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An amnesty for illegal immigrants?

Summary

1. An amnesty for illegal immigrants in Britain should be rejected because:

- it is wrong in principle to reward illegal behaviour.
- amnesties have demonstrably failed in other EU countries and are strongly opposed by the French and German governments. In the past 20 years Italy has granted five amnesties and Spain six. The only effect has been growing numbers of applicants and increased pressure on the borders.
- they are extremely expensive for the tax payer. The IPPR claims ignored the additional costs. The net cost to the UK, on the basis of their own crude calculation, would be between 0.6 and 1 billion.
- Those granted amnesty would soon be replaced by others willing to work at or below the minimum wage.
- it would be much more effective to tighten access to the labour market and prevent fraudulent access to the welfare state.
- this would deter new arrivals and encourage illegal immigrants already here to return home.

2. A policy approach which made a serious effort to tighten up conditions for illegal immigrants in Britain would, over time, reduce the number coming here and encourage those already here to leave of their own accord.

Introduction

3. It is sometimes suggested that the way to deal with the growing number of illegal immigrants in the UK is to offer them an amnesty. This paper examines the experience of the UK and Europe and suggests an alternative approach.

The scale of the problem in the UK

4. Accurate numbers are, by definition, unobtainable but it is possible to estimate the order of magnitude. In January 2005 the Home Office issued a report which put the size of the illegal population of the UK at between 310,000 and 570,000 with a central estimate of 430,000. [1]

5. This estimate was based on the 2001 census and thus did not include the large number of asylum seekers whose applications were rejected in the years 2002 - 4. Nor did it include the UK born children of illegal immigrants.

6. Taking these two factors into account, Migrationwatch estimated that the population of unauthorised migrants in 2005 was in the range 515,000 - 870,000 with a central estimate of 670,000. However, other factors pointed towards the upper end of this range. [2]

Previous amnesties in the UK

7. In recent years there have been three amnesties in Britain [3], all of which applied to failed asylum seekers rather than to those who had entered illegally or overstayed their visas. In 1993/4 the Conservative Government granted "Exceptional Leave to Remain (ELR)" to 14,785 applicants involving 32,000 adults.[4] ELR has now been replaced by Humanitarian Protection and Discretionary Leave. Humanitarian Protection is granted when the asylum applicant does not qualify for refugee status under the terms of the UNCR but does qualify under the rather wider provisions of the European Convention on Human Rights. Discretionary Leave cases, on the other hand, are cases where the applicant does not qualify as a refugee under either convention. In practice, those granted either form of leave are almost invariably granted settlement eventually so that its grant can be regarded as, effectively, an amnesty. This amnesty was not revealed to the public at the time but will have become well known to the immigrant community and their lawyers.

8. In 1999/2000, the Labour Government granted Indefinite Leave to Remain (ILR) to 21,000 applicants involving 29,200 people altogether, under what was described as a "backlog clearance exercise". ILR is, effectively, settlement.

9. On 24 October 2003 the Government announced that ILR would be granted to those families which had sought asylum in the UK before 2 October 2000, had children before that date and who had experienced delays in the system. Those who had committed a criminal offence or lodged multiple asylum applications were excluded. The Government appears to have concluded that these applicants would have had grounds for appeal against removal on human rights grounds. They claimed that the amnesty would save taxpayers support costs and legal costs. Announcing the measure, Mr Blunkett said that it would involve 15,000 families but it was not known exactly how many adults and children would be covered [5].

10. The numbers involved turn out to be much larger. 53,435 cases were identified for consideration as at 31 March 2005 [6] . By the end of 2005, 70,135 applicants and dependants had been granted indefinite leave to remain (settlement) with 20,000 cases still to be decided [7].

11. In January 2004 the Home Affairs Select Committee of the House of Commons reviewed these amnesties and concluded that:[8]

Amnesties set up a vicious circle which should be broken by discouragement of unfounded claims, fast and efficient processing of those claims when made, and rapid removals when claims have failed.

