Solidarity in Austerity Britain: The Cases of Disability, Unemployment and Migration

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Introduction

One of the key characteristics of solidarityin the UK has been the welfare state and the social solidarity which not only reflects its foundation but also underpins those arguments for its continuation in supporting those who find themselves challenged by forces beyond their control. Nevertheless, the austerity measures that have been enacted in recent years have eroded the levels of support for some of the most vulnerable groups in British society and these cuts have taken place within a political context that has enabled policymakers to call into question the 'deservingness' of those seeking support, whether they be unemployed, disabled, migrants or even those seeking asylum and it is the impact on these groups which this chapter focuses upon.

Although the implications of Brexit loom large over any contemporary discussion of solidarity in the UK political context, the key defining issue of the 2010 UK General Election was how the country could deal with the effects of the global financial crisis, with the contenders for Government both conceding that there would be cuts to public spending, a process that had already been signalled to some extent under the Labour Chancellor Alastair Darling in his pre-election budget (Elliot 2010). The absence of economic certainty during this period was to be mirrored by political uncertainty following the results of the election in which neither of the two largest parties, Labour or Conservative, gained an overall majority. Eventually, it became clear that the UK would have its first coalition Government for decades, comprised of the Conservatives and the centrist Liberal Democrats.

The 'programme for Government' published by the Coalition Government placed reducing the deficit centre stage, promising to 'significantly accelerate the reduction of the structural deficit over the course of a Parliament, with the main burden of deficit reduction borne by reduced spending rather than increased taxes' (HM Government 2010, 15). As a conse-

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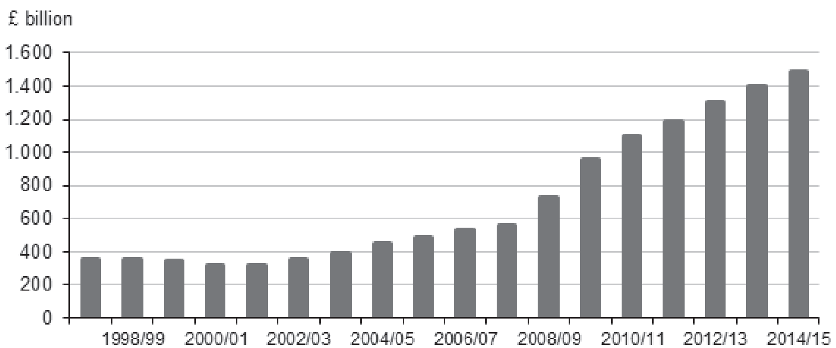
quence, the UK budget deficit, has dominated the discourses surrounding austerity. Moreover, there remains a significant problem for the sustainability of the UK economy, namely the national debt. As can be seen in Figure 1, the global financial crisis had significant consequences for the debt of the UK and this is a problem which has continued to grow year on year, with the rate currently standing at just over 80% of GDP (ONS 2015a).

Figure 1. Public sector net debt: financial year ending 1998 to the financial year ending 2015 (Source: ONS 2015a)



Although such headline figures can understandably capture attention, in order to better understand the impact of austerity in the UK it is important to consider the 2010 Budget of the new Coalition Government which set out in detail how the commitment to tackle the deficit would be met. The new Chancellor of the Exchequer George Osborne explained to the House of Commons that this would be achieved through a combination of raising some taxes; in particular, the rate of Value Added Tax (VAT) and by cuts in public spending. Reflecting the commitment the Coalition had made in its programme for Government, the Chancellor announced that the majority of the measures taken (77%) would be spending cuts (HM Treasury 2010).

One area that has been a focus of attention for reducing public spending has been cuts to welfare support and these have had a considerable impact upon the disabled, the unemployed and precariously employed, as highlighted by the Secretary of State for Work and Pensions who in the foreword to his programme for welfare reform stated that this expenditure

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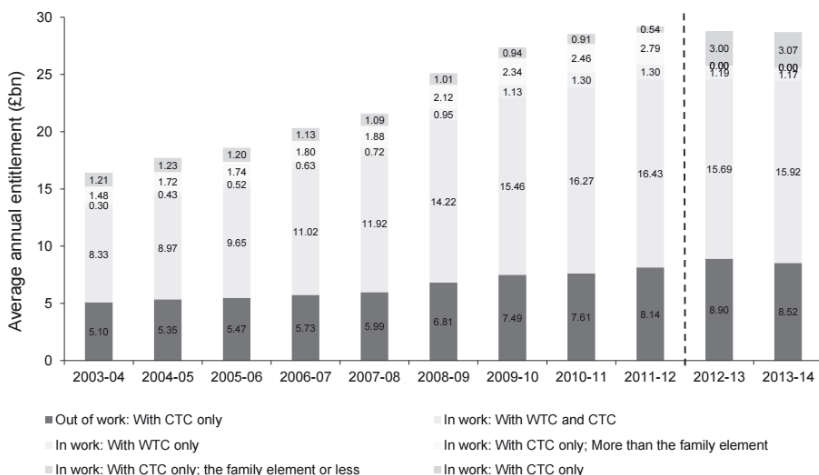
would be addressed ‘by tackling the root causes of poverty: family breakdown; educational failure; drug and alcohol addiction; severe personal indebtedness; and economic dependency’ (DWP 2010, 1). Moreover, as we shall explore later in this chapter, these reforms were in tandem with discourses that suggested the UK welfare system had apparently been placed under further strain by a liberal approach to immigrants accessing the benefit system. Since these reforms, cuts have been applied to welfare provision for disability, housing costs and tax credits. The latter benefits, Working Tax Credits (WTC) and Child Tax Credits (CTC), have been paid in recent years to those experiencing unemployment that have children but also to support those in low paid employment (see Figure 2). According to the Chancellor in his 2015 UK Budget, the expenditure on tax credits had to be tackled due to the unsustainability of, ‘subsidising low pay through the benefit system’ (HM Treasury 2015a, 37). These proposed cuts, aimed to reduce the entitlement to tax credits from the current 6 out 10 UK families with children to 5 out of 10 in 2016-17 compared with 9 out of 10 in 2010 (HM Treasury 2015a). Concurrent with these cuts was the introduction of a National Living Wage and a higher threshold before low earners begin paying income tax.

