



DOES IMMIGRATION ENFORCEMENT MATTER (DIEM)?

IRREGULAR IMMIGRANTS AND CONTROL POLICIES IN THE UK

Law Enforcement and Immigration Law
Enforcement in the UK: Conceptual
Framework

PROJECT REPORT 2

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About the author

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About the project

This three-year ESRC-funded project aims to explore and explain why, in the UK, despite increasingly strict immigration policies and enhanced law enforcement (e.g. entry screening, ID and work permits checks, workplace and other raids, and employer sanctions), irregular migration continues at significant levels, and at least until 2008, even increased. This study looks specifically at in-country immigration law enforcement and its effects and limits, an aspect that has so far received very little academic attention. It complements another project based at COMPAS that studies border controls.

The overarching theme of this project is to study the impact of increasingly tight legislation and robust enforcement measures on irregular migration and on irregular immigrants. In particular, it aims to: (1) investigate immigration law enforcement agencies and practices; (2) analyse the political, legal, practical and ethical limits of law enforcement; (3) investigate the interaction between irregular immigrants' strategies, employer practices and enforcement measures; (4) find how irregular migrants navigate and survive internal immigration controls; (5) identify the impact of enforcement on irregular migrants' access to fundamental rights; (6) show how all this is perceived by the affected immigrant communities; and finally, (7) highlight the effects and effectiveness of such enforcement.

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Introduction

This paper sets out the theoretical and conceptual framework for the study of law enforcement and specifically immigration law enforcement in the UK. First, it looks at the broader field of migration policy to sketch the structure of the analytical tools of policies, politics and practice. Second, it moves on to a framework for the analysis of the enforcing organisations; notably it presents a framework for analysing organisational structure, organisation culture and the role of individuals (street-level bureaucrats) within the organisations. Third, it addresses tools for analysing policy outcome compared to policy goals including the impact and irregular migration and on human rights. And finally, it sets out some broader ideas for analysing human agency and subjectivity vis a vis state agencies.

The presence of an irregular immigrant population is a continuing feature in the UK. It was first reported in the 1960s when 10,000 or more irregular immigrants were assumed to be in the UK (Hansard 1965). From 2002 to 2008 levels seem to have been rising from 310,000-570,000 in 2001 to 373,000-719,000 or even 417,000-863,000 in 2008 (Gordon et al. (2009). Whether this trend has continued or whether irregular immigration has levelled or declined is so far open to speculation. Migration in general and irregular immigration in particular challenges the foundations of modern nations, notably states' sovereignty over a territory and the control of its population (Dauvergne 2004). Further to this, irregular migration undermines the principle of 'legible people' open to state scrutiny as irregular immigrants avoid the very registration and scrutiny by state authorities (Scott 1998: 65; also see Caplan and Torpey 2001). This project will, on the one hand, investigate the responses of the British authorities and the changes over time not to the entry but to the presence of irregular immigrants on its territory. It aims to go beyond the mere description of immigration policies, policy implementation and law enforcement and rather aims to assess these. The project will not, however, apply simple dichotomies such as success or failure but (1) distinguishes between policies and policy narratives (Boswell et al. 2011) and (2) seeks a more nuanced analysis of policy goals, policy outcomes and policy effects. For this purpose, we will examine (a) the configuration and reconfiguration of the immigration enforcement service and (b) the immigration policy implementation and immigration law enforcement and notably its outcomes and impacts in the UK. The project basically asks 'who is the immigration enforcement service', 'what do they do', 'how do they do it', 'what is the outcome' and 'how can this be explained'. The study will mainly focus on the new Immigration Enforcement Directorate, where appropriate also on the UK Border Force, and UK Visas and Immigration and to some extent also on its predecessors, the UK Border Agency (UKBA) and the Immigration and Nationality Department (IND), the police in so far they are involved in immigration law enforcement and those statutory agencies (NHS, social services, education, legal system) that play a role in enforcing immigration law like through deterring or detecting, and/or reporting immigration offenders.

On the other hand, this project will study immigration law enforcement, including surveillance and intelligence gathering also through the lens of the directly targeted respectively indirectly affected populations, meaning irregular immigrants, immigrant communities and civil society organisations in the field of migrant and refugee support. Hence, we will study from the perspective of these populations what the primary and secondary intended or unintended effects or side-effect of immigration law enforcement may be. For this purpose, the project takes a dual approach, we will (a) study what the effect of immigration law enforcement on the targeted population is, for instance, whether there are deterrent effects or how they respond to such measures like adopting specific survival strategy. And (b) we will study the effect of immigration law enforcement on irregular immigrants' fundamental rights situation, notably whether such measures affect their access to services that are meant to guarantee the fundamental rights of human beings, such as health care, education or legal remedy.

