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# **Highly skilled migration and the negotiation of immigration policy: non-EEA postgraduate students and academic staff at English universities**

## **Abstract**

Whilst there has been research highlighting the role of the state in migration, little scholarly work exists on how skilled and highly skilled migrants actually negotiate immigration policy. This paper addresses this omission, investigating how highly skilled migrants deal with, and are affected by, labour immigration policies. To do this, the paper presents a qualitative case study on the experiences and opinions of non-EEA students and staff at universities in London and the Midlands as they navigated UK labour immigration policy. The announcement by the UK Coalition government, in April 2011, of annual limits on various categories of non-EEA migrants highlighted the need for further empirical research in this policy area. This paper examines the impact of recent UK government reforms, and changes implemented by the previous Labour government, which rolled in the Points Based System (PBS) between 2008 and 2011, on non-EEA postgraduate students and academic staff at English universities. It focuses on migrant negotiations of, and perceptions on, immigration policy procedures, in the context of broader rationales for immigration and future mobility. In doing so, it contributes to wider debates on the role of the state in affecting the geographies of highly skilled migration.

**Key words:** highly skilled migration, immigration policy, higher education, points based system, academic staff, postgraduate students

## **Abbreviated article title for use as a running head: Highly skilled migration and immigration policy**

### 1.1 Introduction

At a time of reform to, and intense debate about, the purpose of the UK immigration system, there is a need to examine how highly skilled migrants are affected by these changes. In April 2011, the UK Coalition government announced an annual limit on the number of non-EEA foreign nationals allowed to work in the UK in skilled professions.

The limit was initially set at 20,700 for 2011-2012<sup>1</sup>. This had followed a statement by the Home Secretary on measures expected to reduce the number of visas issued to non-EEA students by 'between 70,000 and 80,000 – a reduction of more than 25%' (HoC, 2011a). Prior to these reforms, the previous Labour government had transformed the administration of the UK immigration visas with the introduction of the Points Based System (PBS), currently administered by the UK Border Agency (UKBA), being rolled out during 2008-2010.

This paper will build on existing research in the field of highly skilled migration and labour immigration policy to examine the impact of the PBS and recent restrictions on academic mobility through an in-depth empirical case study of non-EEA postgraduate students (Masters and PhD students) and academic staff and their attempts to negotiate UK immigration policy. Although rationales for current and future mobility are considered, we focus on how these two groups negotiate and perceive immigration policy.. In doing so, we seek to highlight the need for analyses on highly skilled migration and academic mobility to take labour immigration policy into account. Granted, there has been research highlighting the role of the state in labour migration. Nevertheless, further investigation into how highly skilled individuals navigate immigration policy and the practical challenges they face is necessary to illustrate how the state impacts upon the lives and experiences of those often perceived to be highly mobile. By focusing on Higher Education (HE), we aim to draw attention to the inter-relationships between highly skilled academic mobility, globalisation and labour immigration policy, highlighting

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<sup>1</sup> It will now remain at this figure until April 2014 (Home Office, 2012a).

the juxtaposition between perceived ease of mobility and the restrictions imposed by border and immigration controls, even for the highly skilled. In the next section, we review developments in UK labour immigration policy, before discussing the geographies of academic and highly skilled mobility in relation to immigration policy and the state.

### 1.2 Development in immigration policy

Evidence suggests that labour immigration policies are increasingly differentiating migrants on the basis of skill. This follows practices in countries such as Australia, which implemented a PBS designed to recruit migrants with skills deemed to be of value to the national economy (Hawthorne, 2005; Markus et al., 2009). Arguably, the UK's PBS was introduced to perform a similar function, enhancing recruitment for particular sectors where skills were seen to be needed, such as healthcare (Bach, 2010).

Since the late 1990s, the UK, like many other Western countries, has followed a policy of 'managed migration' (Spencer, 2003), in an attempt to attract skilled migrants who could be of economic benefit to the country. This has been combined with increased border controls, restriction of low skilled migration and asylum seekers, and promotion of an agenda of social cohesion and integration. Despite being contested (Flynn, 2005; Finch and Mulley, 2009; Robinson, 2010; Mulvey, 2011), it continues to guide UK immigration policy, which since 1998 has undergone key changes. Three are relevant to this discussion: the rolling out of the PBS; the introduction of an annual limit on immigration numbers for skilled migrants; and the termination of immigration visas for

highly skilled individuals not linked to job offers. The first initiative was an outcome of the UK Borders Act of 2007 whilst the other two developments were implemented by the Conservative-Liberal Democrat Coalition government, which took office in May 2010.

In 2008, the Labour administration announced major changes to UK labour immigration policy which had, up until that point, comprised an elaborate system of work permits and was seen to be inefficient and problematic (Flynn, 2005). The PBS was introduced in order to manage migration and control the level and skills of migrants entering the UK (Home Office, 2008). Over 80 different categories of work permits were replaced with five 'Tiers', each of which is associated with certain skills, categories and 'points'<sup>2</sup>. It was designed to be more transparent, efficient and to remove the subjectivity involved in making immigration decisions for labour migrants, which characterised the old system. It is a system that was largely seen to be based on other Western PBSs such as those established in Australia and Canada (Doomernik et al., 2009; HoC, 2009; Bach, 2010). In the UK, points are awarded for factors such as qualifications and language ability and there are certain thresholds that applicants need to reach in relation to, for example, amount of money they have in their bank account.