Figure 2. Annual entitlement by type of tax credits received (Source: HM Revenue and Customs 2015)



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The overall impact of the first tranche of cuts (since 2010) across the UK have been analysed in research conducted during the period of the Coalition Government (Beatty and Fothergill 2013) which draws upon figures from the UK Treasury and the Department of Work and Pensions to measure the total amounts lost to the economy and the geographical distribution of these cuts across the country. As Figure 3 demonstrates, the largest cuts have fallen upon those claiming incapacity benefits (the disabled), those claiming tax credits (primarily low paid workers) and those in receipt of welfare benefits through the '1% uprating' meaning that benefits will generally rise less than the overall rise in the cost of living. Indeed, concerns over the cost of living in the UK have been a consistent companion to the implementation of austerity measures.

Table1. Overall impact of welfare reforms by 2014-15 (Source: Beatty and Fothergill 2013)

	No of h'holds/individuals affected	Estimated loss £m p.a.	Average loss per affected h'hold/individual £ p.a.	No. of h'holds/individuals affected per 10,000	Loss per working age adult £ p.a.
Incapacity benefits[(1)(3)]	1,250,000	4,350	3,480	310	110
Tax Credits	4,500,000	3,660	810	1,750	90
1 per cent uprating[(3)]	n.a.	3,430	n.a.	n.a.	85
Child Benefit	7,600,000	2,845	370	2,960	70
Housing Benefit: LHA	1,350,000	1,645	1,220	520	40
Disability Living Allowance[(1)(2)]	500,000	1,500	3,000	130	40
Housing Benefit: 'bedroom tax'	660,000	490	740	260	10
Non-dependant deductions	300,000	340	1,130	120	10
Council Tax Benefit	2,450,000	340	140	950	10
Household benefit cap	56,000	270	4,820	20	5
Total	**n.a.**	**18,870**	**n.a.**	**n.a.**	**470**

(1) Individuals affected; all other data refers to households
(2) By 2017/18
(3) By 2015/16

There have however been areas of public spending which were earmarked for protection from the Coalition Government's austerity measures since 2010, namely those budgets for the National Health Service (NHS), schools and pensions. Moreover, one area which has escaped austerity has been that of international aid. Indeed, the commitment by the UK Government to international aid has been in the spotlight in 2015 during the Syrian refugee crisis in Europe. During that crisis the UK Government and in particular the Prime Minister demonstrated a reluctance to accept into the UK significant numbers of those who had crossed the Mediterranean and

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when confronted with criticism for this position, reiterated that, 'we are the only major country in the world that has kept our promise to spend 0.7% of our GDP on aid' (UK Government 2015). The crisis did however serve as a focal point for localised actions of solidarity to those making the dangerous crossing of the Mediterranean (Withnall and Dathan 2015).

During the course of our research we found that solidarity was not a word which permeated the lexicon of UK policymakers in the fields of disability, employment or migration. Instead it was through the various actions of civil society organisations, such as those with whom we conducted interviews as part of our study, that solidarity was manifested. Moreover, our research uncovered an increasingly difficult policy environment in the UK for the disabled, the unemployed, migrants and those seeking refuge and asylum.

Disability

A key piece of legislation which reflects solidarity in action through the efforts of a number of organisations who form the disability rights movement in the UK is the Disability Discrimination Act 1995 which not only defined disability, but protected disabled people from discrimination in the workplace, access to educational opportunities as well as goods and services. As with protections from discrimination for other groups, those included in the 1995 Act were subsumed into the Equality Act 2010 and continues to be crucial for the protection of disabled people. Moreover, the UK in 2009 ratified the United Nations Convention on the Rights for Persons with Disabilities. However, a UN Committee report has indicated violations of the rights of disabled people as a consequence of welfare reforms (United Nations 2016), as confirmed also by our interviews with disabled people's organisations who claimed that austerity measures have made it difficult even to access statutory services.

The Work Capability Assessment

In 2008 the Labour Government, as part of its package on welfare reform (Bambra and Smith 2010), began the process of replacing Incapacity Benefit (IB) with a new benefit, Employment and Support Allowance (ESA). One feature of this new benefit was the Work Capability Assessment

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(WCA) which represented a significant shift in evaluating the applications for welfare state support by disabled people by focusing on what they were capable of rather than the extent of their incapacity to work, an assessment which was outsourced to IT company ATOS.

