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UK Immigration:
Motivations Behind the Introduction of the
Points-Based System

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ABSTRACT

By asking the question of whether the introduction of the 2008 Points-Based System was a result of economic or socio-political pressures, this dissertation examines the motivations behind UK immigration policy changes. Through analysis of the policy and its accompanying literature, as well as media coverage surrounding the change, this dissertation demonstrates that the introduction of the PBS is an attempt to assert control over and manage immigration as demanded by British public fears over the economic and social effects of non-European immigration. Emphasis is placed on the economic benefits of migration, signalling a move away from previous policies that focused mainly on addressing public concerns over socio-cultural implications of migration.

Introduction

In early 2008, the Home Office's UK Border Agency introduced the first phases of its new general immigration system, which would replace all 80 work permits and entry schemes into the UK with a single system that classifies migrants into five "tiers" (Cm 6741, 2006: 2). Designed to qualify non-EEA¹ migrants based on skill-level through the assignment of points, the Points-Based System (PBS) is just the latest development in the contested and polemical area of post-WWII British immigration policy.

Since the end of World War II and the decline of its colonial empire to present-day accommodations for EU nationals and non-EU migrants, immigration has been a constant issue in the United Kingdom. Faced with a growing immigrant population and an increasingly exclusionary home society, British policies have gone from naïve openness to avid limitation, while simultaneously transforming the UK, or at least London, into a model of multiculturalism with displays of cultural tolerance and acceptance. Within these opposing attitudes towards immigration, the introduction of the Points-Based System begs further questioning.

While the PBS does not overtly and/or covertly target racial, cultural or ethnic groups as many previous immigration policies did,² its ultimate purpose is once more to limit non-European entry into the UK by classifying migrants based on their skill sets, potential to fill labour needs and, in most cases, ability for self-sustenance while in the UK.³ In a globalized world where movement of people is the norm, why the push for further limitation and exclusion?

¹ European Economic Area nationals.

² Overt discriminatory policies include the Commonwealth Immigrants Act of 1962, while the Commonwealth Immigration Act of 1968 and the British Nationality Act of 1981 can be interpreted as covertly discriminatory.

³ Persons applying under Tier 1 (General, Post Study Work, Entrepreneur and Investor), Tier 2, Tier 4 and Tier 5.

This dissertation will attempt to determine the motivations behind the change to the Points-Based System by asking the question: Was the introduction of the 2008 Points-Based System a result of economic or socio-political pressures? Through analysis of the policy and its accompanying literature, as well as media coverage surrounding the change, this dissertation will demonstrate that the introduction of the PBS is an attempt to assert control over and manage immigration as demanded by British public fears over the economic and social effects of non-European immigration.

The first part of this dissertation will include a thematic overview of UK immigration policy through an examination of the theories behind the different policies, as well as an acknowledgment of the most salient issues surrounding immigration at the time. In so doing, the motivations behind those policies will help shed light on the emergence of the PBS. It will be shown that many factors that helped create previous policies, such as migrant origin, labour and demographic needs and security, were also in play with the PBS. Following this, there will be an analysis of the actual PBS policy and its accompanying literature, which includes informational packets published by the Home Office for public use. This analysis will elucidate on how the PBS works, who it affects and how. Thus, it will be seen that through the PBS, low-skilled migrants have a much lower chance of being allowed into the UK than more highly-skilled, and potentially wealthier, migrants. This, in turn, will show how the PBS reflects general public concerns over economic and social consequences of migration. To enhance and provide a more complete overview to the analysis of the change, and thus go beyond the explicit wording of the policy, media coverage including speeches and newspaper articles on the PBS will be analysed. These analyses will reveal public perceptions of both immigration in

general and the change in policy. By examining speeches and news articles, a comparison between government and public opinion will prove that politicians and policymakers react to public demands in formulating immigration policy.

Themes in UK Immigration

Whereas traditional literature on UK immigration policy considers it in a chronological fashion, beginning with the post-WWII British Nationality Act of 1948, this dissertation will take a thematic approach to understanding UK immigration policy. By examining the trends rather than the dates, it will be possible to use the rationale behind the formation of preceding immigration policies to attempt an understanding of the motivations behind the introduction of the PBS. As the PBS is so recent, there is little to no critical analysis and/or review of the change and its origins, repercussions and supposed objectives. Thus, an aim of this dissertation is to examine the PBS in contrast and comparison with previous policies, and siphon out any information that may help explain or theorize the impetus behind the change in policy.

Economic implications of migration

Arguments for and against the economics of migration traditionally take into account the need for immigration along with the potential economic dependency of the migrants. Mostly viewed in terms of how it would affect the host country's economy, the economics of migration tends to focus on two main issues: the need or not of labour migration and the subsequent threat to the welfare state. Labour migration came about after WWII when the reconstruction of Europe necessitated foreign labour to aid its recovery. As Gary Freeman states: "[...] foreign workers have taken on the character of an industrial reserve army" (1978: 25). This 'army' took

over jobs in society that native workers were unwilling to take, such as short-term and manual labour, and accepted jobs that paid less and demanded more flexibility, commitment and even relocation (Messina and Lahav, 2006: 316). Tied into the arrival of labour migration, and later on unwanted general migration, was the potential impact on the welfare state. Although labour migrants are considered to be contributors to a host society's economy, it has also been argued that these same unskilled workers were more prone to losing their jobs more easily during a recession and consequently lived off the welfare state, thus rendering their previous contributions moot (*The Economist*, 2002).

In the case of Britain, however, labour migration was usually unsolicited; in fact, Commonwealth immigration to the UK was allowed, Joppke argues, mainly for the maintenance of empire (1998: 271). That does not mean, though, that migration has had no effect on the British economy, but rather that instead of looking at migration in economic terms, the UK sought to solve immigration issues through political and social considerations, as is evinced with the arbitrary annual cap of 8,500 work vouchers instated by the 1965 White Papers (Smith, 1981:107). Furthermore, the origins of British migrants created public drives for the creation of restrictive immigration legislation. New Commonwealth migration into the UK, mainly from the West Indies, India, Pakistan, and in the late 1960s West Africa, was the dominant source of migration, with 1.5 million persons of New Commonwealth origin by mid-1971 (Freeman, 1978: 24-5). As will be seen below, the racial and cultural differences that accompanied New Commonwealth migration accounted for restrictive, discriminatory and/or anti-immigration legislation.

