



2013

Immigration in the E.U. and the U.K.: A Conflict of Interests and Policy

Beth Coleman
Berea College

Follow this and additional works at: <https://digitalcommons.murraystate.edu/crps>



Part of the [History Commons](#), [Political Science Commons](#), and the [Psychology Commons](#)

Recommended Citation

Coleman, Beth (2013) "Immigration in the E.U. and the U.K.: A Conflict of Interests and Policy," *Commonwealth Review of Political Science*: Vol. 1: No. 1, Article 5.

DOI: [10.61611/2994-0044.1006](https://doi.org/10.61611/2994-0044.1006)

Available at: <https://digitalcommons.murraystate.edu/crps/vol1/iss1/5>

This Abdul Rifai Award Winning Paper is brought to you for free and open access by the Faculty Publications at Murray State's Digital Commons. It has been accepted for inclusion in Commonwealth Review of Political Science by an authorized editor of Murray State's Digital Commons. For more information, please contact msu.digitalcommons@murraystate.edu.

Immigration in the E.U. and the U.K: A Conflict of Interests and Policy

Beth Coleman*
Berea College

Though contemporary society is becoming increasingly globalized, most of the developed world is looking towards immigration policies aimed at keeping other people and cultures out. This unfortunate trend is creating a society of protective multiculturalism—where one culture or state borrows desirable and beneficial characteristics and ideas from another culture, while isolating and at times even condemning that same group. Though the issue of border security remains a hotly debated topic in the United States, Europe is looking towards an era of border-free movement and renewed labor resources. However there are some major European powers, such as the United Kingdom, that believe this doctrine holds potential security and socioeconomic threats that must be curtailed. By introducing a graduated point-based system of immigration, the British parliament hopes to control immigration within the region; but at great potential cost to agreements and alliances within the EU. This paper explores those impacts, and the potential consequences of this new policy through the lens of human rights and external relations policy in the European Union.

Key Words: Immigration policy, United Kingdom, European Union

INTRODUCTION: IDEOLOGY AND REBELLION

Members of the European Union (E.U.) retain the right to travel, work, and establish residency within the union regardless of their ethnicity or nationality. The dispute over these rights, which some consider fundamental to the Union, came to a head in 1999 when the European Commission finally instituted a policy at the Tampere convention in Finland that created the first comprehensive zone of European freedom, justice, and security. As a result of the subsequent Schengen agreement, the E.U. has since become more open, embracing the idea of a more tolerant Europe that profits socially and economically from its diversity. However, recent legislative trends in some member states, particularly recent changes to the immigration system in the United Kingdom (UK), are pulling in an opposite direction. Important

* This paper, presented at the Kentucky Political Science Association in 2008, won the Abdul H. Rifai Award for best paper presented by an undergraduate student.

questions are, thus, raised: does U.K. immigration policy violate E.U. protections for human rights? And will those policies threaten relations with the E.U. and its member states? According to Benita Ferrera-Waldner, European Commissioner of External Relations and European Neighborhood Policy:

Human rights are the cornerstone of the European Union's foreign policy. Be it in the political dialogues the European Union holds with third countries, in the international agreements it concludes, in its development cooperation or its action in the multilateral fora such as the United Nations, the European Union seeks to uphold the universality and indivisibility of human rights – civil, political, economic, social, and cultural – as reaffirmed by the 1993 World Conference of Human Rights in Vienna. The protection of human rights, together with the promotion of pluralistic democracy and effective guarantees for the rule of law and the fight against poverty are among the European Union's essential objectives (European Commission 2006).

By addressing the civil and fundamental rights of citizens, the European Commission finally examined the dynamics of internal migration from a broad perspective and began to understand how third-country nationals and external migration affect the socioeconomic portraits of its member states. The resulting image was one of an aging Europe with declining birth rates, struggling to retain and recruit the skilled workers and professionals necessary for industrial development – conditions that could potentially lead to the skilled labor shortage known as “Brain Drain.” Ministers also saw social disintegration along of the fault lines of religion, race, and class because of immigration and discerned erosion of protective multicultural policies within most member states. In response, the E.U. committed itself to equal opportunity employment for all people, and to non-discrimination in all matters dealing with external foreign relations, as well as a legislative agenda to combat racism and xenophobia in their member states. Simultaneously, however, the United Kingdom began to devise a point-based program of immigration that violates the very values and policies the E.U. had prioritized. As the E.U. continues to let the autonomy of member states override their supranational agenda, the result is discrimination, inequity, and the maintenance of centuries of prejudice between cultures that have continue to affect contemporary foreign relations and immigration policy across Europe.

