medium and long term these transformations are likely to impact sectors that rely on jobs classified as low-skilled, typically performed by EU immigrants.

In a context where, especially after the 2004 and 2007 expansions, EU workers have typically filled more low-wage jobs than non-EU workers, the termination of free movement and increased restrictions on EU citizens are expected to increase the impact of this on those low-skilled sectors that specifically relied on EU workers, such as bar staff, cleaners and food processing workers (Barbulescu et al., 2021; Sumption & Brindle, 2023). This trend can be easily deduced from the fact that numerous EU citizens currently employed in the UK hold positions that do not meet the skill qualifications for long-term work visas. This is noteworthy, given that during the coronavirus pandemic, many occupations classified as low-skilled (such as care, retail or food production) were identified as 'essential'. The solution flagged by the government is that employers in these sectors should invest in labour-saving technologies like automation or employ foreign citizens already residing in the UK. These could be EU citizens who have applied to the EU Settlement Scheme, or young individuals in the Youth Mobility Scheme, who can meet the workforce demand (Walsh, 2021).

2.3. Reforms to the Asylum System

Two major reforms to the asylum system have occurred in recent years: the 2022 Nationality and Borders Act and the 2023 Illegal Migration Act. Both reforms include provisions originally proposed in the unsuccessful attempt to reform the 1998 Human Rights Act via the 2022 Bill of Rights Bill. These changes are part of ongoing efforts by recent Conservative governments to reduce the impact of domestic and international human rights laws on immigration enforcement.

2.3.1. *The Nationality and Border Act 2022*

The 2022 Nationality and Borders Act makes major changes to the asylum system in the UK and significantly curtails the rights of refugees (JCWI, 2021). Major changes relate to the introduction of the 'inadmissibility rule', the provision for offshore processing and accommodation, reduced access to justice and changes to the 2015 Modern Slavery Act.

The 'inadmissibility rule', introduced in January 2021 and placed on a statutory footing by the Nationality and Borders Act, is a central piece of legislation that may cause a larger number of asylum seekers to become irregular. The provision states that any refugee who arrives in the country autonomously, without participating in a resettlement program, may have their claim deemed unsuitable (JCWI, 2021). Consequently, applicants may either be expelled to another 'safe' country, or if no safe country can be found within six months, their asylum request is processed as usual. However, in this case, they are only granted temporary residence for thirty months at a time on a ten-year route to obtaining permanent status. This comes with no automatic right to settle, limited rights to family reunification and 'no recourse to public funds' (Gardner, 2021; JCWI, 2021). The 'inadmissibility rule' represents a fundamental challenge to the principle of refugee protection in the UK, because it introduces a two-tier system that limits protection, not

according to need, but based on a refugee's method of travel (Gardner, 2021). Yet, the rights provided to those arriving through resettlement routes are often illusory, because in most cases it is nearly impossible for people fleeing for their lives to access a camp where they can eventually participate in a resettlement scheme (Gardner, 2021). This rule also allows for the expulsion of asylum seekers to another 'safe' country. However, in response to several EU countries refusals to make deals with the UK about returning asylum seekers, the Act introduces provisions to accommodate them in reception centres outside the UK during the determination of their application, as exemplified by attempts like the Rwanda Deportation Plan (Gardner, 2021; JCWI, 2021).

The Nationality and Borders Act also introduces provisions with the intention of deliberately reducing access to justice and implementing procedural changes that increase the risk of refugees being denied protection and repatriated. Such changes include raising the standards of proof, mandating that late-submitted evidence be given 'minimal weight', and introducing a fast-track process for detained immigrants that limits appeal submission time to five days (Right to Remain, 2022).

Notably, the act introduces changes to the 2015 Modern Slavery Act with the aim of reducing access to support for survivors of various forms of exploitation (domestic servitude, forced labour, slavery and trafficking) if they are perceived to be acting 'in bad faith' or pose a 'threat to public order' (S.63). Critics contend that this Act, which ties immigration to modern slavery, could undermine efforts to tackle criminal exploitation that also affects many British nationals (FLEX, 2021). Moreover, the 'inadmissibility rule' is seen to disadvantage survivors for things which may well be part of their exploitation, empowering exploiters by giving legitimacy to their threats and increasing their power and control over victims (FLEX, 2021).