How, then, does this information help to enlighten the economic considerations, if any, behind the introduction of the PBS? Firstly, the fact that

traditionally, British immigration policy was less concerned with the economic aspect of migration than with the socio-political aspect makes the creation of the PBS, with its emphasis on skilled labour migration, and the possibility of recruitment based on desired skills, a unique endeavour in the realm of UK immigration policy. Secondly, it displays a change in priorities in the realm of immigration- no longer is it as concerned with the socio-cultural and political aspect of migration. Instead, it postulates immigration as an instrument for economic growth. By focusing on the economic potential of an incoming migrant, the PBS departs from the norm and perhaps foreshadows a new era in British immigration policy, as well as an overall change in how migrants are viewed.

Socio-cultural implications of migration

When attempting to understand British socio-cultural concerns regarding immigration, it is important to note that the British case is the exception. Whereas other Western European countries actively recruited migrants for their labour needs, the British influx in immigration came about as a result of decolonization, the end of empire, post-WWII movement and the inclusive policy of the British Nationality Act of 1948, which effectively opened Britain's borders to any and all of its subjects (Hansen, 2004: 48). The unwanted nature of British immigration, combined with the social and cultural differences between migrants and natives, resulted in negative and exclusionary public opinion on immigration. UK immigration policy became one of "negative control policy" (Joppke, 1998: 270). As Freeman states: "The social costs of migration were much more salient in Britain than economic disadvantages" (1978: 37).

Nothing exemplifies British public perceptions of immigration during the 1960s better than Enoch Powell's infamous 1968 "Rivers of Blood" speech, wherein

he highlights the changing culture of British society in mentioning how the indigenous population would find “[...] themselves made strangers in their own country” (Powell, 1969: 286). In his speech we see reflections of British public opinion over the influx of non-white immigration. As T.E. Smith describes: “[...] the permanent nature of settlement coupled with differences in skin colour and culture made it inevitable that coloured immigration should be the only type of immigration to attract much attention” (1981: 115). The 1968 Commonwealth Immigrants Act established the concept of “patriality,” which defined British citizenship in terms of ties of origin, effectively limiting entry to all those who did not descend from British lineage, i.e. most of the native populations of the West Indies, India, Pakistan and West Africa (Smith, 1981: 110). That racial differences between the indigenous population and migrants were the most salient only served to increase the xenophobic public opinion, with what Marco Martiniello describes calls “social alarmism” wherein “immigration is presented as a fearful plague that must be vanquished, before it is too late” and as a threat to cultural and national identity (2006: 298-9). The BNA 1981, the last large change in general immigration policy previous to the PBS, showed a slightly new direction UK policy. Although it abolished the category of Citizen of the United Kingdom and Colonies (CUKC) in its attempt to define a British citizenship solely for the United Kingdom, thereby excluding the colonies, it also replaced “patriality,” the racially charged exclusionary legislation of 1968, with citizenship. This change that links citizenship with membership in the political entity, Hansen argues, applied to all residents so that “[n]o one, black or white, with a legal right to enter the UK lost that right because of BNA 1981” (2004: 220-1). However, Kathleen Paul contests that it was racially charged because it placed more emphasis on parentage than geography (Hansen, 2004: 208).

Regardless of the possible racial interpretation of the BNA 1981, it is clear that the elimination of “patriality” signifies a new focus for UK immigration policy, exemplified by the PBS. No longer is the migrant defined by its origins, race, culture or ethnicity. Instead, the migrant is defined by its membership in society, both by its political participation, as seen with the BNA 1981, and its economic participation, as seen with the PBS. Thus, the PBS proves to be one step further in the progression towards a more objective, quantitative view of migrants and their function within their host society. In examining previous attitudes towards immigration in the UK, it is possible to see just how different the PBS is to its predecessors. At the same time, however, it can be said that the motivation behind the change to the PBS came about as a result of the same public opposition to immigration that permeated immigration policy in the 1960s and 70s. Furthermore, the PBS is directed towards non-Europeans, which could theoretically, one could argue, make entry into the UK difficult for non-whites; though it must be mentioned that included among non-Europeans are Old Commonwealth countries as well as other traditionally “white” countries of origin. Thus, how different is the change if its origins are stuck in the past? Is the change, regardless of its origin, more significant as a step towards objective immigration policy?

Socio-political implications of migration

The socio-political implications of migration, much like its socio-cultural implications, affect the host country’s society through factors such as race and belonging. Socio-political implications, however, tend to include issues such as replacement migration, migration as a threat to democracy and the rise in xenophobia and racism as responses to migration. In the British context, these issues give way to a public drive for more restrictive and limiting immigration legislation.

According to a UN report on replacement migration,⁴ almost all the countries of Europe and Japan will see a decrease in population over the next 50 years that needs to be remedied through replacement migration. Consequently, migration levels need to at least be maintained, if not significantly increased, in order to offset the overall decline in population as well as the decline in working-age population (2001, cited in Messina and Lahav, 2006: 343-6). While the UN recommends sustained or increased migration into Europe to maintain demographic needs, David Coleman argues that the UK's higher rate of population compared to continental Europe only requires the maintenance of the status quo, at least until 2035 (2002: 71). Taking this information into account, then, one could argue that in setting up a new immigration system with the PBS, the UK is not just standardizing procedure but is also attempting to maintain the status quo. By accepting only those migrants it needs to fulfil an economic role in British society, be that in providing a new skill set or counterbalancing an ageing population, the PBS is participating in replacement migration.