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<sup>2</sup> The five Tiers are: Tier 1 - migrants with desirable professional skills; Tier 2 -skilled workers with an offer of employment; Tier 3 - temporary low skilled workers; Tier 4 -students; Tier 5 - youth mobility schemes and temporary workers. Participants in this study applied for UK visas under Tiers 1, 2 and 4.

This policy measure has been continued by subsequent initiatives undertaken by the UK Coalition government. In part, these were motivated by the Conservative Party's desire to fulfil its pledge made during the 2010 general election campaign to reduce UK net immigration to 'tens of thousands' (Conservative Party, 2010: 21; Carey and Geddes, 2010). Subsequently, a provision in the Coalition Agreement stated the new government's intention to introduce an "annual limit on the number of non-EU economic migrants admitted to the UK" and additional measures to "improve immigration controls" and "minimise abuse of the immigration system", including changes to the international student route (Cabinet Office, 2010: 21). As a result, in November 2010, the UK government announced a cap of 20,700 on the number of non-EEA skilled workers allowed into the UK (UKBA, 2010). A month later, Tier 1 (General), which had allowed highly skilled people to look for work opportunities in the UK, was closed to new applicants. The latter represented a significant change. As applications under Tier 1 (General) had not been linked to a specific job<sup>3</sup>, it had proved to be a popular path of entry into the UK for many members of the academic community, who appreciated the flexibility afforded under this category to move between employers.

All Tiers have been subject to recent (and in some instances, ongoing) reforms, as summarised in Table 1. In particular, the Post-Study Work visa (PSW), a popular component with interviewees (especially Masters students), was closed in April 2012. PSW had allowed non-EEA graduates from UK universities to work in the UK for up to

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<sup>3</sup> This is in contrast to Tier 2, where non-EEA nationals are required to have a skilled job offer and a Certificate of Sponsorship from a licensed sponsor in the UK (refer to Table 1).

two years after graduation, and it had been seen to be a convenient and attractive option for international students. Instead, suitably qualified graduates wishing to work in the UK will need to apply for graduate level jobs under Tier 2 of the PBS, or develop a business in the UK under the new Graduate Entrepreneur scheme.

The three PBS Tiers relevant to our research are outlined in Table 1, below.

\*\*\*Insert Table 1 about here\*\*\*

Although the UK government wishes to restrict immigration, it also appears to acknowledge that certain types of highly skilled migrants are good for the economy by introducing what they term 'high value' Tier 1 categories such as 'entrepreneur', 'investor', and 'exceptional talent', the third category being subject to caps (refer to Table 1). However, it is making it harder for these 'desirable' migrants to apply for work in the UK due to the removal of Tier 1 (General), under which a number of interviewees have applied, and the imposition of caps for Tier 2. At the same time, student migration is often difficult to categorise but it is nonetheless an important aspect of academic mobility. Under the PBS, people travelling to the UK to study have been classified as Tier 4 applicants. However, they do accumulate points in the same way as the other Tiers because all applicants need 40 points to apply (30 for a valid confirmation of acceptance for studies and 10 points for having enough money)<sup>4</sup>. It is perhaps

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<sup>4</sup> Refer: <http://www.ukba.homeoffice.gov.uk/visas-immigration/studying/adult-students/can-you-apply/english-language/> last accessed 19/06/12

surprising that they are included under the PBS, and are therefore treated as migrants. Indeed, the majority of students are included within the United Nations definition of 'long-term' migrants:

A person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence.

(UN, 1998: 18)

Yet, this classification has proved problematic. In March 2011, the all-party House of Commons Home Affairs Committee – having investigated the UK criteria for admitting non-EEA students - reported that they “were not persuaded that students are in fact migrants” (HoC, 2011b: 40). Instead, the Committee argued that a student should only be regarded as a migrant if s/he sought settlement or spent an “excessive” length of time in the country (HoC, 2011b: 40). However, in its response to the report, the government disagreed with this assertion, reiterating that “under longstanding international (UN) measures, students [...] who come to the UK for more than a year are counted as migrants” (HoC, 2011c: 12-13). As students are included in migration statistics, this has implications for net migration to the UK, a figure the Conservative Party pledged to reduce in their 2010 election manifesto (Conservative Party, 2010).



These changes to immigration policy are therefore linked to the increased politicisation of migration, in which governments have to be seen to control immigration to prevent undocumented migration, but also to harness migration to benefit the economy. This has created what Hollifield (2004) has called the 'liberal paradox' with individual states caught between open and closed borders. On the one hand, open borders are deemed beneficial to the economy; on the other, borders are selective, with workers being categorised and facing different types of restriction (Wills et al., 2009). More restrictive borders normally result from government fears about public reactions to immigrant populations, which are often seen to be negative (McLaren and Johnson, 2007). However, as EEA member states are unable to restrict free movement of EU nationals due to Treaty obligations, labour immigration policies in Europe legislate against non-EEA migrants. Although the UK PBS is a relatively recent reform and its effects remain to be seen, immigration policies in the West have been perceived as unable to carry out their intended aims (Castles, 2004) because of the mismatch between economic need for migrant labour and public perceptions of the impact of migration on the economy and society.

It is surprising, therefore, that the role of the state - in spite of its importance in influencing population movements (Massey, 1999) and defining the politics of migration (Spencer, 2003) - has been relatively neglected in labour migration studies (Silvey, 2007; Hollifield, 2008). According to Walsh, the aim of state policies is "not to obstruct human movement but, rather, to regulate it and define the conditions under which it may legitimately occur" (2008: 791). This is particularly the case in relation to highly skilled

mobility. Specifically, more research is required to examine how immigration policy affects this form of mobility from the perspective of those involved. There is a need, therefore, to examine the impacts of such regulation on highly skilled migrants, in order to ensure that the state is adequately theorized when studying highly skilled mobility and so that the impacts of policy-making on rationales and realities of mobility are also considered from the perspective of migrants.

