

FORCED LABOUR IN THE UNITED KINGDOM

Since 2010, JRF has supported research into the nature, scale and scope of forced labour in the UK. At a time when new legislation is being considered by the UK Government, Northern Ireland Assembly and Scottish Parliament, this report summarises evidence on forced labour and offers recommendations.

Key points

- Human trafficking and forced labour are both forms of modern slavery. They sometimes overlap but they are not the same.
- Forced labour is considered a serious crime in the UK, but current arrangements are confusing and fragmented, undermining actions to identify offences and prosecute offenders.
- Forced labour is found across the UK in sectors characterised by low-skilled, low-paid labour (like food processing, construction, hospitality) and among flexible, temporary (commonly agency) workers.
- Forced labour is principally an issue of exploitation, supply chain management and business operations – intersecting with the vulnerability of individual workers.
- Underlying causes include a regulatory framework in which the use of forced labour makes ‘business sense’, even if illegal, because the risks of discovery and prosecution are low, and weak enforcement of labour standards.
- While many of those exploited are vulnerable British workers, immigration status matters. Even where a migrant has full rights to work in the UK, migrant status can contribute to exploitability.
- Forced labour cannot be stamped out by a single intervention or regulation – it requires cross-government, multi-agency strategy that ensures a level playing field for business, decent employment for workers, strong law enforcement, and protection and redress for all victims of modern slavery.

INTRODUCTION

A Modern Slavery Bill was introduced to the UK parliament in June 2014, building on the work of the Modern Day Slavery Bill Evidence Review (2013) and the Joint Committee on the Draft Modern Slavery Bill report (2014). In Northern Ireland, a private members' bill to firm up trafficking laws was introduced by Lord Morrow in 2013 (now to be integrated into a consolidated bill) and the Department of Justice has issued an updated Action Plan on Human Trafficking and Exploitation for 2014/15. In Scotland, ministers have announced their intention to introduce a consolidated law.

Forced labour is a serious crime and a form of modern slavery estimated by JRF to currently affect at least 3,000 to 5,000 people across the UK. It is defined by the International Labour Organization (ILO) as 'any work or service exacted under the menace of any penalty, and for which the worker has not offered himself voluntarily'.

Forced labour lies at the end of a continuum between decent work (being the optimum) and forced labour (being the most severe form of labour exploitation). It is caused by a number of factors, but the core drivers are:

- the interaction between an *individual's vulnerability* and a *setting* in which this individual's work or services can be exploited for profit without too much risk of discovery or prosecution;
- the economic drivers for forced labour practices to be used in the UK, especially in labour supply chains;
- the regulatory framework within which the use of forced labour and exploitation of workers makes business sense, even if illegal.

Although the number of detected cases is increasing, forced labour remains underreported. This is due to inadequate data collection, reluctance of those affected to come forward and lack of awareness among police and other frontline agencies about the indicators.

Forced labour is already considered a serious crime in the UK. In 2009, a standalone offence of holding a person in slavery, servitude or forced labour was included in section 71 of the Coroners and Justice Act. However, present legislative arrangements on forced labour and human trafficking are confusing and fragmented, undermining actions to identify offences and prosecute offenders.

Evidence of forced labour in the UK

What is forced labour?

Forced Labour Convention No.29 (1930) of the ILO defines forced labour as: 'Any work or service exacted under the menace of any penalty, and for which the worker has not offered himself voluntarily.' To better understand what forced labour constitutes in practice, the ILO initially developed a list of six forced labour indicators:

- threats or actual physical harm to the worker;
- restriction of movement or confinement to the workplace;
- debt bondage;
- withholding of wages or excessive wage reductions;
- retention of identity documents;
- threat of denunciations to the authorities.

The research

Research supported by JRF's forced labour programme represents a comprehensive collection of independent studies on forced labour, including research into business models and supply chains, specific industries and locations, and experiences of labour exploitation (all research published by JRF and available to download from www.jrf.org.uk/work/workarea/forced-labour):

Allain, J., Crane, A., LeBaron, G. and Behbahani, L. (2013) *Forced labour's business models and supply chains*

Clark, N. (2013) *Detecting and tackling forced labour in Europe*

Dugan, E. (2013) *Forced labour and human trafficking: Media coverage in 2012*

Dwyer, P., Lewis, H., Scullion, L. and Waite, L. (2011) *Forced labour and UK immigration policy: Status matters?*

Geddes, A., Craig, G., Scott, S., Ackers, L., Robinson, O. and Scullion, D. (2013) *Forced labour in the UK*

Jarman, N. (2014) *Forced labour in Northern Ireland: An update*

Jarman, N., Allamby, L., Bell, J., Hamilton, J., Hansson, U., Potter, M. and Toma, S. (2011) *Forced labour in Northern Ireland: Exploiting vulnerability*

Kagan, C. Lo, S., Mok, L., Lawthom, R., Sham, S., Greenwood, M. and Baines, S. (2011) *Experiences of forced labour among Chinese migrant workers*

Lalani, M. and Metcalf, H. (2012) *Forced labour in the UK: The business angle*

Balch, A. (2012) *Regulation and enforcement to tackle forced labour in the UK: A systematic response?*

Lo, S., Lawthom, R. and Kagan, C. (2011) *Chinese migrants: Their experiences in their own words*

Scott, S., Craig, G. and Geddes, A. (2012) *Experiences of forced labour in the UK food industry*