2.3.2. *The Illegal Migration Act 2023*

The Illegal Migration Act puts an effective ban on the right to asylum in the UK and eradicates protections against 'modern slavery'. It introduces major changes such as enforcing a more rigid 'inadmissibility rule', removing protection for survivors of human trafficking who enter the country without permission, expanding the detention estate and further limiting access to justice. This legislation also alters the UK's human rights standards and its adherence to international law by reducing the intervention of the European Court of Human Rights. A key provision of the Act is the limitation of the right to asylum, barring individuals and their families from applying for protection unless they are travelling directly from the country they are fleeing and have entry clearance. If these conditions are not satisfied, immediate deportation is enforced without any right of appeal against the decision. Even though a judicial review is possible, it typically occurs only after the removal has been already executed (JCWI, 2023).

The Act also imposes considerable changes to the 'modern slavery' legislation, excluding survivors from protection during the thirty-day 'reflection period' and preventing them from claiming asylum or obtaining Temporary Permission to Stay, unless they entered the UK legally. Exceptions are made for those cooperating with police investigations (section 22). Under current immigration rules, these exceptions have been extended to individuals whose stay in the UK is necessary for compensation-seeking and physical and psychological recovery.

The Act also imposes considerable changes to the 'modern slavery' legislation, excluding survivors from protection during the thirty-day 'reflection period' and preventing them from claiming asylum or obtaining temporary residence permits, unless they entered the UK legally. Exceptions exist for those cooperating with

police investigations (section 22). Under current immigration rules, these exceptions have been extended to individuals whose stay in the UK is necessary for compensation-seeking and physical and psychological recovery (JCWI, 2023).

In addition, the Act grants the Home Secretary extensive discretionary power to detain – in any place they consider appropriate – individuals, along with their families and children, who are believed to meet removal conditions, and to decide the duration of the detention. Importantly, the provision removes the High Court's jurisdiction over the detention of individuals in the first twenty-eight days, effectively blocking their ability to challenge unlawful detention (Liberty, 2023). This is likely to lower decision-making standards, and make it harder to challenge these decisions (JCWI, 2023). When combined with the lack of return agreements with third countries, the failure to set a limit on the duration of detention, and the fact that UK law allows for indefinite detention, these provisions could potentially enable indefinite detainment of individuals (JCWI, 2023; Liberty, 2023).

Moreover, the Act stipulates the removal of individuals to a third country if their safe removal to their country of origin is not possible. Appeals to stop these removals can only be made to the Upper Tribunal, and only on the grounds of 'serious and irreversible harm' (section 40) or that removal conditions have not been met (Liberty, 2023). However, the Secretary of State (or other authorities) can appeal to reject these 'suspensive claims', and since the law also limits the jurisdiction of the High Court over decisions of the Upper Tribunal, this decision is final. Finally, the Act limits the effect of the 'interim measures' issued by the European Court of Human Rights (ECtHR), allowing a Minister to determine whether they apply to the Secretary of State's obligation to remove that person. 'Interim measures' are issued on an exceptional basis to temporarily halt actions likely to breach human rights and contracting states are under an obligation to comply with them. For example, an ECtHR measure stopped the first deportation flight to Rwanda in June 2022.

2.4. Routes for regularisation

Irregular migrants in the UK face significantly limited options to gain legal status, and the few options available are extremely lengthy, expensive and complex. Although the UK government has never granted universal amnesty to undocumented migrants, it has introduced specific programmes since 1974 to legalise certain groups (see Levinson, 2005; Sigona & Hughes 2012). Current Immigration Rules provide some pathways for these immigrants to regularise their status. These include the 'Family Life', 'Private Life', and '20-Year' paths. The Temporary Permission to Stay for victims of human trafficking is also an option, although it is expected to become less common due to recent changes in asylum policies. However, this process is complicated and can be obstructed by factors such as application fees, intricate immigration laws, lack of free legal representation and inconsistent decision-making by the Home Office (Jolly et al., 2020).