### 1.3 Highly skilled migration, academic mobility and immigration policy

Further scholarly work is required into how exactly highly skilled migrants deal with immigration policy in practical ways and how their lives, identities and mobilities are affected in the process (Favell and Smith, 2006). Considerable debate exists surrounding definitions of 'skilled' and 'highly skilled' migrants and what each constitutes. According to Koser and Salt, "most commentary on the highly skilled assumes them to be people who have a tertiary educational qualification or its equivalent" (1997: 287); however, they stress that there may be different migrant, state and employer perspectives on this. For the purposes of this paper, we argue that postgraduate students and academic staff fall under the loosely defined category of 'highly skilled' as both groups in our study were involved in academic mobility, which can be seen as a form of highly skilled migration. This differs slightly from other definitions of academic mobility, which includes doctoral students but not those registered at Masters level (Bauder, in press). The aim of this paper is to focus on academic staff and postgraduate students as groups of skilled and highly skilled migrants who are often perceived to be

highly mobile because of their skills and qualifications and because of the increasingly globalising and internationalising HE sector.

By concentrating on these groups of highly skilled and educated people, we contend there is a need to consider how immigration policies impact upon individuals often perceived to be highly mobile. Whilst these groups have been the subject of previous scholarly work focusing primarily on rationales for and outcomes of mobility (Koser and Salt, 1997; Iredale, 2001; Saxenian, 2002; Harvey, 2008; Willis et al., 2009; Zhang, 2003; Beaverstock, 2005; Favell and Smith, 2006; Ley, 2010), there is a need for closer examination of the specific ways in which the state affects this type of mobility.

Research has highlighted how the state can impinge on the mobility of the skilled and highly skilled in a variety of ways. These range from policies aimed at recruiting skilled and highly skilled migrants (Mahroum, 2001; Kofman and Raghuram, 2005; Hawthorne, 2005; Cerna, 2009; Chaloff and Lemaitre, 2009; George et al., 2012), to the impact of these measures on particular types of migrants such as entrepreneurs (Wong, 2004) and health workers (Bach, 2010), and their implications for employers in the receiving country (Khoo et al., 2007). In addition, scholars have investigated the perspective of sending countries, for example, through studies of diaspora strategies (Larner, 2007; Ho, 2011) and policy making aimed at gathering remittances, creating brain circulation (Saxenian, 2002) and responding to brain drain (Skeldon, 2009).

Even though these migrants may find immigration policy less challenging and restrictive compared to unskilled and low skilled migrants, there is still a need to consider how exactly immigration policy impacts upon their rationales for mobility and their practical experiences of negotiating immigration policy. Not all highly skilled migrants are elite cosmopolitans and as a result, further investigation into how different groups of such migrants are affected by immigration policy is important. A relevant case study is provided by Higher Education Institutions (HEIs) as they contain two types of highly skilled migrants: academic staff and postgraduate students, who, despite having high skill and qualification levels, may experience mobility and immigration policy in different ways to other groups of elite highly skilled migrants such as inter-company transferees.

HE provides a highly topical case study inasmuch as academic mobility is an increasingly important aspect of university recruitment, involving considerable numbers of international academic staff and students (Ackers, 2005; Altbach and Knight, 2007; UUK, 2007). Moreover, this type of mobility is often seen as an important aspect of HE and HE internationalisation strategies. Scholarly research has acknowledged that academic mobility can create opportunities and challenges for academic staff and students, which is why it is important to explore its diverse experiences, and particularities (Bryam and Dervin, 2008; Jöns, 2009; Fahey and Kenway, 2010; Brookes and Waters, 2011). It is especially important to examine rationales for mobility; for example, Guth and Gill (2008) have highlighted the significance of cross-border contacts and connections, stressing that motivations for moving are driven by economic, as well as academic, considerations. This suggests that personal, and emotional

(Kenway and Fahey, 2010) links are important matters influencing mobility within HE and need to be theorised in relation to academic, economic and immigration policy factors.

In addition, scholarly work has begun to consider the impact of immigration policy on academic mobility in relation to decision-making processes. According to Universities UK (UUK), a membership organisation representing UK HEIs, immigration difficulties have deterred international students from applying to the UK (UUK, 2007). Similarly, changes to immigration policy in the US, following the terrorist attacks in New York on 11 September 2001, created visa difficulties and resulted in the imposition of travel restrictions (Hazen and Alberts, 2006). This led to an initial decline in international student numbers, although this trend has since been reversed (Open Doors, 2010). Tremblay (2005) also discussed the role of immigration policy in, for example, encouraging international students to stay on after their studies and, in Australia, Birrell and Perry (2009) considered the extent to which more restrictive immigration policy has been communicated to international students. Yet, research by Cantwell (2011) contended that immigration policy did not necessarily affect academic mobility. Specifically, he noted that although post-doctoral researchers employed in US and the UK are increasingly international, immigration policy has not impacted upon the ability of US HE institutions to recruit such staff. At the same time, immigration policy in sending countries can also influence academic mobility (Hugo, 2005; Gribble, 2008). This corpus of work, therefore, highlights how other entities, such as states, can help or impede academic mobility (Bauder, in press). Further research is required on the relationships

between immigration policy and HE, the impact of the state in regulating academic staff and students and how they actually experience the effects of labour immigration policy.

