

'Getting tough' on the family-migration route: A blurring of the 'them' and 'us' in anti-immigration rhetoric

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Introduction – Migration policy under the Coalition Government: towards 'tens of thousands' of 'the brightest and the best'

David Cameron made a pledge in 2010 on behalf of the Conservatives to get net migration down to the 'tens of thousands' per annum by the May 2015 General Election. Writing just a few months ahead of that target date, it is clear that he will have failed, and dramatically so. Net migration (the difference between the number of people moving into the UK and the number of people moving out of the UK) in the year ending June 2014 was 298,000. This is 93,000 higher than in 2011 (ONS, 2014), and some 198,000 above the 99,999 upper threshold of Cameron's target. As is outlined below, the failure, however, is not for the want of trying.

While a firm commitment to reduce the level of net migration set the Conservative-led Coalition Government apart from the previous Labour administrations, their second key migration-policy mantra signals that there was continuity with Labour too: echoing the then Labour Immigration Minister's statement in 2000 that the UK was 'in competition for the brightest and the best', Conservative Home Secretary, Theresa May, stated in 2011 that 'we want the brightest and the best' (cited in Anderson, 2013: 58).

The dual aspiration of 'tens of thousands' of 'the brightest and the best', has collectively driven developments in the UK's migration regime under the Coalition Government. Thus, entry and settlement for all migrants, whether workers, students or family members, originating outside the European Economic Area (EEA), have been subjected to ever greater restrictions and conditionality, and while within the framework of European Freedom of Movement, the Government has not been able to restrict the entry of EU nationals, it has introduced tighter rules on

their access to social welfare provisions in order to lessen what politicians perceive to be a 'magnet' for some EU migrants to come to the UK. This toughening of migration policies needs to be seen within the wider rhetoric of 'them' and 'us' that has been deployed by the Coalition government to justify the tightening of welfare entitlements in the context of austerity. Behind the apparent simplicity of binaries such as 'migrant' and 'non-migrant' / 'citizen' and 'non-citizen' / 'EU migrant' and 'British national', however, lies a much more complex and nuanced picture. Moreover, it is a picture that has been complicated by some of the very policies that rest on, and perpetuate, such distinctions. This is no more so than in the case of recent changes to the family-migration route, which the remainder of this article focuses on.

Changes to the family-migration route

The family-migration route provides the potential for entry to and settlement in the UK for non-EEA nationals wishing to join a partner (spouse, fiancé(e) or civil / unmarried partner) or family member (a parent or a child) who is living in the UK permanently – British citizens, settled persons or those who have asylum or humanitarian protection in the UK. This route makes up a smaller proportion of non-EEA migration to the UK than the work and study routes (ONS, 2014). In the context of the 'tens of thousands' target, however, all routes have been seen as contributing to overall numbers, and so legitimate for tighter control. Moreover, family migration takes on significance beyond its level at entry because it has a greater likelihood than either work- or study-related migration to lead to permanent settlement in the UK, and so contributes less than the other routes to *emigration* flows – the other side of the net migration coin. Additionally, as a result of human rights obligations and the establishment of a right to family reunification

in the EU, the UK government cannot control family-related migration in the same way as work and study migration, and so it sits outside the 'points based' migration system, which since it was introduced by Labour in 2008 has served as the main tool for selecting the 'brightest and the best'. In this context, Kraler (2010: 8) argues that in many European countries 'family related migration is increasingly perceived to undermine migration control and to be in contradiction with selective migration policies ... [It therefore] appears as a form of unsolicited and by implication, unwanted migration'. In this vein, albeit facing constraints on their autonomy in this field, European states in recent years have sought to develop policies that allow for a more selective approach to admission through the family route.