Over the past 15, 20 years, numerous studies investigated the life-worlds of irregular immigrants. Whereas studies in the US date back to the 1960 and in continental Europe to the 1990s UK studies only emerged from the late 1990s and early 2000s (Jordan and Vogel 1997, Anderson 1999, Jordan and Duvell 2002, Bloch et al. 2007). Meanwhile, the study of migration policies and

politics only emerged in the 1970s in Europe and from the late 1980s and 1990s in the USA (Hollifield 2008, also see next section). From the early, mid 2000s immigration and border studies specifically considered immigration enforcement on entry. But whilst there is a significant body of literature on policing immigrants, notably in the UK, studies in immigration enforcement are rare. Unfortunately, distinction between policing immigrants and enforcement of immigration policy is sometimes blurred (see, for instance, Weber 2013).

The context to the project is set by the aftermath of the 2008 economic crisis, the subsequent austerity policy, and partly related to this institutional reform of the immigration and immigration enforcement apparatus. We will thus study irregular migration and state responses at times of social and institutional change and compare this with the situation in 1998/2000. Studying research subjects at times of change represents challenges and opportunities. On the one hand, the period studied is exceptional and cannot be compared one to one with periods of usual periods. On the other hand, periods of change create openness and bring to light issues that would otherwise remain invisible. Finally, as we will show, the British immigration control apparatus undergoes continuous change; thus studying change is almost studying the normal.

Researching, Theorising and Conceptualising Migration Policy, Politics, Law Enforcement and Control

Migration policy can be defined as all policies designed to influence international migration (UN 1998). Political science typically defines policy as the objective, strategy, plan, intent, ideas, course or principle of action policy of a government or a government department. Politics or policy implementation is distinguished as the realisation, putting into effect, execution or 'action through bureaucracy'. Increasingly, a difference is made between policy as a plan), policy narratives (discourses), i.e. what is said and politics (practice and reality), i.e. what is done (e.g. Boswell et al. 2011). Law enforcement broadly refers to any system by which some members of society act in an organized manner to enforce the law by discovering, deterring, rehabilitating or punishing persons who violate the rules and norms governing that society (New Law Journal 1974).

The study of migration politics and policies only emerged in the 1970s in Europe and from the late 1980s and 1990s in the USA (Hollifield 2008). It has so far mostly focussed on immigration, i.e. admission policies and on integration policies whereas the study of internal control is rather rare (Vogel et al. 2009). Though there are regional differences, notably in the USA where migration control so far mostly focuses on entry control studies on internal immigration controls are rare; in the EU, however, and notably in the northern member states where internal controls are more common also more references are found to internal controls (Alt 1999, Jordan and Düvell 2002, Broeders 2007, Broeders and Engbersen 2007). Studies on the role of the police in immigration control are even more rare (Vogel et al. 2009) though criminology contributes some important studies (Weber and Bowling 2004, Weber 2013). The last decades have been characterized by a tendency towards more restrictive enforcement of immigration laws (OECD 2006), a trend that has also been conceptualized by critical researchers as the securitization of migration (e.g. Huysman 2000).