Rationales for academic and highly skilled mobility therefore cannot be reduced to solely economic considerations and the viewing of migrants as rational economic actors. Whilst human capital (Balaz and Williams, 2004; Waters, 2006) and agency remain important, as do the social networks (Beaverstock, 2005; Harvey, 2008, 2011) and transnational connections that such migrants have with the homeland (Faist, 2000), this paper highlights the role of the state by focusing on experiences of immigration policy and the ways it is negotiated. By foregrounding the perspectives of migrants themselves, we draw attention to the embodied and emotional aspects of such mobility, and the complex ways in which the state impacts upon rationales and outcomes of such mobility.

#### 1.4 Case study: Negotiation of UK immigration policy by non-EEA nationals at English universities

##### 1.4.1 Methods

Our empirical research was conducted from April 2010 to July 2011. This was a period of political and policy change. The fieldwork took the form of semi-structured interviews with non-EEA postgraduate (Masters and PhD) students and academic staff based at English universities in London and the Midlands. London is home to a number of world leading universities, such as University College London, Imperial College London and

the London School of Economics, which, combined with Oxford and Cambridge, form part of the 'Golden Triangle' of high performing UK research institutions (Adams and Gurney, 2010; Mueller et al, 2012). Moreover, London hosts Imperial College, City University and the University of the Arts, all of which recruit significant numbers of international students (UKCISA, 2012). In total, the capital's universities attracted over 37,000 non-European Union (EU)<sup>5</sup> postgraduate students during 2010-2011 (HESA, 2012).

The Midlands region of the UK was selected as it includes a number of established universities that have, over recent decades, established an international presence. HEIs - such as Universities of Birmingham and Warwick, and Loughborough University - all have significant international linkages through membership of global HE networks such as Universitas 21 (e.g. Birmingham). In order to draw a more meaningful comparison with London (and to ensure the anonymity of interviewees), we amalgamated the UK Higher Education Statistics Agency (HESA) -designated West Midlands and East Midlands regions to consider the Midlands as a single entity<sup>6</sup>. During 2010-2011, HEIs in this region attracted just under 26,000 non-European Union (EU) postgraduate students (HESA, 2012).

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<sup>5</sup> Official statistics, produced by the UK Higher Education Statistics Agency (HESA), refer to EU and non-EU students. Data for non-EEA students was not available. The EEA comprises the EU-27 countries plus Iceland, Liechtenstein and Norway.

<sup>6</sup> This combined region does not include the University of Cambridge, which HESA locates in the East of England.

The empirical data presented in this section were obtained from 54 non-EAA nationals (36 postgraduate students, 20 of whom were PhD students, and 18 academic staff) based at English universities in London and the Midlands<sup>7</sup> and from a variety of countries across the Middle East, Africa, Asia and Australasia. These two groups were considered concurrently in order to gain insights into how migration management worked in practice through the investigation of the experiences of highly skilled migrants. Postgraduate students applied to study in the UK under Tier 4 of the PBS (it should be noted that this research was with a sub-set of those eligible for this route as it is applicable to all adult students), whilst academic staff had a number of options under PBS Tiers 1 and 2. Nevertheless, during the period of our case study research, some of these routes were under review and one category, Tier 1 (General), had been closed.

We aimed to select participants from a variety of academic disciplines although there was a bias towards engineering, computer science and business. This reflects official data, with these three subjects attracting the highest percentage of international (EU and non-EU) students at 33%, 35% and 24% respectively (HESA, 2012).

The questions to the non-EEA interviewees covered four general areas. First, participants were asked to review their experiences of applying for a UK visa. Second, we discussed their views of UK public/immigration policy towards non-EEA nationals, and existing incentives and disincentives to living, working and studying in the UK. In

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<sup>7</sup> 17 interviewees were based at London HEIs and 37 at HEIs in the Midlands.



particular, we wished to understand more fully: the strategies deployed by the interviewees to overcome labour immigration obstacles; the extent to which these experiences shaped their perceptions of the country; and any advice they would give the Home Office on existing practices of managing migration. Third, non-EEA nationals were asked about their identity and sense of belonging within the UK. Fourth, we asked participants about their future plans.

In addition, interviews were conducted with a group comprising eight HE staff employed in supporting roles and representatives from HE advocacy groups, migration law firms and the research community. Data analysis was conducted on interview transcripts, with the data being coded under three general headings. First, we highlighted detailed interviewee experiences of the application process, including their rationale for working or studying in the UK and negotiation of UK labour immigration policy. Second, we considered interviewee perceptions of life in the UK, and their perceptions of surveillance. During the interview, respondents were asked to support their views with specific examples drawn from personal experience, for instance, difficulties receiving a particular service, or experiences of prejudice<sup>8</sup>. Third, interviewees were asked about their future plans and the extent to which these had been informed by changing UK labour immigration policy. In addition, we sought to understand how migrant lived experiences in the UK had influenced their perceptions of the country, and whether they would recommend the UK as a place to work or study to close friends or relatives based

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<sup>8</sup> Some of this data appears, in the context of non-EEA migrant negotiation of using UK Biometric Residence Permits, in Warren and Mavroudi (2011).

in their home country. Each transcript was independently assessed by each of this paper's authors to verify that key data had been identified and categorised. Our findings are presented below.