Following the election of the Conservative led Coalition Government in 2010 there was a major expansion of the Work Capability Assessment as part of the overall strategy to reduce welfare spending and move as many disabled people as possible back into work. This involved a national reassessment process which was piloted in 2010 and rolled out in 2011 with the objective of reassessing all claimants by Spring 2014 and resulting in 750, 000 assessments being conducted in 2013 alone (Baumberg et al. 2015). The process involves asking claimants to complete a questionnaire, after which they can then be asked to attend a Work Capability Assessment, carried out by ATOS. Those claimants who are judged fit to return to work have their benefits removed whereas those who are deemed eligible for ESA are placed into two groups: the Support Group (SG), where they do not have to participate in any 'work related activity' but can volunteer to do so and receive a higher rate of benefit (which is not time limited) than those in the other cohort, the Work Related Activity Group (WRAG) where claimants are required to undertake work related activities, attend work focused interviews with a personal adviser and have their benefits limited to 12 months. Furthermore, the 2015 budget has also spelled out plans for ESA WRAG claimants to get reduced benefit rates from April 2017, receiving instead the same amount as Jobseeker's Allowance (JSA) claimants (HM Treasury 2015a).

Overall, some claim the reassessment process has 'led to narrower entitlement and a majority of claimants being redefined as 'fit for work' (Wright 2012, 318). The effectiveness of the WCA in evaluating the capacity for someone to return to work has come under severe criticism from disability activists such as Disabled People Against Cuts (DPAC) who voiced their opposition to the WCA in a statement released in 2015 responding to recently published 'mortality statistics' for those claiming ESA: '2500 people have died after being found fit for work. Another 7,200 people died after being placed in the WRAG, the group for disabled people who can do 'some work', another 7540 died waiting to be assessed' (DPAC 2015). Moreover, groups such as DPAC have highlighted the stress caused to disabled people by the actual process of being reassessed, an issue captured by research conducted with disabled people who have been claiming benefits and going through the process (Garth-

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waite 2014). Further still, the actual division of disabled people into different groups by the WCA perhaps lends weight to the conclusion that there has been some effort through these measures to draw a distinction between the 'deserving' and the 'undeserving' (Grover and Piggott 2010; Garthwaite 2011).

Such has been the negative publicity surrounding the implementation of the WCA, the outsourced company hired to carry out the assessments have paid the UK Government to end the contract early (Bennett 2014), with the contract in 2015 now taken up by US outsourcer Maximus. Moreover, in October 2016 the UK Government has announced a consultation on the future of the WCA (UK Government 2016). For those former ESA claimants who now find themselves claiming Jobseeker's Allowance, they will have discovered that there have been some significant changes in recent years affecting benefits to those who are unemployed, one such change has been the embrace by the Conservatives in Government since 2010 of 'work experience' for benefit claimants.

The Bedroom Tax

One piece of legislation introduced in 2013 as part of the Coalition Government's aim to reduce public spending which has caused controversy amongst disabled rights advocates and anti-poverty campaigners alike has been the 'spare room subsidy', a policy otherwise known as the 'bedroom tax'. This policy targeted working age tenants living in social housing (that is, property owned by local Government or housing associations) and was introduced as a strategy to reduce the amount of money spent on 'housing benefit', a welfare measure which helps pay the rents of people who are either unemployed or in low paid employment. Under these reforms, tenants with a spare bedroom in their house would see a reduction in their housing benefit by 14% if they have one spare bedroom and 25% if they have two or more spare bedrooms.

The then Conservative led coalition Government stated that the new 'spare room subsidy' legislation would act as a control on the level of expenditure on housing benefit which had increased to £21 Billion in 2010/2011 (DWP 2012). The policy was also articulated as a way of introducing 'fairness' into the rental market for housing as it was claimed by Ministers to address the inequity of those in state owned or 'social sector' housing being given an unfair advantage to their counterparts in the pri-

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vate rented sector as the latter had no option but to opt for accommodation which offered them only the number of rooms they required whereas in the 'social sector' the number of rooms had no impact upon the level of housing benefit they received. However, research has demonstrated that in fact 'under-occupation' of properties – the very problem the bedroom tax was designed to address in the social sector – is actually a much more significant issue in properties that are privately owned or privately rented (Wilcox and Perry 2014; Gibb 2015). Furthermore, an evaluation of the measures commissioned by the Department of Work and Pensions found that social landlords (e.g. local authorities, housing associations etc.) had a scarcity of smaller properties for tenants to move to and revealed that to cope with the loss in benefit, those affected were cutting back spending on energy and food (DWP 2015a).

Indeed, soon after its implementation it became clear that the bedroom tax contained a number of shortcomings, including a failure in its first year to actually deliver the savings it had been projected to deliver, compounded by a poor definition of what was meant by a bedroom and a postcode lottery in its implementation (Wilcox 2014). However there has also been one particular aspect of the bedroom tax which has been of continual concern – its impact upon disabled tenants. Based upon the figures provided in the 'Equality Assessment' carried out by the UK Government prior to the implementation of the bedroom tax, the number of housing benefit claimants in the social sector who would be affected by the new policy and who suffered from a disability (recognised by the Disability Discrimination Act 1995) stood at 420,000, which was 63% of all working age claimants (DWP 2012). Furthermore, those (or the partners of those) who were suffering from a disability which was considered to be long term and had a significant impact upon their daily lives totalled 370,000, in other words, 56% of all working age tenants in the social sector who would be affected (DWP 2012). As a general countermeasure to support those who would encounter difficulties in meeting their rent, the UK Government proposed a system of 'Discretionary Housing Payments' (DHPs) that would be allocated to local authorities to administer with a proportion of these specifically targeted at disabled social sector tenants. Nevertheless, despite such attempts to remedy the problems created for disabled people by the policy, research has demonstrated that the implementation of DHPs has varied considerably across the UK (Wilcox 2014).

