

FORCED LABOUR IN THE UK

Until recently, forced labour was seen as an issue of little relevance to the UK; this wide-ranging study found it to be a significant, though hidden, and probably growing problem.

Key points

- Available evidence suggests the number of people in the UK experiencing forced labour may run into thousands. Many are entitled to work here, being EU migrants and UK citizens.
- Likely elements within forced labour include low-skill manual and low-paid work; temporary agency work; specific industrial sectors; and certain non-UK migrant workers.
- There is evidence of forced labour in the industries covered by the Gangmasters Licensing Authority. However, forced labour is occurring in other sectors as well, including significant ones, such as care, construction and hospitality.
- The definition and scope of forced labour are poorly understood, including differences between human trafficking, slavery and exploitation. Consensus is needed on forced labour indicators relevant for assessing the scope and scale of forced labour in the UK, and to assist legal proceedings. Relatively little case law exists.
- Having a stand-alone offence of forced labour and servitude is helpful in separating the problem from that of trafficking people, as research evidence suggests that many victims of forced labour are not trafficked.
- Forced labour and trafficking form part of more general labour exploitation, requiring effective criminal justice and workplace rights interventions, and not being seen as an immigration issue.
- A strategic approach is needed to tackle forced labour, ensuring that the most vulnerable workers and sectors are properly protected.
- Formal, transparent monitoring of the scope and nature of forced labour across the UK is also needed, including a comprehensive approach to data collection.
- Workplace enforcement agencies currently focus on the most serious offences rather than wider labour exploitation; monitoring for such exploitation needs strengthening.

The research

By a team from the Universities of Bristol, Dundee, Durham and Liverpool, and the Wilberforce Institute, with freelance support

BACKGROUND

This study contributes to JRF's forced labour programme, bringing together information on the scope of forced labour in the UK and the legal, policy and regulatory frameworks, with proposals for change. The International Labour Organisation (ILO) defined forced labour as: 'all work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'. This definition is embedded in the European Convention on Human Rights (ECHR), which the UK has ratified.

Conceptual framework

The general definition of forced labour provided by the ILO covers all employment, irrespective of formality or legality; no one is excluded through age, gender, nationality, citizenship or immigration status. However, significant challenges remain in applying this definition in the contemporary economy. 'Menace of penalty' covers many coercive practices affecting lack of freedom of choice to enter or remain in a work situation, including deception and psychological control. Indicators of forced labour need to reflect this complexity, and consensus is needed on indicators most relevant to the UK context.

Forced labour is often understood as an outcome of human trafficking, and recent evidence shows trafficking for reasons other than sexual exploitation is significant. However, the association with trafficking has also led forced labour to be seen within the context of UK immigration policy. This is inappropriate as growing research shows forced labour may occur without workers having been trafficked. Forced labour needs to be understood as an extreme form of exploitation, whether or not there is trafficking involved. Focus is also needed on the nature of the triangular relationship between employer, labour supplier/agency and worker.

UK legal framework

Until 2009, forced labour cases in the UK could only be prosecuted under other offences, notably human trafficking. The stand-alone offence of subjecting someone to forced labour without having to establish trafficking was introduced under the Coroners and Justice Act 2009 and the (Scottish) Criminal Justice and Licensing Act 2010, filling a gap in ECHR obligations. Forced labour is also an offence under labour provider licensing, through the Gangmasters (Licensing) Act 2004. Overall, the legal framework is quite strong but confusing, with overlapping Acts. Solving the problem of forced labour requires a comprehensive strategy in which law plays a part.

The Ministry of Justice estimated that up to 20 cases would come to court annually under the 2009/10 legislation; there have indeed been few prosecutions to date. This may reflect difficulties and lack of experience in identifying and assessing forced labour cases, a view confirmed in interviews with stakeholders. European and UK case law is limited and sometimes contradictory; conviction rates are low. The impact of legislation is weakened by the demonstrable 'justice gap' between law, enforcement and justice for those against whom offences are committed (e.g. significant barriers to accessing employment tribunals; difficulties in securing prosecutions).

Some victims of forced labour may have been manipulated or coerced; some may have knowingly accepted conditions and/or risks associated with particular forms of work (at least initially), often motivated by monetary gain; or forced labour may develop from situations where employers and workers knowingly engage in illegal activity. Almost always, workers become vulnerable and fearful of complaining. Measures to curb forced labour need to pay attention to the calculation of risk in which workers engage.