Skrivankova, K. (2010) *Between decent work and forced labour: Examining the continuum of exploitation*

The ILO developed longer lists of situations and conditions that constitute abuse. This approach was further developed in the JRF research to identify forced labour practices in the UK, which included:

- *Upfront fees/debt bondage*: Many workers paid fees to agents, either for travel to the UK or for job arrangements. This often led to indebtedness that created a bond with exploitative work or tied the worker to accommodation. This was found to be a common practice despite the fact that charging for finding or trying to find work is not permitted in the UK.
- *Threats and bullying*: This was often linked to racism experienced by migrant workers or differential treatment to British workers.
- *Disciplining through dismissal*: The research found three main forms: to avoid paying workers' wages; to punish workers for refusing to work overtime; when workers became ill or pregnant.
- *Productivity targets and surveillance*: This includes constant monitoring or imposing unrealistic production targets.

- *Overwork*: This indicator applied especially to agriculture workers in the peak of the season and to Chinese workers in the catering sector where work intensity prevented them from developing any meaningful life outside work.
- *Non/under-payment of wages*: Some discrepancy in pay was found in the majority of cases of labour exploitation. Migrants were often unable to get the pay that they were owed or were promised to be paid later, and pay day was constantly postponed.
- *Deduction/charges*: Migrants were commonly charged for job arrangement services or were subject to deductions for equipment, clothing and so on. Non-payment of these charges would result in the worker being denied work.
- *Tie-ins (work authorisation)*: Since a work permit is de facto tied to a particular employer (because of the requirement of an employer sponsor), it is difficult for a worker to change job. The misbalance of power between employer and worker can lead to abuse.
- *Tie-ins (accommodation)*: Exploitative work is often linked to sub-standard accommodation that comes with the job, whereby the worker has no choice of accommodation and the housing provided is overcrowded, poor quality and overpriced. Refusal of the provided accommodation can lead to loss of job.
- *Tie-ins (money)*: Some employers kept workers' pay for 'safekeeping', but denied the workers regular access to their money, purposefully creating a situation of dependency.

Clarity on the definition and indicators of forced labour, reflecting ILO guidance, is required for it to be tackled effectively by the UK government and devolved administrations, public authorities including local authorities, the police and the judiciary, and relevant non-governmental organisations.

How does forced labour relate to human trafficking?

Forced labour and human trafficking are not the same, although they sometimes overlap. For this reason, they should be dealt with separately in policy and in practice. Human trafficking is a process of bringing someone into a situation of exploitation. It is a series of connected actions with the final purpose being a form of exploitation (such as labour or sexual exploitation). The whole process is exploitative, although this is not always evident, especially at the initial stages. The overlap occurs where labour exploitation is the intended purpose of human trafficking. In summary, human trafficking is a sub-set of forced labour – it is not a synonym.

Figure 1: Continuum of exploitation and interventions



A continuum from decent work to forced labour

Forced labour is a distorted employment relationship where a worker is subjected to severe exploitation either by their direct employer or by an intermediary such as a gangmaster. Legal definitions describe the acts of exploitation that constitute breaches of law, but the reality is often more complex.

Skrivankova (2010) developed the continuum of exploitation to understand and address the complex reality of forced labour and labour exploitation and identify the range of remedies at hand. This concept addresses both the symptoms and the causes and brings in labour law and enforcement of labour rights alongside criminal justice interventions.

The continuum is a model reflecting the real-life experiences of workers. Employment relationships are not static; an individual's work situation changes over time. The model takes into account the variability in an individual's working conditions that results from the circumstances of the worker (economic, social), their personal vulnerabilities (mental health, addictions), as well as external pressures (immigration regulations, economic climate). These pressures affect the choices that workers make, or that are open to them, and on the behaviour of employers. The model also considers the wide spectrum of sub-standard working conditions that might not constitute forced labour but are identified as underlying causes.

Box 1: Example of change in worker's conditions over time linked to their immigration status

F was hired as a chef to an Indian restaurant in the north west of England on a year work permit. His contract stipulated payment of the minimum wage. Food and board was offered by the employer against a fee. F was meant to work six days a week 10am–8pm, but was given the option of working until 11pm to make more money. He took the option, as he had incurred a debt at home (his employer was not aware of this). He was satisfied with the work, the pay, accommodation (room shared with three other people) and food of leftovers from the restaurant.

When he completed nine months in the job, his employer asked for his passport to renew his visa. F was then also informed that his wages would be lowered, as profits in the restaurant were low. When F objected, his employer gave him the passport back and told him he could leave and he would find someone who would do the job for lower pay. F decided to continue working for the employer (who renewed the visa) because he needed to sustain his income, and did not want to lose his status, as his visa was tied to the employer.

Source: Skrivankova (2010)

Where in the UK does forced labour take place?

Forced labour can be found across the whole of the UK. JRF research shows that it is evident at the intersection of formal and informal work, and mainly in sectors characterised by low-skilled, low-paid, manual labour and heavy use of flexible, temporary (commonly agency) workers. Direct employment (such as in domestic work or the restaurant trade) can result in forced labour, but it is more often found along the labour supply chain, where exploitation may happen around the workplace (often through the actions of an intermediary or labour provider) rather than at the workplace.