#### 1.4.2 Rationales for academic mobility

A discussion on the impact of UK immigration policy on academic mobility needs to examine rationales behind such mobility. There were varied explanations as to why students come to the UK. Many were drawn by the reputation of the UK HE system and the prospect of participating in an 'international experience'. Our research highlights that this has often been linked to the opportunity to acquire work experience either during and/or after studies via the PSW route. The one year Masters programme in the UK was also seen to be very attractive. Others felt an historical link existed between their country and the UK, so that studying in the UK appeared 'natural' as a result. Personal contacts were often very important in helping to decide on the country as well as particular location, with many relying extensively on these as well as on the internet for information on the UK and other countries, which they often compared to the UK.

In addition, students considered course fees, and exchange rates prior to making their decision. Economic considerations, therefore, were clearly important with many students comparing costs between the UK, Canada, Australia and US – the four countries that non-EEA nationals tended to consider for study abroad. The quotes below provide examples of student rationales:

There are many reasons why I choose the UK. It is more easy for me to study here than in America or Canada or Australia. And I also think that the UK has a very long history and I also like the culture here and the education here, the quality is good.

(Masters student, China, Midlands)

It's just for a change, the experience of studying overseas and to obtain a different outlook and of course I could have achieved the same objectives in the US or Australia and so then the other factor that will affect my decision is cost and currency fluctuations and the weakening of the pound, ... so if I am here it's because I want to have the UK experience but if they make it difficult for me, then I will not die if I don't have the UK experience. I can go elsewhere.

(Masters student, Singapore, London)

Some students also mentioned that getting a degree abroad was seen as important in their home countries; this was particularly the case for those arriving from China, India and Pakistan. They believed a degree, particularly from a 'Western' university, would help them 'stand out from the crowd', an observation supported by other research stressing the educational capital invested by students and their families in order to get ahead (Waters, 2006, 2009; King et al., 2011). In addition, it highlights the economic, social and cultural capital needed to contemplate and realise such a move in the first place.

The opportunity to study abroad was therefore seen as an investment in the student's future, one that, in the case of Masters students, was often financed by their parents. For PhD students, however, the situation was different and a number were receiving a scholarship, either from their country of origin or from the UK HE in which they studied. In these cases, this financial assistance was a large factor in decisions to study in the UK. It is instructive that the vast majority of students did not consider immigration policy when choosing the UK; academic, personal and economic factors came first. Indeed, student advisors themselves highlighted that on the whole students did not seem aware of the immigration rules regarding visas at the beginning of their studies.

In relation to staff rationales, UUK reported "a need for greater understanding of the decision-making processes of prospective international staff" (2007: 4). Our research illustrated that job opportunities and reputation were very important rationales for mobility. A number of interviewees had studied or worked in the UK earlier in their career and wished to return, or had contacts with UK colleagues. Therefore, it appears that prior mobility encouraged future mobility. This is consistent with existing research on student mobility and brain circulation / exchange (Jöns, 2009; King et al., 2011). Indeed, international academic staff have become increasingly mobile, particularly across business schools and within the 'STEM' (Science, Technology, Engineering and Maths) disciplines. This was reflected by some interviewees who stressed that they needed to be mobile in order to capitalise on job opportunities, not least because the

circumstances in their home countries did not meet their expectations in terms of research funding, job availability, career progression, research expertise and infrastructure.

#### 1.4.3 Negotiations and perceptions of immigration policy

Many students held an assumption that it would be relatively straightforward to enter the UK. For a number of interviewees this appeared to have been the case, although others subsequently found the application process to be protracted and time consuming.

The application process was incredibly confusing. And there was a lot of information that was constantly changing and a lot of, I wouldn't say ambiguity, but inability to find the answers that you want... My main complaint was that it was very difficult to get anyone who could explain the rules to me, whatever the current ones were. There was no one I could get on the phone.

(Masters student, US, Midlands)

Immigration agents were sometimes employed to assist in this process, particularly by Masters students in their country of origin. These agents were often connected to UK universities, and had multiple roles, for example, guiding students towards particular institutions, or negotiating the application process on the applicant's behalf.

I went to an agent in India so, so they helped me with the paperwork for the visa and I think they took a few extra steps to make sure that my visa doesn't get rejected or things like that because, like my name is [...] so they figured out that might be a problem and they asked me to get a letter saying this was the same person. So they took extra caution to make sure you know I don't get rejected for my visa for a trivial reason such as my name or something like that.

(Masters student, India, Midlands)

However, once in the UK, the vast majority of students sought assistance from international student advisors based within the HEI. This help was normally much more important for those choosing to extend their studies, advancing from study to a PSW visa or for complicated situations, where, for example, their initial application had been refused. These student advisors provided an important perspective, commenting that UK immigration reforms had resulted in additional workloads without a commensurate increase in resourcing. Moreover, the new measures had led to changed job roles, with many advisors dealing exclusively with immigration.

It does create a lot of work for advisers and people handling applications. The application procedure is more complicated... I think what surprised and shocked me over the last 2 years is simply how unstructured the whole thing seems to be. Yes it was clear it was coming in but the details weren't clear and then this little extra detail appeared but then it disappeared again and then some other rule appeared.

(International student advisor, HEI, London)

The application process seemed to be especially difficult for non-EEA interviewees seeking to extend their visas or wishing to bring in family members. Some applicants were forced to make difficult choices. One PhD student (Pakistan, London) was so worried about her visa not being extended that she sent her family back home and continued with her studies on her own, a process which caused a great deal of stress for her. Another female student, also from Pakistan, was given a visa for herself but not her baby son, which she found highly stressful and upsetting. In the end, following assistance from the international student office, the interviewee's son was awarded a visa but this experience left her with a negative impression of the application process.