The cost to the taxpayer

12. A person granted ILR is, by the same token, granted full access to the welfare state. This includes education, health, housing and welfare benefits. Once ILR has been granted the person can bring in further dependants and can also apply for citizenship after five years residence in the UK. Thus the apparently neutral term, Indefinite Leave to Remain, is in practice a bonanza for an illegal immigrant. The cost to the taxpayer is very substantial, offset to some extent by the contribution which the person concerned might make to the economy.

Experience in the EU

13. In their report to the Home Office on methods of sizing illegal populations, Professor John Salt and others examined the amnesties offered by EU countries over the past 20 years.^[9] Belgium and Greece have implemented one amnesty each. France and Portugal have offered two amnesties. Italy has conducted five and Spain six amnesties with the following results:

Italy				
1987/88	1990	1996	1998	2002
119,000	235,000	259,000	308,000	700,000

Spain					
1985/86	1991	1996	2000	2001	2005
44,000	135,000	21,000	127,000	314,000	700,000

14. It will be apparent from the experience of Italy and Spain that granting amnesties certainly does not reduce the number of illegal immigrants. Indeed, it may very well encourage further illegal immigration. It is noteworthy that the Spanish enclaves in North Africa came under severe pressure shortly after the major Spanish amnesty in February 2004.

15. It is relevant to the UK that those granted amnesty in the EU will eventually obtain documents that will permit them to travel to Britain. In Spain, anyone who has held a resident permit for ten years can apply for Spanish nationality; for nationals of Latin American countries and the Philippines, the qualifying period is only two years.

16. The French have drawn their own conclusions. In May 2005, the then Interior Minister Dominique de Villepin said that further amnesties for illegal immigrants were "completely out of the question". He added that Paris considered that previous mass amnesties in France in 1981 and 1997 had encouraged further waves of illegal immigration.^[10] Each of those amnesties was extended to about 150,000 applicants.

17. The Germans are also opposed to such amnesties. Germany's Interior Minister said on 9 October 2005 that "Wide ranging campaigns to legalise immigrants such as in Spain mean more illegal immigrants are drawn to Europe. In the long term, immigration and refugee problems cannot be solved with unilateral action, but only with European and international co-operation."^[11]

The IPPR proposal

18. On 31 March 2006 the IPPR issued a paper calling for irregular migrants already in the UK to be issued with three year work permits and an ID card. Their families would be allowed to remain with them and they could seek further renewal provided that they learned English and had no criminal convictions. This procedure would lead to settlement (otherwise there would be little purpose in embarking on it) and it amounts to an amnesty in all but name.

19. It was claimed that this step would net the Treasury around 1bn a year. This claim is, to say the least, disingenuous. The figure is calculated on the assumption that, once regularised, illegals will earn on average 50% more than the minimum wage and it is a simple calculation of the income tax and NI contributions that would be paid as a result. This is in itself optimistic since some illegals may only be employed because they are willing to accept less than the minimum

wage. However, it takes no account whatever of the extra costs to the Exchequer of an additional 0.5 million beneficiaries of the welfare state. The average cost of state benefits and services in 2003/4 was about 7,600 per head of population so on the IPPRs figure of 430,000 illegals the total cost would be 3.2 billion. Even assuming that half of these costs are already incurred (for example through use of emergency medical treatment) the additional cost of an amnesty would be 1.6 billion - well in excess of the additional tax and national insurance contributions calculated by the IPPR. Thus the net result would be an extra cost of 0.6 billion rather than a saving of 1 billion a result which accords with common sense. On the more realistic estimate of 670,000 illegals (para 5 above) the total cost would be 2.5 billion and the extra revenue about 1.5 billion with a net cost of 1 billion.

20. It was also claimed that 4.7 billion would be saved by not undertaking their forced removal. Nobody is suggesting such a course. One might just as well suggest that we can save 100 billion by not sending a man to the moon!