Accurate statistics on forced labour are scarce because of the way data is collected and analysed and due to problems identifying forced labour. The boundaries between forced labour and labour exploitation are contested, which makes it difficult to detect forced labour. Statistics of detected cases published by the UK Human Trafficking Centre show mainly potential cases of trafficking for labour exploitation, which have been in the range of several hundred cases per year for the past few years. The analysis undertaken by Geddes *et al.* (2013) of data collected by non-governmental organisations that assist victims or by workplace enforcement agencies show convergence with the findings of other studies in terms of the location and sectors where workers are most commonly exploited, even though the agencies do not analyse their records for incidence of forced labour.

Studies in the JRF programme looked at the food industry in London, Liverpool, south-west England, Lincolnshire and east-central Scotland, and the fishing, mushroom, and catering industries in Northern

Sectors where forced labour and labour exploitation typically occur include: domestic work, food processing, agriculture, hospitality, cleaning, care, construction, and criminal activities.

Ireland, as well as incidence of labour exploitation between and within migrant groups. Potential exploitation in the recycling industry has recently been identified in Northern Ireland (Jarman, 2014). Research into the UK food sector (Scott et al. 2012) identified at least 14 forced labour practices through interviews with 62 workers. Using 19 indicators of forced labour divided into three categories (strong, medium, weak), the research then ascertained signs of forced labour in the sample of 62 workers. The most common 'strong' forced labour indicators were:

- breaches in or lack of contract (41 cases);
- non-payment of wages or illegal deductions (40 cases);
- payment below minimum wage (34 cases);
- purposeful isolation at work (33 cases);
- psychological harm (30 cases);
- fear (26 cases);
- confinement to workplace (20 cases).

Light-touch regulation of employment and workplaces, the increasing flexibility of the labour market, and casualisation of employment relations has led to a growth in labour intermediaries (third party labour providers such as gangmasters and labour agencies) and widespread use of subcontracting. The UK has a very large and fragmented agency sector, characterised by large numbers of very small local operators that supply mainly low-skilled, low-status, temporary labour into often protracted labour supply chains. Agency workers may be employed at the bottom end of the labour market with few protections, inspections or regulation enforcement.

The absence of robust and consistent enforcement of workers' rights and of third-party labour providers has helped to create the conditions for labour exploitation in the UK economy. Aside from the Gangmasters Licensing Authority (GLA, which regulates labour providers in the agriculture and fishing industries), the labour agency business in the UK is largely deregulated. Unlike in some other European countries, there is no nationwide labour inspection regime encompassing all industries. Instead, workplace enforcement is fragmented across several government agencies (of which only the Health and Safety Executive has universal coverage). Other agencies include Her Majesty's Revenue and Customs (HMRC), which operates the Pay and Work Rights Helpline (formerly the National Minimum Wage Helpline) and has now subsumed the Employment Agency Standards Inspectorate (which ceased to exist as a separate body in 2013), and the Trading Standards Authority.

Worker vulnerability to labour exploitation

At the core of forced labour is the nexus between an *individual's vulnerability* and a *setting* in which this individual's work or services can be exploited for profit without too much risk of discovery or prosecution. Tackling forced labour therefore requires attention to both of these.

Forced labour is primarily an issue of *exploitation*, rather than *immigration*. Many of those affected by forced labour or severe labour exploitation are British nationals or EU nationals, or people with work visas entitled to work in the UK. What they have in common is their vulnerability to labour exploitation – although the underlying causes of vulnerability may differ.

In recent years, several cases involving British workers (especially men) in forced labour have been uncovered. The so-called 'Connors' case involved several members of the Connors family who induced vulnerable British men to work for them. The victims were vulnerable by circumstances and lifestyle (for example, homelessness, alcohol addiction) and some had learning difficulties. They were made to do manual labour, block-paving and demeaning tasks on the home site under threats and use of violence, had their documents withheld, and received derisory pay. Those entitled to benefits had to

hand these over to their exploiters. Several the victims were subject to forced labour over decades. It is estimated that over the years hundreds of victims were exploited. In the first of these cases, *R v Connors*, the perpetrators were convicted of forced labour offences and sentenced to prison.

While many of those exploited are vulnerable British workers, the JRF-funded studies found that immigration status matters. Even in cases where a migrant has full rights to work in the UK (for example, as an EU citizen or on a work visa) their migrant status can contribute to their exploitability. The key issue here is forced labour occurs where workers, of any nationality, are most vulnerable. Limited English and understanding of employment law are played upon to keep workers in exploitative conditions. This is even more so for those workers whose opportunities for employment are limited.

The UK immigration system is highly stratified, making it harder to understand the entitlements of particular migrant groups. This creates opportunities for labour exploitation by disreputable employers and labour providers. Unsurprisingly, there is most risk of forced labour where an individual's work visa is tied to a particular employer. The most commonly cited example is the situation of overseas domestic workers who, since 2012, are again no longer allowed to change employers within the same category and hence became trapped in abusive situations. Another example is the deliberate use of workers with precarious immigration status by employers who want to conceal illegal activity, as these workers are judged less likely to report illegal activities to the police for fear of being deported. There are also concerns that some changes proposed in the Immigration Bill would further increase migrant vulnerabilities to forced labour – for example, restrictions around opening bank accounts could leave some workers with no option but for their money to be held by their employer, or additional duties on landlords to perform immigration checks could lead to some workers being required to stay in accommodation tied to their employer or agent.

Research also found that some migrants (especially new arrivals) consider that arduous working conditions or even forced labour are an inevitable first step on arriving in the UK. This perception was sometimes propagated by co-nationals. This was evident, for example, in the study of exploitation of Chinese migrant workers by co-ethnic employers in the restaurant sector in Manchester (Kagan *et al.* 2011). So, while forced labour is an issue of exploitation rather than immigration, immigration status also matters where it increases individual vulnerability.

