

# REGULARISE

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A SAFER PATH TO SETTLEMENT

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## REGULARISATION (UK) REPORT FOR THE UNITED NATIONS

### **Our Mission**

[Regularise](#) seeks to improve the quality of life of undocumented migrants who already have established lives in the UK by attaining them basic rights & a safer and more equitable path to settlement and citizenship.

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# Introduction

The United Kingdom is home to an estimated 800,000 to 1.2 million undocumented / irregularised migrants<sup>1</sup>, many of whom have lived in the country for more than 5, 10, and even 15 years. Despite the challenges they face, many have made the UK their home, participating in and contributing to its economy, society, and culture in numerous ways whilst being forced to live in the margins of inclusion. Although there are some existing routes to regularise one's immigration status, such as 'family life' or 'asylum', these routes are inaccessible to most of the UK's undocumented population due to the government's exclusionary immigration policies and punitive rules. The lack of support from the British state has resulted in the continued infringement of the human rights of these individuals. The recent crises have only exacerbated the hardships and suffering faced by undocumented people, driving them further into poverty, increasing their risks of destitution, exploitation, health crises (including mental health), and abuse. The situation of undocumented people highlights the pressing need for expanded, diversified and easily accessible regularisation mechanisms and programmes to improve the protection of human rights for migrants in the UK, especially those who find themselves in a situation of having their immigration status irregularised for whatever reason.

The current challenges faced by undocumented migrants in the UK include:

1. **Economic Insecurity:** Undocumented migrants in the UK often struggle to find formal employment, and are thus forced to work in low-wage, precarious jobs with little to no job security. As a result, they are often paid below the minimum wage, and face poor and exploitative working conditions<sup>2</sup>. For migrants, the act of working without permission is criminalised by the British state. This denial of the right to work and the barriers to formal employment via Government imposed workplace immigration checks are clear violations on the human rights to work and to subsistence<sup>3</sup>. The 'No Recourse to Public Funds' condition also means that they are excluded from the social protection system, and are unable to access welfare benefits like Universal Credit or housing support if/when needed.
2. **Fear of Detention and Forcible Removal/Deportation:** The constant fear of detention and being forcibly removed is a major issue for undocumented migrants in the UK. The threat of immigration enforcement, combined with a lack of regularised status, makes it difficult for them to access essential services such as healthcare<sup>4</sup>, education, and housing. These long-standing fears also result in disempowering migrants from reporting abuse, including sexual abuse<sup>5</sup>, and other violations committed against them, as they are afraid of being identified as undocumented and thus being subjected to immigration enforcement.
3. **Social Exclusion:** The lack of regularised immigration status and the challenges of accessing employment, housing, tertiary education and healthcare have resulted in social exclusion for many undocumented migrants in the UK. They are often unable to fully participate in society, and face multiple barriers in accessing opportunities for cultural, social, and economic integration and advancement. Additionally, barriers to forming marriages or civil partnerships 'officially' also contribute to the social exclusion of

<sup>1</sup> 'Unauthorised Immigrants in the United Kingdom', Pew Research, November 2019 (full report) <https://www.pewresearch.org/global/fact-sheet/unauthorized-immigrants-in-the-united-kingdom/>

<sup>2</sup> 'In Leicester and beyond, migrant workers are being exploited', Natasha Owusu, July 2020, TUC (blog) <https://www.tuc.org.uk/blogs/leicester-and-beyond-migrant-workers-are-being-exploited>

<sup>3</sup> International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27, <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>

<sup>4</sup> Removing Barriers to Accessing COVID-19 Vaccination for Undocumented Migrants, 'Regularise', March 2021, (full report) <https://regularise.org/reports/removing-barriers-to-vaccination/>

<sup>5</sup> 'The New Bonded Labour? The impact of proposed changes to the UK immigration system on migrant domestic workers', Oxfam and Kalayaan, 2008, <http://www.kalayaan.org.uk/documents/Kalayaan%20Oxfam%20report.pdf>

undocumented migrants, as they cannot legally formalise their relationships in the same way as citizens or those with a regularised immigration status.