The arrival of Commonwealth migrants into the UK signalled an increase in xenophobic and at times racist attitudes. Paul Gilroy argues that these sentiments, or "imperial mentalities" as he describes them, were present before immigrants arrived. (2004: 164). He goes on to contend that "[i]t was racism and not diversity that made their [immigrants] arrival into a problem" (2004:165-6). Indeed, as was shown above with the example of Enoch Powell's speech, it is clear that British opinion was against Commonwealth immigration. Hansen argues that still today the British public is opposed to further immigration, despite accepting the inevitability of immigration and enjoying multiculturalism (2004: 242). This anti-immigrant sentiment then paved the

⁴ Replacement migration, as defined by the UN's "refers to the international migration that would be needed to offset declines in the size of population and declines in the population of working age, as well as to offset the overall ageing of a population" (2001, cited in Messina and Lahav , 2006: 343).

way for fears that migration was threatening democracy, as extreme-right parties began to gain favour (Hansen, 2004: 299). Public opinion thus “needed little manipulation in its opposition to immigration and its support for restrictive legislation” (Hansen, 2000, cited in Parsons and Smeeding, 2006: 370). How much of this public opinion drove the creation of the PBS will be considered later on with the media analysis of PBS press coverage, though many scholars believe British immigration policy was driven and shaped by public racism and hostility (Hansen and Freeman, cited in Geddes, 2003: 31-2). As Geddes quotes Layton-Henry (1994): “Britain has been called Europe’s would-be zero immigration country” (2003:31).

Security implications of migration

In terms of security implications, the main event that altered how countries view immigration is 11 September 2001. In the aftermath of 9/11, countries began tightening their external immigration policies, especially with relation to asylum seekers and refugees, as well as their internal controls on non-citizens (Faist, 2002: 8). Islam was seen as a political force and migration was seen in terms of security, a fact which Faist attributes to creating a “clash of civilizations,” to quote Huntington (2002: 8). In Britain, the global unease created after 9/11 was further heightened by the July 7 bombings of 2005.

In their work *Immigration Policy and Security: U.S., European, and Commonwealth Perspectives*, Terri Givens, Gary Freeman and David Leal distinguish three different outlooks on the effects of 9/11 and the subsequent War on Terror on British immigration policy. Some authors, like James Hampshire, argue that there was a partial securitization of migration in the UK and that migration was increasingly, though not solely, viewed in security terms (2009: 110, 119). He cites the example that of the four London bombers, three were second-generation immigrants born in

the UK to show that “[...] the security risks associated with migration ha[ve] at least a prima facie legitimacy” (2009: 109) He points to the measures added to The Immigration, Asylum and Nationality Bill after the July 7 bombings⁵ as evidence of “linkages between migration and terrorism” (2009: 125). He acknowledges, however, that despite the apparent de-liberalization of immigration policy, the introduction of the PBS is one example of the “expansionist labor recruitment driven by demographic and economic demand-side factors, and increasingly influenced by immigration clients” (2009: 125). For Hampshire, the fact that UK immigration has become more security-conscious does not equate a completely exclusionary and restrictive outlook on immigration.

Christina Boswell, on the other hand, argues that states act in order to secure public legitimacy and that the linkage between immigrants and terrorism was difficult to sustain (2009: 94, 98). She mentions that rather than equate terrorists with immigrants, the state began to focus on surveillance, monitoring and intelligence gathering (2009: 102-3). Her argument that “discourse on migration policy is best understood in terms of the state’s interpretations of the tasks it needs to fulfil in order to secure legitimacy” (2009: 94) in some ways corresponds with the creation of the PBS. By seeming to control immigration through a newly standardized policy, the state attempts to secure legitimacy and regain public trust and support. The PBS, as an instrument for economic growth, also serves the purpose of the state. Thus, introducing this new system allowed the state to allay public concerns over continued immigration, while performing a necessary demographic and economic function.

Similar to Boswell, James Jupp postulates that any increase in security reflects societal trends: so that whether it was acceptance of multiculturalism or a renewed

⁵ The bill, which had been initially developed before the July 7 bombings, was amended to act in direct response the bombings and promoted the securitization of immigration legislation. (Hampshire, as cited in Givens, Freeman and Leal, 2009:124).

restrictiveness, immigration policies changed accordingly (2009: 190). He also adds that though immigration has become linked to terrorism, “the shock of 9/11 and other terrorist attacks was insufficient to produce coherence [in previously disjointed immigration policies]” (2009: 9). Like Hampshire, he mentions the UK’s move towards a points-based system for immigration that would have no significant impact on the entry of terrorists (2009: 194). The departure from post-9/11 immigration restrictions to a new, rational PBS shows that within UK immigration policy, there is room to accommodate both public demand for limited immigration and the economic need for migrants.

Policy Analysis

In March 2006, the Home Office presented Command Paper 6741 to Parliament entitled *A Points-Based System: Making Migration Work for Britain*. Within this document lie the structure of the PBS, how it differs from previous immigration policies, and thorough explanations of its different components. To fully understand how and why the PBS came into existence, it is essential to examine, analyse and ultimately criticize this document. By comprehending the PBS’s stated purpose and desired outcome alongside its deficiencies and expected and unexpected outcomes, it will be possible to determine where it truly fits into British immigration policy.

Purpose of the PBS

In his foreword, Home Secretary Charles Clarke⁶ stated that “[a]chieving greater public confidence in the immigration system remains one of my top priorities

⁶ Charles Clarke was Home Secretary from December 2004 to May 2006. Cm 6741 was created in March 2006.

as Home Secretary” (2006).⁷ As “the most significant change to managed migration in the last 40 years” (2006), the PBS’s purpose is to clearly designate who is allowed into the UK and on what pretext. As part of a five-year strategy to overhaul the British asylum and immigration system⁸, the PBS replaced a previously complex and subjective system with a standardized process that would, in theory, be easier both for applicants as for the deciding government. Part of the belief behind the PBS is that migration, albeit managed migration that would also secure borders and prevent abuses to the system, is beneficial to the UK both economically and culturally. Some of the benefits of migration listed include the disproportionate contribution of migrants to the British economy (in 2001 they contributed 10% GDP while composing only 8% of those employed), its role in filling in gaps in the labour market, the secondary effects of increases in investment, innovation and entrepreneurship, and its social and cultural contribution to modern British society (Cm 6741, 2006: 1, 5)..