Consequences of forced labour

While the traditional 'menace of penalty' in the form of physical violence is now less common, the psychological consequences experienced by many workers are far reaching. Fear and feeling powerless were among the most frequently-described experiences cited in JRF research. Aside from poor mental health, untreated injuries or physically demanding work in dangerous and unhealthy conditions also take their toll on physical health.

Ensuring redress for individual workers who have been victims of labour exploitation is a challenging obligation for governments and judiciaries. Even more so is the task of tackling the underlying causes that contribute to the conditions in which labour exploitation occurs. Failure to do so risks the erosion of overall labour standards and working conditions across the UK.

One approach is to balance the focus on detecting extreme cases of forced labour with a parallel focus on improving the overall consistency and robustness of enforcement of labour standards and prosecuting those who may be punishable under civil or employment law, rather than criminal law.

Understanding the business of forced labour

At a time when governments across the UK are committed to tackling modern-day slavery and labour exploitation in the UK, it is important to highlight that forced labour is considerably less hidden than is sometimes suggested. Indeed, JRF research shows that forced labour is a business and is relatively common in UK labour supply chains.

The criminal element of forced labour should not be downplayed, but research found that forced labour is not confined to serious organised crime or individual criminals. Rather, the research points to UK labour market and economic factors which are conducive to using forced labour. JRF research

challenges the notion that forced labour is a hidden phenomenon. Instead, researchers found it is straightforward to identify the business and employment structures that facilitate labour exploitation. For example, research by Lalani and Metcalf (2012) found that economic actors who engage in the 'business of forced labour' – whereby exploitation of workers is part of their business or operating model – work in regular industries that supply products and services on a daily basis to the UK public. Common characteristics of the economic areas where forced labour and exploitation occur are:

- pressure on costs, leading to intensification of work (such as in the food industry, where forced labour and piece rates are used by labour providers);
- variability in labour demand (such as the hotel industry, where hotel chains are now primarily involved in hotel management rather than ownership);
- high concentration of migrant labour (particularly in low-paid and low-skilled manual work);
- use of agency and subcontracted labour that creates a grey area of informality.

The combined pressures of cost reduction and variability of labour demand have produced what can be described as a 'dual labour market', whereby some businesses retain a small number of permanent staff and fulfil remaining needs by employing a temporary workforce as and when needed. Labour exploitation is more likely to be found in sections of the labour market that use or supply temporary workers who are more vulnerable and/or are migrants.

Temporary agency and subcontracted labour is also associated with informality. JRF research found forced labour is most likely to occur at the intersection of formality and informality, where employment or other legal obligations (such as taxation) are skirted. Importantly, however, the research found that informal employment relationships are widespread in the formal economy and should not be equated narrowly with the informal economy.

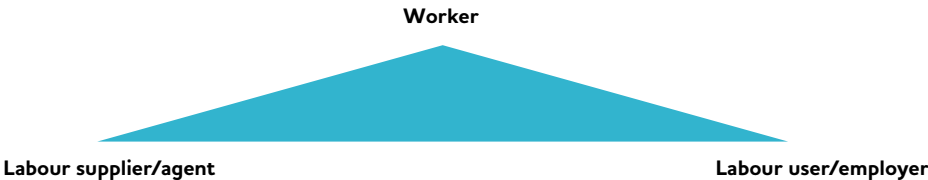
Research by Allain *et al.* (2013) developed a new conceptual model of the business of forced labour and used it to analyse the bottom tiers of the economy where exploitation appears most prominent. First, the research identified two main *types of economic actors* in the business of forced labour: private producers and intermediaries (labour suppliers, agents and third-party labour providers).

Producers tend to be smaller businesses that employ workers directly and are found to be operating in the informal sector or engaging in illegal activities. The research documented forced labour practices by producers in the food sector, restaurant trade, construction and in illegal production of cannabis.

Labour intermediaries do not employ workers directly, but facilitate a relationship between workers and those who need them. They do not produce anything, but they provide facilitation and labour-related services. They include gangmasters, recruitment and temporary worker agencies and payroll companies. The increased use of intermediaries has led to a shift in employment relationships from a direct relationship between employer and worker to a triangular relationship (see Figure 2).

In this triangular relationship, responsibilities for working conditions and treatment of workers become opaque as they are shared between agents and employers. Consequently, there are cases of forced labour and exploitation where the labour supplier is the exploiter – perhaps holding a worker in debt bondage, withholding pay, controlling their movement, subjecting them to threats and violence – all

Figure 2: Employment relationship



without the labour user having much knowledge of the worker's situation. The research found that third-party exploitation has become an increasing concern in some industries.

Second, the concept of the *business model of forced labour* looks at two ways that labour users and labour intermediaries benefit from the use of forced or exploitative labour:

- **Cost reduction through the use of forced labour:** If the total cost of the worker for a coercive and exploitative employer is lower than if the arrangement were lawful, and if the risk of detection or prosecution by UK authorities is felt to be negligible, then forced labour can be said to make business sense.
- **Revenue generation through the use of forced labour:** Some perpetrators use forced labour to generate additional revenue and abuse their control over workers to coerce them into purchasing additional services. These include inflated charges for accommodation, food, transportation, equipment and immigration services. Such activities are sometimes combined with benefit theft or forcing workers to commit benefit fraud and give the proceeds to their exploiters. Such methods are used to keep workers dependant on their exploiter.