Migration policies can be broadly categorised by taking either the location (external vs internal controls), the target group (travellers/migrants vs visitors/residents) or type (gate-keeping/preventing, fencing/stopping) (see Vogel 2000, Triandafyllidou and Ambrosini 2011). They can be further divided into (1) external migration policies (recruitment policies, visa policies, information programmes etc.), (2) admission policies (regular travel and immigration incl. temporary migration policies, quota setting etc.), (3) integration policies (immigrants' rights, membership regimes) and (4) control policies (at borders, of labour markets, of IDs etc) (Vogel 2003, though there are other categorisations, as by Hollifield 2008). Migration control policies can be further distinguished by (a) pre-entry (visa), (b) on-entry (border), (c) after-entry (internal) immigration and (d) exit controls. Preventing law violation would qualify as gatekeeping and detecting and stopping law violations as fencing (Triandafyllidou and Ambrosini 2011). Vogel et al. (2009) further distinguish the analysis of control politics by the hardware (structural aspects and tasks), software (informational aspects, data and intelligence gathering) and culture (organisational culture, professional identity, attitudes). Another level of distinction considers the site of enforcement (Weber and Bowling 2004) such as borders, work places, public places, social places or private places. Also the type of internal control and enforcement politics provide a useful distinction, such as (i) controlling identities (e.g. Broeders and Engbersen 2007) notably in public spaces, train stations and on public transport or at public and NGO services (Düvell 2011), (ii) workplace raids (e.g. Vogel 2001), (iii) eligibility checks for public services or benefits including reporting obligations and data exchange practices (Jordan and Düvell 2002, FRA 2011), (iv) one-off high-profile raids (Düvell 2011), (v) searches of accommodations (ibid.), (vi) immigration detention (Leerkes and Broeders 2010, Griffith 2013), (viii) removal and deportation (e.g. Ngai 2003, Schuster 2005, de Genova and Peutz 2010). Several of the above types of controls can be distinguished by direct or indirect immigration law enforcement meaning measures that directly aim at apprehending immigration offenders and measures that target other offences such public transport ticket evasion, public order or criminal offences such as drug trafficking or tax evasion at work in course of which immigration offences are only accidentally detected (Düvell 2011). Alt (2003) who studied policies addressing irregular immigration in Germany suggests distinguishing between symbolic politics and effective politics (and argues that in Germany certain control politics have been mostly only symbolic). Finally, Vogel (2000) suggests that the distinction of preventive or deterrent effects of immigration restrictions, immigration law enforcement and the legal consequences of breaking the law if detected are significant.

Generally, law enforcement can be analysed and conceptualised along criteria such as organisational structure, complexity, hierarchical differentiation and job specialisation (Skogan and Frydl 2004), organisational practices including discretion (ibid.), the agents' behaviour and its causes (ibid.), innovation, (ibid.), accountability (), performance, effectiveness and public satisfaction as well as discontent (ibid.), fairness (ibid.), conditions of the environment within which a law enforcement agency operates and how this impacts on the agency (Klinger 1997). As modern governance has been moving towards preventive politics modern law enforcement has been conceptualised as risk profiling and surveillance and the emergence of according information technologies and infrastructures (Weber 2013). Surveillance is closely related with inter-institutional exchange of data and collaboration - in the UK this has been framed as joined-up governance - and facilitate the diffusion of policing throughout society. This lead to the emergence of local, institutional,

international or virtual policing networks and subsequently of network policing (Dupont 2004, Weber 2013). The mobilisation of third parties and inter-agency collaboration for the purpose of immigration control is widely practiced in EU countries (Duvell 2011). This requires some 'responsibilisation' of other actors (Weber 2013) from private sectors as well other state agencies. In this context Bayley (1990) both introduces but simultaneously questions the usefulness of the analytical concept of efficiency; this is because mandate, goals and targets change over time and also because the preventive effect is difficult to measure. Actual implementation is often based on 'intuitive, on-the-job learning', 'risk-based thinking' (Weber 2013: 66).

Various concepts and theorems have been applied or have been emerging from previous research of policy implementation, law enforcement and organisational structure. Migration scholars such as Cornelius et al. (1994) suggest a model based on the concepts of policy goal and policy outcome and conceptualise any divergence from the former as policy gap. Similarly, applied implementation studies suggest the model of policy design – policy delivery – policy review and within this refers to 'implementation deficits' or 'implementations gaps', the difference between 'what works in theory and what is delivered in practice' or 'the gap between the intentions of policymakers and policy as delivered' (for an introduction see Burke et al. 2012: 2). In this context, Vogel (XXX) recalls that 'in principle, the gap can be addressed by more liberal admission policies or more effective migration control policies' and implies that research needs to take into account both options. Hollifield (1992) explains the limits of migration control and implicitly also policy gaps with the 'liberal paradox' meaning that states' and authorities' efforts to control migration are restricted by liberal and human rights law. Freeman instead (2005) argues that policy outcome is sometimes the result of complex relations and tug-of-wars between major actors (interest groups) such as states who aim to enforce the law and lobby agencies such as employer associations who refuse augmented regulations and inspections and Düvell (2006, 2007) adds that some policy gaps can be explained with the impact of civil society lobbying and protests that forces policy off course. Related to this is the role of conflicting political and legal cultures, cultural beliefs and values as for instance of protecting minority rights and controlling immigration, or entrepreneurial freedom and labour market/immigration controls (see Düvell 2011, also see Nelken 1997). Various authors also refer to trade-offs between the different commitments. Triandafyllidou (2000), Jordan, Vogel and colleagues developed an expanded concept of organisational culture focusing on 'informal administrative practices' to study policy implementation; Engbersen (2001) suggests the idea of (un)intended side-effects for analysing certain deficiencies of immigration politics and Düvell and Jordan (2002) applied Lipsky's (1980) concept of street-level bureaucrats to analyse the micro-level of policy implementation and explain policy divergence, gaps and deficiencies. In addition, applied implementation studies consider practical conditions such as leadership, implementation plan, implementation team, resources, capacity, organisational support, organisational culture, communication, monitoring and learning processes as well as resistance to change and vested interests (Burke et al. 2012: 9). Meanwhile, Vollmer (2011) duplicating Boswell et al. (2011) warns that policy goals cannot be taken face value but sometimes have a purely discursive meaning: they are meant to demonstrate to the public that the government has migration under control whilst in fact little real efforts are made to produce according policy outcomes, Finally, some authors argue that some intersection between crime control and migration control has merged depicted by the term crimmigration meaning immigrants are target by criminal law and that criminal law is used to

