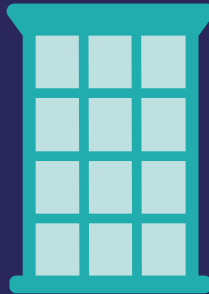


WE ARE **HERE**

ROUTES TO REGULARISATION FOR THE UK'S UNDOCUMENTED POPULATION



THE JOINT COUNCIL
for THE WELFARE
OF IMMIGRANTS

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EXECUTIVE SUMMARY

BACKGROUND

The purpose of this report and the research carried out by JCWI is to better understand the reality of life for undocumented migrants in the UK today. It explores how people become undocumented, and how vulnerability is produced through the structures of the system itself. It reveals the systemic weaknesses of our immigration system that lead to so many people becoming undocumented and how a small error, or a short period of illness can change the course of a life.

Under the current system, people are kept in insecure temporary status, punctuated by expensive and stressful renewal applications, for years and decades, greatly increasing the chance that a piece of bad luck will drive them out of status. Once that happens, the system makes it almost impossible to correct course and regain status. We explore how once someone becomes undocumented, the criminalisation of their everyday lives drives them into exploitation. Their voices are silenced, and they are unable to get help or tell anyone about their plight. Under the Hostile Environment, almost everyone who should keep them safe, like the police, the NHS, social services, and even some charities, are part of the system of immigration enforcement and surveillance trying to rip them away from their families and homes.

We look at how undocumented status impacts on people's lives and the lives of those around them. And finally, we make recommendations as to how sensible, measured, and simple reforms could help break the cycle of insecure immigration status for people living and working in the UK. We propose measures that would both prevent people from becoming undocumented in the first place and make it practically possible for undocumented migrants who have established lives here to resolve their situation.

OUR RESEARCH

Our research combines survey evidence and testimony from immigration lawyers about people they represent, interviews and focus groups with undocumented and formerly undocumented migrants, and data from JCWI's undocumented migrant helpline.

FINDINGS

The immigration system actively and unnecessarily creates undocumented migrants

The immigration system itself creates insecurity. Migrants are considered “temporary” for a decade, and forced to reapply for the right to remain in their homes and jobs every 2.5 years at a cost of thousands of pounds per person each time. If the time where they need to apply to renew their stay coincides with any kind of personal crisis, they can lose their status and every part of their lives become criminalised.

Our research found that people became undocumented for a variety of reasons outside their control, including relationship breakdown, domestic violence, poor legal advice, their or a relative’s physical or mental health crisis, inability to pay extremely high fees, or a simple mistake.

Some visa pathways have no route to extend or settle at all, meaning that there is no flexibility to protect migrants from becoming undocumented if their circumstances change while on that route.

82% of those in our surveys entered the country through legal route and later fell out of status.

Undocumented migrants are left deeply vulnerable to exploitation and harm

Given that over three-quarters of migrants in our surveys reported having family in the UK, it is unsurprising that many of those forced out of status have to remain here, but to do so they face grave risks of exploitation and harm under the Hostile Environment.

Migrants in our research suffered high rates of domestic abuse, which they cannot escape because of their immigration situation. The Government’s Hostile Environment makes it impossible to report exploitation or crime to the authorities because migrants fear this will result in being pursued for deportation. Women in our surveys experienced domestic violence at three times the average national rate, while men did so at double the national rate.

Migrants are particularly vulnerable in the workplace; exploitative employers underpay or enslave undocumented migrants with impunity.

They are usually forced into some form of under the counter work of the kind characterised by exploitation, underpayment, long hours, poor health and safety standards, and no benefits such as sick leave or paid holiday.

Of the migrants in our surveys who are still currently undocumented, 24% are employed. Almost half (46%) of migrants in our surveys have been affected by right to work checks, driving them into more exploitative parts of the labour market.

The routes available to undocumented migrants to regularise their status are inadequate

The existing routes to regularise status that are available for migrants who have become undocumented are extremely complicated and expensive. A child, even one born in the UK is required to demonstrate having lived a minimum of seven or ten years, or half their lifetime in the UK to be eligible to obtain a regular immigration status, depending on their circumstances. For adults, the criteria include a requirement to demonstrate 20 years' residence before they are considered permanent enough residents to apply to regularise their status.