In the introduction to the Points-Based System, three benefits were stated as the desired outcomes of the new system: better identification and attraction of migrants with the most to contribute to the UK; an efficient, transparent and objective application process and a reduced scope for abuse of the system (Cm 6741, 2006: 1).⁹ Together with these contributions was the expectation that the modifications would create a more streamlined process that would be “simpler to understand and the rules for entry clearer and more consistently applied” (2006: 1). This, in turn, would allow the British public to more clearly understand who is allowed in and why. The accomplishment of these goals would be achieved through a five Tier framework that

⁷ This sentiment echoed PM Tony Blair’s assertion that the challenge for the Government vis-à-vis immigration was maintaining public confidence (Cm 6741, 2006: 5).

⁸ The PBS is part of a five-year program entitled *Controlling Our Borders: Making Migration Work for Britain, Five Year Strategy for Asylum and Immigration* from February 2005 (Cm 6741, 2006: 1).

⁹ The PBS does not deal with immigration related to family reunification. It is designed for those migrants who want to work, train or study in the UK. (Cm 6741, 2006: 6).

classified migrants based on skill level and that would grant points based on specified criteria and would secure entry to the UK, if the pass-mark were obtained (2006: 2). The PBS would also see the inclusion of migrants sponsors, either employers or educational institutions, that will take responsibility of the migrant during his/her leave (2006: 2). The PBS was phased in Tier by Tier, beginning in February 2008 with Tier 1 and ending in 2010 with Tier 3 (HC 217-I, 2009: 17).

During the formulation of the PBS, consultation with stakeholders took place to address any salient issues and concerns before the change were to become public. In this consultation, the stakeholders agreed that the main message of the PBS should be “[...] that a properly managed migration system, in which the public can have confidence, is a good and indeed necessary thing for the UK’s continued economic growth” (Cm 6741, 2006: 5). If this consensus is viewed alongside Clarke and Blair’s statements of intent vis-à-vis the PBS, it becomes clear that the PBS’s stated purpose of existence is thus a combination of the economic need for migrants to revitalize and sustain the British economy, as well as the desire to create a transparent and objective system which would instil confidence in the British public while standardizing general immigration.

With this stated purpose in hand, it is also essential to understand who the supposed beneficiaries are of this new system. The hope of the new system is that it will save time and money for the migrant, who will be able to self-assess online to see if he/she has the requisite points necessary for entry. Another hope is that it will make the process easier for employers, who will avoid the situation wherein the employer’s Work Permit application is accepted but the migrant’s is not, thus creating a waste of time and energy with nothing to show for it. Additionally, it will benefit educational institutions, as migrants will be attached to the institution throughout their leave and

would have to fill out a new application if they desired a transfer. This would ensure that the educational institution sponsoring migrants would know beforehand how many students would enrol (Cm 6741, 2006: 10).

The PBS was also created to correct the wrongs of the previous immigration policies. The problems it seeks to rectify include simplifying the overly bureaucratic, complex and subjective procedures and criteria, reducing abuses to the system and figuring out how to attract and gain economically beneficial migrants (Cm 6741, 2006: 9). As mentioned above, the PBS is primarily a vehicle for achieving economic growth and output. To this end, the changes will increase the attraction and retention of highly-skilled migrants, increase foreign investment and fill short-term labour gaps (2006: 9). It must be noted, however, that although the economic benefits of migration are a primary purpose of the PBS, priority is given to British workers and EU nationals before considering migrants for any positions. The PBS's socio-cultural goals include welcoming migrants who will enrich British society and act as ambassadors of the UK on their return home and who will enhance the education sector with contributions to British research activities (2006: 9). What is interesting about this socio-cultural factor for wanting migration, which history has shown to be a controversial and contested aspect of migration into the UK, is that references to this contribution remain general and use vague terminology, suggesting that this contribution is either extremely difficult to quantify, or perhaps not as transparent and/or important as the economic contribution.

Framework analysis

To further comprehend the goals of the PBS, it is essential that its framework be critically analyzed. The framework consists of five Tiers that divide migrants based on skill-level, expected length of stay in the UK and economic purpose. The

Tiers are complemented by the use of biometric data in application procedures and only apply to economic migrants, not visitors or dependants. All Tiers except Tier 1 also require a sponsorship, either from an employer or educational institution, whose purpose is to take responsibility of the migrant and help legitimize their entries through sponsorship certificates (Cm 6741, 2006: 15). Different points are awarded depending on the criteria required by each Tier and all Tiers require the migrant to possess sustenance funds.

Among these overarching requirements, there arise several issues that need to be resolved if the PBS were truly to be beneficial to migrants. Firstly, the division into Tiers, though useful in categorizing migrants based on economic purpose, might fail to address the needs of the migrants themselves. As will be seen below, not all migrants can be classified into the categories created by the Tier system. Secondly, the requirement of biometric data, to be given in simultaneously with the application, creates an inconvenience¹⁰ to those living far away from biometric data collection points, as is true for many African countries (HC 217-I, 2009: 57). Thirdly, the funding requirements may exclude applicants from developing countries where salaries are lower than UK salaries, or where payment for education is scholarship-based. Though it is true that the Home Office takes salary disparities into account (HC 217-I, 2009: 41), it needs to allow for waivers and/or exceptions to accommodate those students and/or employees who may be receiving financial aid from their institutions or employers once in the UK but who fail to qualify for the funding necessary for the application process.

¹⁰ Many applicants have to travel cross-country to reach the biometric data collection points. This then entails flights, day-long treks and even travel through dangerous areas (depending on country) to reach these points, not to mention the financial costs of the journey (HC 217-I, 2009: 54).