enforce immigration law, notably deportation (Stumpf 2013, also see Weber 2013). It remains to be seen whether this could be useless to analyse our case and Leun and Woude (2013) question the applicability to the European case.

Also on the meso-level the conceptualisation of immigration controls within nation states is contested. On the one hand, internal controls are conceptualised as one of several types of control policies under the umbrella concept of migration policy (e.g. Vogel 2003). On the other hand, Weber (2013) argues that concerns over border security is the prime concern of nation states under conditions of globalisation and therefore suggests to analyse internal controls as yet another version of border controls. She implies that 'structurally embedding migration controls deep within the regulatory machinery' (Weber: 115) represents a kind of 'embedded borders' (ibid.: 114) and thus that border is the denominator in migration policy analysis. However, under conditions of neoliberalism states are no less concerned with state budgets, welfare systems and labour markets. Hence concerns relating to external factors such as international mobility and migration of capital, goods, people and ideas or no more relevant than concerns of internal matters related to productivity, social relations and public order. Not only security concerns as Weber argues but also the functioning of the economy and the viability of public finances concern states, and not simply security concerns associated with external threats but security concerns associated with internal threats, notably public order continue to determine governance.

To recall, conventionally, borders or frontiers are defined as the delineating lines of a nation states. Notably, the expression frontier depicts even clearer the origins of the concept of borders as the lines around countries where national armed forces were deployed and faced one another (Foucher 1998). Borders signal where the nation state ends and where another nation state begins, notably where the legal, political and administrative power of one nation ends and the power of another nation state begins and where the claims of the citizens of this nation end and the claims of the citizens of another nation state begins. This principle of the limits of the power of nation states is conventionally captured by the concept of sovereignty which describes the supreme power of a governing body over all affairs related to the defence of a specific territory as well as all affairs on the territory. On the one hand, nation states set up borders as unique expressions and instruments to demonstrate and enforce their claim for sovereignty. They delineate the extent and edges of the respective territory and encircle the territory over which a governing body supported by armed forces and law enforcement agencies exerts its power. Finally, the concept of borders is a precise analytical tool deriving from the concept of sovereignty addressing processes at the edges of nation states. On the other hand, nation states also set up and accordingly delineate internal administrative units or social systems, like counties and districts but also labour markets, the housing markets, the welfare systems and the education systems. But these are units and systems within a nation state and not between nations states. Sovereignty thus has a double meaning, the defence of the external borders of the territory and the governance of internal affairs. Accordingly, sovereign states set up borders to govern the external and boundaries to govern the internal. Both are complementary and equally powerful instruments of enforcing sovereignty. Therefore, borders and boundaries have a different meaning and are not to be confused with one another.

This is of course complicated by global integration or globalisation processes and the rise of global governance and by international migration whereby citizens of one nation state cross borders and enter another nation state (see, for instance, Sassen 1996). Usually, migrants carry with them the nationality of this other nation state and are treated as aliens and non-nationals by the host nation and on the basis of nationality nation states define the rights foreigners have or do not have vis a vis the hosting state and its individual systems. These individual systems are guarded by boundaries that confront all persons within a nation state, citizens and non-citizens, with certain access checks. Usually, these are eligibility checks based on age, like the right to work, residence, like the right to attend a certain school within a catchment area, education and certificates like the right to attend university or get a certain job as well as needs tests based on their socio-economic circumstances, like unemployment, housing situation, or family situation, like having children to obtain child benefits and so on. At the same boundary around individual systems non-citizens face additional checks based on their immigration status. But these boundaries exist independent from borders and just because foreigners face additional checks this does not turn boundaries into borders. Instead, boundaries and the meaning of boundaries vis a vis foreigners must be conceptualised separately and not as borders.