The 'Family Life' route (Section EX.1 of Appendix FM of the Immigration Rules) permits adults to apply for either Limited or Indefinite Leave to Remain. They can do this either as partners of individuals who are free from immigration control (such as British citizens, those with Indefinite Leave to Remain, EU settled or pre-settled status, refugee status or humanitarian protection) or as parents or guardians of children who, as an alternative to these criteria, have lived in the UK continuously for at least the previous seven years. For partners, eligibility requires insurmountable obstacles to continuing family life outside the UK. For parents, that it would not be reasonable to expect the child to leave the UK (Home Office, 2023a).

The 'Private Life' route (Section 276ADE of the Immigration Rules) allows children who have lived in the UK continuously for seven years and young adults aged 18-24 who have spent more than half their lives in the UK to apply for Limited Leave to Remain, provided it would be unreasonable to require them to leave. Since this route's introduction in 2012, only 2,615 children and 3,516 young people have been granted status. This is a small fraction of the estimated 215,000 undocumented children and the 21,248 who have applied for regularisation (Jolly et al., 2020).

If applicants for the 'Family' and 'Private Life' routes do not meet the criteria set out under the Immigration Rules, the decision-maker must consider whether there are exceptional circumstances which could lead to unjustifiably harsh consequences for the applicant or their family which would make refusal a breach of ECHR Article 8. In this case, a Leave Outside the Immigration Rules (LOTR) can be issued on the basis of compelling compassionate grounds (other than family and private life, medical, asylum or protection grounds).

The 20-Year route to settlement is often seen as the only viable option for many undocumented individuals in the UK who have been unable to regularise their status through other means. Up until 2012, a person could qualify for Indefinite Leave to Remain (ILR) after 14 years of continuous residence, irrespective of their immigration status. Then, as part of the 'Hostile Environment' policy, the government increased the minimum qualifying period to 20 years, although exceptions are still available for those who can prove that they would have difficulties settling in their home country (Regularise, 2023). Yet, providing proof of two decades of continuous residence can be challenging, as many individuals lack access to official documentation or records. Besides, this route has faced criticism for perpetuating a state of uncertainty, as the Home Office typically grants temporary residence for a period of thirty months, which is expensive to renew. Furthermore, studies have indicated that applicants often need an additional ten years of temporary permits to acquire settlement, and will have lived in the UK for thirty years or more with varying degrees of insecurity before finally achieving stability (Regularise, 2023).

The strict enforcement of the inadmissibility rule, which limits the right to asylum, along with limited protections for survivors of 'modern slavery', is likely to reduce the role of these two statuses in regularisation and settlement. Potential survivors of modern slavery can be referred to the National Referral Mechanism (NRM) by first responder organisations like police forces, local authorities and civil society organisations. The NRM makes decisions based on either 'reasonable grounds', where there are objective reasons to believe the person is a survivor of modern slavery, or 'conclusive grounds', when the information is sufficient to establish this fact. Each decision type offers varying levels of assistance (Home Office, 2023b). However, being recognised as a survivor of modern slavery does not guarantee eligibility for asylum, which can only be granted to individuals who can successfully navigate the 'inadmissibility rule' and prove a potential risk of persecution or severe harm if they are returned to their home country.

3. Entanglements with labour market sectors

In the UK, the I-CLAIM project focuses on the participation of migrants with no or precarious legal status in two macro-sectors: the delivery of food and goods, and the provision of cleaning services and domestic work. The boundaries within these two broad areas of the labour market often become indistinct due to the labour trajectories of workers – who can use similar or related skills across various sectors – and the business models of companies operating in multiple micro-sectors. These sectors capture our interest because they evolve within specific racialised and gendered contexts relevant for the I-CLAIM research. Increasing anatomisation adds to their complexity, offering opportunities and creating new vulnerabilities. Indeed, regulatory frameworks and working practices within these macro-sectors have made them particularly appealing to migrants with no or precarious legal status, opening up segments of the labour market that would otherwise be inaccessible to them through traditional employment paths. However, this is an opportunity that comes at a high price, as these conditions also create the potential for labour exploitation and abuse.

In the next section, we first discuss the characteristics and debates surrounding the platform economy in the UK and examine how judicial rulings have shaped the working conditions of immigrants, particularly those with no or precarious legal status, specifically in the food delivery sector. Second, we shift our attention to the distinct yet interconnected sectors of cleaning services for companies and hotels and domestic work, which are two sectors characterised by endemic dynamics of gendered devaluation, abuse and mistreatment.