4. Impact of the COVID-19 Pandemic: The COVID-19 pandemic has exacerbated the challenges faced by undocumented migrants in the UK, as the restrictions have resulted in reduced opportunities for informal work, and increased difficulties in accessing essential services such as healthcare (sometimes leading to deaths<sup>6</sup>). The restrictions to social and welfare support also means many have been driven further into poverty and exploitative conditions<sup>7</sup>.

## Existing Regularisation Mechanisms/Programmes in the UK

The UK Government's Immigration Rules<sup>8</sup> (via the Home Office) provide several pathways for undocumented migrants to regularise their immigration status, which are broadly categorised into family life<sup>9</sup>, private life<sup>10</sup>, and asylum. For simplicity, we will outline them as follows:

1. Children or Young People:
  - For those who were born in the UK or arrived as children, are under the age of 18 and have lived here for at least 7 years, and it would be “unreasonable” to expect them to leave the country.
  - For those who arrived as children or young people, are aged between 18 and 25, and have lived in the UK for half of their lives or more.
2. Adults Over 18 Years of Age:
  - For those who have lived in the UK for less than 20 years, are over the age of 18, and would face significant difficulties settling in the country where they hold citizenship.
  - For those who arrived in the UK as adults and have lived here continuously for 20 years or more<sup>11</sup>.
3. Parents:
  - For those who are sole or shared guardians of a child who is a British citizen, has settled status, is an EU citizen with pre-settled status, or has lived in the UK continuously for 7 years or more.
4. Partners:
  - For those who are partners of British citizens, EU citizens with settled or pre-settled status, or non-EU citizens with Indefinite Leave to Remain.  
*A partner is defined as a spouse, fiancé, civil partner, proposed civil partner, or someone who has been living together with their partner in a relationship similar to a marriage or civil partnership for at least 2 years prior to the application.*
5. Victims of Domestic Violence:
  - For those who held a visa or permission to stay in the UK as a partner but lost their immigration status ('leave to remain') due to experiencing domestic abuse<sup>12</sup>.

<sup>6</sup> Undocumented migrants dying of coronavirus because they're too afraid to seek help, MPs and charities warn, The Independent, 2020

<https://www.independent.co.uk/news/uk/home-news/coronavirus-undocumented-migrants-deaths-cases-nhs-matt-hancock-a9470581.html>

<sup>7</sup> FLEX, IWGB, UVW (2021): *No Viable Alternatives: Social Insecurity and risk of labour exploitation during COVID-19* (full report), London, FLEX.

<sup>8</sup> Immigration Rules from Home Office, Updated : 30/01/2023, <https://www.gov.uk/guidance/immigration-rules>

<sup>9</sup> Family Policy, Family life (as a partner or parent) and exceptional circumstances, Version 18.0, 'Published for Home Office staff on 11 August 2022', Home Office, UK Government, (HTML) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1097761/Family\\_life\\_as\\_a\\_partner\\_or\\_parent\\_and\\_exceptional\\_circumstances.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1097761/Family_life_as_a_partner_or_parent_and_exceptional_circumstances.pdf)

<sup>10</sup> Private Life, Version 1.0, 'caseworker guidance, Immigration staff guidance on how to consider applications for permission to stay in the UK on the basis of private life', 'Published for Home Office staff on 20 June 2022', Home Office, UK Government, (HTML) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1083717/Private\\_life.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1083717/Private_life.pdf)

<sup>11</sup> 'Undocumented Migrants And The 20 Year Rule On Long Residence', Regularise, May 2021, (full report) <https://regularise.org/reports/undocumented-migrants-20-year-long-residence-rule>

<sup>12</sup> 'Victims of domestic violence and abuse', Version 15, caseworker guidance, November 2021, Home Office, (PDF) <https://www.gov.uk/government/publications/victims-of-domestic-violence>

## 6. Asylum<sup>13</sup> or Humanitarian Protection<sup>14</sup>:

- For those who fear persecution or harm in their home country due to their race, religion, nationality, political opinion, or membership of a particular social/cultural group. This includes individuals who are at risk of violence, torture, or death, due to factors such as gender, gender identity, or sexual orientation.

## 7. Victims of Human Trafficking or Modern Slavery:

- For those who have been victims of human trafficking or modern slavery and have been identified by the National Referral Mechanism<sup>15</sup>.