Conceptual Troubles

Certain issues trouble the study of immigration law enforcement in the UK, and maybe also in other contexts. The immigration service is under the authority of the Home Office, just as the police, it is a split-off from the police but no part of it, it resembles in part a police force but yet is a separate service, some of its staff have been migrating from the police force, and just as the police it has authority to enforce the law but yet the immigration service is not the police or part of it. Also the police's mandate and operational area is restricted to the territory of the UK whilst the mandate of the migration service encompasses domestic and international activities and is thus almost globally in scope. Furthermore, the police are targeting the entire community whilst the immigration is only concerned with the immigrant elements and those other members of society that are dealing with immigrants. And more generally, the processes both agencies are involved in are similar and partly covered by similar regulations but nevertheless different. The police is policing meaning a 'set of processes with specific social function (Carrabine et al. 2004: 270) whilst the processes the migration service is involved in are similar but different as it seems, it might also be understood as policing though of only a small part of the population.

Immigration Law Enforcement, Organisational Structure, Practices and Culture

This project will study immigration law enforcement by analyzing (1) role and function of the agency under consideration (see Reiner 2013) and (2) the organizational aspects. The police role, Reiner (2013) argues, is maintaining order, providing services and enforcing the law (in the order of relevance) and the function is that of a specialist resource with the core capacity of using force to achieve its goals. The function of the police he describes as a 'specialist resource' (ibid.: 6), a label that can also be applied to the migration enforcement service. Structural and cultural aspects are usually differentiated but this project will study both dimensions. First, the project focuses on the structure of the organisation, 'typically [a] hierarchical arrangement of lines of authority, [accountability], communications, rights and duties of an organization. Organizational structure

determines how the roles, power and responsibilities are assigned, controlled and coordinated and how information flows between the different levels of management' (Business dictionary 2014). Second, the project will focus on the formal and informal aspects of the life or culture within the organisation because, as Wilson (1989) argues; this is because the effectiveness of most organisations mainly actually depends on their organisation culture. The impact of organisational culture on policy implementation has to be searched for in politics processes and concrete politics outcomes. Identifying the discrepancy between planned or expected outcomes of the specific measure, as these are defined in official documents (laws or official government programmes and administrative texts), and achieved outcomes, as these are deducted from the field research, is thus, only the first step of the work. It is necessary to highlight how the organisational culture shapes the process of implementation of the specific measure so as to, eventually, lead to distorted outcomes. In concrete, the analysis of organisational culture is applied to (a) assess the strength or weakness of a culture (see Deal and Kennedy 1982, Kotter and Heskett 1992) against the criteria of internal consistency and impact on the organisation's members and (b) to measure the degree of efficiency of a culture (see, for e.g., Peters and Waterman 1982, Denison 1990) and evaluate cultures in relation to their contribution to goal achievement, innovation and strategic capacity. In our study we also consider organisational culture as an explanation for policy outcome. In the same time, we are aware that 'culture' is used to paint a brush over broad social patterns, rather than to illuminate the individual practices of individuals as they go about deriving meaning from, and ascribing meaning to, the situations in which they find themselves every day' (Wood et al. 2008). There for also analyse individual and professional identities of staff within the organisation (see below).

Thus, the analysis of immigration law enforcement organisations and practices shall be operationalised as follows (see Triandafyllidou 2000):

(1) Organisational Structure and institutionalised practice codes of organisation or office (written codes):

- Structure (Organigram), institutional and geographical, flat with few management levels vs tall with many management levels;
- Roles, powers and responsibilities;
- Centralised or decentralised structures, hierarchical or egalitarian character of relations within the organisation;
- Overlapping (or not) of duties within the office studied or clear division of tasks;
- Personal or impersonal character of authority (all following Weber);
- Staff turn-over
- League tables and performance target;
- Interaction with other organisations/agencies/institutions (look at conflicts, trust), policy (see O'Toole 1997) and policing networks (Weber 2013));
- Community relations (see Wandersman 2008).

The project will distinguish between high (state security, prevention, infiltration etc) and low (everyday) policing, respectively immigration law enforcement (see Brodeur 1983, 2007) though acknowledging that there is considerable overlap between the two levels.

(2) Informal practice codes of organisation or office (non-written codes) and the reasons for this.