It is in this context that Damien Green – then Minister for Immigration – in July 2011 launched a consultation on family migration (UK Border Agency, 2011). In parallel, the Migration Advisory Committee – established under New Labour in 2007 and composed mainly of economists to provide advice to government on labour market aspects of migration – was asked to review the minimum income requirement for sponsorship under the family-migration route (MAC, 2011). Despite an overwhelmingly critical response to the consultation (Home Office, 2012), Government pressed ahead with most of the proposals it had set out, and in July 2012, a series of changes took effect for non-EEA nationals applying for admission under the family route. The changes included:

- introduction of a new minimum income threshold of £18,600 gross per annum for those sponsoring admission, with a higher threshold for any children also sponsored; £22,400 for one child and an additional £2,400 for each further child;
- extension of the minimum probationary period for settlement of spouses and partners from two years to five years; during that five-year probationary, (as was the case previously) spouses and partners are subject to a 'no recourse to public funds' restriction, meaning that they cannot access most benefits, tax credits or housing assistance;

- abolition of immediate settlement for the migrant spouses and partner where a couple has been living together overseas for at least 4 years, and requiring them to complete a 5 year probationary period;
- restriction of adult and elderly dependants' settlement in the UK to cases where they can demonstrate that, as a result of age, illness or disability, they require a level of long-term personal care that can only be provided by a relative in the UK, and requiring them to apply from overseas rather than switch in the UK from another category, for example as a visitor; and
- restriction of family visit visa appeals, initially by narrowing the current definitions of family and sponsor for appeal purposes, and then, by removing the full right of appeal against refusal of a family visit visa.

Impacts of the changes

Sharpest criticism of the changes has been directed towards the raising of the financial bar for sponsorship. Under the previous rules sponsors were required to demonstrate their ability to maintain and accommodate themselves, their partner and any dependants without recourse to public funds. Since 2006 this maintenance requirement had been set at the level of Income Support. This required that the net income of the sponsor and non-EEA applicant, following deduction of housing costs, was not less than the equivalent amount that the family would receive in Income Support. In 2011, this equated to a post-tax income of £5,500 per year, excluding housing costs, for a couple with no child dependants; a figure that was well under a third of what was introduced in 2012. It is not only that the maintenance requirement has been increased so significantly; what is permissible as eligible income has also become more restrictive. Pre-July 2012, the couple could provide evidence of sufficient independent means, employment income of either or both parties could count, as could their employment prospects, and where a couple could not meet the maintenance requirement, they could provide evidenced undertaking of support from

other family members. Under the new rules, the non-EEA partner's prior or prospective earnings are excluded, as is third party support, and the counting of self-employed is tightly restricted.

The exclusionary potential of the new £18,600 minimum income requirement was recognised from the proposal stage, with the Migration Advisory Committee estimating that 45% of the non-EEA partner applications made in 2009 would have failed under the proposed increase (MAC, 2011). Subsequent analysis has highlighted how because of disparities in average earnings, impacts are likely to be highly uneven geographically and by socio-economic group. Estimates suggest, for example, that 51% of British citizens in employment in Wales, 48% in Scotland and 46% in England would not meet the requirement on the basis of gross annual earnings (APPG on Migration, 2013). The All-Party Parliamentary Group on Migration's inquiry into the impact of the changes found evidence of a decline in the number of partner visas issued under the family-migration route, an increase in the number of refusals and an increase in processing times since the new rules came into force (APPG on Migration, 2013: 19-20). It also gathered evidence from those affected by the changes, and concluded that '... in today's internationally connected world, British citizens who are seeking to build a family with a non-EEA national – including from the USA and from Commonwealth countries such as Australia, Pakistan and India – are being prevented indefinitely from living together in their own country ... [Those impacted include] British citizens and permanent residents with considerable means, or access to means. In many of the cases children, including very young children, had been separated from a parent, with potentially severe effects on their future development' (APPG, 2013: 3).

Conclusion: a blurring of the 'them' and 'us'

The emphasis in the above of the impact of changes to the family-migration route on *British citizens*, as opposed to *migrants*, is an important one. In 2009, 59% of sponsors of partner visas were *UK-born British citizens*. In applying to

British citizens, regardless of ancestry, in exactly the same way as they apply to recent and long-established migrant groups, the Coalition Government's changes have clearly blurred the boundary between 'them' and 'us'. In effect, in its efforts to 'get tough' on migration, the right to a 'family of choice' in the UK under the Coalition Government has become deeply contingent on socio-economic positioning *regardless of migration status*.

References

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