IMMIGRATION AND HUMAN RIGHTS WITHIN THE UNITED KINGDOM AND THE EUROPEAN UNION

In a post-9/11 society, increased attention is placed on the security of the state and the state's preservation of its culture. Additionally, this dynamic has raised problems from the perspective of democratic rights and freedoms as a result of fears that immigrants might bring with them extremism and counter-cultural elements from their home countries, particularly those in the Middle East. Europe has tried to negotiate between economic growth through migration, and maintaining security alongside a commitment to multicultural policies. While the Schengen border-free zone has been expanded to include virtually all of continental Europe, the United Kingdom believes it has found an alternative solution to these long-standing ills: just don't let them in. The result: the British Highly Skilled Migrant Programme (HSMP), an immigration system modeled after the Australian and Canadian systems.

Since its inception, the U.K. has remained on the periphery of E.U., ever skeptical and occasionally resentful of supranational authority (Kinsella, Russett, Starr 412). Though member states have the right to devise and implement immigration policies of their own, the British points system violates several existing agreements within the E.U., agreements the U.K. claims it supports. This conflict between U.K. immigration policy and E.U. ideals presents human rights concerns, especially in cases involving refugees and asylum-seekers; it seems cold to ask how many “points” an individual life is worth to the state? Moreover, this policy provides a basis for a clash with the European Commission, as well as future grounds for Britain to challenge the increasingly unpopular influx of Eastern Europeans immigrating through the E.U. Charter of Fundamental Rights (Treaty 16).

Between 1993 and 1998, the number of immigrants to the U.K. more than doubled, and in 1999, the number of asylum-seekers increased sharply. This presented a new problem for the Labour party and its millennium agenda, and prompted intense debate over how to curb the situation. In 2003, Home Secretary Charles Clark unveiled a grand scheme to combat illegal immigration, tightening restrictions on those hoping to immigrate legally, and filtering out the masses of refugees inhabiting England, Scotland, and Wales. The policy implemented a 5-year plan that established a fine of £2,000 per undocumented worker for those employers taking advantage of the illegal influx, as well as heavy civil and criminal penalties for human trafficking. Additionally, the government pledged a zero-tolerance policy for asylum-seekers staying after their visa expiration, an end to chain migration, and most controversially, the 2003 HSMP or “points system.” The HSMP uses a formula to assign a numeric value to potential citizens and guest workers. Initially, the program fast tracked visa applications for qualified health, technology, and business professionals. In 2006, the minimum points score was raised to 75, and a handy calculator introduced via the web to let potential residents evaluate their chances of being

granted citizenship. Points are assigned to a particular applicant on the basis of his or her age, level of educational attainment (at least a Bachelor's/four-year degree is generally required,) earning power, U.K. experience, English proficiency, and region of origin. (There are 5 income categories that divide minimum earning power by region, category A being the most developed countries like the U.S. and France and Category E containing developing nations such as Nigeria and Afghanistan.) Preference is given to the most advantaged of applicants from each category. In addition to earning points, candidates are completely disqualified if they have ever been bankrupt, convicted of a crime, or would be dependent for any time on government aid (Home Office of the United Kingdom 2007).

The points system does not just filter out low-skilled persons from the developing world, but is rather generous in its elimination of future laborers from across Europe as well. Applicants in their thirties only have a value of 5 points, and those who don't have an MBA from a prominent graduate school (specifically listed by the Home Office), or do not speak English as their primary language, have virtually no chance of gaining a visa. Select individuals may qualify for a temporary 12-month unskilled work visa if they are unmarried, with no dependents, under the age of 27, and never intend on applying for permanent residency within the UK. Beginning in 2008, these standards will be applied to all visas issued within the U.K. with the introduction of a graduated system that will phase in the same standards for scientists, doctors, teachers, graduate students, undergraduate transfers, and asylum-seekers attempting to establish residency. The government will annually issue a number of visas for each category, with the greatest number of visas reserved for science professionals and the least for refugees (Macleod 1). By late 2009, experts say that the flow of migration will be cut in half from its peak in 1999 (Maclaren 903). In a change that will affect many, the policy no longer guarantees long-term residency to the immediate family members of U.K. citizens. Additionally, under the extended HSMP, there is no appeals track for rejected applicants.