- Myths,
- Symbols,
- Language (organisation-specific jargon/vocabulary),
- Rituals,
- Ideologies,
- Type of discretion allowed (e.g. prioritisation of tasks, improvisation, innovation, request for further resources, favouritism, exemptions allowed etc.),
- Informal hierarchies (see, for e.g. Butterfield et al. 2004).

(3) Goals of organisation or office

- As defined by the interviewees and also as described in legal texts, administrative documents or other reports (what counts as success, a successful operation). We shall thus seek to assess the instrumental rationality or rationality of outcome of the specific office.
- Long vs short-term goals.
- Performance indicators, targets, processing times etc.

(4) Values of organisation or office

- As related to achieving the goals, namely the ethical, or substantive in Weber's terms, rationality characterising the specific organisational culture.

Immigration Law Enforcement and Street-Level Bureaucrats

Further to the investigation of the organisational structure and culture this project will study immigration law enforcement through the lens of the concept of street-level bureaucrats. Conventional theories on bureaucracies, notably Weber (1922/2002) or Wilson (1989) are of limited use for explaining policy divergence and outcome, not at least because they neglect the micro-level of the individual agents and the impact of their beliefs and actions on policy outcome. Therefore, this project also draws on the concept of street-level bureaucrats to analyse policy implementation and policy outcome; street-level bureaucrats are defined as 'the people who meet citizens at the interface between citizens and government. So the teachers, police officers, social workers are the people who actually deliver the policy that has been constructed elsewhere' (Lipsky 2010). Of course, street-level bureaucrats act beyond the ideal of citizen-bureaucrat nexus and also meet non-citizens. At the core of the concept of street-level bureaucrats is the idea that those people who work on the front line of public services have 'substantial discretion' to interpret policies, often ad hoc (Lipsky 1980: 3); this is further inspired by the agents' beliefs (beliefs inform practices, see Bevir and Rhodes 2006: 1). In addition, Carrabine et al. (2004: 279) maintain that 'discretion is often exercised in discriminatory ways'. Therefore, street-level bureaucrats make a

difference to and shape policies and subsequently determine policy outcome (also see Evans and Harris 2004 and Rowe 2012). Studying the micro-level of individual agents is the more important as the research subject is affected by change and reform and it is individuals who are supposed to interpret and implement change as much as they are affected by or may resist change (also see Wood et al. 2008). Thereby, the policy analysis of change, which is a kind of top-down analysis will be combined with a human agency based bottom-up approach.

The analysis of the concept of street-level bureaucrats shall be operationalised as follows:

- (1) Routines and practices
- (2) Informal practice goals
- (3) Prioritisation or self-selection of cases
- (4) Ethical dilemmas
- (5) Discretion (in setting priorities and decisions on action or non-action), discriminatory practices
- (6) Moral at work
- (7) Values

For this project we will consider police officers involved in immigration matters, immigration case workers and immigration enforcement officers as street-level bureaucrats but also officers of other statutory agencies in the health or education sector whose tasks involve controlling immigration statuses.

Organisational, professional and individual identity

Because organisational culture is a too broad brush we aim to identify micro-level factors that can help explaining policy outcome. Notably we aim to understand staff's individual ('who I am?') as well as their professional ('what I am?') and organisational ('who are we?') identities, the self-concepts they hold as persons or professionals (see, for instance, Albert and Whetten 1985, Yardley and Honess 1987). This approach will also be integrated with the street-level bureaucrats concept.

Identity is often understood not as a single but multi-faceted or multiple identities (ibid.). Further to this, Ran and Duimering (2007) suggest not to accept, for instance, organisational identity for granted but acknowledge that such identity rather is a claim, as expressed in a mission statement. Distinction between these different types of identities facilitates researching for overlap, tension or even 'identity conflict' between different identities (Kreiner et al. 2006) which again allows understanding the functioning of an organisation and subsequently policy outcome. Kreiner et al. (2006) suggest in an organisational setting to study individual and organisation identity in conjunction because, as they argue, under these specific conditions both impact on one another which blurs the boundary between the two. In any case, either identity must be considered dynamic and subject to change, for instance, in response to changing environments, training and promotion as well as a result to personal and professional experiences (see, for instance, Beijgaard et al. 2003). Professional and individual identity are particular important in the study of staffs' coping strategies with organisational change (ibid.).