The methods of profiting from exploitation vary, and it is likely that perpetrators will modify their operations according to where there is most chance of higher yield and where they identify an opportunity created through change in regulations. The research tested these business models of forced labour on two formal industries (construction and food) and on commercial cannabis production in which forced labour has been found in the UK. However, the framework is adaptable to other sectors in the UK where labour exploitation occurs, and intermediaries and employers tend to operate their enterprises along similar patterns.

Supply chains and the business of forced labour

Economic actors do not operate forced labour business models in a vacuum. Their trade is linked with other business actors through supply chains. Hence, in order to mount effective interventions, it is important to understand how forced labour occurs in the context of the supply chains. JRF-funded research by Allain *et al.* (2013) found that regular, legitimate business is also part of supply chains which are tainted by forced labour – whether the product is legal or not. It found that in the UK, forced labour is most commonly found at the intersection between *product* and *labour* supply chains at the point where formal and informal sectors meet.

Product supply chain

The product supply chain is a process of several stages through which a product transforms from the raw material into the finished product. Recognising the stages in the individual product supply chain helps to identify the businesses that knowingly, or through ignorance, become a part of the forced labour business.

Forced labour in product supply chains is often associated with lengthy global product value chains, but also occurs in UK-only product supply chains. These are shorter and tend to be found in the food sector, where farmers supply manufacturers (such as dairies or meat processors) who then supply retailers or others, such as caterers. Studies have already documented how forced labour finds its way 'from the field to our plates' in the form of leeks, eggs or chickens.

Allain *et al.* (2013) concluded that the short length of product supply chains in the UK, involving only a few large players, makes it relatively straightforward to trace the actors within it and therefore tackle forced labour and labour exploitation. Forced labour is associated with 'low-value-adding activities' at any given stage of the product supply chain. These activities are commonly subcontracted and are associated with low-skilled and low-paid labour (which attracts more vulnerable workers), for example cleaners in slaughterhouses or seasonal agricultural labour. It is at this point where the economic actors operating a business model of forced labour enter into the formal product supply chain.

Labour supply chain

In the UK, the labour supply chain is a significant concern in terms of risk and incidence of forced labour. The labour supply chain also consists of various stages, but these stages relate to employment

Box 2: Example of a business model of cost reduction through the use of forced labour

Having become homeless, Michael, from Poland, was approached outside a tube station by a man who had his own building firm. "I was dressed in old and dirty clothes and I think he could see that I didn't have anywhere to live," said Michael. "He asked me if I was looking for work, and when I said yes, he offered me accommodation along with a job doing groundwork and laying paving slabs. I was a bit suspicious at first and told him I didn't want to go with him straight away, but I felt I didn't have much choice as the other option was sleeping on the streets."

Michael joined a number of foreign workers at the site where they slept in old caravans and a barn. "I felt like a slave," Michael said. "The boss was very intimidating and did not like us going off the site on our own. He was always asking where I was going and what I was doing. I had no private life. If I wanted to go to the local shop, he would insist on driving me there and back. He was threatening and would say 'I'll kill you' or 'I'll beat you up', half joking but in a frightening way. One of the Irish guys he employed was mentally ill and another one was fleeing the law... I felt like a virtual prisoner and wanted to escape from the situation but felt I couldn't."

Source: Elliot and Lucio 2011 quoted in Allain et al. 2013

Box 3: Example of a business model of revenue generation through the use of forced labour

Thirty Lithuanian workers in Kent were subjected to slave-like conditions and controlled through the use of violence by D J Houghton Catching Services based in Maidstone – a licensed gangmaster who supplied workers to Nobel Foods, one of the UK's largest processors of eggs and chickens. The gangmaster charged workers excessive recruitment fees, deducted £40 a week from workers' wages to live in a damp and infested house, charged workers high amounts for transportation from worksite to worksite, and sometimes stopped paying them entirely, forcing workers into a situation of debt bondage.

The workers alleged they would be told to bring food to last five days and were then bussed around the country from job to job, from Monday to Friday, sometimes being driven for five or six hours at a time between farms before working a night shift. The GLA's investigation found these workers "suffered exploitation so extreme that the Authority had to order the firm to stop supplying workers to farms and food factories immediately" and called the case "one of the worst cases of exploitation the GLA has ever uncovered in the food supply chain".

Nobel Foods supplied eggs to companies including McDonald's, Sainsbury's, and Marks & Spencer. D J Houghton Catching Services had their licence revoked by the GLA. They initially appealed, but in March 2014 withdrew their appeal and accepted the revocation of their license.

Source: Lawrence (2012) and GLA (2012) quoted in Allain et al. (2013); GLA (2014)

relationships that a worker passes through. Labour supply chains encompass both direct relationships between worker and employer and also the triangular relationships with labour market intermediaries. Allain *et al.* (2013) looked at the stages and the various formal and informal actors in the supply chain and showed how the business models of forced labour function within labour supply chains.

Looking again at the food sector and construction industry, the research identified that forced labour arises where the labour supply chain is relatively long and the forced labour dimension of the chain tends to be several levels removed from the core labour force.