THE IMPACT OF THE POINT SYSTEM ON INTERNAL E.U. RELATIONS

Policy Impact on the United Kingdom

Though it may seem a logical first step towards solving Britain's labor and population crisis, we see that the U.K. loses many qualified workers to other developed nations such as France and Germany, and attracts the largest number of low-skilled workers from Eastern Europe of any E.U. country. By implementing restrictions on inward migration, the U.K. is failing to address the issue of retention in an attempt to incentivize growth, and exacerbating existing conflict by creating a public-opinion driven policy that feeds into anti-E.U. sentiment. If U.K. membership in the E.U. is ever to be viably supported

by its citizens, the state must stand behind supranational mandates with vigor and energy rather than adopting policies that meet the bare minimum membership standards. Moreover, the effectiveness of a diplomatic strategy designed merely to save face among E.U. elites remains questionable amid severe enforcement tactics, for instance, the recent dawn raids that physically removed illegal residents from their homes and families for immediate deportation (Gordon 1). U.K. immigration policies raise questions about its commitment to E.U. human rights doctrines and its willingness to fulfill standards regarding the social equality of non-European citizens.

As mentioned earlier, dawn raids and racial profiling are already being used as tools for the recognition and deportation of asylum-seekers including Sudanese refugees that are being detained and sent back to Darfur. Scotland also seems to have encountered a large number of legal African and Caribbean immigrants overstaying their visas because they do not feel they can safely return home. As of 2006, nearly 1,000 asylum-seeking families faced the possibility of being forcibly extracted from their homes under the cover of darkness for immediate deportation back to their country of origin (Gordon 1). The majority of these were women and children who would otherwise be provided minimal provisions of safety and legal rights under the Hague Programme of 2004. Within the Hague Programme, the Receptions Conditions clause guarantees asylum-seekers adequate housing, food, and health care within member states for the duration of their application process. Britain does theoretically provide this. Detained asylum-seekers are put in a maximum-security facility, provided military rations, and given emergency medical treatment if it becomes necessary. Were the U.K. to abide to the spirit of the law instead of its minimum legal requirements, its changes of deeper E.U. integration would improve alongside the treatment of prospective immigrants.

Policy Impact on Prospective Immigrants

Currently, the point system takes the greatest toll on those individuals attempting to emigrate from Africa, particularly countries protected by the European Neighborhood policy that reaches out to countries bordering member states in hopes of enhancing regional security and cooperation. The United Kingdom receives particularly large numbers of migrants from countries in North Africa of E.U. member states presently; after 2008, however, it is reasonable to expect those numbers to fall below other countries that attract residents of the Maghreb, France and Germany in particular. When we examine the current cultural violence in Paris, and Germany's increasingly assertive policing of Islamic extremism, it is safe to conclude that the welcome mat will not be extended graciously to asylum-seekers denied their petitions in Britain—what will also affect Britain's popularity with other member states. In all, those needing to leave their countries the most will find it harder than ever to find a new home. Prospective migrants in Britain's former colonies, in

contrast (many of them quite stable, safe, prosperous) will have the easiest time.

Policy Impact on the European Union

The E.U. has also established a commitment to students, and has committed to providing equal opportunity for study irrespective of nationality. In Council Directive 2004/11/CE, the E.U. mandates the qualifications and handling procedures for third-country nationals seeking higher education opportunities in excess of one year. This law was due to be transposed by member states in November 2007, and has been ratified by the United Kingdom. However, the points system once again allows the U.K. to skirt supranational mandates by allotting quotas for the varying categories of immigration. Students are only ahead of refugees in terms of the number of available visas; as a result, once the state's quota has been filled, prospective students will be denied the opportunity to study in the academic year of their choosing. This is especially damaging to U.S. students seeking enrichment opportunities abroad in their late undergraduate years, as well as graduate students who operate on a strict academic time schedule. It is also harmful to colleges and universities in the U.K., which rely heavily on the patronage of international students to finance and enrich their departments.