Identities can be analysed along the real or claimed distinctive aspects, attributes or characteristics associated with either identity, like:

- (1) Individual identity: geographic/social/ethnic/religious belonging; education; family situation; hobbies; personality.
- (2) Professional identity: skills, competences, professional knowledge/technical expertise, technical language; perception of professional role; professional values; job satisfaction; membership in professional associations.
- (3) Organisational identity: small/large, old/new, traditional/modern, history, public/private, funding structure, organisational structure, mission, constituency.

Policy Outcome and Impacts of Immigration Law Enforcement

This project considers two types of – intended and unintended - policy outcomes, impact and effects, first on irregular immigration and its level and second on irregular immigrants and their well-being. Carrabine et al. (2004: 275) suggest that ‘the question of whether police actually have an effect on crime as a central one’; there is, however, ‘little evidence that any police strategy alone can reduce crime’ (ibid.). We assume that both statements may also be true for immigration enforcement. For this purpose, the project will assess immigration law enforcement against the policy goal, i.e. detecting, removing and deterring and ultimately bringing down levels of irregular immigrants. For the police crime reporting, crime detection rates and clear-up rates are the most commonly used standard indicators for the effectiveness of crime fighting (see Carrabine et al. 2004: 277). For the immigration service it seems plausible to assume that the reporting of law violations is less frequent as often there are no direct victims as in the case of crimes who would report an offence; therefore, estimates of immigration law violations in the UK are another important though problematic source (see Vollmer 2008). Further to this, detection rates and clear-up rates are probably as important indicators for immigration law enforcement as they are for crime fighting. The project will thus look into

- (1) Estimates of the irregular immigrant population,
- (2) Denunciation or reporting of immigration offenders,
- (3) Detection, detention and removal rates,
- (4) Discrepancies between the above rates.

Furthermore, the EU Fundamental Rights Agency (2011) suggests that immigration control and law enforcement also have an impact or effect on irregular immigrants’ access to fundamental rights (2011). Conventionally, fundamental rights can be distinguished by civil rights and social and labour right. Civil rights ‘have a wider reach’, are derived from being human and ‘do not have specific exceptions for migrant categories’ whereas social and labour rights are derived from being a worker or a citizen as Ryan and Mantouvalou (2014) suggest. Therefore, social rights, notably basic social rights, and labour rights of migrants are contextualized as an equality/equal rights matter, therefore ‘the main question is no longer whether foreign nationals should be eligible for equal treatment in the labour and social fields [but] rather the questions are whether, and to what extent, such rights may be denied or limited in the case of persons who are not lawfully resident’ (ibid.: 178). And whilst some international and European (Council of Europe, European Union)

human rights instruments refer to everybody or all workers respectively migrants others refer to immigration status as eligibility criteria (Bicocchi and Levoy 2007). Also distinction is made between binding and non-binding instruments (Ryan and Mantouvalou 2014). It appears that international human rights instruments are more inclusive whereas CoE and EU are stronger in terms of their enforceability. Ryan and Mantouvalou therefore conclude that in practice 'some differences of treatment [of migrants and non-migrants] may still be acceptable in the case of irregular migrants' (ibid.: 178). The EUs FRA, however, makes no such difference between civil, social and labour rights, instead identifies fundamental rights of any category and suggests that fundamental right because they are fundamental must not be compromised by immigration law requirements. For the study of the impact of immigration law enforcement on migrants and irregular immigrants' fundamental rights situation or rather their access to activities and services that are considered fundamental we apply the scheme developed and implemented by the FRA and consider the impact of immigration enforcement on some civil and some labor and social rights (2011). The project will thus specifically look at

- (1) Access to employment rights,
- (2) Access to health care,
- (3) Access to statutory education,
- (4) Access to housing,
- (5) Access to legal remedy.

In addition, with respect to both types of impact further distinction can be made between detective effects based on law enforcement or eligibility tests and preventive and deterrent effects based on the threat of law enforcement or eligibility controls.

The state, irregular immigrants and subjectivity

The modern state governs people through political and pastoral power and has developed and applies a wide range of disciplinary techniques aiming at aligning individuals to predetermined (legal) standards (Foucault, diverse). According to this definition state/immigrant relations are different from state/citizen relations. By and large, the state governs all residents on its territory and beyond, hence citizens and non-citizens. But immigrants differ from citizens as they are either newly arrived subjects, if naturalised, only temporary subjects, if they are temporary immigrants or non-subjects who are not supposed to be there at all (i.e. irregular immigrants). In any case immigrants are subject to some particular legislation and subjected to a different set of rights and obligations. In either case foreign-born immigrants have not been exposed to the disciplinary techniques of the state for the same period of time as in-country born citizens, hence they have not been socialized the same way and with the same intensity as the in-country born subjects. Also immigrants have not enjoyed and might even be prevented from enjoying all the benefits for obeying the rules; rather the opposite, immigrants who obey the rules might as a consequence be excluded from enjoying the benefits of obeying the law. For instance, immigrants who obey the law and leave the country on expiry of their visa will have little benefit from obeying the law apart from maintaining the right to re-enter at some later point in time. Hence, the main mechanism that binds the citizen to the state and that convinces him/her to obey the rules does not function in