Such trajectories and stories are common as people get trapped in the complexities of personal situations, emotions and immigration policy, reminiscent of Kenway and Fahey's (2010) 'emoscapes', which need to be recognised and taken into account. In general terms, students did not feel that the PBS was easy to use and, without the help of international student advisors, they felt it would often be very difficult. Academic staff, on the other hand, were more likely to negotiate the system themselves. This was often out of necessity, rather than through choice, as little or no help was available. For some, the process was a tedious, but not particularly onerous, task. For others, it proved stressful, and some interviewees believed that institutional Human Resources (HR) departments should have provided greater assistance. However, they also

acknowledged that universities might have been in a difficult position as they were also having to deal with constantly changing immigration policy. This was particularly noticeable during the changes from the work permit to the PBS in 2008.

The PBS was just introduced, no-one understood clearly how it works and HO [Home Office] officers were unaware of procedures for some time ... When I contacted the HO in Sheffield at one of their Public Enquiry Offices and explained the situation I was in, the officer himself called the rules absolutely ridiculous.

(Lecturer, Russia, Midlands)

When discussing their Tier 2 visa application, a university researcher commented:

It's a very long form and sometimes it does feel like it's designed to put people off. You have to think, I really want this [...]? I think do I really want to have to go through all that trauma [...]. Having to include all these documents, that's the most stressful bit. I just lived in fear about my bank statements and things. It was really stressful and there was no leeway.

(Researcher, Australia, Midlands)

Many academic staff were critical of the application process and recent changes to UK immigration policy. They had the impression that the PBS was more of a bureaucratic



exercise rather than being based on common sense. Some drew comparisons with the previous work permit system under which case workers appeared able to exercise more discretion and be better placed to take people's personal situations into account, a point noted by the Home Affairs Committee investigation into student visas (HoC, 2011b: 31-32). There were also criticisms of the criteria used to accrue the points required, with complaints that too much emphasis was placed on salary levels - problematic for many academic staff - and not enough on professional qualifications. In addition, many were wary of the caps imposed by the government, believing they sent a negative message to potential applicants, that they were not welcome:

It seems to me, counterproductive, that if you want to attract talented people, having an arbitrary number limits the number you can bring in is not very smart way to do it. Setting arbitrary limits seems problematic to me.

(Researcher, Canada, London)

However, some felt that the PBS was an improvement on the earlier work permit system because it lent greater transparency to the decision making process.

Under the points thing [PBS], I actually kind of liked that, you could tot up the points and you could see for yourself, "yes, I score these points", and frankly from my point of view I kind of liked that because sort of like, I knew where I stood in a way. The rules seemed to

be more transparent whereas applying for work permits, I never really felt I knew where I stood really.

(Researcher, Canada, London)

On the whole, respondents found that negotiating the visa application procedure was not as easy it could have been. Many felt it was too expensive, that not enough support from the UKBA was given, and that communicating with them about their application was often difficult as they usually could only contact the UKBA for assistance through an expensive, revenue generating, telephone number. In spite of the additional expense incurred, often from call queuing, the advice received from UKBA staff was deemed to be poor, with employees often unable to answer their specific queries. In addition, applicants could not understand why it was more expensive (and more time-consuming) to apply for visas from within the UK<sup>9</sup>.

Moreover, there was a feeling that the UK government were trying to impose restrictions on non-EEA mobility because they could not control immigration from within the EEA:

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<sup>9</sup> For detailed information on fees for applications made inside and outside the UK, refer to UKBA (2012). In general, fees for postal applications within the UK were higher than those for applications made overseas. We were unable to find an official document explaining the rationale behind this. Nevertheless, the UKBA website did state that when setting fee levels, the UKBA 'balance[d] a number of complex factors', including ' the cost of processing applications; the importance of attracting certain groups of migrants to the UK; and the value of a successful application to the migrant' (UKBA, WWW).

...we're seen as a scapegoat in that they can't do anything about immigration from the EU and what they can tackle is the non-EU national immigration but we have to jump through so many hoops anyway, I don't see why there is any need to tighten up what is already in place [...]. As people who are employed here, we have to go through so many hoops anyway, so we've proved our worth [...]. We contribute so much money. [...] We're also a cash cow as well and I just don't like how the government isn't really highlighting that a lot of the immigration comes from the EU and they can't do anything about that. So they're trying to control what they can control but everybody who comes here as a non-EU national, I think we all contribute.

(PhD student, US, Midlands)

Many respondents, whilst understanding the rationale behind the UK immigration rules and procedures, believed their treatment to be unfair. Yet, their frustrations were tempered with a realisation that they had chosen to work or study in the UK and therefore had to comply with its regulations:

Yes, it does cause me problems, I wish it wasn't like this, I wish it was freer but as long as I can't do anything about it, I have to try and live with it. This is the initial conditions, these are the frames that we have to live with them, otherwise you will be unhappy but as long as you can't change anything, there is no other way but to see how you can fit in.

(PhD student, Belarus, Midlands)

Nevertheless, the vast majority of respondents wished that immigration rules were less changeable. Indeed, the shifts in UK immigration policy since summer 2010 had been noted by many international students and academic staff and left a strongly negative impression. Interviewees were uncertain as to where they stood, experiencing anxiety and stress as they tried to plan ahead.

Others felt that whatever changes to immigration policy were brought in, people would find ways around them. In response to a question on future reforms, one Masters student from China answered:

R: Yeah it will be harder [for people] to get in but I think they can find a way.

I: Are you trying to say there's corruption?