Through the ENP instituted in 2004, the Union committed itself to extending a privileged relationship to those countries immediately bordering member states, including Libya, Algeria, and Morocco, three of the major contributors to the UK's migrant inflow. This plan was a strategic diplomatic effort to strengthen relations between member states and neighboring countries, both in terms of economic and political cooperation. By implementing a plan that devalues citizens from these regions (they linger in the lowest earning power categories of the point system), it provides a basis for greater social clash, and contradicts the diplomatic efforts of the E.U. to expand its influence and development in these areas. Tragically, close to 90% of those wishing to emigrate from these countries to the U.K. fall into the student and asylum-seeker categories, which are of lowest priority under the Labour Party's graduated points system. U.K. policies almost seem to be designed to undermine E.U. priorities. In the most recent report issued by the European Commission on the progress of the ENP, they stated that certain elements were vital to the success and advancement of the project—specifically greater cooperation between members, neighbors, and the creation of a transparent civil society of member states.

Civil society contacts are gaining in intensity and variety through the actions by individuals, organisations, businesses and local and regional authorities. The role of the Commission and the Member States in the civil society dimension is primarily as facilitators,

because public bodies cannot set the agenda for civil society. What the Commission and the Member States can do is to work to strengthen the scope for civil society to work, *inter alia* through the regular policy dialogue with the ENP partners. There are also areas, which require public funding, such as student mobility and, in particular, building civil society capacity in the partner countries. Member States and the Commission already support an extremely wide range of activities, reflecting the varying historical, geographic, and cultural background to their relations with the ENP partners. This support is being strengthened, but we also need to work together and to share information more fully (European Commission 2006).

According to this report, the U.K.'s cooperation on matters of public policy (especially immigration policy) is not only necessary for the success of ENP; it is mandated by the EC itself. Through execution of the new immigration legislation, the U.K. continues to distance itself from the rest of Europe, and risks damaging long-standing efforts to integrate the social, security, and economic development policies of member states.

Additionally, the points system jeopardizes over-arching regional strategies designed to strengthen the global community in terms of both social equality and security. The official E.U. Strategy for Africa established a comprehensive effort that utilizes supranational resources and member state cooperation to help Africa as a whole achieve the U.N.'s millennium development goals. Though a great deal of the plan calls for massive humanitarian and development aid, it also touches on Europe's immigration policies: "Particular attention should be paid to employment policies, the promotion of cultural diversity and turning migration into a positive force in the development process." While the E.U. acknowledges the urgent needs of asylum-seekers in principle, and in some cases long-term residency in European nations, the points system plan provides severely limits their ability to safely emigrate in practice. The U.K. has approved a plan that would allow some asylum seekers temporary residency, with the possibility of permanent residency after five years if the situation in the countries they left has now improved. But the "improvement" standards of the Home Office are nonetheless minimal. Perceived stability of a particular regime in the short term could lead to a refugee's return to a country that is still quite dangerous.

Migration scholars and migrants alike should expect that the full implementation of this policy, and its effect on the U.K. at home and abroad, will discredit it. The blatant violations contained in it are apparently being ignored by the E.U. itself, as well as other human rights organizations that might benefit from bringing this fact to the attention of the European Commission. It does not profit the European Council (E.C.) to remain silent on this issue for several reasons.

First, if the E.U. executive continues to tolerate the United Kingdom's consistent apathy and flagrant violation of supranational authority, they risk losing credibility and authority over other member states struggling with similar problems. Currently France is also experiencing conflict regarding immigration, social inequality, and the preservation of indigenous political culture. If Britain can successfully control and reduce diversity in their country at the expense of human rights, then the current conservative administration in France might be emboldened to institute a similar policy of its own. President Nicolas Sarkozy has not even attempted to make a secret of his personal distaste for the immigrant "scum" plaguing French suburbs. Judging from the most recent round of youth riots, and escalating violence towards police, it is highly possible that the French parliament could be open to such protective public policy measures simply to restore calm and stability to these areas. Additionally, if matters such as age and country of origin are permitted to be criteria for evaluating an individual's prospective utility to the state, countries like the U.K., France, Germany, and Spain may use their immigration systems to further exclude Islam from European society. Recall, too, the earning power and income variable previously mentioned in the point system; several of the developing countries listed in the lowest levels of preference and economic consideration are also primarily Muslim. European (and primarily Christian) states could use the income requirements for immigration as an excuse to filter out those individuals who allegedly pose the greatest threat to their sociopolitical culture and security. The E.U.'s policies, designed in part to achieve some level of multicultural diversity, should not be ignored without objection from Brussels.