3.1. Platform work and the food delivery sector

The term ‘platform work’ refers to a broad range of ‘gig economy’ jobs encompassing a variety of short-term, freelance, casual, or zero-hour contracts (Haque, 2018) that are found through a platform (a website or app) and accessed via a laptop, smartphone or other internet-connected devices (Butler, 2021). People working through digital labour platforms perform a wide variety of tasks, on-site or off-site (remote), including but not limited to software development, design, translation, household repairs, cleaning, food delivery, private hire, babysitting and elderly care.

In the UK, the number of people working for gig economy companies seems to have grown substantially from around 200,000 people in 2011 to approximately 1.3m in 2017 (CIPD, 2017) up to 4.4 million in 2021 (TUC 2021). More recent studies based on larger samples (40,000 to 100,000 respondents) have scaled down these estimates to approximately 460,000 to 750,000 workers, making up just 1.4% of a total labour force of over 32.5 million (CIPD, 2023). A common perception is that most people working in the gig economy are private hire drivers or food delivery riders working for companies such as Deliveroo, Just Eat, Uber and Amazon. However, according to the latest estimates by CIPD (2023), food delivery drivers, couriers and private hire drivers constitute only 41% of the gig workers in the UK (about 190,000). Another 20% (92,000) delivers manual personal services (cleaning, care work, plumbing, etc.). But a good half (53%) of the UK gig economy is made up of a quarter of a million people (246,500) who undertake desk-based services such as web development, translation and legal services, through apps and websites.⁵

⁵ These percentages do not add up to 100% because people can undertake multiple forms of gig work.

3.1.1. *Demographics*

The gig economy appeals to a diverse demographic. Compared to workers in other sectors, gig workers tend to be young (around a third), male (three out of four), students (roughly a fifth), based in London (one out of four), and from a broader range of ethnic backgrounds. For some, these data suggest that the sector is filling a gap in the labour market not generally accessible by traditional employment sectors (Balaram et al., 2017; Haque, 2018). In 2016, during the first expansion phase of these platforms, the majority of gig workers (62%) used them only to supplement their income, while a large minority (38%) relied solely on platforms for work to survive without access to employment rights and often relying on Universal Credit to cover their living costs (Balaram et al., 2017). An interview conducted with a researcher (EXPo3) working in the British food delivery sector suggests that these figures should be viewed in conjunction with the workload historically shouldered by a minority of full-time workers, who performed the majority of tasks and generated most of the profit. Moreover, recent years may have seen a reversal in these data due to worsening salary conditions, pushing individuals with alternative income sources and job opportunities out of a highly challenging sector.

Workers from Black, Asian and Minority Ethnic (BAME) backgrounds are disproportionately represented in the British gig economy, and seem destined to increase yet further in number, particularly within food delivery, due to the factors outlined above. Compared to other sectors, in 2016 a notably greater percentage of gig workers identified as either Indian or Black African, and only 68% identified as White British, in contrast to 85% in other sectors (CIPD, 2017). These numbers are not merely a coincidence, but are in line with broader trends that see BME workers as twice as likely to be doing temporary work as their white counterparts (TUC, 2015). For some commentators, the overrepresentation of BME workers in a sector where there is less financial security and fewer opportunities for progression highlights the need to improve workers' rights as a way to tackle the structural racism that holds back racially minoritized workers in the labour market (Haque, 2018).

3.1.2. *Legal and policy shifts in the approach to the gig economy*

The gig economy is not only a growing sector, but also one that raises substantial concerns about a lack of guaranteed rights and entitlements, uncertain work hours, unpredictable income, and job instability. There is also mounting evidence of lower wages for workers. Research by Fair work (2021) demonstrated that gig economy companies like Deliveroo, Uber Eats and Just Eat often fail to meet basic standards for workers' pay and rights. This is primarily because they pay workers per completed task instead of a set wage, considering them self-employed rather than employees. Consequently, these workers may earn less than the minimum wage and as little as £2 an hour during quiet periods (Mellino et al., 2021). They are not eligible for sick pay, holiday pay or other employment rights like regular employees, and are forced to work long, exhausting days that expose them to health and safety risks (Osborne, 2016; Stone, 2021).