R: (laughs) I think where there's a policy there is always a way to find a flaw in the policy that you can take advantage of and make use of, I think people are quite smart in that way. I think they can, I don't know... It will make it harder but people will just try harder as well and they will have to change the policy as well.

(Masters student, China, London)

Some interviewees contended that immigration policy in the UK needed to be more robust in order to deal with those who bent the rules. Indeed, many respondents

stressed the need to differentiate between genuine and non-genuine students because of such purported 'cheating':

I think it's very good that they are restricting students only to universities or publicly funded colleges. Everybody knows the majority of students come here only to do work.

(PhD student, Pakistan, London)

I had a friend from my degree in Mexico who came to the UK to study English because his English was really crap and he came to study English, but he ended up ditching the English and working at Waterstones [a bookshop] and he got the student visa because he was accepted in one of these language schools in London. He ended up not studying just working for the whole time. He went back to Mexico so he just stayed six months so it wasn't really bad but I think in that sense the cap would probably be a good thing as long as it doesn't obstruct people like me, you know, or makes it harder for people like me.

(PhD student, Mexico, Midlands)

Moreover, a number of interviewees appeared to have creatively navigated rules regarding finances by arranging for relatives to deposit money in their bank accounts at the appropriate time, so that it appeared they had sufficient funds to apply for a UK visa. So, applicants do appear to have ways of dealing with immigration policy to suit their circumstances. Yet, some students feel lost in an ever-changing system and, as a result, rely on the support of various third parties, including not only institutional advisors but

also internet forums, friends and informal networks. It is, therefore, important to consider the extent to which shifts in UK labour immigration policy impact on future plans of non-EEA migrants.

#### 1.4.4 Immigration policy and future plans

Among Masters students, the vast majority expressed a wish to leave the UK following the completion of their studies. However, a significant number of interviewees intended to apply for a PSW in order to work for a short time to get experience in the UK, after which they proposed to return to their country of origin. This was either because they thought the job market was better there, or due to evolving UK immigration policy:

I have decided that I already don't want to stay because they seem to be making it a lot harder for people to stay, the rules are changing. What seems to me like every week they are changing. I've had friends who thought they would stay, and they haven't, friends who have been called up and told their visa might be been taken away and it seems like a lot of hassle to go through to stay in the UK.

(Masters student, Kenya, London)

This highlights the increasingly temporary nature of mobility for skilled and highly skilled migration, where entry into the UK does not necessarily result in permanent settlement (Baláž and Williams, 2004; Markus et al., 2009; Smetherham et al., 2011). For PhD

students, the situation was slightly different as they were often more flexible about future plans, willing to travel widely to find the best employment prospects. Many, however, did say that if they found a job in the UK, they would like to stay but were unsure whether the reforms to immigration policy would allow them to do so.

Some researchers on short-term contracts were keen to find a permanent post and settle in the UK because they were content with life in that country, and/or had developed relationships that were based in the UK. However, there was a sizeable contingent that perceived themselves to be 'footloose'. They were prepared to travel to the most advantageous employment environment - professionally, economically and in terms of most favourable immigration policy. Other academic staff were eager to return to their country of origin after a period of work experience in the UK, but that was often subject to the economic conditions being right. This finding is indicative of research conducted by Harvey (2009) on British and Indian scientists in Boston and their rationales for returning to their home countries. A UUK report also highlighted that "non-UK European researchers now appear to be viewing the UK as the place to establish their academic reputations and then return to their own countries (or move on elsewhere)" (2010: 42).

Academic staff on permanent contracts wished to remain in the UK, on the whole, and were looking for ways to do this as most were on short-term visas. This left them with a choice of applying for a new short-term visa or seeking permanent residency. However,

many were unclear as to what this entailed which, combined with a fluid and uncertain policy environment, often created anxiety:

...it is worrying if this new legislation comes through and if there is going to be a cap, then there is an obvious implication and plus we don't know how they are going to handle those who are already in the country [...] it is clear that these kinds of policies that make me think twice about staying which is maybe what they want.

(Lecturer, Chile, Midlands)

Similarly, for some students, the changeable and sometimes stressful nature of dealing with UK immigration policy had put them off wanting to stay in the UK as they felt their future there was insecure. This was often linked to the perception that they were not particularly welcome. They felt that the amendments to Tier 4 visas (and the discussions during the consultation process that preceded these reforms) demonstrated that the UK government did not necessarily want them in the country. Strong views were expressed by many students and academic staff that UK government reforms were sending the 'wrong message' to potential non-EEA applicants and that 'word of mouth' was giving the UK a bad reputation in terms of immigration policy and visa application.



The majority of interviewees felt that the changes to UK immigration policy were harmful to UK HE. University staff were most concerned due to the potential impact they felt that immigration policy would have on the internationalisation of HE, and the academic and economic need for UK universities to be able to recruit the best students and academic staff.

I think that part of the success story of British universities over the last 15 years has been their internationalisation which works at all levels, students but also academics. So, I'm sure that the prospect that for many students, they come because they think it's a strong and open and vibrant academic system

(Lecturer, Chile, Midlands)

Interviewees employed in HE understood that academic staff needed to be able to move around as easily as possible for varying periods of time and that immigration policy was often a hindrance. Although they comprehended the rationale behind aspects of UK immigration policy, interviewees believed that universities had to be afforded a degree of protection from some of its provisions. This would allow for the free flow of academics and postgraduate (and particularly PhD) students across international borders. Many students interviewed perceived universities to be diverse, international, centres of learning. The opportunity to work with peers and academic staff from international backgrounds was clearly valued.