Moreover, the consequences of the bedroom tax for the disabled has triggered a variety of reactions across the UK which have included large

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scale protests in a number of cities and have also led to legal challenges. Perhaps the highest profile case that has been heard in UK courts in relation to the Bedroom Tax has been that of, R. (on the application of MA) V Sec State for Work and Pensions, which was brought forward by a number of disabled people who claimed that the bedroom tax had unfairly discriminated against them given the extra space that they and their families required. However, the judgement of the High Court, despite accepting that the bedroom tax was indeed discriminatory, ruled that this was justifiable due to the implementation of countermeasures such as Discretionary Housing Payments (DHPs). Nevertheless, the High Court also ruled that in the case of disabled children who were unable to share a bedroom with another child due to their disabilities, the legislation was unlawful and in November 2016 the Supreme Court dismissed an appeal by the Secretary of State for Work and Pensions against this High Court judgement (case UKSC 58 R v Secretary of State for Work and Pensions, 9 November 2016). In these cases, there has been evidence of significant support from civil society organisations towards those taking such action and in disseminating the issues and the rulings of the cases via their own networks and platforms.

Unemployment

Against a background of deindustrialisation and a decline in the power of the key instrument of worker solidaritynamely the trade union movement, following their confrontation with the Thatcher Government during the miner's strike in the early 1980s (Milne 2004). The challenges for trade unions have intensified in recent years with one official explaining during an interview that the organisation was engaged in efficiency savings but simultaneously were challenging new legislation regulating trade union activity (Trade Union Act 2016) and had received legal advice that '*a lot of it will be determined in a court of law*' which was a concern should the union have to fund test cases in the future. More broadly, a number of labour organisations we spoke to pointed towards the changing UK labour market, which as in other European countries, has witnessed an increase in the use of non-standard forms of employment contracts, specifically 'zero-hours' contracts that provide no minimum guarantee of working hours (Pennycook et al. 2013) and have been identified within existing research as helping to form a 'no pay, low pay cycle' in the UK (Shildrick et al.

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2012). Moreover, comparative research conducted on the UK and the US labour markets reinforces conclusions that there has been a decline in middle ranking jobs in the economy accompanied by a growth in low skilled occupations, leading to the conclusion that, ‘occupational polarisation was accentuated by the 2008 crisis in both the UK and, to a greater extent, the US’ (Plunkett and Pessoa 2013, 4). Indeed, research examining poverty in the UK which finds that there has been a rise in in-work poverty in the UK to the extent that in 2013 the Joseph Rowntree Foundation reported that for the first time the majority of people living in poverty were actually employed (MacInnes et al. 2013). Nevertheless, government policy in the UK following the crisis has continued to emphasise work as the best route out of poverty and has reinforced this through a benefit system that has become increasingly punitive.

Work Experience or Workfare?

One of the key messages of the Coalition Government, formed after the UK elections of May 2010 was that welfare had become unaffordable and that in times of austerity there would need to be ‘tough choices’ with an emphasis being placed on the ‘need to address the high and increasing costs of welfare dependency’ (DWP 2010, 4). Part of that message became increasingly tailored around the concept of welfare reform and making the benefits system ‘fairer’, particularly in relation to those who were in work as reflected in a speech given by the Chancellor of the Exchequer at the Conservative Party conference in 2012:

> ‘*Where is the fairness, we ask, for the shift-worker, leaving home in the dark hours of the early morning, who looks up at the closed blinds of their next door neighbour sleeping off a life on benefits?*’ (cited in Stone 2015)

In an effort to simplify and streamline existing welfare to work initiatives, the UK Government introduced in 2011, the ‘Work Programme’ which sets out how support will be offered to those seeking employment by public, private and voluntary sector service providers who undertake contracts from the Work Programme based upon payment by results. These changes to the delivery of support for the unemployed signalled a broader introduction and scaling up of work experience placements for most unemployment benefit claimants, an approach more commonly known as workfare (Peck 2001; Jessop 2002).

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These work placements have come in numerous forms such as Mandatory Work Experience (MWA) for those claiming Jobseekers Allowance (the primary social assistance offered to the unemployed) which involves four weeks of unpaid work for up to 30 hours a week for 'community benefit'. In terms of the Work Programme some providers have signed claimants up for six-month work experience placements. One of the difficulties for claimants has been that should they refuse such placements they can be (and often are) subject to 'sanctions' which include the complete removal of benefits for four weeks in the first instance, leading up to a maximum of three years' removal of benefits for continuous contraventions. Unsurprisingly, these sanctions have been a source of controversy amongst some groups particularly given that there have been 1.76 million decisions to apply a sanction since the new rules came into force (DWP 2015b). Moreover, the policy of applying sanctions to benefit claimants has been highlighted (Mason 2012; Cooper et al. 2014) as being a potential catalyst for the growth of food insecurity.

The opposition to the new emphasis on work experience placements, or workfare crystallised around the cases of a young university graduate who found herself unemployed following graduation and an unemployed lorry driver (Caitlin Reilly and Jamieson Wilson V Secretary of State for Work and Pensions, case UKSC 68, Supreme Court, 30 October 2013). Much of the arguments surrounding the case centred upon the experience of Caitlin Reilly, a geology graduate who had been told by the Job Centre to undertake an unpaid placement at a discount supermarket, Poundland, or else face sanctions to her benefits. One of the main issues which emerged from the case was the apparent contradiction in the case of Reilly who, as a geology graduate was already undertaking unpaid volunteer work in a museum in the hope of gaining employment commensurate with her skills, but would be forced to give that up to undertake an unpaid placement in a supermarket which had no relevance to her future career.