Tier 1

In examining the Tiers one by one, it becomes evident that though a much-needed improvement in managing general immigration into the UK, the PBS still raises questions about who the system helps, how it helps them and under what overt and/or covert reasoning. Tier 1 classifies applicants as highly-skilled migrants and, like Tier 2, is “about attracting individuals who will contribute to UK growth and output, developing the UK skilled workforce and filling shortages in the labour market” (Cm 6741, 2006: 15). It is a path towards potential permanent settlement and migrants under Tier 1 do not need to have a job offer or a sponsor (2006: 21). In the many requirements for achieving Tier 1 classification, migrants must meet age, qualifications, previous earnings and English language requirements (2006: 22-3). These requirements are extremely problematic, not least because they are insufficiently flexible so as to accommodate all applicants. In the assignment of points to the various attributes, being of a younger age, having higher previous earnings and higher qualifications (academic) receive more points.¹¹

In the 2006 Command Paper 6741, a Bachelor’s degree was the lowest required degree. This has subsequently changed so that the minimum degree for Tier 1 qualification is a Masters (HC 217-I, 2009: 38). What this essentially means is that an applicant who only received a Bachelors but who makes upwards of £40,000 and who has decades of contributable work experience does not qualify for Tier 1. This in turn means that the applicant would have to apply under Tier 2, which limits migrants to apply only if there is a job offer waiting for them. Thus, this limitation based on academic qualifications could possibly limit talented and experienced professionals from contributing to the UK economy, as well as fail to achieve the Tier’s set goals.

¹¹ See page 23 in Cm 6741 (2006) for a table showing the points model for Tier 1.

Furthermore, the designation of points based on age is ageist and discriminatory. Although employers tend to prefer recruiting younger workers, the PBS and the UK as an EU member and therefore adherent to the EU's anti-discriminatory policies, should not condone potentially discriminatory policies. This limitation could also potentially harm the British economy as it may favour those with less experience; it is likely that an older professional has more wisdom and experience to add than a younger, less experienced migrant. This point, however, can also be refuted in that younger professionals may work harder since they have far to go in achieving the status of older professionals.

Tier 2

A further criticism of the PBS in general is the subjectivity in the attributes used to qualify migrants. The House of Commons Home Affairs Committee's Report on the PBS from 2009 exposes this fundamental flaw of the PBS: "Although objectivity is to be welcomed, measuring skill by awarding points for criteria such as past earnings or academic qualifications give undue priority to easily-quantifiable attributes and ignores ability or experience in a job." (2009: 5).¹² Tier 2, then, is the catchall Tier for all those skilled migrants who do not qualify for Tier 1 and who have job offers along with an employer sponsor. Tier 2 migrants are classified by their academic qualifications (with NVQ3 as the minimum requirement), prospective earnings and whether or not the job they applied for is in shortage (Cm 6741, 2006: 26). If the job offer is in shortage they get more points than if not, and if not in

¹² The House of Commons Home Affairs Committee uses examples of professional dancers, artists and chefs to show that quantifiable attributes are not necessarily demonstrative of skill and valuable experience. Under Tier 1 rules, a professional ballerina or a professional chef would not qualify and would have to apply under Tier 2 to qualify for entry. (HC 217-I, 2009: 37-8).

shortage the job must have been advertised on Jobcentre Plus¹³ in the UK and not been filled by UK individuals. There is an additional category of ICT (Intra-Corporate Transfers) to make the UK a possible location for multinational companies (2006: 26-7). Job-specific shortages will be determined by the Skills Advisory Board (SAB) and ideally reflect shortages on a regional basis. The jobs in need of migrants will be posted on an annual Shortage Occupation List that would then be revised and amended every six months, to reflect the changing needs of the British economy (2006: 28).

Tier 2, like Tier 1, will suffer as a result of the attributes required for classification. Although its goal in ensuring that migrants do not take jobs away from locals is exemplary and necessary to reduce British unemployment and stimulate its economy, the actual procedures in upholding this are dubious. Command Paper 6741 established the Resident Labour Market Test to accomplish the above-stated goal; however, this test only applies to jobs below a certain salary and relies on the use of Jobcentre Plus to ensure British workers have had their fair chance in qualifying and obtaining employment before being offered to migrants (2006: 27). Firstly, the fact that the jobs in question are those below a certain salary (which the PBS does not identify and thus is a contestable issue) means that they are more than likely jobs that underpay and overwork their employees and as a result are undesirable to UK citizens. This view, however, may be changing as employers in certain industries such as agriculture, horticulture and care are seeing renewed interest in their sectors now that the economy has entered a recession (HC 217-I, 2009: 27-8). It must be noted, however, that many of these positions which British citizens are reluctant to fill are now being filled by EU nationals, thus eliminating the need for the PBS to fill these

¹³ Jobcentre Plus is a government agency for working-age people, established to help British citizens find employment.

gaps. Moreover, the SAB's lofty goal of frequent revisions and updates to the List would only be proven effective through thorough testing.¹⁴

Tier 3

Tier 3 classifies migrants as low-skilled workers, allocating them into whether they fulfil quotas, time-limited and/or operator-led jobs. The PBS will only accept Tier 3 migrants from countries with which it has established returns arrangements, as this Tier is designed for the temporary migrant who fills those needs EU migrants cannot (Cm 6741, 2006: 29). Criticisms of this Tier include the fear that supporting the entrance of low-skilled and hence low-paid migrants will “keep wages low so that jobs in these sectors are not attractive to UK workers” (2006: 29). However, in desiring higher wages, one must also take into account the higher costs of service to pay those wages- what effect would these higher prices have on the everyday citizen? Would these effects be worth the pay raise? These concerns have also been contested by two facts: the high cost for employers to take on migrant labour dissuades the PBS route and the predominance of EU nationals migrating into the UK to fulfil these roles.

