

THE UNIVERSITY OF HULL

The scale and extent of Forced Labour in the UK: Can the existing legislative and administrative arrangements address the problem?

being a Thesis submitted for the Degree of Doctor of Philosophy
in the University of Hull

by

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(October 2017)

Acknowledgements

My special thanks go to the participants in this study who gave their time freely and generously shared their opinions and insights. This study would not have been possible without their valuable contribution.

I thank my supervisors, Dr Adam Calverley and Dr Mick Wilkinson, for their support and advice. Dr Calverley met the challenge of picking up the supervision of a study that was in its final year. To Dr Wilkinson, who was there from the beginning - a heartfelt 'Thank you' for your wise counsel, academic direction, good humour and inspiration.

Alan and Corin Thorpe - thank you.

Abstract

This study describes the current manifestation of forced labour in the UK and assesses the adequacy of official arrangements for tackling it. It examines factors facilitating its growth and focuses on the challenges of finding and identifying it, both fundamental considerations for creating strategies to address the crime.

The subject was researched using a qualitative approach. Data was obtained through semi-structured interviews with selected individuals regarded as familiar with and knowledgeable about workplaces, such as government officials and representatives of non-government agencies. Most interviewees had little knowledge of forced labour, but all had encountered exploitative, abnormal work situations, about which they had taken no remedial action.

This study confirms people are still exploited throughout the UK, predominantly in low skill, labour intense environments. It is difficult to identify forced labour in practice. Only GLAA officials are tasked with scrutinising workplaces for evidence of its presence. Workplace encounters by other officials are unlikely to reveal it, mainly because many accepted forced labour indicators cannot be easily observed. Evolutionary changes in the form and execution of the crime in response to enforcement efforts and a blurred boundary between decent work and exploitation in the current UK work environment also make it harder to identify forced labour.

My findings indicate that successive UK governments' policies and 'light-touch' approach to labour regulation encouraged the emergence and persistence of forced labour. Public sector austerity measures created an adverse synergy by constraining the remits

of enforcement agencies, reducing their operational capacity and restricting inspection activities. The same factors make it harder for exploited workers to contact officials for assistance or redress.

The study recommends a range of policy initiatives by which the UK government could improve the way that forced labour is challenged and tackled. It also suggests future research in this field.

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Chapter 1: INTRODUCTION

My inspiration for investigating forced and exploited labour in the United Kingdom (UK) stems directly from my own experiences as a government employee. I was employed for many years by the Health and Safety Executive as a health and safety inspector. My duties, inter alia, involved assessing conditions of work in a range of workplaces and investigating accidents and complaints and, where appropriate taking remedial action.

I was asked to investigate an accident reported on a building site. At the time, I was an inspector with many years' experience, and investigating causes of accidents and identifying significant factors was a regular and routine activity. The outcome of the accident in question was awful for the victim as he had a broken back. The circumstances of the accident were not exceptional: the victim had fallen down a hole on the site while wandering about doing his job.

An essential part of any accident investigation is a discussion with the victim to ascertain their side of the story. Whenever possible, an interview is conducted promptly after the accident while memories are fresh, but only when the victim has recovered sufficiently to have their wits about them. Their version of events is normally recorded in a legally acceptable manner in a contemporaneously written statement, which is signed and dated. Witnesses are also interviewed to find out what they saw and knew.

I had to travel some distance to interview the victim of the accident in question who lived several miles away from where the accident had happened. The Polish building site labourer was not a native English speaker and I knew I would require an interpreter to enable us to understand each other. Although I had free access to an interpreter, I chose to use the interpreter suggested by the victim. It seemed easier for everyone. The

accident victim was accompanied by a person he knew and preferred and I was spared the task of arranging an interpreter to come to an unknown venue on a dark evening.

I prepared for the interview by writing to the victim in his native language so that he would understand the purpose of my visit. I explained that I wanted to take a statement from him recording the facts of his accident from his point of view. I made it clear to him there was a possibility that I would take further action against the site operators.

I met with the victim, a pleasant young man in his twenties, in what seemed to be a clean and warm family home. There were several other people apparently living in the property, but the language barrier prevented me from finding out everyone's status in the course of a casual conversation. Questioning the other occupants through the interpreter would have been inappropriate. The interpreter seemed to be a sensible and thoughtful young woman. The victim was wearing a supportive corset and I found out early in the discussion that his injury was quite likely to result in permanent impairment in his movement.

To my surprise, the accident victim declined to assist me in my investigation. He did not want to provide a statement or take the matter any further. I pointed out that the accident had probably caused damage to him that would last for the rest of his life and that it would probably always restrict him and the scope of his future work. I explained that, in my opinion, his accident could and should have been prevented easily and cheaply. It seemed to me that the site operators, through their negligence, had allowed the victim to suffer an avoidable accident, caused him serious injury, and that the incident should be investigated thoroughly.

When it became obvious that the victim was not going to change his mind, I terminated the interview. I was very concerned that he had perhaps misunderstood the purpose of

my visit and so I sent a further letter in his native language to clarify the situation. I also advised that he should take some time to consider the impact of the accident on his future life and explained that I would be happy to continue the discussion at any time to suit him. I provided him with various ways of contacting me and my office. I never heard from him again.

This incident had a profound effect on me. I found it hard to understand why a victim of an accident with such significant consequences would be willing to ignore the matter and not seek redress. I reflected on this for a long time. I had no obvious explanation for the young man's unusual behaviour and attitude. In the normal course of events, a seriously injured person is only too happy to discuss their accident's causes and consequences, provide a statement of the facts and seek to pin the blame on their employer. I speculated that there were unseen pressures on the man that required him to refrain from seeking redress and to avoid contact with the authorities. It is important to state that any speculation was just that. There was no concrete or supportive evidence for my conjecture.

It is fair to say that I considered my professional abilities to have been challenged. Taking statements and obtaining information from people was a basic part of my job and I was perturbed I had failed in this instance. I questioned the way in which I had conducted the interview and concluded, with the benefit of hindsight, that I could have done much better. For instance, I should have taken control of the interview environment. In particular, I should have insisted on using an interpreter of my choosing. If I had done this I would have been sure there was a fair translation of my words. Secondly, I would have been sure that the victim was not being supervised, surveyed, coerced or controlled by a person masquerading as his 'interpreter' during the interview. I might also have

had a better response if I had interviewed the victim in a neutral location of my choice. In retrospect, I recalled that there had been some difficulty in arranging the address where we agreed to meet. I had dismissed this at the time as a communication difficulty and a possible consequence of the victim's mobility issues. However, on reflection this could have been an indication that the man was subject to hidden obligations or pressured to comply with others' requirements and instructions.

If I had been more knowledgeable about the exploitation of migrant workers, I might have considered when the investigative interview failed to make progress, whether or not my accident victim was perhaps also a victim of some kind of exploitation and intimidation. This could have accounted for the evident reluctance of the victim to assist me in the investigation of the accident. It is easy, in retrospect, to envisage external pressure on the man I interviewed to keep quiet and avoid any interaction with any form of authority, if for example the victim believed himself to be, or was, an illegal immigrant, or illegally employed or if someone was threatening him in some way.