The High Courts of Justice ruled that the 'work for your benefits' schemes were in fact unlawful as they did not provide claimants with a necessary description of the placements in which they were participating, a decision which was later upheld by the UK Supreme Court. Nevertheless, the UK Government felt vindicated to some extent by the judgements as the courts did not consider the work for your benefits schemes as 'forced labour' (and thus not a breach of Article 4 of the European Convention on Human Rights), a claim made by campaigners. However, the rulings have provided some source of inspiration for campaigners who

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have long since opposed the schemes and these efforts seemed to be rewarded in late 2015 when it was announced that the Mandatory Work Activity was to be discontinued (HM Treasury 2015b).

Trade Union Act 2016

As we have seen above the role of trade unions in UK policymaking has diminished since the defeat of the mineworkers during the Thatcher years. Nevertheless, as was proven in 1992 and in subsequent years the trade unions continue to be a rallying point for many on the left in the UK, perhaps partly due to their long history of activism and their continued presence in political discourses (see Freeman and Pelletier 1990; McIlroy 1995; Fernie and Metcalf 2005; Howell 2005). Indeed, in recent years they have been a key source of funding for the Labour Party (Pyper 2013). The funding of the Labour Party by trade unions has also been a subject of consistent attack by the Conservatives in Government who view such funding as allowing the trade unions a disproportionate influence in British politics.

One legislative expression of this view has been the Trade Union Act 2016. Contained within the Act are a number of provisions designed to break with the practice of union members being automatically 'opted-in' to having political donations (known as the 'political levy') deducted from their union dues instead union members will be required to regularly enrol manually into paying any donations. This move has been interpreted both by trade unions and the Labour Party as an overtly politicised attempt to reduce both the funds of the Labour Party and to diminish the broader influence of the trade unions in UK politics as the new provisions will affect all trade unions not just those with an affiliation to the Labour Party.

Another aspect of the Act which has caused concern for trade unionists is that it places new restraints on industrial action in term of balloting for strike action. industrial action is an area which has witnessed legal action in recent years in the UK with one case in particular, RMT v Serco Ltd and ASLEF v London & Birmingham Railway Limited (case: EWCA Civ 226, High Court of Justice, 4th March 2011) of particular interest given the ruling in this case that Article 11 of the European Convention of Human Rights may have some bearing on the right to strike (see Dukes 2011). Indeed a successive case heard by the European Court of Human Rights ended with a ruling that recognised that the right to strike (specifi-

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cally secondary action or 'sympathy strikes') was covered by Article 11 of the European Convention (RMT v United Kingdom Case: ECHR 366, European Court of Human Rights, 8th April 2014), however the Court found that the ban by the UK Government on secondary strike action was not unlawful, a ruling that some have attributed to the politics of Britain's relationship with the European Court of Human Rights as much as the merits of the case (see Bogg and Ewing 2014). Nevertheless, the ruling has perhaps served to embolden the UK Government in proceeding with its Trade Union Act.

The Act sets out that ballots to strike amongst trade unionists must meet a minimum turnout of 50% of members otherwise the strike will be considered to be illegal. Moreover, should a strike ballot which takes place in any key public services (e.g. emergency services, health workers, teachers, border security) reach the 50% threshold then it must clear another threshold, namely 40% support of all of those who were entitled to vote. Should a strike ballot reach these thresholds then there are new regulations for industrial action which trade unions must observe however some of the more controversial elements – such as requiring a trade union official on picket lines to wear an identifying armband – have been scaled back, however some areas of the new legislation are still being debated including controversial proposals to allow employers to hire temporary agency staff during industrial action.

According to research conducted by Darlington and Dobson (2015) on 158 industrial strike ballots across 28 trade unions between 1997 and 2015, only 85 of these strikes would have met the new 50% threshold set out by the Act. Moreover, they also found that when taking account of 90 strike ballots in those areas deemed 'important public services' during that same period, the new legislation would reduce the number of strikes by almost 40%. Perhaps one of the most interesting responses to emerge from the embryonic debates surrounding this Act is the fact that if the turnout thresholds were to also be applied to Parliamentarians then the Minister responsible for bringing the Act forward would not have been elected (Dathan 2015) given the turnout in his constituency during the 2015 UK General Election.

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Migration

Much of the legislation enacted in the UK following the Second World War to protect against racial discrimination can be linked to the issues experienced by immigrants, particularly from the Commonwealth countries. Indeed the protections developed during the 1960s and 1970s are the antecedents of those which underpin the Equality Act 2010. Therefore the issue of immigration has a history of contention in the UK and concerns about the free movement of people whether they are migrants or refugees/ asylum seekers is somewhat illustrated by the different approach the UK adopts in comparison to other European countries. For example, in contrast to the majority of Member States of the European Union, the UK, along with five others, is not a signatory of the Schengen Agreement, which enshrines the principle of free movement of people. Of course, this has not prohibited the freedom of movement for EU citizens but it does highlight the reticence of successive UK Governments to fully embrace the concept of removing border controls. Furthermore, the opt out of the 'Schengen Zone' mirrors the opt out the UK also exercises over asylum and immigration policy, instead choosing to opt in to the first phase of the Common European Asylum System but opting out of those phases which succeeded these measures (Blinder 2015). Indeed in recent years the issues of asylum and migration have often been welded together in anti-immigrant discourses perhaps best exemplified by a now infamous poster from the Leave campaign during the 2016 EU referendum which called for a leave vote alongside a picture of a line of Syrian refugees. In one of our interviews with migrant organisations, the current context was portrayed in stark terms by one experienced activist who stated that, '*every immigration act has made the situation worse for asylum seekers and refugees'* and that there has been *'a submission to the populist anti-immigration agenda'*.