It is important to note that these are general guidelines and each case is evaluated on its own merits. The burden of proof can also be a challenge for some, and the costs associated with regularising and maintaining regularised immigration status through renewals for most of these routes are extremely high. These mechanisms do provide a means for regularisation, but for many, the long process and costs prolong the precarity faced by migrants who find themselves in the situation of having been made undocumented.

## Decades of precarity

Based on Regularise's observations and experiences with some of our members and individuals in our broader network, we believe that many undocumented people in the UK view the 20-Year Rule on long residence as the only viable option for regularising their immigration status within the existing rules, as some have attempted to use other avenues but have been rejected by the State.

The 20-Year Rule<sup>16</sup> is a controversial immigration policy that has been in effect in the United Kingdom since 2012. The rule is designed to provide a pathway to long-term residency or indefinite leave to remain (ILR) for individuals who have lived in the UK for a long period of time, but who are unable to regularise their status through other means.

Prior to the introduction of the 20-Year Rule, the UK had a 14-Year Rule which allowed individuals to apply for ILR if they had lived in the UK for 14 years or more, regardless of whether they had permission to be in the UK or not, including periods with no leave to remain or even if they never had leave to remain. The rule was introduced in the early 2000s<sup>17</sup> as a response to the growing number of long-term migrants living in the UK without regularised status. However, in 2012 the UK Government changed the immigration rules, making it more difficult to regularise by increasing the minimum qualifying period from 14 to 20 years, hence the name 20-Year Rule.

The 20-Year Rule has been widely criticised for its impact on undocumented migrants who have lived in the UK for many years, but who are unable to regularise their status due to a lack of documentation or other factors. The rule has been criticised for prolonging the precarity of these individuals, as they are only granted limited leave to remain (LLR) after the already lengthy 20 years to regularise, which must be renewed every 30 months at a high cost to maintain regularised status. To attain settlement (ILR), they must amass an additional 10 years of LLR, which means they could have lived in the UK for 30 years or more with varying levels of insecurity before finally achieving some form of stability.

<sup>13</sup> 'Eligibility', 'Claim Asylum in the UK', Visas and Immigration, Gov.UK, last accessed on 15 February 2023, <https://www.gov.uk/claim-asylum/eligibility>

<sup>14</sup> 'Granting humanitarian protection: caseworker guidance', UKVI, Home Office, last updated June 2022, <https://www.gov.uk/government/publications/humanitarian-protection-instruction>

<sup>15</sup> 'Guidance- Modern slavery victims: referral', UKVI, Home Office, last updated May 2022, <https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms>

<sup>16</sup> 'Undocumented Migrants And The 20 Year Rule On Long Residence', Regularise, May 2021, (full report) <https://regularise.org/reports/undocumented-migrants-20-year-long-residence-rule>

<sup>17</sup> Note: The exact date of introduction of the 14-Year Rule is not widely available. The information cited in this document, sourced from a Freedom of Information request published in 2006, shows that it was active as of April/August 2003, (direct PDF access), <https://www.gov.uk/government/publications/14-years-residence-rule>

Below is an account (shared with their consent) of a formerly undocumented migrant who contacted Regularise in February 2022 having recently regularised their immigration status using the 20 year rule:

*“I have got regularised stay upon 20 years. It helps nothing more than working rights and ability to travel in and out of the country. Since you are on LLR (Limited Leave to Remain) you can not apply for mortgages, family life is hit most and you cannot sponsor wife/children from non-EU country, No education grants, no such help from benefits despite you were paying tax on your earnings. Instead, you keep on paying visa renewal fees and NHS contribution which you may never use. You further have to wait another 10 years to qualify for ILR until then you will be too old to do something more in life. This rules was designed to earn cash from you and punish you for being illegal.*

*It is sensible they reduce it to 2 years from 10 year long path. This should give the applicant a better opportunity to develop his personal and family life.” - UK resident, formerly undocumented with recently regularised immigration status*

The burden of proof required to demonstrate 20 years of residency in the UK can also be challenging, as many individuals may not have access to official documentation or records. This means that even those who have lived in the UK for many years may struggle to prove their residency, and as a result, remain in a state of heightened uncertainty and insecurity.