21. There are two major objections to the IPPR proposal. One is that it is wrong in principle to reward illegal behaviour. The other is that it has no chance of working. The report itself recognises that many illegals come to Britain and stay on to work illegally here because wage rates, even at or below the minimum wage, are much higher than in their home countries. For the same reason many come here with the help of people smugglers. There will always be unscrupulous employers willing to employ cheap labour so those regularised (at tax payers expense) will very soon be replaced by others.

Alternative approaches

22. The alternative to granting amnesties which simply encourage further illegal entry is to discourage illegal immigrants from coming and from staying. The key to this lies in the labour market since most illegal immigrants come initially to work and send money home. The record of enforcement in Britain is incredibly poor. In the period 1997 - 2003 only 9 employers were found guilty of employing an illegal immigrant. In 2004 only 3,332 illegal migrant workers were detected in Home Office operations. The Immigration, Asylum and Nationality Bill 2005 provides the Home Secretary with stronger powers to penalise employers who employ (knowingly or otherwise) individuals who are illegally in Britain. Immigration Officers will have the power to impose on the spot fines of up to 2,000 if the employer ought to have known or failed to ascertain that an employee was ineligible for work. Where it can be shown that an employer knowingly employed an illegal immigrant the maximum penalty will be two years imprisonment and/or a fine of up to 5,000. However, the effectiveness of this change in the law is undermined by the Governments admission that very few full time immigration officers will be dedicated to its enforcement.

23. A further incentive to illegal immigration is the absence of effective controls on access to the National Health Service. Furthermore, no checks whatever are made on the immigration status of children applying for places at schools. The introduction of ID cards will eventually mean that it will become much more difficult for illegal immigrants to access the welfare state. Furthermore, the introduction of embarkation controls, now planned by the government, will be an effective deterrent to overstaying provided that they are effectively enforced; this may require some adjustments to human rights law.

Conclusion

24. A policy approach which made a serious effort to tighten up conditions for illegal immigrants in Britain would, over time, reduce the number coming here and encourage those already here to

leave of their own accord. American research suggests that such a policy of Attrition through enforcement can significantly reduce the size of the illegal population at reasonable cost [12]. An amnesty, on the other hand, simply makes a bad situation worse at considerable cost - as experience in Europe has amply demonstrated.

21 May, 2006

NOTES

- [1] Home Office online report 29/05 - "Sizing the unauthorised migrant population of the UK in 2001"
- [2] www.migrationwatchuk.org Briefing paper 9.15 "The illegal migrant population in the UK"
- [3] On 11 April 1974, the Home Secretary announced an amnesty for Commonwealth citizens and citizens of Pakistan who entered the country illegally on or after 9 March 1968 and before 1 January 1973. The amnesty applied also to people who were refused entry by an immigration officer and then entered the country illegally before 9 March 1968. Both classes of people could apply to have their position regularised and, if evidence of their entry and subsequent residence was satisfactory, their passports were endorsed by an immigration officer to give indefinite leave to remain.
The Home Secretary further announced on 29 November 1977 (Hansard 29.11.77, Written Answers cols 125-128) that Commonwealth citizens or citizens of Pakistan whose last entry had been secured by deception before 1 January 1973 could apply to have their stay regularised, and they were dealt with similarly. (source: IND web site).
- [4] Statement by Mr Blunkett, Home Secretary, reported in The Guardian on 25 October 2003
- [5] The Guardian 25 October 2003
- [6] HOSB 13/05 paragraph 73.
- [7] House of Commons written answer 58197 Feb 2006.
- [8] Times online report 26 Jan 2004
- [9] Home Office on-line report 58/04 Table 5.1
- [10] The Guardian 12 May 2005
- [11] Reuters, Berlin 9 Oct 2005, reported in the Mirror.
- [12] The American report can be found on line at <http://www.cis.org/articles/2006/back406.html>