These industries rely on a large body of contingent labour, which is supplied by intermediaries who in turn sometimes rely on labour intermediaries themselves. The result is a supply chain of many tiers – sometimes up to six – where oversight is more difficult. The supply chains are often lengthened at times of high pressure (such as nearing completion deadlines on construction sites). The length of

supply chains and the high time and cost pressures allow for informality to enter into the labour supply chain. It is this informality and the involvement of multiple subcontractors that were identified in the research as the outlet for forced labour.

Forced labour in illegal cannabis production

While the cannabis production industry is illegal, the economic actors involved include formal actors (for example, renting properties, providing energy) as well as informal and completely illegal ones (seed suppliers and product distributors). The labour supply chain in cannabis production may comprise some who willingly join the illegal enterprise, alongside others who may have been coerced. The business model operates on the basis of increased profit from reduced labour costs, but the use of forced and sometimes trafficked labour brings the added benefit to the perpetrator of reducing the risk of detection and prosecution. When a cannabis factory is discovered, most commonly it is the factory workers that are prosecuted for drug production rather than those who are behind the business operation.

Tackling the business of forced labour in the UK

Regulations and interventions currently used to address the business of forced labour in the UK include criminal justice, regulatory enforcement, licensing and social auditing, and interventions assisting individual workers affected by forced labour.

Criminal justice

Criminal justice enforcement appears to have improved since the introduction in 2009 of a standalone criminal offence of forced labour. Some twenty prosecutions have been brought in the past five years. Reports of labour trafficking have also risen according to National Referral Mechanism data from the UK Human Trafficking Centre in the past three years. However, most of the enforcement still happens within the regulatory framework related to human trafficking and the numbers of those prosecuted for use of forced labour, trafficked or not, remain low.

This kind of enforcement is often the result of planned operations. However, and significantly, the research suggests that many enforcement agencies (such as the police, HMRC, HSE inspectors, the Home Office, and Pay and Work Rights Helpline) may come across forced labour when carrying out routine duties, but often fail to identify it. Cases where they are dealing with breaches that link to forced labour are instructive. For example, when a worker calls a helpline to inquire about the national minimum wage, it is not standard practice for the operator to ask why the worker is calling.

Another example is that of workplace checks conducted by UK Visa and Immigration (UKVI), which focus on detecting illegal working rather than workplace exploitation. UKVI is unlikely to ask workers with precarious immigration status about their working conditions or whether they have been paid. Employers of illegal workers are fined for using workers without the correct immigration status, and in some cases receive prison sentences, but these are significantly lower than the punishment for forced labour (where penalties are up to 14 years). Similarly, police enforcement of drug crimes linked to commercial cannabis cultivation may risk perpetuating the use of forced labour where it fails to 'see the crime behind the crime', prosecuting the forced labourers rather than their exploiters.

Licensing

Licensing is an important way to regulate forced labour out of labour supply chains. In the UK, licensing is used only in the food supply chain through the operation of the GLA. The GLA has been operating since 2005 and licenses labour providers in agriculture, horticulture, forestry, fish processing, shellfish gathering, dairy farming and food packaging and processing. The GLA has played a crucial role in the improvement of standards of gangmasters (labour providers) in its sectors of operation and has been instrumental in uncovering labour exploitation in a number of cases. Forced labour and worker exploitation is included within GLA's 'critical licensing standards', the violation of which leads to revoking a gangmaster's license.

As a result of the GLA's work, many labour providers have moved into other industries that are *not* subject to a licensing regime. Gangmasters that have had their licenses previously revoked by the

Box 4: Example of exploitation in the labour supply chain

In 2008, a major construction firm, Skanska, was operating a government Private Finance Initiative (PFI) hospital site in Mansfield worth £600 million. Skanska subcontracted most of the building work to its major subcontractors, including a firm called Baris, who subcontracted dry-lining to a small company called Prodom.

Prodom was paying its dozen Lithuanian workers just £8.80 for a 40 hour working week – a situation that came to light only after some workers stopped being paid altogether. According to the pay slips obtained by the Union of Construction, Allied Trades and Technicians (UCATT), workers “did not receive overtime (some workers worked in excess of 70 hours and took home less than £100) and were charged excessive deductions for rent, tools and utility bills. It is understood that many of these charges were unlawful”. UCATT, which uncovered the exploitation, described it as an “appalling systematic abuse of vulnerable workers”.

Source: UCATT (2008) quoted in Allain *et al.* (2013)

GLA have since been found operating in other areas. The research found that 55 per cent of GLA-licensed businesses also operate in other sectors, so there is clear potential for displacement of the problem. This is an inherent weakness of a sectoral approach to licensing and regulation. The GLA’s collaborative approach, which focuses on safeguarding victims, has also been held up as good practice: they strive to ensure positive solutions for victims alongside the prosecution of perpetrators. Where the GLA finds victims through its enforcement actions, it engages service providers to assist those victims – including intervening with retailers to help find new jobs for workers who lost work as a result of the gangmaster’s licence being revoked. Many have called for extending the authority and the resources of the GLA to cover all industries where there is known risk of exploitation and forced labour associated with labour providers. The evidence from JRF’s programme points to the same recommendation.

Social auditing

JRF-funded research (Allain *et al.* 2013) looked at social auditing and the use of voluntary codes of conduct in the UK, and found these have not been very successful in identifying and reporting forced labour. Retailers can use auditing tools to track and enforce social and environmental standards within their supply chain. Two problems with auditing in the UK are the ability to detect forced labour and lack of reporting.