In recent years, these characteristics have turned the regulation of the rapidly expanding 'gig economy' into a focal point of a growing political debate in Britain about the individual and collective economic, political and ideological costs and benefits of the platform economy (Parker, 2016). This trend culminated in a Supreme Court ruling in November 2023 that Deliveroo riders are self-employed and have therefore no right to collective bargaining on pay and conditions. Notably, while the legal ground for this decision was the interpretation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights, the rationale of the sentence is to be found in the 'substitution clause' incorporated in the contracts that riders sign with Deliveroo, which allows them to arrange a substitute to perform their duties if they do not want or are unable to carry them out themselves (Butler, 2023; Cant, 2023). The Supreme Court ruling

expedited a trend that was already emerging as a result of the failure of previous governments to provide gig workers with rights and protections.

Moreover, the ruling marks further progress in the regulatory divergence between the UK and the rest of Europe, with the latter moving towards enhanced protection for gig workers, and the former leaning towards increased precariousness (Cant, 2023).

3.1.3. *Irregular migrants in the food delivery sector*

Research indicates that labour platforms function within a highly racialised context (Gebrial, 2020, 2022) where intersecting regulatory frameworks of immigration policy and employment law are turning the platformisation of low-wage labour markets into a crucial component of migration infrastructures, affecting foreign workers' opportunities, challenges and mobilities (van Doorn et al., 2023). In the UK, these frameworks restrict immigrants' access to welfare services and decent work, as both depend on residency status.

The prevalence of migrant workers across various gig economy sectors, from domestic work to food delivery, is due to the platformisation of work, which offers a complex mix of precarity and opportunity. Often under-regulated, the gig economy provides the low-waged migrant workers traditionally excluded from standard employment with an opportunity to enter the labour market. Key to this connection are the 'selective formalisation' practices (van Doorn et al., 2023) employed by platforms whereby they formalise certain aspects of gig work, like logging hours and processing payments, while entirely avoiding others such as enforcing formal employment norms. For low-waged migrants, the advantages are evident. They experience faster, simplified online on-boarding processes with few, if any, interview questions; they enjoy language accessibility and the ability to 'cash out' as required, especially in food delivery; and they can take advantage of some leniency with background checks and business licenses (CIPD, 2023). Combined with the possibilities offered by the 'substitution clause' found in contracts across various platforms, these practices provide significant opportunities for immigrants who lack a visa, work permit or social security number.

In this scenario, it is now the case that while government efforts and political resolve to control the gig economy appear to be waning, the Home Office is showing growing interest in the sector, particularly food delivery, due to its potential for 'illegal working'. A public letter from the Minister of State for Immigration, Robert Jenrick, to Online Delivery Platforms, dated November 2023, reveals this shift in the push to regulate online delivery platforms, with the primary request to end 'unchecked account sharing altogether'. In the letter, the minister directly accuses food delivery companies of complicity in 'illegal working', and the 'harm it causes to society', either through deliberate action or malpractice. The minister urges these companies to implement 'facial recognition software' and to end 'the practice of allowing account holders to substitute work to other individuals ... potentially including illegal workers'. The letter acknowledges that the Home Office has collaborated with the sector to reinforce recruitment processes and 'right to work' check procedures. However, it also warns that the Home Office will 'consider all options to prevent illegal working and exploitation in this sector' (Jenrick, 2023).

3.2. Cleaning services and domestic work

Cleaning services and domestic work are two distinct sectors that often intersect in terms of required skills, experience, regulatory frameworks and career paths. Officially, cleaning falls into the cleaning, hygiene and waste industry, which encompasses a variety of roles such as hygiene operatives, domestics, gardeners and window cleaners (Winters & Jones, 2021, p. 17). On the other hand, domestic work pertains to in-house personnel that includes cleaners, but also chauffeurs, cooks, personal carers, and nannies.