Tier 4

As the Tier designated for overseas students, Tier 4 seeks to provide a simple and objective process for student entry into the UK. As students contribute around £5 billion to the British economy and create “closer international ties and support for university research” (Cm 6741, 2006: 31), it is important that the PBS be easy to use so as not to dissuade or confuse prospective students with the visa application process. In addition to facilitating this process, the PBS creates more responsibility

¹⁴ Indeed there are those who argue that these revisions need to be more frequent (HC 217-I, 2009: 33).

for the educational institution sponsoring the student, so that for all intents and purposes the student and his/her leave in the UK becomes the institution's responsibility. Though seemingly straightforward, the initial phasing in of Tier 4 application and requirements proved to be significantly confusing and difficult to manage, as well as in need of explicit descriptions of the attributes needed to qualify for entry.¹⁵ That this is true of the phasing in process of any and all Tiers is quite possible, however, for students the need for standardization and clarity is urgent as students apply for entry in a timed fashion- denial of entry could signify loss of placement and/or entail waiting another year for reapplication.

Tier 5

Meant to foster international ties and promote the UK abroad, Tier 5 classifies migrants into youth mobility and temporary work schemes. Of all the Tiers it is the only one that does not have explicit economic objectives, though in stating that it encourages tourism and trade one could figure economics into its goals (Cm 6741, 2006: 33). Youth mobility schemes allow entry of youths who seek to work during their holidays, come to the UK as au pairs or in cultural exchange. These migrants need to be sponsored by their home governments and often create opportunities reciprocity for British nationals (2006: 33). Temporary work schemes allow for the entry of miscellaneous applicants, such as sportspeople, entertainers, creative artists, voluntary workers, religious workers, diplomats and as results of international agreements (2006: 35). In simplifying the many routes to youth and/or temporary migration, Tier 5 proves to be a useful umbrella classification for entry. However, the youth mobility scheme's means for reducing the number of applicants to Tier 5 could frustrate the plans of many potential applicants. By limiting entry to those migrants

¹⁵ These difficulties hold true as experienced firsthand by this author and many of her peers.

who come from countries that have established effective returns arrangements and opportunities for reciprocity, the PBS damages the chances of deserving migrants from entering the UK just because their country of origin does or can not comply with UK regulations. Additional limits, including country-specific and past-precedent caps could hinder the entry of migrants for no reason other than being one of (too) many applicants.

In addition to the many issues that arise as a result of a critical analysis of the new PBS, one final aspect proves highly contentious: the removal of appeal rights, to be replaced by an administrative review (Cm 6741, 2006: 18). The House of Commons Home Affairs Committee Report found this change to be potentially impartial and incorrect based on principle. Because of the lack of appeal in the new PBS, applicants denied entry would have to reapply, with a whole new application, paying the fee once more and resubmitting all their documents (2009: 51). As the PBS demands original and verifiable documents that some migrants may not be able to provide¹⁶, refusal due to clerical inconsistencies and lack of exceptionality may be widespread. It is the Home Affairs Committee's recommendation that applicants be allowed to submit additional documentation rather than enforce reapplication (2009: 53). However, if it were to be a truly fair and transparent system, the PBS would eliminate the administrative review and reinstate appeal rights.

It is evident, thus, from the analysis above that the new PBS was instituted primarily for the potential economic advantages migrants would bring to the UK. As such, it can be designated an economic policy. However, the emphasis on objectivity and transparency, and the intermittent limitations on migration and on requirements

¹⁶ This could occur in countries where bank and salary documentation is not up to UK standards, such as India or China, "where it is not standard practice to pay salaries directly into employees' bank accounts. This meant that some applicants did not have the bank slips required to prove evidence of salary or maintenance." (HC 217-I, 2009: 53).

for entry, point to its goals of satisfying and reconfirming public trust in the Government and its ability to handle and manage migration.

Media Analysis Surrounding the PBS

Although a critical look at the PBS policy and surrounding discussion provides ample wealth of information regarding the motivations behind its origins and its intended goals, it is also necessary to conduct an analysis of the media surrounding its creation, introduction and implementation. Through this analysis, a better understanding of how much the public push for immigration change and the government's push for immigration because of its ensuing economic benefits formed part of the PBS's origins will be gained. This will be achieved by using media to determine a popular consciousness and point of view on immigration, as well as how these views affect the government's position. The media to be analysed includes speeches from Minister of State for Borders and Immigration Liam Byrne and Home Secretary Jacqui Smith, as well as news articles from various British and international news sources.

Speeches

What is interesting to note about the speeches given by Liam Byrne and Jacqui Smith is that they all combine the need for migration to foster and promote the British economy with the desire to satisfy public requests for further immigration controls and stronger borders. In his 4 June 2007 speech, Byrne addresses concerns over limiting immigration by appealing to numbers as evidence of its benefits. In replying to the suggestion that Britain barricade itself from immigration, a move Byrne believes would "strangle Britain," he cites the figures that £125 billion are brought to the UK through migrant labour with £5 billion more from foreign students. He also

cites KPMG's studies that found that half of British employers rely on migrants to fill the skills gap (Byrne, 4 June 2007). Responding to the 78% of the public who wants the next government to curb immigration, he cites additional figures, including comparisons between immigration influx into the UK (1.6 million) versus the US (15 million) between 1990 and 2005, and the UK's net migration being the same as the OECD average (Byrne, 4 June 2007). Additionally, 48% of net migration into the UK is from the EU (Byrne, 2007), contesting the notion that the UK is a haven for all the world's migrants. These statistics and more permeate Byrne's speeches on UK immigration, evincing his and the government's desire to showcase immigration in a new, more beneficent light.

His 7 October 2007 speech introduces the PBS as "the biggest shake-up of the immigration system in its history" (Byrne, 2007). Modelled after Australia's successful system, the PBS will ensure "that only people Britain needs can come here to work and study" (Byrne, 7 October 2007). As Smith indicates, the PBS will help secure British borders, both in the UK and overseas, and manage migration to ensure only those migrants beneficial to Britain are allowed in (Smith, 5 December 2007). Though the PBS's introduction sheds new light on immigration, both Byrne and Smith recognize the importance of addressing public concerns by reassuring them that this new system will contain and correctly manage migration. Byrnes states that his goals in revamping immigration into the UK revolve around four themes: protection, prevention, accountability and compassion, which correspond with public demands.¹⁷ He then emphatically states that "[w]hat the public needs to know is that we have

¹⁷ Byrnes gives the following figures to demonstrate public concerns: immigration is at times ranked as the number one concern, higher than crime/law and order; two thirds of UK adults want tougher immigration laws; and almost half of UK adults say their biggest concern when it comes to immigration is its impact on public services and jobs (Byrnes, 14 January 2008).

listened. We have. And we will act” (Byrnes, 14 January 2008), demonstrating that the desire to address the needs of the public were just as considerable.