This experience was illustrative of a classic forced labour scenario, exemplifying the well-known difficulty of identifying forced labour in an apparently normal work environment. Several features of my encounter with the accident victim are recognised as indicative of forced labour, including a marked reluctance to communicate with me and a determination to use their own interpreter. Forced labour is known to be associated with the construction industry. It is characterised as 'hidden in plain view'. This phrase describes people enslaved in ordinary working environments, where everyone involved appears to behave unexceptionally, in a normal manner. As will be discussed in greater detail in Chapter 2, people in forced labour are rarely physically restrained, but are compelled by threats, deception and similar methods to do as their

exploiter requires. Migrants and non English speakers are particularly vulnerable to exploitation and often become victims. Frequently, people such as interpreters are deployed to exert control.

This episode is illustrative too of the normal behaviour of an untrained UK government official, lacking information about how modern slavery is manifested in practice. Aside from revealing ignorance about modern slavery, it reveals that UK government officials tend to take no action, such as consulting each other, when they come across something unusual that is not their responsibility. Officials focus on their duties and justifiably ignore anything else. I do not think that public servants are uninterested in exploitation or content to turn a blind eye. After all, the role of many officials is the prevention of exploitation within their sphere of concern. However, it is a fact that each government department or official agency in the UK simply has its own legal remit, and as explained in Chapter 3, each agency has instructions that specify the targets, focus and priorities of their officials. An official cannot operate outside this remit. The reality is that, as explained in Chapter 4, only the police and inspectors from the Gangmasters Licensing and Labour Abuse Authority are legally entitled to investigate forced labour. The police have sole authority to prosecute the crime. Other government officials do not have the same legal power. Mechanisms for sharing information with another agency about dubious workplace activities are also largely non-existent, although officials do pass on details about issues such as extremism when instructed to do so.

I do not believe that my experience was unique to me and suspect that my experience was typical of officials interacting with members of the public as they go about their business. Other officials too might have encountered situations where they ‘felt’ something wrong or where there was unusual workplace activity. No further action

would be taken, because the problem was not blatant, or they had no training, or it was beyond that official's remit and they legitimately did nothing. This implied that there are many missed opportunities to identify suspicious workplace behaviour indicative of exploitation or possibly forced labour.

This suspicion was substantiated by the research findings. Chapters 6 to 8 report interviews with several government officials, all of whom recalled experiencing 'feelings' or a range of encounters which bore the hallmarks of modern slavery. These experiences went unrecognised and unreported at the time. They were not brought to the attention of anyone else and it was apparent the mechanisms to do this were inadequate. Crucially, the role that might be played by government enforcement professionals who interact with the workforce but who are not specifically tasked with dealing with forced labour, has not been addressed in academic or social policy literature. It seems probable that government officials, particularly those with an enforcement role, are not being utilised to the greatest extent possible to find and identify forced labour.

My encounter with the accident victim pointed to a further concern. I was in direct contact with the victim, both in person and in writing, yet the young man did not try to seek my help. It is known that victims of exploitation have historically faced incredulity when they approached the authorities for help. The reality of the options and alternative avenues open to a victim reporting exploitation have not been explored. Chapter 8 in this study describes some of the practical difficulties confronting victims in this situation who want to alert the authorities and obtain help.

In hindsight, I accepted that despite being an experienced inspector, familiar with construction sites and having a clear understanding of what constituted normal behaviour in that environment, I was neither trained or required to spot modern slavery.

There was nothing about the circumstances of the accident to trigger the thought that something might be unusual until after the investigation. It is hard to remember exactly how much I understood of exploitation at the time. I think that I had been made aware of the concept of labour exploitation through a short presentation at a major staff conference. Significantly, I did not imagine I would encounter that sort of thing in the rather pleasant leafy area where I worked. In my mind, exploitation was always associated with foreign nationals, linked to obviously extreme conditions found in the dubious back streets of a major city with people appearing dirty and cowed, living rough on the building site with inadequate facilities or running away from the place of employment through a back door and over the wall as I approached the front. I do not think it had occurred to me that exploitation might happen in conditions that were superficially normal.

I like to imagine that if I had encountered a blatant example of forced labour, I would have recognised it immediately and taken action such as reporting it to the police. In the situation in question, I needed a far better understanding of labour exploitation and its subtleties for me to even consider its presence when I was probably staring directly at a victim. Although my professional 'sixth sense' suspected something was wrong, I could easily dismiss it, because addressing it was beyond my legal remit and professional role as a Health and Safety Inspector. If I had received some training, then I could have conducted the investigation, in particular the interview, in a manner more likely to encourage a possible victim of exploitation to confide in me.

My experience and the questions and considerations it raised is the background to my decision to undertake this thesis.

The Research Question, Aims and Objectives of the study

It is acknowledged that forced labour is frequently an outcome of human trafficking and that this connection is legally essential to prove the crime of trafficking. However, this study considers forced labour as a separate crime and refrains from focusing on forced labour as an outcome of trafficking, to ensure forced labour not linked to trafficking is not overlooked.

This study used qualitative research, predominantly the voices of front-line government enforcing officials, to address two principal objectives. Firstly, the study aims to provide an understanding of the current scale and extent of forced labour in the UK. This part of the study will answer questions such as ‘Is forced labour still present in the UK?’ and ‘Does it seem more or less extensive than previous estimates?’ It will determine whether forced labour in the UK is predominantly unchanged in character and whether it is found in the same locations and industries. It will discuss whether the same type of people are vulnerable to exploitation and whether victims become enslaved in the same ways. It will consider too whether recent features of the working environment in the UK promote labour exploitation.

Secondly, this study assesses whether the existing legislative and administrative arrangements in the UK are capable of dealing with the current problem of forced labour. This section answers questions such as, ‘Is the current legislation adequate or does it have shortcomings?’ ‘Are there restraints hindering the work of government agencies?’ ‘Is there a role for all government enforcing authorities in finding forced labour?’ It explores issues such as the difficulty of confirming its presence in practice, the importance of training, and the need for effective communication between different

officials. It also considers how easy it would be for a slavery victim to seek help from the authorities.

The hypotheses examined by this study were (a) that forced labour remains a problem in the UK and that the presence of forced labour was linked to the prevailing economic conditions and (b) that government attempts to tackle the problem were insufficient and that cut-backs in the civil service, the imposition of austerity measures and restrictions on enforcement activity made the situation worse. These findings were confirmed and their implication are discussed in more detail in the Conclusion found in Chapter 9, particularly in Recommendations.

The study was conducted against a background of rapid improvement and change in the UK government provisions and arrangements for tackling Modern Slavery. The introduction of the *Modern Slavery Act* 2015 impacted the study because it appeared to deal with many of the matters of concerns identified early in the research. It seems likely that the same will be true of the *Immigration Act* 2016.