The difficulties posed by the 20-Year Rule demonstrate the persistent obstacles encountered by undocumented migrants in the UK. They underscore the urgency for more comprehensive and equitable immigration policies that ensure both immediate and long-term stability and security for individuals who have made the UK their home.

## **Securing a Better Future for Undocumented Members of British Society**

Undocumented migrants are a vital part of UK society, making significant contributions to the workforce, economy, social and cultural fabric of the country. Many work in essential, low-paid and often high-risk jobs in sectors such as construction, domestic and care-work, hospitality and agriculture, pay taxes in various ways including through the purchase of goods and services, and contribute to the country's cultural diversity.

*“The fallacy that individual legitimacy within a nation’s borders is somehow ‘earned’ from tax contributions and ‘weakened’ by use of the benefits system is doubly false: firstly, such barriers to perceived legitimacy are entirely state-imposed and, secondly, the structure of the UK tax system means that contributions are made through a range of activities (such as VAT on purchases for goods and services, joint council tax contributions, and other indirect taxes) which are entirely applicable to*

*undocumented migrants. Meanwhile, in some circumstances, undocumented migrants are subject to income tax and national insurance contributions even though their access to welfare benefits like income or housing support remains out of reach due to exclusionary immigration policies, rules and conditions like ‘No Recourse to Public Funds’.” - Regularise Team, Building Back Better with Undocumented People<sup>18</sup>*

That said, providing more secure and accessible pathways to regularisation and citizenship would not only improve the lives of undocumented migrants, but also benefit migrant communities and society as a whole. Adopting Regularise’s recommendations would give these migrants a sense of security, allowing them to live and work without fear; contribute to their integration into society by unlocking their civic participation, leading to potential improvements in social relations locally, domestically, and globally. They would also be able to access essential services like universal healthcare and tertiary education, access better-paid jobs and strengthen labour rights, and contribute to the economy through increased tax contributions<sup>19</sup>, spending power and untethered potential for innovation. The regularisation of undocumented people’s immigration status in an equitable manner would enable them to enjoy and embrace their human rights, making them dignified members of society and, in the long-term, strengthen our communities and society through the upholding of rights for all and the collective embodiment of justice and inclusion.

## Conclusion

The reality of undocumented migrants in the UK underscores the need for an immediate regularisation programme that is accessible to all undocumented people as well as more flexible and inclusive regularisation mechanisms that are accessible to anyone who finds themselves being made undocumented for whatever reason now and in the future. Despite their many contributions to the economy, society, and culture, many undocumented people are plagued by economic uncertainty, high risks of exploitation and destitution, fear of detention and being forcibly removed from the UK, as well as social marginalisation because of their immigration status. The COVID-19 crisis has only compounded these already difficult conditions. While the UK Government offers a number of pathways for regularisation, such as family life, private life, asylum, and victim support, these options are inaccessible to the vast majority of the undocumented population because of restrictive immigration policies and stringent requirements. To ensure the protection of the human rights of migrants in the UK, it is imperative that the Government takes steps to broaden and diversify the ways people can regularise and maintain their immigration status, providing greater security for this population. This will not only benefit migrants but also contribute to a more life-affirming, nurturing, cohesive and inclusive society.

*“The right to live without fear, access essential services and meet basic needs like housing and subsistence, and be a dignified member of society without being limited by our immigration status is not too much to ask for. The UK likes to present itself to the world as the bastion of human rights. So, where are our human rights?” - Undocumented migrant, UK*

<sup>18</sup> ‘Building Back Better with Undocumented People’, Regularise, November 2021, (full report) <https://regularise.org/reports/building-back-better-with-undocumented-people>

<sup>19</sup> ‘Economic impact on the London and UK economy of an earned regularisation of irregular migrants to the UK’, Greater London Authority (and LSE), May 2009 [https://www.london.gov.uk/sites/default/files/gla\\_migrate\\_files\\_destination/irregular-migrants-report.pdf](https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/irregular-migrants-report.pdf)