Detecting forced labour

Detection of forced labour through social auditing is limited mainly because the method has been developed around *product* supply chains rather than *labour* supply chains. The focus of audits on product supply chains constrains their ability to see through the complex tiers of labour intermediaries. It is unlikely to detect exploitation at the lower tiers where multiple subcontracting is engaged. In the food sector, for example, this means that smaller farms that supply certain produce into the chain are missed by the major supermarket audits as they are too far removed from the primary product supply chain.

Reporting forced labour

Auditing firms are not required to report forced labour or other criminal activity beyond their clients. Any findings of irregularities remain confidential in audit reports. This also allows for the possibility of repeated incidences of forced labour in business operations that have previously passed an audit. Many retailers will operate audits to high standards and act to remedy any problems that have been identified. However, those businesses that choose to look the other way are able to do so because common enforceable standards are missing. So not only is social auditing of limited use, it also creates an uneven playing field for reputable businesses that to abide by the law.

The research also found that ‘transparency initiatives’ that place obligations on companies to disclose their efforts to eradicate slavery from their supply chains (such as those embodied in the Californian Transparency in Supply Chains Act) were found to be promising but in themselves not sufficient to achieve real impact. Allain (2013) concludes that rather than focus on transparency in supply chain

legislation, there is a need to establish independent guidelines and increase enforcement to verify domestic supply chains against forced labour and slavery.

Learning from good practice: labour inspectorates and assistance to workers

Research supported through the JRF programme came across several examples of good practice in addressing forced labour in the UK and elsewhere in Europe, and recommends that future policy development builds on these. A review of responses to forced labour in Europe (Clark, 2013) recommended addressing forced labour as a labour market issue rather than only as an element of trafficking, and to approach it principally as a problem of labour exploitation rather than immigration. It also showed that where migrant workers have been offered protection in a form of regularisation (or bridging visas) to pursue a claim against their exploiters, they were more willing to give evidence against their exploiters.

In the Netherlands, a pilot was set up to exchange information on minimum wage payment between the Hague Municipality, Labour Inspectorate, Tax and Customs Authority and the Social Information and Investigation Service, with national-level intervention teams created to take actions in industries with high perceived risk of exploitative labour conditions.

Proactive labour inspection in sectors judged most at risk of using forced labour has also been an effective way to detect forced labour and severe labour exploitation. Labour inspectorates were found to have a key role in increasing the detection of forced labour. Evidence from other countries shows that in many cases labour inspectors will be better placed to uncover exploitation than the police because they understand labour market operations.

In Ireland, the National Labour Employment Rights Authority (NERA) has, since 2011, been piloting new powers to inspect private households employing domestic workers. NERA is able to check whether domestic workers are getting the minimum wage, whether their basic employment rights are respected, to interview both the employer and the employee at a location outside of the household and to demand documentation. NERA has also produced a 'code of practice' for employers of domestic workers in private households.

The UK has fewer inspectors relative to the size of the UK workforce than in many other European countries such as Germany, France, Poland, Spain, Latvia and Italy. Nor is there a general labour inspection body in the UK. Other UK agencies with the potential to uncover exploitation, such as the HMRC, have restricted budgets and detection of forced labour has not been their priority.

In the UK, the GLA stands out as a model of good practice – and is commonly cited as such Europe-wide. It uncovers labour exploitation and forced labour using a system that combines licensing, inspection and co-ordinated multi-agency actions. The GLA brings police and other agencies, such as the HMRC, into their operations where it has evidence of a wide range of unlawful activity. Risk-based and intelligence-led inspections conducted by the GLA have had marked success in improving the licensing standards in those industries regulated by the agency.

In several EU countries 'low threshold' advice centres for migrants, run by trade unions and NGOs, have helped workers, regardless of their immigration status, in getting redress, building workers' confidence to report abuses and collecting evidence against abusers.

In Germany, the trade union Ver.di established the MigrAr project in 2008 to give advice and assistance to undocumented workers. The project initially started in Hamburg, but now operates in several German cities and deals with varied cases of worker exploitation, including the most serious ones that amount to forced labour.

The good practice from Germany has been adopted by other European countries. In **Austria**, a similar establishment will be opened in June 2014 under the auspices of the Austrian trade union congress ÖGB, in partnership with NGOs.

Conclusions and recommendations

Successive UK governments have declared modern slavery a serious crime and committed to its eradication. With the noted exception of the standalone offence introduced in 2009, most efforts so far have focused on trafficking, addressing forced labour only as the outcome of trafficking. The proposed introduction by the UK government of a Modern Slavery Act and of consolidated legislation in Northern Ireland and Scotland could remedy shortcomings in regulation, policy and assistance to those affected. For this to have lasting impact, and for the UK truly to be a world leader in the fight against modern slavery, changes will need to go beyond addressing the symptoms to also address the causes, particularly structural and systematic causes.

Any government wants businesses to develop good, sustainable jobs that adhere to nationally-set minimum standards of pay, terms and conditions, workplace safety and standards. However, several studies suggest a risk of erosion of standards and rise in exploitation, leading to increased use of forced labour at the bottom of the UK labour market, especially in sectors where labour supply is self-regulated and labour supply chains are long. Any new regulation should take into account not only the UK business links to the global product supply chains, but also the UK's internal product supply chains and especially labour supply chains where there is a particular risk of worker exploitation.

The rising numbers of reported cases of exploitation and the fact vulnerable workers – migrant and British – seem to be prepared to put up with exploitative conditions because of the lack of alternatives, all point to a growing need to focus attention on those areas of the UK labour market where there is demonstrable risk of exploitation.