Overview of Thesis

Chapters 3 and 4 describe administrative and regulatory arrangements in the UK. Chapter 3 appraises the current regulatory provisions that govern employment in the UK and describes the principal government agencies that deal with employment matters. Relevant legislation is explained and shortcomings in legal and administrative arrangements discussed. The laws governing forced labour in the UK are explored in Chapter 4. The provisions of recent legislation, in particular the *Modern Slavery Act* 2015 and *Immigration Act* 2016, are outlined together with a discussion of their shortcomings. The connection with international and European legislation are described.

Chapter 5 discusses the methodology and approach to the study. It explains the decision to obtain qualitative data by conducting one-to-one semi-structured interviews with government officials, union officials and charity personnel. It describes the factors considered in conducting the interviews and discusses the arguments for depending predominantly on grounded theory for data analysis.

The material obtained through interviews is presented in Chapters 6, 7 and 8. Chapter 6 describes the current understanding of Forced Labour and workplace exploitation in the UK. It predominantly comprises verbatim recollections of officials and others who interact with people in the workplace, who describe circumstances indicative of forced labour. The material covers issues such as the way victims become exploited and the role played by employment agencies in this process. The difficulty of identifying forced labour in practice is discussed in Chapter 7. The reality faced by an official when exploitation is unexpectedly encountered is explored. Many forced labour indicators cannot be simply observed and the comparison is drawn between the investigative scope available to an ordinary official and a GLAA inspector. Chapter 8 considers other factors that impede the identification of forced labour. Issues, such as whether officials receive adequate training, how well officials from different agencies communicate and share information and the adverse impact of risk based inspections.

Conclusions are set out in Chapter 9. The key finding is that forced labour is still present in the UK and that government officials and agencies are constrained in their ability to find it. This chapter presents recommendations, and discusses the limitations of the study and suggests topics for further study.

Before the methods and findings of my thesis are considered, Chapter 2 discusses where these fit within wider academic literature and policy field in relation to the regulative

and legislative framework of slavery. It is to these issues that I now turn our attention in the next chapter.

Note

The status of the Gangmasters Licensing Association (GLA) changed during the course of this study to the Gangmasters Licensing and Labour Abuse Authority (GLAA). For simplicity, this authority is generally referred to as the GLAA, unless the circumstances described relate to a time when it was clearly the GLA.

Italics are used to present oral material provided by respondents to this study.

Chapter 2: A REVIEW OF EXTANT LITERATURES ON FORCED LABOUR

Forced Labour exists throughout the world. Numerous bodies from international organisations to government departments to local charities devote themselves to understanding and exposing this practice with the intention of eliminating it. Some examples showing the range and variety of the organisations tackling forced labour are: the International Labour Organisation (ILO), Geneva; the United States State Department Office to Monitor and Combat Trafficking in Persons, Washington DC; and the Joseph Rowntree Foundation of York, England. Forced labour is found as a stand-alone kind of exploitation and also as an outcome of a human trafficking process.

What is Forced Labour: defining and identifying the phenomena

A variety of terms are in common use to label the circumstances of people subject to forced labour or other exploitations or to describe people significantly and variously disadvantaged within the workplace and elsewhere. The term 'Forced labour' describes a particular, legally defined, set of circumstances and the following discussion will provide an overview of the legal definition and the specific criminal and illegal form of 'disadvantaged employment'. Unacceptable, and frequently illegal practices are described using some of the following words and phrases: human trafficking, forced labour, debt bondage, slavery, serfdom, illegal migrants, exploitation, people smuggling and undocumented workers. It is important to understand exactly what is meant in each case. Many of these terms are underpinned by a legal definition and refer to a precisely defined set of circumstances while others are a simple description of the situation. Only some of the terms are central to this study, although it is essential to be clear about

meanings to ensure the correct terminology is employed whenever a particular set of circumstances is described.

The term ‘slavery’ was defined in article 1(1) of the *Slavery Convention 1926*, ratified by the UK in 1927: ‘Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised’. Article 2(b) pressed for the abolition of slavery in all its forms. Article 5 required ‘all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery’ (OHCHR, 1996-2016a). The *Slavery Convention* was augmented in 1956 by the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*. This extended the definition of slavery to include debt bondage, serfdom and practices such as forced marriages (OHCHR, 1996-2016b).

Forced Labour was first legally defined in 1930 through the International Labour Organisation sponsored *Forced Labour Convention* (No 29). Article 2 (1) defined forced labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’ (ILO, 1930). Exceptions to the general prohibition are specified including the use of labour as part of compulsory military service or because of civic obligation. This durable definition remains in use (Crown Prosecution Service (CPS), 2016).

The term ‘Forced labour’ describes a relationship. In its 2012 survey *Global Estimates of Forced Labour* the ILO noted:

‘Forced labour is thus not defined by the nature of the work being performed (which can be either legal or illegal under national law) but rather by the nature of the relationship between the person performing the work and the person exacting the work’ (ILO, 2012b:19).

There is no specification of what is meant by the term ‘penalty’ in the Convention which therefore allows for physical, psychological or financial penalty. The ILO points out that coercion could be ‘overt and observable’ for example the presence of armed guards or can be covert like withholding identity documents or threatening denunciation to authorities or others (ILO, 2012b:19).

The term ‘forced labour’ incorporates numerous practices known by other names including ‘descent based slavery, bonded labour, serfdom, debt bondage,’ (Craig et al., 2007:10) and practices similar to slavery. Some types of forced labour are more usual in some parts of the world but non-existent in other areas. For example, bonded labour is endemic in Pakistan (Andrees & Belser, 2009:51) and perceived by custom as normal and acceptable. Similarly, descent slavery is traditionally associated with countries like Mali and Mauritania (Craig et al., 2007:9). It is vital to emphasise that a so-called traditional practice is as unacceptable morally, and by international convention illegal, as any similar exploitative practice carried out anywhere else.

Anderson and Rogaly describe the popular conception of forced labour as taking the form of ‘one individual who is personally able to exercise control and power over another or others, and this often extends over aspects of their lives over and above work’ (2005:10). They point out that this restricts the scope of forced labour as ‘coming from morally bad people. Omitted here is how certain individuals come to be in positions of power over others, and, ... how abuses are facilitated by structural and legislative issues’ (2005:10). Lewis et al. emphasised this point. They explicitly rejected the idea of exploitation being organised by one employer enforcing slave-like coercion. Instead they posed the idea of a worker in a hyper-precarity trap with workers ‘rendered slave-like by a culmination of unfreedoms and social relations that do not fit into the

ILO's legal definitions'. This concept describes, for example, a combination of the circumstances compelling an undocumented illegal migrant to knowingly enter an exploitative situation in order to survive (Lewis et al., 2015:166-167).