Among the demands from the British public are the need to better secure UK borders, further control and management of immigration, enforce British law and taxes on immigrants and require all immigrants to speak some degree of English (Byrne, 6 February 2008; Smith, 5 December 2007). Both Byrne and Smith recognize the social and cultural benefits of immigration: “Britain is a country that is comfortable with diversity and a nation that enjoys difference” (Byrne, 14 January 2008). However, it is clear that though the British nation has a long-standing tradition of global interchange, British citizens still have demands that need to be met before immigrants, along with their economic and socio-cultural benefits, are allowed into the UK (Byrne, 3 April 2008).

In his desire to prove that migration is both beneficial to the UK and also not as nefarious and pandemic as commonly believed, Byrne alludes to the fact that immigration is “no longer [...] marred by judgements motivated by the colour of someone’s skin” (Byrne, 17 October 2007). Consequently, today’s immigration debate pits the social and economic impact of immigration on public services and communities against its social and economic benefits of diversity and growth. Byrne’s insistence on the economic benefits of migration takes an issue that previously brought up racial, xenophobic and/or general concerns, and turns it into a universal concern for economic growth and prosperity. By transforming the issues surrounding immigration, a new conversation and way of looking at immigration arises, one that equalizes immigration and brings it into the playing field of objective, general concerns in British society. Though the social impact of immigration is still included in their speeches, albeit in often vague terminology, both Byrne and Smith focus

primarily on its economic benefits, in a bid to convince the British public of the good that can be derived from a traditionally negative phenomenon.

It must be noted, however, that at the time these speeches were given from June 2007 to April 2008 the global economic recession had yet to happen and/or show its long-term effects on national economies and employment. Thus, the present-day high rates of unemployment and poor economic growth have pushed for further limitations on immigration. The Coalition Government in late June 2010 released a statement that it aims to reduce net migration from hundreds of thousands to tens of thousands, numbers which correspond to migration levels of the 1990s (Home Office, 2010). Additionally, it will be placing permanent limits on non-EU migration by 1 April 2011, and has already implemented temporary restrictions as of 19 July 2010. It has also raised the pass-mark for Tier 1 applicants from 95 to 100, with the hope that this would reduce applicants by 1,300 (Home Office, 2010). Finally, it also introduced an English requirement to those applicants who come to the UK as spouses or to marry, hoping to further curb migration. What this tells us is that the PBS, with its goal of promoting economic growth through bringing in migrants for gaps in the job-market, will perhaps need to redefine itself against an onslaught of unemployment and public concern over job availability. No longer will migration be as desirable in economic terms; nonetheless, perhaps this change in the economic circuit will bring about an increase in more socio-cultural migration. Perhaps migration will be viewed as having benefits mainly in terms of bringing diversity to Britain and enhancing its international relations. Or perhaps economic migration will continue but at such a high standard of entry that applicants will be dissuaded to even attempt entry. Would this then mean a change in the view of the UK and London specifically as a global hub of multiculturalism and internationalism?

News articles

Among the news articles surrounding the PBS and immigration in the UK in general we see many of the same arguments made by Byrne, Smith and Clarke: the economic benefits of migration are juxtaposed against the social costs of immigrants on public resources. Although these sentiments are reiterated in defence of migration, we also see disparate facts and figures, as well as additional insights into public sentiments that the PBS fails to take into consideration.

For instance, the role of migration in the public's perception of immigration has come under scrutiny. While David Goodhart, in an article for *The Guardian*, cites that "[...] 31% of people still admit to being racially prejudiced" (2004), an article in *The Economist* argues that the influx of poor white Poles has changed the face of migration, so that migration is no longer regarded in racial terms, but is now seen in purely economic terms. However, the article does go on to admit that despite this change, "[...] people tend to describe east Europeans as 'migrants', whereas non-European settlers are called 'immigrants'" (*The Economist*, 28 August 2008).

Supporting this changing nature of recent immigration into the UK is the fact that no longer is immigration based on family reunification, but is instead seen more and more on economic grounds, due to the fact that newer immigrants are younger and from more diverse populations than the traditional immigrants to the UK (BBC News, 7 September 2005). And yet, despite the supposed elimination of the racial factor in British immigration, due to the influx of "white(r)" migrants from Eastern Europe after the 2004 accession, immigration, from within the EU and outside, still creates anxiety over its effects on state resources and institutions, such as overcrowded schools, hospitals and roads (*The Economist*, 22 November 2007). It is as a result of this public distress over EU migration that Prime Minister Gordon Brown decided to

withdraw free movement rights to Romania and Bulgaria in 2007 (*The Economist*, 22 November 2007).

This, then, brings the conversation to public pressures as instigators of change. Charles Clarke warned that “[i]t is a lack of confidence in our systems of control that can foster bigotry” (BBC News, 7 February 2005). Not just an attempt at justifying the goal of reasserting public trust in the government and its role in managing migration, this statement reflects historical precedents of fear and ignorance, partly due to ineffective policies on immigration, that have coloured debates on immigration. Dominic Casciani cites the need to avoid this situation by creating a balancing act wherein migration is shown in a positive light (Casciani, 8 February 2005). Prime Minister Tony Blair recognized the need to deal with public concerns over abuses to the immigration and asylum system in a BBC News interview with Andrew Rawnsley (BBC News, 6 February 2005). One article in *The Economist* in January 2008 cites public pressure as a factor in politicians changing migration policies (3 January 2008), while another from a year later points to American and British hostility to foreign workers as motivators behind tougher migration policies, especially in the case of the UK’s mission to secure its borders (*The Economist*, 15 January 2008). The accession to public sentiment is not unfounded, as “[...] immigration is voters’ single biggest worry these days” (*The Economist*, 3 January 2008).