'Benefit Tourism'

The Directive 2004/38/EC, providing the right to free movement for European Economic Area nationals was implemented in the UK through a statutory instrument (a secondary legislation device used to enact or amend Acts of Parliament without the requirement of bringing forward a new Act), namely The Immigration (European Economic Area Relations)

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2006. Nevertheless, the capacity for free movement across Europe has in recent years experienced a gravitational pull towards discussions surrounding the future of the welfare state in the UK. Thus the implications of austerity have not been limited to those who have been resident in the UK since birth; instead the issue of the affordability of paying certain welfare benefits has also encroached into the field of migration.

The current UK Government has in the context of discussions and debate surrounding the future of the UK within the European Union publicly stated their desire to stop the UK benefits system from being such a 'soft touch' (Prime Minister's Office 2013). Unsurprisingly therefore the UK Government has welcomed European Court of Justice rulings such as Elisabeta Dano, Florin Dano v Jobcenter Leipzig, which stipulate that those citizens who are unemployed and/or 'economically inactive' and move to other Member States in order to claim welfare benefits can be lawfully prevented from claiming certain welfare benefits. Nevertheless, the narrative conveyed by emphasising the need to address 'benefit tourism' does not chime with statistics from the UK Labour Market which reveal that there has been an increase of 250,000 between 2014 and 2015 in EU nationals working in the UK (Case: C-333/13, European Court of Justice, 11th November 2014). Indeed, as Figure 4 demonstrates, EU nationals have contributed towards the stable employment rates in the UK during the period following the global financial crisis. Moreover, there are figures which suggest that unemployed UK nationals living in other wealthy EU states draw upon (the often more generous) benefit systems more in those countries than the nationals of those countries do so in the UK (Nardelli et al. 2015).

Nevertheless, following the election of the Conservative Government in May 2015, it became clear that the issue of 'benefit tourism' would play a role in the negotiations leading up to the in/out referendum promised in the Parliamentary term by the Conservative Party with a particular focus upon Regulation (EC) No 883/2004 Article 67 enabling European Union citizens to claim benefits in any European Member State. What this issue demonstrates is that any discussion of the movement of people to and from the UK must begin by comprehending the different relationship that the UK Government envisages in terms of the free movement of people across Europe. This is also evident in the treatment of asylum seekers and refugees.

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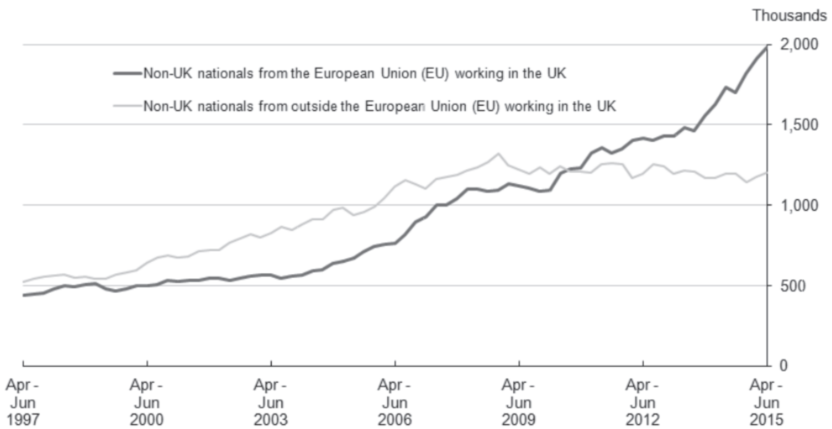
Figure 3. Non-UK nationals working in the UK, not seasonally adjusted April to June 1997 to April to June 2015 (Source: ONS 2015b)



Seeking Asylum and Refuge

The issue of asylum is not one the UK can easily ignore with an ongoing situation near Calais in France where people living in camps, including asylum seekers wishing to enter the UK have been prevented from doing so by border controls (see Rygiel 2011). The position of the UK Government in relation to asylum came under closer scrutiny in 2015, during the height of the Syrian refugee crisis which captured the attention of Europe. The divergence of the approach of the UK in contrast to some other European states towards Syrian refugees is perhaps best understood when placed within the context of some of the challenges which have emerged in the broader field of issues affecting asylum seekers, refugees and migrants in the UK.

One issue which has re-emerged as an area of concern has been detention of those seeking asylum (see Silverman 2012), a practice that came to the attention of the UK public in dramatic fashion in 2002 when the newly opened Yarls Wood detention centre was partially destroyed in a fire following protests from detainees about the conditions inside. Unrest amongst detainees has not subsided since the opening of the centre and in a recent report by the UK Chief Inspector of Prisons; the centre was declared a 'place of national concern' (Sanghani 2015). Such concerns are mirrored in the findings of a Parliamentary inquiry earlier in the same year into immigration detention which concluded that the, 'current system is

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expensive, ineffective and unjust' (APPG on Refugees and Migration 2015, 4). Further still, some of the actual procedures which take place once a person is detained have also come under close scrutiny.

One particular policy, 'detained fast track', introduced in 2002 has come under consistent pressure from campaigners who have argued that this process undermines the basic rights of vulnerable people claiming asylum. As the name suggests, the policy is aimed at speeding up the processing of claims for asylum, which involves detaining asylum seekers after a brief 'initial interview', after which (normally no longer than a matter of days) the claimant for asylum undertakes a longer, more in-depth 'substantive interview', and the day after this the decision to approve or reject the asylum claim is taken (for a detailed analysis of the immigration and asylum appeals process, see Craig and Fletcher 2012).