Confirming that a person is a victim of forced labour is often not simple or straightforward. Anderson and Rogaly put forward a number of proxy indicators to assist in identifying a forced labour environment. Like the ILO subsequently, they explained that the indicators on their own do not automatically confirm the existence of forced labour. They argued that a forced labour situation was likely to exist when a forced labour indicator was present, in combination with the feeling on the part of the victim that they were not free to leave the employment (2005:12). They grouped their indicators into four categories: all forms of violence and threatened violence, other forms of coercion such as debt bondage and retention of documents and thirdly, practices such as excessive working hours and provision of sub-standard living conditions. Interestingly, they suggested as their fourth indicator 'excessive dependence on employers or third parties' (2005:12). This indicator captures a much broader concept and encapsulates scenarios common to several well known forms of labour exploitation. A classic, well known example can occur in domestic servitude when the victim cohabits, and is totally dependent on their employer for everything from accommodation to provision of food and clothing. A similar state of excessive dependency arises when an individual person, such as an employer or an agent, controls the workforce, providing work, as well as accommodation and transport to and from the workplace.

The ILO has also addressed the challenge of identifying forced labour initially setting out indicators under the heading 'Identifying Forced Labour in Practice' (ILO, 2005:6). They echo Anderson and Rogaly's indicators but are more specific and detailed. Indic-

ators are listed under two general headings: ‘Lack of Consent’ and ‘Menace of a Penalty,’ which are the two elements comprising the legal definition of forced labour. Under ‘Lack of Consent’ the indicators include physical abduction, sale of a person, physical confinement, psychological compulsion, induced indebtedness, deception about the work, withholding wages and retention of documents (ILO, 2005:6). It is important to understand that a person cannot give full consent if they have been deceived about what they are agreeing to. Further, freely given consent can also be withdrawn freely at any time; if it cannot be it is not consent.

The ILO indicators listed under ‘Menace of a Penalty’ require the ‘actual presence or credible threat of’ physical or sexual violence, imprisonment, financial penalties, denunciation to the authorities, dismissal, exclusion from employment or social life, removal of rights, deprivation of food or shelter and a shift to even worse working conditions (ILO, 2005:6).

The publication *ILO Indicators of Forced Labour* is a simple pamphlet directed at ‘front line’ officials (ILO, 2012a). It is specifically intended to assist enforcing authorities and others confirm the presence of forced labour if they encounter a suspicious work situation during the course of their duties. The pamphlet lists eleven familiar, so-called principal, indicators of forced labour. The eleven indicators are described in everyday terminology and cover ‘the main possible elements of a forced labour situation.’ Methods deployed globally to control and coerce victims are cited in the list which also includes abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions and excessive overtime (ILO, 2012a). Although identifying a single indicator can point to the presence of

forced labour, it is generally accepted that finding two or more indicators at once confirms a forced labour situation (Craig et al., 2007:18).

It would seem straightforward to identify forced labour using the list of indicators and simple to distinguish it from unforced labour. Skrivankova agrees that 'Indicators are the most commonly used method of identification of forced labour in practice' (2010:7). Obviously, in the most extreme situations, for example a victim locked in a room, working excessive hours and deprived of everyday facilities, it is clear that the victim is being exploited. The main problem with a confident classification of an unacceptable working environment is that 'the majority of cases occupy the middle ground between the two extremes and are hard to fit into a straightforward 'exploitation - yes/no' category' (Skrivankova, 2010:7).

More recently, Scott et al., explain how dissatisfaction with the scope of the existing indicators of forced labour led these researchers to develop 19 indicators (2012:24).

They explained:

'The 19 forced labour indicators were chosen either because they featured prominently in the extant literature and/or there was consensus within the research team that they were indicators of contemporary forms of exploitation' (2012:24).

Their indicators are generally the same as the ILO ones, but are more specific, splitting the broader categories used by the ILO into constituent elements. For example, indicators ranked as of strong significance in their survey included: deceived by employer, fear, psychological harm, crowded accommodation, breach or lack of contract and confinement to the workplace' (2012:24-27). This study also cautioned against uncritical reliance on indicators, pointing out that while some indicators are likely to be crucial to some groups of victims, the same indicators may be insignificant for other groups. The

indicator ‘threat of denunciation to the authorities’ illustrates this point. Clearly, fear of being reported to immigration authorities comprises an enormous threat to an illegal migrant but it may be completely irrelevant to a legitimate worker (2012:30).

Forced Labour and Human Trafficking

Forced labour is found as a standalone kind of exploitation but can also be an element of a human trafficking process. It is incorrect to equate forced labour with human trafficking and perceive the two activities as interchangeable. It is, however, helpful to discuss some aspects of trafficking to illuminate the associated crime of forced labour.

Skrivankova clarifies the point: ‘Trafficking and forced labour are two linked but distinct concepts, and it is important to understand that not all forced labour is a result of trafficking’ (2010:8). As noted above, there is no reference to the term trafficking in the legal definition of forced labour. In contrast, the legal definition of human trafficking includes forced labour as one of the possible outcomes that qualifies an activity as ‘trafficking’ (*Modern Slavery Act*, 2015, s.2&3). Thus forced labour can be an element of human trafficking and human trafficking may or may not result in forced labour.

Early international treaties addressing human trafficking, focused on trafficking women for sexual exploitation. An example is the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (1949). The more recent so-called Palermo Protocol, a *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (2000), had a much wider focus. The Palermo Protocol was adopted by UN resolution A/RES/55/25 and ratified by the UK in 2006 (Ghandhi, 2008:192).

Article 2 stated the overall purpose of the Palermo Protocol: 'to prevent and combat trafficking in persons', 'protect and assist the victims' and 'promote cooperation ... to meet those objectives' (Ghandhi, 2008:192-193). The definition of trafficking in persons provided by Article 3 is exemplary:

'the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs' (Ghandhi, 2008:193).

Much subsequent legislation incorporated this comprehensive definition largely unaltered.

The Palermo Protocol definition of human trafficking comprises of three elements: the act, the means and the purpose. Human trafficking is only perpetrated when all three elements are present. In other words, a victim has to be subject to a specified **act**, such as transportation, accomplished by **means** of, for example, coercion, with the **purpose** of exploitation, for example, forced labour. Children, people under 18 years old, are the only exception to this three element requirement. A child can never give legal consent, making the 'means' element superfluous. A child has been trafficked when two elements are present: the act and the purpose.

Patently forced labour does not necessarily involve any migration or cross border element. Both migrants and indigenous people can be victims of forced labour: it is not in every case a crime linked to nationality or immigration status. Similarly, trafficking

does not have to involve trans border activity and can be conducted within a nation state.