The vast majority of students did not perceive themselves to be migrants, but rather as residing and studying in the UK for a temporary period. It follows, therefore, that students should not necessarily be represented as migrants nor should assumptions be made about their long-term plans in the receiving country. These perceptions were supported by the student advisors interviewed:

...they are not economic migrants, they can't get more points for higher level qualifications.

(International Student Advisor, HEI, Midlands)

I don't see them as migrants, I think the vast majority of students come to the UK for an education for a UK experience, a bit of work experience and the vast majority want to go home. They don't want to stay in Britain, I mean it's a total misconception. Britain isn't as great as people think it is and the countries that a lot of students are coming from are not as bad as people think they are. So Chinese students don't want to stay here, they want to go back to China.

(International Student Advisor, HEI, London)

Our findings therefore differ from studies conducted in other countries, such as Australia and the US, where students tended to stay on after completion of their courses (Hazen and Alberts, 2006; Gribble, 2008). Consequently, it is of little surprise that international

student advisors reported that the UKBA needed to do more to make students feel welcome and to ensure that the system is stable and user-friendly.

I think the students are going to be put off more by latest changes under the PBS to be honest. The Home Office has lost a lot of creditability in how it's running, especially Tier 4.

(International Student Advisor, HEI, Midlands)

#### 1.5 Discussion and conclusion: Negotiation and perception of UK immigration policy

Our findings suggest that students and academic staff were critical of changes to UK immigration policy. Many had experienced difficulties with the application process and, for some, this had created a negative impression of the UKBA. A number of non-EEA interviewees also disapproved of the government's attempt to control immigration numbers by focusing on the highly skilled, and feared the implications for HE in terms of recruitment of international students and academic staff, and for internationalisation of the sector. Many interviewees felt that because the UK government could not control EU mobility, they had no option but to try and impose restrictions on non-EEA immigration. They perceived this to be unfair as, although understanding the need for border control in general, they believed their presence had a positive impact on UK HE and on the economy. This was most clearly demonstrated by the issue of whether students should be categorised as migrants. The UK government continued to insist that they should, citing international treaty obligations to support their position (HoC, 2011c: 12-13). Nevertheless, students and academic staff interviewed for this study

frequently disagreed. International student advisors in particular stressed that if the government was to de-classify students as migrants they would immediately accomplish the reduction of net migration that the Conservative Party were specifically seeking to attain. In addition, the removal of the Tier 1 (General) category raised a wider issue of how the government defined 'skill', as all those who would have been deemed 'highly skilled' under Tier 1 are required to apply through Tier 2, unless they are of 'high value'. Hawthorne (2008) highlighted how national governments may 'liberalise' definitions of 'skill' in line with local labour market demands. In the UK, the government has narrowed its categorisation of 'skill' to make it harder for those from outside the EEA to apply to work and study in the UK. Such restrictions may lead to non-EEA highly skilled workers being deterred from applying to live, study and work in the UK, at least in the short-term.

It is likely that government imposed caps will also have an impact on academic staff mobility and that the recent abolition of the PSW visa will further discourage students from applying, at least until they understand what the new system will entail. Therefore, the message the UK government is sending to non-EEA students and academic staff - through repeated policy changes and amendments to the visa application process - appears to be far from welcoming. This finding, supported by the investigations of the Home Affairs Committee (HoC, 2011b: 12-14), is reminiscent of Madge et al.'s (2009) warning that the UK needs to treat international students responsibly and with respect. This has implications for future academic mobility. At the same time, however, our research revealed that UK HE continues to enjoy a good reputation amongst non EEA

nationals and that this has formed, and will probably continue to form, a large 'pull' for international students and academic staff.

Our data demonstrate that many students and academic staff perceive themselves to be relatively mobile, and not to be 'migrants', even if they remain in the UK for over a year. They do not necessarily feel they have to study or work in the UK. As UK universities operate in an increasingly globalised market, this is a factor to which the UK HE sector – and indeed UK policymakers - need to give greater consideration. As one interviewee reported, Australia has been 'openly' telling prospective students that UK immigration policy is becoming more restrictive and that they should, instead, elect to study in 'their' institutions (International Student Recruitment Officer, HEI, Midlands). This, too, corroborates evidence presented to the Home Affairs Committee during its investigation into student visas (HoC, 2011b: 13).

By bringing together literature on immigration policy, highly skilled migration and academic mobility, this paper has demonstrated that academic mobility is constrained by immigration policy in dynamic and complex ways. A juxtaposition exists between mobility and restriction for students and academic staff. On the one hand, international mobility is seen as the 'ideal' in higher education (Robertson, 2010 Bauder, in press) and to be encouraged; on the other, immigration policy in receiving countries can also create challenges for such mobility, which needs to be recognised. Consequently, greater engagement is required with international students and academic staff as:

active social and political agents, negotiating, interpreting, contesting their social worlds by mobilising and materialising the knowledges (hence knowledge as plural) through which that social world is constituted (Robertson, 2010: 644).

Such research from a migrant perspective is necessary in order to help explore the effectiveness of immigration policy. Equally, it serves to highlight the ways states impact upon the geographies of mobility of the highly skilled, including academic staff and postgraduate students. By emphasising lived and personal experiences of labour immigration policy, we stress the complex ways in which highly skilled migration, in the form of academic mobility, intersects with state control through embodied and emotional acts, outlining the need to contextualise and move beyond romanticised assumptions about academic mobility as being easy and overly positive (Robertson, 2010), and to take immigration policy into account. More research is therefore needed on ways in which states and labour immigration policies enable and hinder such movement.

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