Second, acquiescing to a policy that removes much-needed agricultural workers from Scotland may bolster Scottish desire to separate from the U.K. and create yet another membership candidate for the E.U. with few resources to contribute and heavy needs for supranational subsidies and assistance. In January of 2007, the E.C. alerted the Scottish National Party that it would encounter more difficulty than they advertised when trying to seek membership. Not only have the effects on Scotland's agriculture industry been condemned, but the public has also been galvanized against the points system by the inhumane treatment of illegal immigrants in the region. Beginning with the highly publicized 2005 case of an Albanian family who were apprehended in one of the infamous dawn raids, Scots have been sensitive to their own immigrant heritage and the ethical treatment of policy violators. The infant-state would have to compete with Eastern European nations for resources and attention, as well as gain the approval of the French electorate who recently passed a measure prohibiting E.U. expansion until approved by a French referendum.

Third, both the European Union and the United Kingdom would be invalidating their own claims as champions of humanitarianism and liberal

ideology in the international community. For the U.K., they would be directly damaging the lives of individuals and families seeking protection within their borders. Sylvia Vucaj, a thirteen year-old girl deported from Glasgow to Kosovo described her circumstances to the media as "terrifying." Her story alerted the public to a wave of kidnappings in her Albanian neighborhood—the girls kidnapped to sell as sex slaves—and described the desperate plight of her family in Kosovo since being extracted from their U.K. home of five years. Countless asylum-seekers from across the globe living in the U.K. on temporary visas live in daily fear of being torn from their lives in the developed world to be delivered back into countries whose dangers and political upheaval they barely escaped. Non asylum-seekers also suffer. Students, even well seasoned professionals, from developed and developing nations will increasingly be denied the opportunity to pursue disciplinary and economic advancement in one of the wealthiest and most developed countries in the world. By its inaction, the European Union would effectively be supporting a policy that is in direct contradiction to its purported commitment to human rights. Furthermore, it would be supporting a policy that demonstrates a clear prejudice against specific ethnic groups in spite of its commitment to multiculturalism and diversity.

CONCLUSION

Finally, it is worth noting that an expanded points system is "bad business" on the part of the U.K. Not only does the policy directly contradict key policies within the E.U., this further attempt to set itself apart from an alleged "Union" will succeed in doing precisely that. As previously noted, other states have resolved similar problems in their labor markets, as well as their security concerns, without trampling on what should be considered foundational E.U. rights. The diplomatic, social, human, and supranational costs of the point policy will undoubtedly alter the landscape of European politics if it continues toward full implementation. Citizenship is not a recognized human right, but it *is* only right that a state view immigrants not as potential resources for the state, but as humans—as people with lives, values, and the capacity to make non-monetary contributions to civil society. How the E.U. chooses to deal with this conflict may result in any one of several possible outcomes. If they continue to turn a blind eye to the situation in the name of member autonomy, then other states will begin to pursue the same immigration system in the name of nationalism or economic strife. In this case, such dissension will lead to one of two outcomes: a wholesale reconsideration of the E.U. approach to external migration and human rights policy, or a final showdown between the E.U. and the U.K., the outcome of which will demonstrate which legislative power reigns supreme. If a compromise solution is not reached—the U.K. could, for instance, distribute the number of visas evenly among HSMP categories and loosen income restrictions on prospective

migrants—there would seem to be two possible ways for this ideological crisis to be resolved. The European Council could move to limit states' ability to opt-out of certain supranational agreements such as the Charter of Fundamental Rights; or, the United Kingdom could be ejected from the Union entirely, this losing the economic benefits of remaining a part of the E.U. The stakes are high, and the most satisfactory and democratic outcome is undoubtedly the compromise.