Current Legal Definitions

The UK's landmark *Modern Slavery Act 2015* did not explicitly define the terms slavery, servitude, forced labour and labour exploitation. Instead, this Act resorts to European legislation and requires these terms to be 'construed in accordance with Article 4 of the Human Rights Convention' (*Modern Slavery Act*, 2015, s.1(2)). The challenge of working with such an elusive definition was illustrated in *R. v. SK*. The trial judge: 'was faced with a novel type of prosecution, with only the Strasbourg jurisprudence to guide him' (*R.v. SK [2011]* 36 & 47, *R.v. K (S) [2013]* 47). Subsequently, the Court of Appeal found the conviction unsound: 'the judge's summing up did not reflect with sufficient clarity the core elements of article 4 of the Human Rights Convention namely "slavery", "servitude" and "forced or compulsory labour."' The appeal court also found the jury was not provided 'with a proper definition of exploitation' (*Regina v. K (S) [2013]*, 39 & 44).

The need for serviceable definitions, clarifying the distinction between the emotive offences "slavery" and "servitude" and "forced labour", was raised by Haughey (2016:28). The history of "slavery" means it is overwhelmingly interpreted as 'chattel slavery'. The trial judge in *R. v. SK* made this point:

'these phrases ... are emotive. They perhaps conjure up ... pictures of slaves building the pyramids of Egypt... or in the cotton plantations of the American deep south' (*R.v. SK [2011]* 26).

The Appeal Court mooted a 'hierarchy of the denial of person autonomy':

In descending order of gravity, therefore, “slavery” stands at the top of the hierarchy, “servitude” in the middle, and “forced or compulsory labour” at the bottom’ (*R. v. SK* [2011], 24).

This hierarchical concept is a helpful framework, forming a starting point from which specific definitions of each type of slavery can be generated.

The challenge of crafting modern definitions of ‘slavery’, ‘servitude’ and ‘forced labour’ is acknowledged internationally. An academic proposal, *Bellagio - Harvard Guidelines on the Legal Parameters of Slavery* (2012), started from the 1926 *Slavery Convention*. Slavery was defined as the ‘condition of a person over whom any or all of the powers attaching to the right of ownership are exercised’ (Article 1(1)). Bellagio-Harvard Guideline 2 broadened the concept of ownership to ‘control over a person ... to significantly deprive that person of his or her individual liberty, with the intent of exploitation’ (2012:2). Guideline 3 elaborated: ‘To determine, in law, a case of slavery, one must look for possession. ... it supposes control over a person by another such as a person might control a thing’ (2012:2). Guideline 8 asserted the distinction between slavery and forced labour depends on the presence or not of ‘control over a person tantamount to possession’ (2012:5).

A tortuous argument asserting slavery is never legal, because it is illegal to own people and therefore slavery cannot exist, is alleged to restrict the interpretation of slavery within Europe (ATMG, 2013:33). This idea that slavery required the ‘genuine right of legal ownership’ was voiced in *Siliadin v. France* (ECHR, 2005,122). A recent opinion held: ‘(r)eferences to the right of ownership are inappropriate. It risks the snare of legal formalism. What matters is a state of control which exploits another person’ (Butler-Sloss et al., 2013:26).

The European Court of Human Rights (ECHR) published *Guide on Article 4 of the European Convention on human rights. Prohibition of slavery and forced labour* (2014), a summary of judgements relevant to slavery, servitude and forced labour. The document offers guidance only and is not binding on the court. It is a useful indicator of likely European Court interpretations.

The *Guide* cites *Siliadin v. France* (2005, 122) when describing slavery, as involving the ‘right of ownership’, which reduces a person to the status of an object. ‘Servitude’ is described as:

‘a particularly serious form of denial of freedom ... in addition to the obligation to perform certain services for others... the obligation for the ‘serf’ to live on another person’s property and the impossibility of altering his condition.... Servitude means an obligation to provide one’s services ... imposed by the use of coercion, and ... linked to the concept of “slavery”’ (*Siliadin v. France*, 2005, 123&124).

Servitude is characterised as aggravated forced or compulsory labour, with the victim ‘feeling that their situation is permanent and ...unlikely to change’ (2014:7).

Unfortunately, ‘forced or compulsory labour’ is not defined in Article 4 *ECHR*. In the absence of alternative guidance in Council of Europe documents, the *Guide* explains that the ECHR depends on other international conventions and laws (2014:5-6). ECHR has resorted to the ILO convention No. 29 definition of forced labour as a starting point for interpretations. The *Guide* noted that the term ‘labour’ should not mean solely manual work, and reminded that the term ‘penalty’ is used in the widest terms (2014, 8-9).

The generality of the definition of ‘forced labour’ offers the advantage of wide application to a range of circumstances without further clarification.

Alongside their role as principal criminal prosecution service in the UK, the Crown Prosecution Service (CPS) offers advice about legal intricacies, evidential requirements and makes observations about case management. Their guidance on the *Modern Slavery Act* is not particularly illuminating. It is similar to the ECHR *Guide*, cites the same cases and defines Slavery, Servitude and forced or compulsory labour using the same terms. The CPS explains forced labour must be defined by reference to ILO Convention No. 29. It also advises consulting UK and European case law and other international statutes (CPS, 2016).

Terminology

The persistent lack of straightforward legal definitions of the many forms of labour exploitation, makes it easy to understand why all types of exploitation are prone to being described imprecisely by an umbrella term such as ‘modern slavery’. Indeed the title of the new ‘Modern Slavery’ Act perhaps encourages this approach. The use of the generic term ‘slavery’ draws on historical connotations, conveys collective outrage and is readily understood. The term ‘human trafficking’ is also immediately understood as abhorrent. The Press appears to prefer using extreme and sensational terms, such as slavery, when reporting worker exploitation cases (Gentlemen, 2017a). The Gangmasters Licensing and Labour Abuse Authority are also prone to using the more sensational ‘slavery’ in their press reports about forced labour (GLA 2007-2015).

Some academic literature refers interchangeably to slavery or trafficking or forced labour or exploitation. Possibly by using the generic term ‘slavery’ the need to specify the exact type of exploitation is avoided. This approach may also reflect the associated law, which historically addressed human trafficking for sexual exploitation but did not make forced labour a crime until 2009. A generic approach is encouraged by bodies

such as the NRM, who historically collated data about exploitation (see page 100). Other authors explicitly prefer to use the dramatic term ‘Slavery’ to address all forms of exploitation (Bales, 2004).

Global considerations impacting on the incidence of Forced Labour

Human trafficking is acknowledged as ‘a global and complex issue’ thriving ‘where there is inequality and where people are vulnerable’ (EHRC, 2011:51). The extent and breadth of the complexity of human trafficking is enormous, it ‘should not be conflated with any one single social, economic, or political issue. It straddles borders, impacts on the public, civil and private sectors, and is closer to us all than is commonly supposed’ (EHRC, 2011:58). The consensus of recent studies is that economic exploitation is the main or unique objective of human trafficking (Andrees & Belser, 2009:8). Economic exploitation has also been described as the purpose of forced labour (Andrees & Belser, 2009:4).