As with the gig economy, research from the UK and elsewhere (Anderson & O'Connell Davidson, 2003) underscores the gendered and racial dimensions of domestic work, although the reasons for this are different. Employers often prefer women for such roles, associating them with natural aptitude for household tasks and caregiving. Simultaneously, they may favour migrant workers, whom they view as more industrious due to perceived harsh conditions in their home countries – a stereotype that can mask exploitative employment relationships. Data on the cleaning industries depict a similar landscape. Though the industry has a fairly balanced gender distribution, women are significantly underrepresented in managerial roles and overrepresented in positions such as cleaning and hygiene operatives, where they constitute 79% of the workforce (Winters & Jones, 2021). Moreover, despite significant regional variations, a substantial portion of women working in the cleaning industry are migrants, especially in London, where migrants make up 68% of the sector's workforce (de la Silva et al., 2019).

An additional element common to both sectors is the 'gendered devaluation' (Sedacca, 2022) of tasks such as household and caregiving, which are often seen as unproductive and unskilled (Modern & Portela Barbosa, 2023). This perception ultimately leads to a pervasive situation of exploitation, as exposed by the work of activists, investigative journalists and researchers showing how these sectors present many forced labour indicators (ILO, 2012) including abuse of vulnerability, deception, restriction of movement, isolation, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime.

Lastly, while informal channels such as word of mouth, chat groups and social media remain the primary ways to find cleaning and domestic jobs (de la Silva et al., 2019, p. 10), these sectors have seen increased penetration from gigeconomy platforms in recent years. Dedicated apps such as Hassle, Handy, and Helping have also contributed to the increased feminisation of the British gig economy sector (Balaram et al., 2017).

3.2.1. *Demographics*

Despite the varied demographic composition of the cleaning and domestic sectors, research conducted on these sectors in the UK particularly concentrates on Filipino and Latin American workers. This is largely due to the organisational capacity demonstrated by these communities through civil society support groups and labour unions. The experience of Filipino migrant women in these sectors is primarily linked to a specific visa for domestic workers accompanying their employers, known as the Overseas Domestic Work (ODW) visa. Each year, this visa is issued to around 23,000 individuals, half of whom are from the Philippines (Gostoli, 2020). Employers from the Gulf countries account for about 70% of applications (Mcque, 2023). This visa is often described as 'tied', because the migration status of the holder is linked to their employer. In fact, to qualify for a ODW visa, applicants must be employed as domestic workers in a private household and have worked for their employer for at least one year. The visa costs £637 and permits a stay in the UK of up to six months. During this period, visa holders can travel abroad and return to the UK, and as of 2016 can change

employers within the domestic worker sector. However, the visa does not permit work outside a private household or allow access to public funds. It also cannot be extended, except under specific circumstances for those who applied before April 2012 (HM Government, 2024), when the previous and more generous visa concessions were revoked as part of the 'hostile environment' policy (Breese, 2023).

Latin American women seldom access the UK by the ODW route but are equally well represented in domestic and cleaning sectors. Many of them hold EU citizenship, with one in five Latin American residents in the UK having this status, which they obtained either through descent from EU citizens or by living in an EU country long enough to become naturalised. Members of this group migrated to the UK from countries such as Spain, Italy and Portugal following the 2008-2014 financial crisis (de la Silva et al., 2019). Despite their relatively privileged migratory profile, these workers face significant challenges when seeking employment, such as language barriers, non-recognition of degrees and financial hardship, with the result that two-thirds take up cleaning jobs upon arrival in the UK, a figure that decreases to 50% after a period of resettlement (McIlwaine & Bunge, 2016). Other Latin American women enter the UK as Standard Visitors, which allows them to stay up to six months. However, they often become undocumented when their visas expire, typically due to deception by their employers (Modern & Portela Barbosa, 2023). Notably, the aftermath of Brexit has seen an expansion of this difficulty with EU citizenship for women of Latin American heritage, who continue to migrate to the UK along the same migratory networks, despite significant alterations in immigration policies, as underscored by an interviewee from a civil society organisation (NGO02):

There's a level of trafficking where they get brought over to the UK with the false promises from employers or exploiters that they have the right to work here, or that they'll sort out a work visa once they get here. We've been seeing that since Brexit, I mean, it's always happened with migrants from Latin America, but since Brexit the problem has now extended to Latin Americans with EU citizenship. They get told, "We'll sort out your EU settlement once you're in the UK", or they're just told that they don't need a work visa.