This hardening of stances on immigration has been attributed partly to a rise in unemployment caused by the economic recession of the last two years (*The Economist*, 1 July 2009). “If recession looms, locals are more afraid that outsiders will take their jobs or scrounge on their welfare systems” (*The Economist*, 3 January 2008). Although it has been argued that many of the jobs in question are filled mainly

by European migrants, any possibility of restricting these migrants is null due to the accession agreements made by the UK in 2004; thus, British cuts in immigration are instead designated towards non-EU migrant workers (*The Economist*, 8 May 2008). Public concerns over immigration include the belief that Britain has too high a number of immigrants, which 68% of people seem to believe according to a survey done by Ipsos MORI for *The Economist* (3 January 2008), as well as an overestimation of the percentage of migrants currently in the UK, which an article in *The Economist* cites as being 27% of the population when the actual figure is 10% (5 December 2009). Additionally, many Britons believe only natives should have access to social welfare, but interestingly do not feel that the presence of migrants in British culture contributes to culture clashes (*The Economist*, 5 December 2009). Though even this point could be contested as a 2010 article from the same news source cites a newfound desire to define British citizenship that even “[...] unequivocal defenders of multiculturalism” support, which entail requiring migrants to speak English and abide by British values and institutions (*The Economist*, 29 April 2010).

Finally, news articles have shown that the figures used by the government in defending the economic virtues of immigration are not always what they seem. While politicians continue to argue that immigration creates new jobs to be filled by Britons, a 2007 article cites that, under further revision, this assertion fails to ring true: “[a]nd in the two years from the spring of 2005, 540,000 foreigners have found jobs in Britain while 270,000 British workers have lost them” (*The Economist*, 1 November 2007). Furthermore, the government’s reliance on the economic case for migration attempts to “buy off those who don’t like its social effects” (*The Economist*, 3 April 2008).

It is clear that with a comprehensive reading of media surrounding the PBS and immigration and its policies in the UK, many tangential issues arise that do not and may never find themselves addressed in British legislation. Though the PBS addresses the concerns over immigration in economic terms so as to shed a more positive light on migrants' roles in UK society and convince the public of the benefits they bring, it cannot now nor possibly ever address all the issues surrounding immigration. This media analysis does prove, nonetheless, that public pressure succeeds in mobilizing politicians and the government- whether the changes that ensue from this mobilization are to the public's liking and/or approval is a topic for another dissertation entirely.

Conclusion

In attempting to answer the question of whether the introduction of the 2008 Points-Based System corresponded to economic or socio-political pressures, it becomes clear that this query, though a valid and useful one, especially in terms of future immigration policy creation and implementation, can never be truly answered due to the subjective nature of stated goals in legislation versus their actual outcomes, as well as the imprecision of indirect accounts and facts concerning the policy. What is stated in the policy's introduction is perhaps not what brought about the change in policy; likewise, politicians and the government often have hidden agendas they fulfil through indirect means. Despite these setbacks, it is possible to insinuate some motivations behind the policy change.

Firstly, through extensive policy and media analysis, it is evident that the PBS, unlike all the previous general immigration policies since post-WWII, was motivated mainly by the desire to reframe migrants under an economic lens, so as to justify their

entrance into the UK and pacify growing public discontent with growing levels of immigration. Among the many factors that account for these motivations we see the need to classify non-EU migrants by skill levels and job placements. This comes as a reaction to negative views of migration, which were a result partly of the increase in EU migration and partly of the economic recession and ensuing rise in unemployment rates. In this way, it can be said that the PBS was created to respond to public demands for immigration control- this response was formulated in economic terms in order to generate objective and transparent criteria for entry that everyone, from the applicant to the UK Border Agency to the average British citizen, could view and understand as simply and clearly as possible.

Secondly, the PBS is a means to control UK borders and manage unwanted and wanted migration. Also a result of public concerns over the steady rise in immigration and its effects on social welfare, this motivation could be hypothesised to account for the increasingly restrictive criteria necessary for entry into the UK. Tiers 1 and 3 are particularly affected by these restrictions, as are all Tiers when taking into account the funding requirements needed to achieve the pass-mark. It is because of this desire to micro-manage migration that often throughout the PBS policy analysis one comes across potentially damaging requirements/criteria, such as the removal of the right to appeal or the lack of allowances for exceptional cases that do not fit the criteria for certain Tiers.

Finally, it is clear that the UK's unique position as a global hub, combined with its controversial history with immigration, create the conditions for a policy that aims to correct previous faults, mollify public concerns, adhere to the nation's liberal credence and address its economic needs while accommodating migrants' needs and goals. That this immense task cannot be achieved with one policy is an

understatement, especially considering the PBS's innovative departure from all previous immigration policies, and therefore lack of a predecessor. This is not to say that the above-stated goals are unachievable, instead it means that many more versions of the PBS and many more revisions and restructurings are necessary to please all parties involved.

In thinking ahead, what does the PBS teach us about the future of UK immigration? Will further immigration policies concentrate on the economic benefits, or will this (has this) change(d) as the British and global economies fall into recessions? What would the PBS focus on if this economic element were taken away? Could it be said that the socio-political and/or socio-cultural benefits of immigration are enough to promote its continuation within the UK? Will the UK experience a rise in illegal immigration due to the increase in restrictive policies? Will Tier 3 immigrants, who are presently unwanted migrants, resort to illegal forms of entry? What will happen to the UK if migration becomes so restrictive that migrants cease to view it as a desirable destination? Will Britons take on those underpaid roles left behind by migrants? Will the British economy take a fall because of their absence? These questions and more are what politicians and government ministers should be thinking about when considering the future of British immigration. Though managing migration is necessary for the success of British nationals and incoming migrants, any type of extremist behaviour is sure to ultimately result in detrimental consequences for those who carry them out. Thus, rather than view incoming migrants solely in economic terms, it is more beneficial in the long run to consider all aspects of immigration.

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