It seems certain that economic disparity between regions, countries and people in the world presents the chance for the unscrupulous to exploit the vulnerable. Exploitation is one sided and a vulnerable worker has unequal bargaining power vis a vis the exploiter. Lower social status, illegality or simple ignorance means that all too often a victim has neither the capacity or resources to negotiate better working arrangements without the intervention of others. The following sections discuss some of the principal drivers behind forced labour and their underlying causal factors and context: migration, environmental degradation, globalisation and international crime.

Migration

It is important to consider the exploitation of labour against the background of an increasing volume of migration around the world with the ‘poor’ going to the richer coun-

tries. The driving force behind this type of economic migration is survival, motivated by the desire to escape dire conditions of extreme poverty and no, or very limited, opportunities. The scale and extent of global poverty is captured in data collected by the World Bank which reveals the regions of the world where poverty is greatest showing that in 2011, 48.5% of the population in the Sub-Saharan Africa region lived on less than US \$1.25 a day (The World Bank, 2013:8). Although this appears to be the most poverty stricken region because it has the greatest percentage of people in penury, people live in poverty throughout the world. For example, 31% of the population of the South Asia region in 2013 lived on less than US \$1.25 a day, as did 0.7% of those in the European and Central Asia region (The World Bank, 2013: 4&7). Figures in 2016 show that 12.7% of the global population of 7.25 billion lived in extreme poverty, now defined as living on less than US \$1.90 a day (The World Bank, 2016:2).

Conflicts and wars are classic examples of events that create migrants, refugees and asylum seekers out of individuals, ethnic groups and general populations. The vanquished and dispossessed become refugees, driven from their homes to seek a new life elsewhere. Refugees are extremely vulnerable to exploitation. People fleeing from conflict not only leave everything familiar and valuable behind but they are at the mercy of strangers. The risk of exploitation is multiplied when the refugee is unfamiliar with local customs and language.

The statistics collected by the UN Refugee Agency (UNHCR) confirm the link between asylum seekers, migrants and conflict. The recent UNHCR report *Global Trends Forced Displacement in 2015* is a good guide and presents astonishing data (UNHCR, 2016).

For example:

‘Global forced displacement has increased in 2015, with record-high numbers. By the end of the year, 65.3 million individuals were forcibly displaced worldwide as a result of persecution, conflict, generalized violence, or human rights violations. This is 5.8 million more than the previous year (59.5 million)’ (UNHCR, 2016:02).

It goes on to claim that ‘on average 24 people world wide were displaced from their homes every minute of every day during 2015’. In 2015 the total population of concern to the UNHCR in the UK was 168,978 (UNHCR, 2016:60).

Although Afghanistan remained the main country of origin of refugees from the early 1980s onwards, in 2014, as a result of ongoing and deteriorating Civil War, Syrians became the main source of refugees globally (UNHCR, 2016:56). Apart from Syria and Afghanistan people also sought asylum from Iraq, Eritrea and the Ukraine (UNHCR, 2016:42). Although it was not a principal destination country, the UK experienced an increase in claims for asylum from Syrians with 1,300 seeking support in 2012 (UNHCR, 2012:16).

Sadly, Syrians are far from unique. They have become the most recent refugees in a long history of migrants who travelled to the UK hoping for respite or a new life after escaping from conflict in their home country. The immediate years prior to and during the second world war, saw significant numbers of Jewish and others fearing political persecution and atrocity by Nazi Germany, leave mainland Europe. More recently, there have been Kurds escaping from the war in Iraq and nationality groups like Bosnians and Albanians leaving their homes following the war in the former Yugoslavia. Other notable populations evading violent situations include Somalis and Rwandans from Africa. The statistics for the UK show that in 2011 and 2012 the top ten countries of origin of asylum seekers to the UK were similar. In both years the largest groups of asylum seek-

ers came from Pakistan, Iran and Sri Lanka. The other source countries of asylum seekers in the UK included Afghanistan, Libya, Eritrea, Zimbabwe, China and Nigeria (UNHCR, 2012:43 &45). All of the countries mentioned have internal troubles or conflicts of a partisan nature which inevitably forces minorities or the vulnerable to escape or persuades them that leaving is the best option.

Environmental concerns

People are also displaced from their usual residential locations because of environmental disasters or when land becomes excessively degraded. In 2017, an International Organisation for Migration (IOM) report asserted: 'Environmental change has always been a major driver of migration' and then expressed concern that climate change might lead to more migrations in the future, particularly because of heat stress to the environment (2017:9). The consequence for an individual displaced in this way could be catastrophic. The scale of the impact will be mitigated by both the affluence of the individual and the country. Displaced people are prime targets for unscrupulous exploitation in some form of modern slavery, especially when they are poor and destitute. Better levels of financial support and access to decent resources helps to protect the dispossessed from exploitation in this way.

Massive population movement and displacement, much officially sanctioned, has been reported in China in response to environmental degradation. The scale of the problem is enormous. Yan Tan (2009) described the predicament for Western China. The extent and variety of the environmental degradation in terms of water and soil erosion was immense with an estimated 5 billion tons of soil lost per year. Similarly there was an increasing rate of desertification estimated in the 1990s to be at 2,400 square kilometres a

year. Grass land was over grazed and there was large scale de-forestation (2009:2). An extremely degraded environment cannot support a large population. She explained:

‘Some 1.2 million environmental migrants were displaced from the fragile environments in West China between 2000 and 2005. In 2002 environment related migration and resettlement became an official policy of the Chinese Government and a plan to displace 1.5 million people in west China over a 5-year period to 2010’ (2009:1).

Significantly there is a link between areas of degradation in China, also described as ecologically fragile zones (EFZs) and poverty. Yan Tan claimed that ‘In all, 74% of people residing in the EFZs live in poverty -stricken conditions.’ Further, ‘Up until 2006, there were still 21.48 million rural people living in absolute poverty in China. More than half of them (54.7%) live in west China’ (2009:5-6).

One of the ways the Chinese government has chosen to address the problem is by reducing the number of people living in EFZs. This means relocating huge numbers of very poor people to another area far away from their homes. Once an individual breaks natural ties to ‘home’ and becomes a migrant, it would not be surprising if everyday barriers constraining an individual from moving further afield to seek better opportunities are also removed. However, opinion is divided on ‘the relationship between people, place and identity’ and it ‘has been the subject of much debate’ (Lambo, 2012:6).

It is evident that a very large number of migrants from China seek asylum in the UK. As already noted, in both 2011 and 2012, China was one of the top ten source countries of asylum seekers in the UK (UNHCR, 2012:43&45). Migrants from China have been coming to the UK for a long time and have been documented by Pai (2008). The migrants she discussed came from three principle areas of China: Fujian in the south-east, some provinces in the north-east of China and thirdly, the city of Shanghai (2008: xvii-

xviii). Interestingly, Pai described the people she wrote about as economic migrants who could no longer find work or were underpaid rather than people escaping environmental degradation. It seems likely that routes have been established for migrants from China to reach the UK. It is possible that migrants from EFZs in West China could also follow this path to the UK.