Following two successful legal challenges (Detention Action v First-Tier Tribunal (Immigration and Asylum Chamber) & Ors 2015; The Lord Chancellor v Detention Action 2015*)* highlighting the limitations placed upon asylum seekers and their legal teams to adequately prepare their cases – challenges which were brought about in part due to the persistent efforts of campaigners – the UK Government announced in July 2015 that the detained fast track system was to be suspended with the Minister of State for Immigration announcing that 'we cannot be certain of the level of risk of unfairness to certain vulnerable applicants who may enter DFT [Detained Fast Track]' (Brokenshire 2015). Therefore, perhaps even in a policy arena such as asylum which seemed intractable in the UK context, the solidaristic efforts of grassroots campaigners can be a catalyst for change.

A benchmark of the solidarity offered by a nation to those who come from beyond its borders is the treatment of people who seek asylum from persecution in their own countries. There is clear evidence that this manifestation of solidarity has been expressed time and time again by the British people and indeed by policymakers. This is perhaps best reflected in modern history by the Convention relating to the Status of Refugees 1951 (and later the 1967 Protocol which extended the scope of the original convention) which provides the definition of a refugee to which the UK is party as well as the European Convention on Human Rights 1950. These landmarks in international law are a source of reflection when scrutinising the solidarity demonstrated by UK Governments towards those seeking asylum. Indeed, in recent years, the field of asylum has been a site for contestation in the UK and has been characterised by discourses which some

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claim has been marked by, 'the production of specific subjectivities and identifications, from the 'worthy' refugee to the 'bogus' 'illegal' migrant' (Darling 2013, 77). Before exploring this point in greater depth we should briefly explain the relevance of international law to those currently seeking asylum in the UK.

Through the implementation of the EU Qualification Directive on Asylum (2004/83/EC) the UK is committed to an agreed minimum of standards which should be applied in both the recognition of refugees and the support they are offered. For someone to actually claim asylum in the UK, they are required to present themselves to the offices of the UK Border Agency immediately upon their arrival into the country (claiming UK asylum from outside the UK is not legally possible). A person may apply for asylum in relation to the 1951 Convention through fear of persecution in their own country or may instead make a 'human rights claim' under the 1950 ECHR, indeed an asylum seeker may make a human rights claim as part of a refugee claim. In terms of human rights, an asylum seeker may make a claim in accordance with Article 3 of the ECHR which protects individuals from torture, inhumane and degrading treatment or in accordance with Article 8 of the ECHR which protects the person's right to a personal and family life. Following a pivotal court case (Regina (Razgar) v Secretary of State for the Home Department 2004) those seeking asylum according to their right to a personal and family life have their claims heard in relation to the 'Razgar Test' which aims to balance the rights of the person seeking asylum with the right of the state to effectively control its borders. In doing so, the refusal of asylum in those cases which rely upon Article 8 is decided upon five points:

> (1) Will the proposed removal be an interference by a public authority with the exercise of the applicant's right to respect for his private or (as the case may be) family life?
> (2) If so, will such interference have consequences of such gravity as potentially to engage the operation of article 8?
> (3) If so, is such interference in accordance with the law?
> (4) If so, is such interference necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others?
> (5) If so, is such interference proportionate to the legitimate public end sought to be achieved?
> Speech by Lord Bingham in *Regina (Razgar) v Secretary of State for the Home Department (2004)*, paragraph [17].

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When a person makes a claim for asylum they are required to undergo a ‘screening interview’ which involves providing basic information including why the person is seeking asylum and their route of travel to the UK (to assess whether or not the person’s claim for asylum is the responsibility of another country under the Dublin regulations). At this point some asylum seekers can find themselves subject to two types of decision: one is the ‘non suspensive appeal’ where the Home Office (the UK Ministry which oversees immigration and asylum) certifies that an asylum claim is ‘clearly unfounded’ and that the person can only appeal once they have left the UK. Another pathway has been the ‘detained fast track’ route which is when the Home Office decides that the asylum claim can be swiftly assessed whilst detaining the asylum seeker (this was suspended in 2015 but plans to reintroduce a fast track process were unveiled in 2017). The next main stage in the application process is a substantive interview with a case worker to provide in depth details for the asylum application which then forms the basis for the ultimate decision. There are two successful forms of asylum, one being ‘refugee status’, the other ‘humanitarian protection’, in both situations the person is awarded limited leave to remain (lasting five years), following which they can apply for indefinite leave to remain in the UK. For those whose applications are refused, some applicants may have the opportunity to appeal this decision which involves taking their case through a process of tribunal and in some cases where there are challenges as to how the law has been applied, to higher courts, including the UK Supreme Court and the European Court of Human Rights. Recent research (Blinder 2015) has revealed that in the UK there were 24, 914 applications for asylum (excluding dependents) in 2014; in the same year 59% of asylum applications were refused but the majority of these decisions were contested on appeal with over a quarter of those appeals proving successful.