In addition to the ODW route, starting from 2022, care workers and home carers can apply for the Health and Care Workers visa. This change enabled UK employers to fill these roles from overseas, leading to a significant increase in the number of visas granted under this route. Approximately 60,000 visas have been issued, constituting 32% of the total number of Health and Care Workers visas issued during this period. Workers from India, Zimbabwe, Nigeria, the Philippines and Ghana have been the main recipients (Sumption & Brindle, 2023).

In the section that follow, we examine the operation of these sectors, their implications for immigrant workers, and processes of irregularisation. As we will see, despite predominantly different immigration statuses and entitlements, both groups exhibit patterns of re-migration, workplace abuse and exploitation. These can result in recourse to the National Referral Mechanisms, set up to combat human trafficking and modern slavery.

3.2.2. Outsourced cleaning services

The UK cleaning, hygiene and waste industry employs approximately 1.47 million people, which equates to roughly 5% of the general workforce. This figure includes the 957,000 people directly employed in the industry and an estimated 513,000 workers categorized as 'cleaning and hygiene operatives and domestics' which makes up the largest occupational category in the sector (Winters & Jones, 2021). This sub-sector

includes individuals, often migrant women, working in outsourced jobs such as hotel chambermaids and housekeepers. Research conducted by the Latin American Women's Rights Service (LAWRS) (de la Silva et al., 2019) indicates that unregulated outsourcing practices frequently lead to neglect of working conditions, staff training and service quality. This includes instances where workers are not provided with information about their employers and employment terms during induction and HR processes, and cleaning companies withhold the passports of migrant workers. The research found that more than half of workers encounter contract breaches (62%), with illegal wage deductions being the most prevalent abuse. One in five workers is not given written contracts or is paid under the National Minimum Wage (NMW), and many feel compelled to accept changes to their working conditions. Health and safety issues, such as injuries, lack of protective equipment and inadequate training, were identified in 25% of cases. Discrimination, harassment or unreasonable treatment was experienced by 41% of women, with an even greater proportion (66%) facing verbal or physical abuse and a consistent minority (16%) enduring various types of sexual harassment and abuse (de la Silva et al., 2019). Despite the strong organization of immigrant workers in this sector, including various cleaning branches affiliated with both large and medium-sized trade unions and grassroots migrant-led unions like the Cleaners & Allied Independent Workers Union (CAIWU), these organizations struggle to integrate irregular workers. This issue was highlighted by a trade unionist (TU2):

In my personal experience with irregular comrades, they do not join the union. What we really try to do is to help them, because basically there is a situation where they are not within the legal spectrum in which we could not do anything legally, because both the company that employed them and they are breaking the law, both sides. But we, as a union, with the principles that we have, do not accept exploitation, so we try to campaign, to focus on the person and make sure that nothing will happen to them.

3.2.3. Domestic work

Due to the private nature of the workplace and the absence of regulations, the domestic work sector is more susceptible to forced labour than other sectors. A recent study by LAWRS (Modern & Portela Barbosa, 2023) revealed that domestic workers often face a lack of paid annual leave, unlawful wage deductions, unpredictable and excessive working hours, and an inability to take breaks. Underpayment is also prevalent with an average hourly rate of £5.75 (Jiang, 2019), which is significantly below the NMW (£8.21 at the time of data collection). A 2019 survey by the Voice of Domestic Workers found that 69% of migrant domestic workers did not have their own room in their employers' houses, only half had adequate food, three-quarters suffered verbal or physical abuse and 7% had experienced sexual abuse (Jiang, 2021).

The experience of isolation caused by relentless work schedules is intensified for workers with 'tied' ODW visas, leading to experiences resembling modern forms of enslavement. In a 2014 survey by Kalayaan, a London-based charity supporting domestic workers, nearly three-quarters of workers on an ODW visa reported they were not permitted to leave the house unsupervised (Breese, 2023). Media outlets like The Guardian (Simons, 2023) and Al Jazeera (Gostoli, 2020) have also reported cases of employers withholding the pay and passports of their workers or confining them to the house for a year and a half, except when accompanying family members on shopping trips. However, even when workers' immigration status is not tied to their employers, barriers to leaving exploitative situations still exist. These include emotional bonds with those they care for, such as children and the elderly, the need to send remittances home and a lack of alternatives due to isolation and underpayment (Modern & Portela Barbosa, 2023, p. 17).