Man-made disasters also cause mass displacement as illustrated by nuclear accidents. Following Chernobyl in 1986, about 336,000 people were permanently displaced internally (The Chernobyl Forum, 2006:10-11). A similar major evacuation took place in 2011 following the nuclear incident at Fukushima, Japan. In 2014 more than 120,000 people remained displaced (McCurry, 2014).

Globalisation

Globalisation also plays a role in international migration. It has been defined as ‘the process by which national and regional economies, societies, and cultures have become integrated through the global network of trade, communication, immigration and transportation’ (*Financial Times Lexicon*, 2013). The International Monetary Fund (IMF) explains globalisation as a traditional ‘village market’ type activity scaled up and operating at international level. Globalisation is a term that:

‘refers to the increasing integration of economies around the world, particularly through the movement of goods, services, and capital across borders. The term sometimes also refers to the movement of people (labor) ... across international borders’ (IMF, 2008).

Features associated with globalisation include improved transport links, especially air travel, combining an increase in capacity with a reduction in unit costs. Communication costs have dramatically declined too alongside an improvement in quality particularly in telecommunications. The potential connections and links of the ‘web’ are of obvious

value in global communication (*Financial Times Lexicon*). The IMF cites the number of foreign workers as one indicator of the scale of globalisation. By 2005 there were 191 million people described as foreign workers representing 3.0% of the global population. This is a notable increase from 1965 when there were 78 million foreign workers or 2.4% of the world population (IMF, 2008). Aspects of globalisation, such as improved transport, smooth the path of an individual migrating away from their own country to another one.

The IMF suggests that globalisation can benefit individuals by giving ‘access to a wider variety of goods and services, lower prices, more and better paying jobs, improved health, and higher overall living standards’ (2008). Improved global communication makes it easier for an individual to obtain information about opportunities and norms of life in other countries. The knowledge obtained from consulting the internet is far superior to word of mouth or other limited information sources. Travel between countries is facilitated by better and cheaper transport. Not only is an individual in a position to make more informed choices about opportunities in another country, it is also easier and cheaper to act on decisions.

An environment of endemic large scale migration facilitates exploitation of labour especially if criminal gangs hijack the process for their own ends. The process of migration itself disconnects migrants from the protection that labour enforcement agencies provide for indigenous workers in both sending and receiving countries. Further, an atmosphere of normality is created around migrating to another country to get work, which persuades a putative worker to make the leap of faith, overlooking any anxiety about the process and not questioning the details of the future work opportunities too closely. An understandable phenomenon described as ‘consensual exploitation’ has

been identified whereby a worker submits rationally to exploitative conditions because there is no alternative (Andrees & Belser, 2009:xi). It is arguable whether a worker has a genuine choice when faced with the alternatives of work of a dubious nature with money or no work and starvation. ‘Consensual exploitation’ is therefore an oxymoron.

‘Fortress Europe’

At the same time as the flows from the global South have increased, the developed countries in the global North have begun to erect ever more stringent barriers at their borders. In the case of so-called ‘Fortress Europe’, the richer countries of northern Europe have funded measures to fortify borders in the external facing southern European countries (Amnesty, 2014:5) The intention is to keep migrants, refugees and asylum seekers from entering the European Union. Equipment funded for this purpose includes patrol boats, airplanes with sensors, night vision goggles and thermal cameras. Alongside hardware, the control of migrants is outsourced to neighbouring countries, such as Libya, Morocco, Turkey and Ukraine by, for example, funding detention centres (Amnesty, 2014:12-13). The imminent emergence of ‘pre-entry controls’, will ultimately only allow ‘genuine travellers’ to board planes and leave their country of origin (Carr, 2015:119).

Border control measures intended to control immigration focus on security rather than human rights obligations (Amnesty, 2014:9). As Hayter observed: ‘Everything has been done to make the suffering of refugees and migrants worse... the government is conducting ...a “war on asylum”’ (Hayter, 2004:ix). Another element of control is the sending back of asylum seekers, regardless of their case, ‘to transit or source countries through readmission agreements, without access to asylum procedures’ (Amnesty, 2014:14). ‘Push-backs’ are reported, when people are returned to the country they came

from or back to the high seas, ‘carried out informally without giving people a chance to appeal against being sent back’, and no chance to claim asylum, often involving violence (Amnesty, 2014:20). Some people find themselves ‘trapped in transit’. The stringent policing of EU borders results in refugees being unable to go forward into Europe, but unable ‘to retrace their steps and return to their home countries’, either because of lack of means or through fear of persecution there (Amnesty, 2014:25).

These border arrangements are significant. If legal routes are effectively closed to them, then desperate migrants and refugees have to resort to illegal methods, such as traffickers, to escape from where they are, to where they want to be. Hayter explained that harsh border controls: ‘force both migrants and refugees into the hands of often unscrupulous agents’ (2004:149). Similarly, Carr reported that: ‘migrants have paid upwards of \$15,000 dollars for ‘full package solutions’ that transport them directly from as far away as China to the United Kingdom’ (2015:161).

Prevailing official and public attitudes combined with political and media discourse towards all migrants, including refugees, are supportive of the approach of Fortress Europe. Many governments insist ‘that many - if not the majority - of asylum seekers are not ‘genuine’ refugees’, justifying them evading ‘their moral obligations under the Geneva Convention’ (Carr, 2015:170).

Criminal Activity

Transnational Organised Crime has emerged alongside economic Globalisation, with the implication that the international connectivity of globalisation presents opportunities for criminals. The link was confirmed in the preface to the 2010 UN Office on Drugs and Crime (UNODC) report *The Globalization of Crime*:

‘What is striking about the global map of trafficking routes is that most illicit flows go to, and/or emanate from major economic powers ... the world’s biggest trading partners are also the world’s biggest markets for illicit goods and services’ (sic) (UNODC, 2010:ii).

The report assesses the threat arising from Transnational Organized Crime, explaining that unfortunately: ‘Organized Crime is insufficiently understood. There is a lack of information on transnational criminal markets and trends’ (sic)(UNODC, 2010:ii). The report urges transnational crime to be considered in terms of market forces pointing out that if demand for a product exists someone will act to meet that need (UNODC, 2010:29).

A characteristic of international crime is that ‘goods’ can be sourced in one country, trafficked across another and then marketed in a third. The UNODC report explains that criminal activities ebb and flow in response to the prevailing circumstances in both source and destination countries. This is illustrated by the changes over time in the predominant nationality of the women trafficked into Europe for sexual exploitation. ‘The end of the Cold War was key in precipitating one of the best documented human trafficking flows in the world: the movement of Eastern European women into West European sex markets’ (UNODC, 2010:40).

Human trafficking and people smuggling are two of the problems discussed in the UNODC report and it is admitted that knowledge about the crime of trafficking, in particular, is incomplete and unreliable (2010:26). The report made some important general observations about both human trafficking and forced labour, noting that for these crimes to be feasible, the cost of the forced labour must be lower than voluntary labour. Secondly, emphasising that the market for forced labour is associated with ‘so called dirty, dangerous or demeaning jobs’ (UNODC, 2010:32&41).