REFERENCES

- Carrubba, Clifford J., and Anand Singh. "Common Defense." *American Journal of Political Science* 48, no. 2 (April 2004): 218-234.
- Coleman, D.A. "Replacement Migration, or Why Everyone is Going to Have to Live in Korea: A Fable for Our Times from the United Nations." *Philosophical Transactions: Biological Sciences* 357.1420 (2002): 583-598.
- Coleman, David and Robert Rowthorn. "The Economic Effects of Immigration into the United Kingdom." *Population and Development Review* 30.4 (2004): 579-624.
- Costa, Dora L., and Matthew E Kahn. "Civic Engagement and Community Heterogeneity: An Economist's Perspective." *Perspectives on Politics* 1, no. 1 (March 2003): 103-111.
- Dinovitzer, Ronit, John Hagan, and Patricia Parker. "Choice and Circumstance: Social Capital and Planful Competence in the Attainments of Immigrant Youth." *Canadian Journal of Sociology* 28, no. 4 (Autumn 2003): 463-488.
- Dwyer, James. "Illegal Immigrants, Health Care, and Social Responsibility." *The Hastings Center Report* 34, no. 1 (2004): 34-39.
- European Monitoring Centre on Racism and Xenophobia. *The Annual Report on Racism and Xenophobia in EU Member States*. Statistical, Brussels: EUMC, 2006.
- European Commission. "European Neighborhood Policy." *Europa*. May 12, 2006. http://ec.europa.eu/world/enp/pdf/non-paper_civil-society_dimension_en.pdf (accessed November 11 2007)
- Goodin, Robert E. "Liberal Multiculturalism: Protective and Polyglot." *Political Theory* 34, no. 3 (June 2006): 289-303.
- Gordon, Tom. "1000 failed asylum families face being deported." *The Glasgow Herald*, 27 October 2006: 1.
- Happold, Matthew. "Independence: In or Out of Europe? An Independent Scotland the European Union." *The International and Comparative Law Quarterly* 49.31 (2000): 15-34.
- Helly, Denise, Robert F Barsky, and Patricia Foxen. "Social Cohesion and Cultural Plurality." *Canadian Journal of Sociology* 28, no. 1 (Winter 2003): 1942.
- Ingram, David. "Between Political Liberalism and Postnational Cosmopolitanism: Toward and Alternative Theory of Human Rights." *Political Theory* 31, no. 3 (June 2003): 359-391.
- Kapur, Devesh, and John McHale. "Migration's New Payoff." *Foreign Policy*, no. 139 (2003): 48-57.

- Rudolph, Christopher. "Security and the Political Economy of International Migration." *The American Political Science Review* 97, no. 4 (November 2003): 603-620.
- Macleod, Catherine. "Skills will decide migrant numbers." *The Glasgow Herald*, 19 August, 2007: 9.
- MacWhirter, Iain. "It's Time immigration moved to Scotland." *The Glasgow Herald*, 25 October, 2006: 15.
- McLaren, Lauren M. "Anti-Immigrant Prejudice in Europe: Contact, Threat Perception, and Preferences for the Exclusion of Migrants." *Social Forces* 81, no.3 (March 2003): 909-936.
- Russett, Bruce, Harvey Starr and David Kinsella. "World Politics: The Menu for Choice." London: Thomson-Wadsworth, 2006.
- "The United Nations on Levels and Trends of International Migration and Related Policies." *Population and Development Review* 29, no. 2 (June 2003): 335-340.
- Stevens, Dallal. "The Immigration and Asylum Act 1999: A Missed Opportunity?" *The Modern Law Review* (2001): 413-438.
- Thierry, Xavier, and Godfrey I Rogers. "Recent Immigration Trends in France and Elements for a Comparison with the United Kingdom." *Population* 59, no. 5 (September 2004): 635-66
- "Treaty Establishing the Constitution of the European Union." *Official Journal of the European Union*. Rome: European Parliament, 2004. 44-152.
- Watters, Charles and Didier Fassin. "Avenues of Access and the Moral Economy of Legitimacy." *Anthropology of Today* 17.2 (2001): 22-23.