Perhaps what this focus on the process of claiming asylum in the UK does is reveal how being party to conventions can evoke a principle of solidarity with refugees but the actual implementation can somewhat erode the sentiment behind that principle. In other words, the focus of asylum policy in the UK appears to be concentrated to some extent on the control of borders rather than the expression of solidarity (Walters 2004). Indeed asylum in the UK is an issue which has captured the attention of policymakers a great deal in recent times, particularly during the late 1990s and early 2000s during which there was a rise in the number of asylum applications (see Figure 5; these numbers have since fallen but with some in-

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cremental rises in recent years) when the Labour Government were particularly active in the area of immigration and asylum with welfare assistance and border control again being the centre of attention (Sales 2002; Mulvey 2010) perhaps in part fuelled by media discourses (Greenslade 2005). However we should be careful not to generalise, although asylum is a policy area reserved to Westminster there is evidence that some scope for variegated responses to asylum seekers and refugees exists within devolved contexts (Lewis 2006) and across England through initiatives such as the 'City of Sanctuary' project which originated in Sheffield, which aims to build a grassroots network of support for those seeking asylum as well as the London based 'Strangers into Citizens' campaign which focused more upon influencing policymaking through political activism (Darling 2010; Squire 2011).

Nevertheless, research has found that the direction of asylum policy in the UK has been dominated by political elites (Statham and Geddes 2006) and indeed an emphasis on border control in relation to asylum can be seen to persist to the present day with the continued tensions surrounding the existence of the camps of asylum seekers in Calais, trying to reach the UK (see Milner 2011; Reinisch 2015). Evidence of continued concerns over border control has also emerged more recently in 2015 during the Syrian refugee crisis in which the UK Government was highly reluctant to accept high numbers of refugees who had crossed the Mediterranean (accepting up to 20,000 over five years) instead opting to emphasise the financial assistance it has provided and the practical support it could offer to those living in refugee camps in the region (UK Government 2015).

(1) A process preventing certain nationalities from appealing a decision while in the country (non-suspensive appeals process) was introduced in 2002.
(2) Full overseas immigration controls operated by UK immigration officers (juxtaposed controls) were opened in France and Belgium in 2002 and 2004 respectively.
(3) Fast-track facilities for asylum applications were introduced in 2003.

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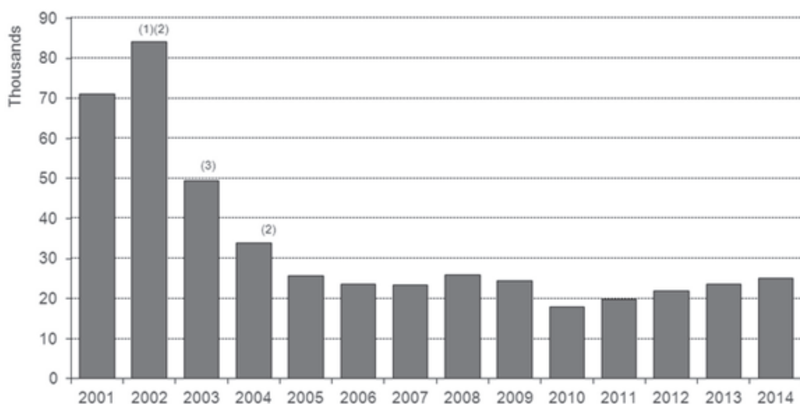
Figure 4. Long-term trends in asylum applications for main applicants (Source: Home Office, Immigration Statistics April to June 2015)



Conclusions

Our analysis of the UK context presents a challenging environment for different forms of solidarity. Indeed the very word solidarity is used infrequently by activists and has very little currency in contemporary UK policymaking. When assessing the impact of the austerity measures which have been implemented since 2010, we can observe a much reduced level of state based solidarity in the form of welfare spending which will certainly not remedy the already high levels of inequalities across the communities of the UK.

When looking at the space for transnational solidarity we have observed that the UK Government has a preference for articulating this primarily in financial terms (e.g. the international aid budget) whilst simultaneously emphasising the control of borders. Indeed, our analysis at this stage reveals that policymakers in the UK are very sensitive to even short term rises in migration of any form. Moreover, some of the rhetoric distinguishing between those who are deserving and underserving in terms of welfare appears to also have been translated to the free movement of people, leading us to question if there is a tangible dividing line between the valorisation of high skilled immigrants compared to those with low skills or those who seek asylum. On the subject of work, although we have seen that industrial

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relations in the UK have a contentious history, it may also hold a similar future. Therefore, deliberately or not, austerity policies since 2010 may prove to be a source of division in the UK for some time to come.

Nevertheless, there are examples of grassroots initiatives across the UK which aim to act in solidarity with those facing challenges in the labour market, coping with disability or navigating the complex frameworks of immigration and asylum. These actors will undoubtedly play a pivotal role in defending existing protections for these groups and mobilising support for them in broader UK society. Indeed in some of the cases we have highlighted in this report, civil society organisations have offered support to those taking legal action and some have brought forward cases themselves, however in the course of our research we found that only a small minority take the court route. However, one of the strong themes which emerged from our interviews was the growing scarcity of resources for civil society organisations in a context where demand for their assistance was increasingly sought after. Moreover, we can hypothesise that the cuts to financial support via legal aid may present challenges should others wish to follow the path of some of the high profile cases highlighted in this chapter. Therefore it is unlikely that civil society organisations, already under financial pressure from cuts to funding streams, will have the resources to pursue legal avenues for their beneficiaries. Therefore, in terms of pursuing legal action we can envisage those civil society organisations which have the capacity to do so, targeting particular practices, forms of discrimination and those areas of legislation which have the weakest legal basis. Overall our research reveals that despite the existence of protections for the disabled, the unemployed, migrants and those seeking refuge and asylum, the capacity to exercise those rights remains a key issue.

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