Scope and scale of forced labour in the UK

Only the Gangmasters Licensing Authority (GLA) and National Referral Mechanism (NRM) have systems to record cases of forced labour. Provisional 2012 NRM figures show over 300 cases of adults and children trafficked for labour exploitation, roughly one-third of all referrals; 45 per cent of referrals were for labour exploitation and domestic servitude. This is an increasing proportion, overtaking other forms of trafficking. However, the NRM does not record all those who may have been trafficked, as shown by further (2011) trafficking intelligence.

From NRM records and critiques, transparency is lacking on precisely how labour exploitation and domestic servitude are identified among potential trafficking victims; the levels of identification by 'exploitation type' differ markedly. This flaws attempts to assess the incidence of cases. It is unclear what happens when referrals for labour exploitation or domestic servitude are not identified as trafficking cases.

More precise estimates of numbers are needed, yet a critical point from the available evidence is that severe exploitation is growing. An approximate estimate is that a few thousand people in the UK may be affected by severe labour exploitation and forced labour. In parts of the labour market with a higher risk of forced labour, there is no regulation or monitoring, and inadequate data.

Other studies have pointed to systematic, severe worker exploitation with no link to trafficking. These studies, and workplace enforcement agencies' records, show convergence in the sectors, types of work and workers most likely to be exploited. Likely features include low-skill manual and low-paid work; temporary agency work; sectors such as food production and processing, construction, industrial work, hospitality and leisure, and social care; and involvement of certain non-UK migrant workers and others in vulnerable situations.

Although severe exploitation is associated with labour intermediaries ('gangmasters' and temporary work agencies), forced labour is also found in direct employment. Demand is growing to extend the GLA's scope to cover other sectors where exploitation and forced labour have been identified and workers remain most vulnerable.

Policy recommendations

- Criminalising forced labour is no substitute for an effective multi-agency, cross-departmental strategy, to include measures against forced labour linked to trafficking and labour exploitation generally, concentrating on prevention and better awareness. It needs to draw on ILO guidance, and combine UK-wide responses.
- Government needs to prioritise data improvements, making data available on labour exploitation, forced labour and trafficking, to support strategy development and scrutiny. UK-relevant indicators need further development, wider application and greater publicity.
- The GLA's scope needs extending to cover other sectors where exploitation and forced labour have been identified and workers remain most vulnerable. The GLA was originally well-focused and effective in curbing exploitation; recent changes to a narrower focus on serious crime need close monitoring so that wider labour exploitation in the food industry is effectively tackled. The GLA also needs greater resources.
- Government needs to consult with businesses and employers on a viable, effective response to forced labour in their supply chains and how to improve regulation.
- NRM data on forms of labour exploitation needs to be more transparent, as do procedures for dealing with non-trafficking cases.
- Workplace enforcement agencies need to work more effectively with partners (e.g. police, fire and rescue services, local authorities, local non-governmental organisations (NGOs)) to establish effective systems for assisting severely exploited workers.

- Law enforcers, enforcement officers and partners need dedicated, well-resourced training for identifying forced labour and appropriate responses. The Trades Union Congress (TUC) could provide training and information for non-judicial agencies.
- Further legal and judicial clarification of the boundaries of forced labour is required.
- The impacts of employment tribunal changes need evaluating to ensure that vulnerable workers are not precluded from accessing justice.
- Both Parliamentary and non-Parliamentary monitoring of forced labour is required in all UK jurisdictions, which would also raise its profile. It is not clear if the recently-appointed grocery adjudicator on food supply chains can contribute to this role.
- Businesses need to recognise that corporate self-regulation (e.g. ethical/social audits) may not adequately regulate complex supply chains and employment relationships. Self-governance strategies which can identify and deter labour exploitation are needed.
- Government needs to re-examine the recent removal of protection for domestic workers arising from changes to the migrant domestic worker visa system, which make workers more vulnerable to forced labour and domestic servitude.
- Although some research has given vulnerable migrant workers an indirect voice, agencies such as trades unions and NGOs, despite much public hostility to ‘immigrants’, need to find secure ways to give these workers the opportunity to recount their experiences of severe exploitation.

About the project

The study reviewed data from the NRM (designed to identify and support trafficking victims), other trafficking intelligence, workplace enforcement agencies (including the GLA), employment tribunal records, support/advice agencies (including Citizens Advice), and the 2008 TUC-led Commission on Vulnerable Employment. It undertook a literature review of recent reports on forced labour, human trafficking and labour exploitation. Crucially, this brought together data on forced labour, trafficking for labour exploitation and workplace exploitation.

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FOR FURTHER INFORMATION

This summary is part of JRF’s research and development programme. The views are those of the authors and not necessarily those of the JRF.

The full report, **Forced labour in the UK**, is available as a free download at www.jrf.org.uk

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