Research supported by JRF's forced labour programme has demonstrated:

- how forced labour is principally an issue of exploitation and labour supply chains;
- the complexity of the business of forced labour and how criminal and non-criminal economic actors become involved in it;
- how labour market operations, changes and informalisation of employment relationships enable forced labour to exist, and where in the economy exploitation is most likely to occur;
- how forced labour is present across the UK, including on construction sites in England, private households in wealthy quarters of London, the fishing industry in Scotland, and the mushroom industry in Northern Ireland;
- how forced labour and labour exploitation may occur around the workplace and not necessarily at the workplace, particularly in labour supply chains;
- how the UK economy has a number of structural and regulatory elements which create conditions which can exploit vulnerable British and migrant workers;
- the complexity of forced labour, where exploited workers exercise greater and lesser degrees of choice about what they can do in their particular circumstances, and the type and experience of exploitation can change over time.

The underlying issue is with the methods of business operation, supply chain management and the regulatory framework within which employers and labour suppliers operate. As a result, forced labour cannot be successfully stamped out by a single intervention or regulation and requires cross-government strategy that combines regulation and enforcement alongside protection and redress for exploited workers.

Recommendations

Improved regulation

- Clarify and simplify existing fragmented legislation to cover both trafficking and forced labour, recognising that they are separate and sometimes overlap, and provide clear guidance on the definition and indicators of forced labour. Extend the authority, and accordingly the resources, of the GLA to act in other sectors where labour exploitation is known to occur (for example, construction, care and hospitality). The recent movement of the GLA Sponsoring Department from DEFRA to the Home Office is an opportunity to review the mandate to consider other sectors.
- Explore how sectors which are not within the remit of the GLA, but where labour exploitation is known to occur and likely to be growing (for example, construction, care and hospitality) can adapt and adopt best practice, learning from the GLA and international models. The recent movement of the GLA Sponsoring Department from DEFRA to the Home Office also presents an opportunity to review its mandate and consider whether it has a role in relation to labour providers across the UK labour market.
- Improve regulation, combining mandatory regulatory arrangements with voluntary codes to create regulatory consistency and a level playing field for reputable and compliant businesses.
- Consult businesses and employers on how to improve regulation, combining mandatory regulatory arrangements with voluntary codes to create regulatory consistency and a level playing field for reputable and compliant businesses. As part of this, consider mandatory disclosure of the steps companies take to eliminate forced labour from their supply chains.
- Establish regulatory oversight over social auditing firms to ensure quality control and obligation to report incidents of forced labour.

Improved enforcement

- Consult businesses and employers on a viable, effective response to forced labour in their labour and product supply chains, and how to improve enforcement – including the idea of an improved nationwide labour inspectorate.
- Prioritise co-ordinated risk-led and intelligence-led operations by enforcement agencies, such as the HMRC.
- Increase sanctioning of employers who exploit workers and violate employment law.
- Sanctions should be both a deterrent and a form of redress, for example punitive sanctions for non-compliance combined with access to compensation or unpaid wages for exploited workers.

Improved protection for those affected by forced labour

- Ensure that victims of forced labour receive the same level of protection and assistance as that afforded to victims of trafficking, with entitlement to assistance (including better access to legal redress and compensation) guaranteed in law.
- Work with frontline, community and migrant groups to inform and equip vulnerable workers (British and migrant) about labour exploitation.

Increased awareness and intelligence on forced labour

- Issue clear guidance on the definition and indicators of forced labour (reflecting ILO guidelines), and how to respond, to all relevant agencies including local police forces and judiciary, local authorities, health and education bodies, job centres, and relevant NGOs.
- Develop an effective multi-agency, cross-government strategy to include measures against forced labour in other policy areas, especially those linked to labour market operations and low pay.
- Improve actions by HMRC to tackle minimum wage violations and exploitative employers who do not pass on PAYE and National Insurance to employees.

- Investigate those areas where recruitment practices, business operations (such as the use of highly-flexible labour) and government policies (some proposals in the UK Immigration Bill) may result in increased worker vulnerability to labour exploitation, and how these might be mitigated.
- Consider developing a system of flagging labour exploitation using data drawn from the HMRC, Health and Safety Executive, Trading Standards Authority, and Pay and Work Rights Helpline.
- Consider asking the Low Pay Commission to look at potential links between non-compliance with national minimum wage and forced labour.
- Governments to lead by example and ensure that forced labour is eradicated from their supply chains, for example through public sector procurement criteria, supplier due diligence practices and disclosure requirements.

The recommendations raise challenging questions for policy-makers and legislators: How to strike the most effective balance between an approach focused on law enforcement and criminal sanctions against perpetrators, and an approach focused on enforcement of employment standards and protection of exploited workers. They are also faced with the challenge of striking a balance between regulation and self-regulation, creating a level playing field for business and creating decent employment for workers. The findings from the JRF programme suggest that some rebalancing of the labour market will be required to tackle the underlying causes – which are more complex and prevalent than the criminal behaviours of individuals, businesses or organised crime networks.

All governments – UK and devolved administrations – have to help ensure that forced labour is not a profitable business, as well as identifying and prosecuting perpetrators. What is needed is a *combined regulatory and policy response co-ordinated across government departments and agencies*. Using knowledge about forced labour, this must bring together effective criminal justice interventions and enforce workers' rights so that it no longer makes business sense to profit from exploiting workers in the UK.

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ISBN 9781859359846
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