The system is not only inaccessible, but vastly over-complicated and expensive, far more so than in other countries comparable to the UK.

The average cost of a regularisation application in France, Spain, Portugal, the Netherlands, or Germany is less than a tenth of the cost in the UK, and the cost of applying for permanent settlement in the UK costs 20 times more than the average cost in those countries.

The design of the system ensures that people are trapped in limbo, are at high risk of exploitation and have no options to get back on track. Even migrants who are able to regularise their status are placed at risk of becoming undocumented again.

One third of the callers to JCWI's undocumented migrants' helpline over the past year had gone in and out of status. 87% of migrants surveyed had been living in the UK for over five years.

RECOMMENDATIONS

Introduce a new, simplified route to regularisation based on five years' residence to replace the seven-year, half-life and 20-year routes

The Government must ensure that people are assisted to regularise their status and are supported to maintain their status. The current system is so complex and restrictive that it instead pushes people out of status. A five-year route would provide simplicity within the immigration system and provide a clear route back into a safe immigration status for people who have been forced out of it. This would provide a realistic, permanent solution for long-term residents.

Children born in the UK should be entitled to British citizenship

Every child born and raised in the UK should have an automatic right to British citizenship. The removal of birthright citizenship in 1981 means that people who were born and raised in the UK can often be considered for removal to countries they have never known. Restoring birthright citizenship would prevent the injustice of young British people living under the threat of deportation.

All visa routes should be affordable

The ability to document right to stay in the UK should not depend on whether the applicant can afford the fees. The UK's immigration fees are far higher than in most comparable countries and they continue to increase. Families who are unable to raise thousands of pounds every few years are at risk of losing their status and becoming undocumented, or forced to choose which family members maintain their status while others cannot. Immigration fees should be set no higher than the cost of processing an application.

Visa renewals should be automatic and facilitate integration & settlement

Once someone has successfully applied to live in the UK, the system should ensure that they are able to put down roots and become settled members of their community. Under the current system, almost all migrants lose their status by default every thirty months unless they go through a complex and expensive renewal process. This is a crucial point at which many people become undocumented. Visa renewals should be simple, cheap, and granted by default unless there is new and important information to be considered.

All migrants should be entitled to permanent settlement after five years' legal residence

The immigration system does not respond to the fact that once people enter the UK, they form permanent relationships and communities, and put down roots. Too many types of visa come with no pathway to settlement or renewal. Others include a long and expensive 10-year path to settlement. This increases the risk of people being forced out of status after having built a life here. All those welcomed to live or work in the UK should be able to do so with confidence and should be allowed to renew their visa and apply for indefinite leave to remain after five years' lawful residence.

Abolish the offence of Illegal Working & introduce a work permit system allowing lawful residence based on lawful employment

All workers should be safe and protected from exploitation and abuse, regardless of their immigration status. Banning undocumented migrants from working legally does not reduce the need for people to work or to provide for themselves or their families. Illegal working offences drive undocumented migrants underground and strengthen the hand of exploitative employers who profit when workers are marginalised, fearful and have few choices.

Undocumented workers are unprotected and cannot report labour violations without fear of punishment or being reported to immigration enforcement. Work permits should be made available for all undocumented migrants with an offer of employment, and form part of the route to regularisation.

Make the immigration system responsive to human circumstances

The immigration system should seek in the first instance to resolve errors in applications and changes to personal circumstances, particularly for those already living here. Under the current system, simple errors and personal crises can result in the loss of immigration status. Missing a deadline, making a minor error, poor legal advice, or using the wrong form can have grave consequences lasting for years or decades. Migrants with an insecure status are also put at risk if they seek to access state support in the instance that they are the victim of crime or domestic violence. The system should only deny visa renewal applications as a last resort, and only after serious effort has been made to provide that person with support to resolve any issues in the application process.

AKUNNA'S STORY

Akunna* came to the UK on a student visa 13 years ago. He was studying to become a chartered accountant and working to support himself and his family in a fast-food restaurant. He enjoyed his work, *"It was a good place to work. I had the opportunity to interact with people from different cultural backgrounds, from different countries, Pakistanis, Indians, Polish, I think there was someone from Fiji Island. I'd never heard of that country before, and I met someone from there through that job. I enjoyed the experience. It helped my perception and broadened my horizons about people. That was my kick about England. The opportunity to meet people of different races and I enjoyed that because I've never met so many diverse people in one city."*

As he was approaching the end of his studies and his final exams, he witnessed numerous migrant students losing their visas due to complexities in the immigration system. He became anxious about completing his studies and being able to stay, particularly because his family was settled in the UK. This included four children, two of whom were born in the UK.