# Recommendations

- **Implement** a secure and equitable regularisation programme in the UK (unlike the 20 year rule<sup>20</sup>) that is accessible and enables all undocumented residents to regularise their status, to include:
  - a simplified application process for undocumented migrants who have lived in the UK for at least 5 continuous years which allows them to apply for Indefinite Leave to Remain (similar to 'settled status'); and
  - the creation of a new process similar to that of the EU Settlement Scheme's pre-settled status for those who have lived in the UK for less than 5 years (with a maximum of two applications in total before gaining indefinite leave to remain or 'settled status' after living in the UK for a 'continuous period' of 5 years including all previous time with irregularised status) that can remain as a mechanism for anyone who finds themselves being made undocumented in future
- **Repeal** parts of the legislation that restrict undocumented UK residents from being able to live and work openly, safely and lawfully, and that force them into greater precarity including: (Immigration, Asylum and Nationality Act 2006,<sup>21</sup> Immigration Act 2014 and Immigration Act 2016<sup>23</sup>) and 'right to rent' (Immigration Act 2014<sup>24</sup> and Immigration Act 2016<sup>25</sup>)
- **Allow** those resident in the UK who are in the process of regularising their immigration status, or are yet to do so, to be able to register for a National Insurance (NI) number and apply for a UK-issued driving licence and UTR, if self-employed
- **Abolish** the 'No Recourse to Public Funds' condition for all UK residents, including those 'subject to immigration control', and ensure that everyone in need has equal access to welfare support
- **Guarantee** access to universal health coverage and care for all residents in the UK<sup>26</sup>, regardless of immigration status
- **Ensure** labour rights are enforced for all workers and that justice and dignity are accessible to all workers, regardless of immigration status
- **Establish** a firewall between immigration enforcement and employment rights enforcement agencies (as recommended by the Trade Union Congress<sup>27</sup>)
- **Redirect** enforcement spending towards the creation and resourcing of a new Migrant Regularisation Directorate with the specific purpose of helping and supporting migrants in regularising and maintaining regularised status.

<sup>20</sup> 'Undocumented Migrants And The 20 Year Rule On Long Residence', Regularise, May 2021, (full report) <https://regularise.org/reports/undocumented-migrants-20-year-long-residence-rule>

<sup>21</sup> Section 15, Immigration, Asylum and Nationality Act 2006, <https://www.legislation.gov.uk/ukpga/2006/13/section/15>

<sup>22</sup> Section 21, Immigration, Asylum and Nationality Act 2006, <https://www.legislation.gov.uk/ukpga/2006/13/section/21>

<sup>23</sup> Part 1, Chapter 2, Immigration Act 2016, <https://www.legislation.gov.uk/ukpga/2016/19/part/1/chapter/2/enacted>

<sup>24</sup> Section 22, Immigration Act 2014, <https://www.legislation.gov.uk/ukpga/2014/22/section/22/enacted>

<sup>25</sup> Part 2, Immigration Act 2016, <https://www.legislation.gov.uk/ukpga/2016/19/part/2/crossheading/residential-tenancies/enacted>

<sup>26</sup> Towards true universal care: Reforming the NHS charging system, IPPR, November 2021 (full report), <https://www.ippr.org/research/publications/towards-true-universal-care>

<sup>27</sup> 'TUC action plan to reform labour market enforcement', Trade Union Congress (TUC), May 2021 (full report) <https://www.tuc.org.uk/research-analysis/reports/tuc-action-plan-reform-labour-market-enforcement>

## About Regularise

Founded at the end of 2019, Regularise is a migrant founded and led grassroots collective and the UK's leading campaign group made up of migrants and British citizens campaigning for the UK Government to implement a regularisation scheme for all undocumented migrants and migrants with insecure status in the UK.

The regularisation scheme must allow undocumented migrants who have lived in the UK for at least 5 years to be able to apply for settlement (Indefinite Leave To Remain) and those who have lived here for less than 5 years to be given a 'right to remain' similar to the pre-settled status in the EU Settlement Scheme that will allow them to apply for settlement after they reach the same period of 'continuous residence' (5 Years).

Regularising undocumented migrants will grant these marginalised members of British society some fundamental rights, including being able to work and access housing safely, and access health services without fear. This will mean that they can live with dignity and participate in society fully. Regularising undocumented migrants will ensure that they gain a safe, lawful and defined route to settlement in the UK.

You can read more on our FAQs: <https://regularise.org/about/#faqs>