the same way for immigrants. Therefore, the governing of some types and categories of immigrants may be different from the governing of citizens (including long-term foreign residents) and some types and categories of immigrants may respond to or behave differently with respect to the rules set by the state (though the majority immigrants probably behave like every other citizen, not at least to demonstrate that they qualify for equal treatment).

In this context in policy narratives the irregular immigrant is depicted either as ‘jumping the queue’, an offence against moral to gain an unfair advantage and access to certain goods (residence, jobs, status), or in the current UK and European context as ‘immigrating illegally’, an offence against the law which is then perceived as undermining the legal order of society. Often, policy narratives combine the two ideas. The ‘illegal immigrant’ thus becomes a ‘dangerous individual’ (see Pasquino 1991), an individual that poses a danger to social order and society which is then responded to by security technologies (see Foucault 1982).

This, however, and the conceptual framework sketched above is a rather top-down and state focused perspective which renders the subjects of irregular migration and residence invisible. In order to comprehensively understand the state/migrant relationship this project will also take an alternative migrant-centered perspective and then combine the two for a comprehensive analysis of the interaction and interrelation of the state and the irregular immigrant. Three concepts can be applied to analyse the state/individual interaction, structure agency theory, subjectivity theory and autonomy theory. All three are similar and have similar aims but differ in their political and philosophical assumptions regarding the character of the relation between the two, notably the subjectivity and autonomy approach more strongly emphasise the power disparities and inherent implicit or explicit conflictual potential and thus the political character of this relation. We will, for the time being, try and apply the - we believe less schematic and ideological - Foucault (1982) inspired subjectivity concept and the assumption that there is potential for (a) a tension between public legalism and individual or collective moralism (see Düvell 2006) and (b) a tension between institutional goals and individual aspirations (see Shrestha 1987). For this purpose the project shall establish:

- (1) What are the irregular immigrants’ aspirations;
- (2) Which strategies do they use to achieve their aspirations;
- (3) How do they justify their action or in-action (i.e. leaving the country);
- (4) How do they perceive immigration restrictions?

Comparison

First, this project aims analysing the changes and reforms over time and assessing the impact of the new structures and practices on the goals of the organisation in terms of effects. To this end the project will apply two comparisons. First, it will compare the Immigration Enforcement Directorate, where appropriate also UK Border Force, and UK Visas and Immigration and to some extent its predecessor, the UK Border Agency, hence the situation of 2013-2015 with the Immigration and Nationality Department (IND) of 1998. Second, the project will, within limits compare the UK Border Agency with the police. This is a useful approach because (a) the police was and partly

continues to also enforce immigration law and (b) most importantly, this will reveal the similarities and differences of the two organisations and thus enhance analysis of UKBA. Second, this project will compare the effect and impact of immigration law enforcement on irregular immigrants and their survival strategies and responses and on their access to public services and their fundamental rights situation in 2015 with the situation in 1999.

Summary

In order to study, analyse and understand policy outcome of internal immigration enforcement we will integrate the three main concepts organisational culture, street-level bureaucrats and professional and individual identity. We define Implementation as a process of mediating and negotiating between the formal rules and policies of organisations, the informal order of society and individual preconditions. Organisational cultures provide resources for front-line workers (street-level bureaucrats) to undertake their transaction with the public, making some kind of sense to service users of the formal rules and policies whilst inevitably also using resources from service-users' cultures in the collaborative construction of a compromise/outcome. Street-level bureaucrats contribute to that culture from their street-level experiences of implementation. We thus assume a dynamic interaction of implementation, organisation culture, street-level bureaucrats and their professional life-worlds and professional/individual identity. Whereas implementation is informed by the other three determinants implementation realities and experiences are fed back into the organisation and influence its culture as well as the agents' identities and may subsequently result in discretionary practices. This we combine with the concept of change, or the concept of double change, to be more precise. These are changes that result from (a) the internal organisational dynamics related to the interaction of structures and agents and (b) the external forces of prescribed policy reform which is so prevalent in British migration policy.

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