Akunna had to work as many hours as he could to afford the visa renewal fees for his family, which came to thousands of pounds. Nearing qualification as an accountant, the stress of the exams and the pressures of the immigration system were impacting his mental health.

As his mental health deteriorated, he was unable to keep up with his studies, and lost his visa when he couldn't continue to fulfil the requirements of his course. He applied for leave to remain outside the rules, but his application was refused, sending him deeper into crisis.

"Before, I used to be very outgoing, but I withdrew from people, I became isolated. The cost implication of having to apply to the Home Office, the cost of paying a solicitor, being refused, going to appeal. All those things were getting at me. I think that pushed me to the edge and I had no control over what happened then."

“When I had depression, I applied for leave to remain outside the rules while I was attending to my health issues and couldn’t continue my studies. I applied before I was hospitalised. The stress was too much for me when the Home Office rejected my application. That’s what led to my first suicide attempt.”

“It was my wife who found me and called the ambulance. I can’t really... I didn’t know what happened. I just found myself in hospital.”

“Death was better than being sent back, you have to understand, that was real desperation.”

The following years were incredibly difficult for the whole family. Akunna attempted suicide once more and also suffered a dissociative episode where he blacked out and came around far from home, unaware of what was happening to him or how he had got there. During these difficult years, Akunna was having to work where he could in order to support his family. He took whatever work he could find and was often forced to work in poor conditions, for little or no pay.

“I just had to survive and take care of my kids. I was paid three pounds an hour, where it should have been more, and it was not a good experience. I was working with other people who were in the same situation and sometimes we did the work, and we didn’t get paid at all. The employers knew that they could threaten us and say they’ll call immigration enforcement and that we’ll be deported. And against that threat, no one will chase after the money, so there’s a lot of exploitation.”

Constant fear of himself or his family coming to the attention of the authorities and being deported made it impossible for Akunna to overcome his mental health difficulties.

For him the worst thing was that his children would feel the same helplessness and insecurity that led to his own mental collapse.

“My daughter is nearly 15 and my oldest son is nearly 12, and then the two other boys are younger. The two oldest ones in particular are old enough to be aware of the situation. And they were aware of how unstable their lives were.”

“No child should have to know about that. It’s a terrible worry even for adults. For them to know that their parents are not safe, that can do a lot of damage. The effects of suffering that kind of trauma as children could impact their lives for a long time.”

Akunna and his family were helped by JCWI’s legal team who supported them to regularise their status, and later to get citizenship. They didn’t lose their status because of any desire to play the system or to break the rules. They found themselves in an impossible situation when the student visa system cut them off without any flexibility to allow for health crisis that can impact on studies. ***“The UK is a country that is known for its protection of human rights, and now that I’m a British citizen I feel that it is a stain on the reputation of the country.”***

“The Home Office may think that it is about denying that one person the right to live here, but it’s not just about that person. That person’s family is suffering, people are exploiting and taking advantage of them, they cannot even go to the police and report a crime because of the fear of being detained or deported. So many crimes and instances of people being badly treated. A person’s dignity is taken from them.”

Today, Akunna*, his wife and his children are all British Citizens. Akunna is still recovering from the severe mental health breakdowns that caused him and his family to lose their status. His wife is now training to be a mental health nurse and his children are thriving at school. They are now safe and secure in the UK.

ABOUT JCWI

JCWI is an independent national charity, founded in 1967 to defend the rights of Britain's migrant communities and fight for a fairer immigration system.

For more than half a century, we have challenged policies that lead to discrimination, destitution and the denial of rights. We have provided accessible, high-quality legal advice and support to tens of thousands of people, helping them to secure their immigration status, keep their families together and escape poverty. And we have consistently been one of the leading voices calling for a fairer, more just immigration system that works for everyone.

Support our work by becoming a member today, by visiting:
jcwi.org.uk/join

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Joint Council for the Welfare of Immigrants is a registered charity (number: 1117513).