Power imbalances between employers and domestic workers are often amplified by the administrative and legal aspects of migration. As has been mentioned elsewhere in this report, without safe reporting mechanisms, undocumented status often becomes a precursor to exploitation and abuse. However, high visa renewal fees can also contribute to this cycle of dependence and exploitation by employers. This is particularly evident when they agree to cover legal and visa costs and then, based on that, obstruct salary negotiations and pay workers less than the NMW (Simons, 2023). Notably, even with stronger residence permits (such as pre-settled or settled status), misinformation about work rights and worries over immigration enforcement can make working conditions even worse (Modern & Portela Barbosa, 2023, p. 14).

Several legal factors in the UK complicate the improvement of labour and living conditions for domestic workers. These include, as a member of a civil society organisation working with domestic workers (NGO02) put it, 'the prevailing sense that domestic work is more of a civil matter' and not 'a labour context, subject to labour right'. This is reflected in the exemption of private homes from standard labour inspections, and the exclusion of workers categorised as 'domestic servants' from key labour rights, such as the 48-hour maximum working week (Sedacca, 2023). The UK's non-ratification of the 2011 International Labour Organisation's Domestic Workers Convention also poses a challenge. Notably, the family 'worker exemption' provision, which has allowed live-in employers to pay domestic staff less than the NMW, will be lifted in April 2024. This change comes after pressure from a coalition of civil society organisations coordinated by ATLEU (a charity that provides legal advice and support to survivors of trafficking and slavery) and the Nanny Solidarity Network (ATLEU, 2023; Sedacca, 2023).

4. Conclusion

The measures introduced by the UK government since the early 2010s to create a ‘hostile environment for irregular migrants’, define the contours of the regulatory framework within which irregular migrants enter and settle in the UK. Brexit and the end of freedom of movement for EU citizens has dramatically transformed the socio-demographic profile of the new migrant population in the UK and producing new forms of migrant irregularisation. The New Plan for Immigration launched in the early 2020s captures the changing politics of migration and connects it to the new ideological project of ‘Global Britain’. Growing anti-migrant hostility and the fight against irregular migration in the UK, particularly around so-called ‘small boat crossings’ has come to shape the overall narrative on migration. The criminalisation of asylum has gained traction and is a pillar of the 2023 Illegal Migration Act. The emerging post-Brexit immigration regime has restructured the governance of immigration in a way that privileges the interests of employers, granting them significant authority over their migrant workforce.

This rapidly changing policy and legal framework defines the opportunity structure within which irregular migrants build their everyday lives and livelihoods. A key feature of the ‘hostile environment’ policy is the co-option of private and public actors into the role of immigration control. This form of everyday bordering further confines and restricts the lives of irregular migrants, pushing them further under the radar and making them vulnerable to exploitation and abuses, particularly in the absence of safe reporting pathways. The precarisation of status and the intensification of bureaucratic checks and requirements associated with visas contribute to a further irregularisation of migration and migrants, making the transition from regular to irregular status easier. Immigration controls also impact on the labour market and the condition of labour available to people with no or precarious legal status. The platformisation of labour sectors, particularly in the delivery, domestic and care sectors, creates new opportunities and vulnerabilities for irregular migrants.

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Annex 1: Timeline of key laws and policy documents

YEAR	NAME OF THE POLICY DOCUMENT
2014	Immigration Act
2016	Immigration Act
2018	Data Protection Act
2020	Immigration and Social Security Co-ordination (EU Withdrawal) Act
2021	New Plan for Immigration
2022	Nationality and Borders Act
2023	Illegal Migration Act

Annex 2: List of Interviews

SECTOR	POSITION	DATE	CODE
Trade union	Equality, Diversity and Inclusion Officer	17 February 2024	TU1
Expert	Lecturer	27 January 2023	EXP1
Civil society	Migrants' Rights Campaigner	17 January 2024	NGO1
Civil society	Policy and Communication Manager	30 January 2024	NGO2
Trade union	Policy and Communication Manager	22 February 2024	TU2
Trade union	General Secretary	22 February 2024	TU2
Legal	Legal expert - Immigration Solicitor	22 March 2024	LAW1

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of Irregularised Migrant
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