In 2011, the Equality and Human Rights Commission (EHRC) set out several factors perceived as broadly driving human trafficking including ‘the demand for easy to control and exploitable labour’ and ‘the lure of profit for Organised Crime’ (EHRC, 2011:51). The global desire for cheap goods and cheap services also drives demand. One way this can be satisfied is by using labour that can be squeezed thereby reducing the wage cost element of the goods or service. In affluent, so-called destination countries, such as those within western Europe and North America, it is easy to understand how the enthusiasm for cost cutting to maximise profitability, juxtaposed with the availability of keen migrant labour, generates conditions ripe for exploitation of the workforce.

There is evidence that the development in technology, particularly that associated with the internet has had an impact on human trafficking. Experts believe that new technology assists the commission of trafficking, although it is currently not known whether it has caused an increase in the numbers of victims being trafficked (UN.Gift, 2008:3). It is known that new technology can be used to avoid police interception and detection, to facilitate communication between criminals and it ‘is particularly prevalent at the exploitation stage of trafficking’ (UN.Gift, 2008:3), referring to the early phases when exploitation is initiated. The benefits of the internet for criminals are that it can offer anonymity and disguise, enabling business to be conducted in a variety of hidden ways. Some examples include pass word protected chat rooms in real time, peer to peer networks by using encryption and the dark web. Modest competence in computer programming can, at the very least, conceal online activities of those involved in trafficking. Crucially a criminal protagonist could be anywhere in the world conducting business internationally from any kind of location possibly using a hand-held device. Stolen

mobile phones, disposable legitimate phones and sim cards are readily available, pre-paid phone cards allow phones to be used anonymously and phones can be programmed so that false signals appear (UN.Gift, 2008:3-5).

In addition to incognito communication, the internet enables anonymous financial transactions. It is asserted that 'e-commerce' can helpfully allow for illegal transactions to 'ultimately appear as legitimate assets' (UN.Gift, 2008:5). This facility is obviously valued highly by criminals conducting global business. Further, the creation of a better calibre of forged and counterfeit documents is made easier by modern computing power and printing equipment.

Modern technology is globally pervasive: the equipment is widely available and relatively economical. In 2012 it was claimed that 'around three-quarters of the world's inhabitants now have access to a mobile phone,' an increase in global ownership to 6 billion (Russell & Cieslik, 2012). People around the world use the internet and computers at work, in educational establishments and for personal reasons. Internet advertisements offering dubious jobs in another country or websites acting as a front to entice people into a trafficking or other exploited situation will have a wide audience of potentially vulnerable people. The evidence suggests that websites of this nature are successful. In 2006 a joint operation between Polish and Italian police 'dismantled a network of trafficking men for the purpose of forced labour; an employment agency website was identified as the primary means of recruitment' (UN.Gift, 2008:8). Clearly anyone who can consult the internet is also able to use it to reply and make arrangements, which might well mean that all the transactions and communications associated with a particular crime remain hidden.

A low risk of detection together with minimal penalties is attractive to Organised Crime and the lure is compounded by the potentially high profits to be made in such a low risk environment from human trafficking combined with prostitution and the sex trade (Andrees & Belser, 2009:8-9). The attraction of ‘the trafficking of humans for profit’ to Organised Crime Groups is spelled out in the *First Report of the Inter- Departmental Ministerial Group on Human Trafficking*.

‘For them it is big business as humans are a reusable commodity, unlike drugs or firearms, Individuals can be trafficked and exploited time and time again by the same trafficker or trafficking group, in many cases over a significant period’ (HM Government (IMDG), 2012:25).

It has been suggested that another factor facilitating forced labour and exploitation is a mixture of inadequate laws and poor law enforcement. This lax combination can be seen as responsible for creating a culture of impunity whereby those inclined to exploit labour feel under no obligation to meet a standard and feel no fear of being caught out (Andrees & Belser, 2009:2-3). Clark alleged that the stronger labour market regulation, and associated inspection and enforcement ‘the more likely it is that forced labour practices will be detected’ (Clark, 2013:4).

Corruption offers a further variant to this scenario where the connivance of law enforcers permits the deliberate evasion of legal requirements. Patently the legislative and enforcement situation is particular to each country and the circumstances within each country have to be considered separately. Although it is not possible to draw valid or meaningful global conclusions, it is important to take the legal background into account as a factor when studying exploitation in a particular country.

Social characteristics of victims of forced labour

Vulnerable migrant workers emanate from areas of poverty with poor employment opportunities, they are likely to be poorly educated and are likely to have low social status in their home location. Some of the key factors that play a significant role in making people victims of forced labour were cited in the recent EHRC *Inquiry into Human Trafficking in Scotland*, which reported that:

‘Human Trafficking relies on... material and status inequalities at the global, state and national levels... It may be based on poverty or identity-based discrimination, but it always involves abuse of power... Human trafficking thrives in hidden communities where people are either unable or unwilling to speak’ (EHRC, 2011:17-18).

Evidence to the *Inquiry* revealed that victims were selected:

‘because they are already in a marginalised or vulnerable part of their original community. Examples are those in poverty... those from a particular ethnic or cultural subset... those who are already badly treated ... those with substance misuse issues ... those with learning disabilities or mental health issues ... those with low self-esteem’ (EHRC, 2011:35).

An illustrative example is found among the slaves employed in Brazil where it is estimated that 75% of them are illiterate (Andrees & Belser, 2009:25).

Deception of the victim has been identified as highly significant in the case of human trafficking (EHRC, 2011:23). It is easy to understand how a well informed recruiter with a monopoly over knowledge could deceive a vulnerable worker about conditions, wages and terms of employment in a distant location (Andrees & Belser, 2009:3-4).

Workers can be deceived about the true nature of the work or even recruited for a job that in reality does not exist (EHRC, 2011:38). Studies point to the development in Europe of small niche firms run by migrants to recruit and supply fellow nationals as migrant labour. It is easy to see how a fellow national could inveigle a more ignorant and

less well travelled compatriot. There are additional considerations associated with this type of migration for work. The more established and common the route the greater the likelihood that it will not only be cheaper but that more advice and information about the process will be available from others who have already participated and who have returned to their own country. This circumstance perhaps limits ignorance and vulnerability of future migrants intending to follow the same path. The longer and newer the route the more costs will be incurred by the migrant who will also be more isolated from the familiar and less knowledgeable about the new surroundings (Andrees & Belser, 2009:93-94 & 98).

A vulnerable labour force is readily manipulated, exploited and controlled. The vulnerability of a migrant worker is enhanced by dislocation from familiar surroundings, friends and family. In more extreme cases a migrant worker can be almost completely isolated from ordinary mainstream society especially when lacking in so-called social capital. Essentially social capital is the value of the social relationships that individuals have access to through being embedded in wider social networks and social institutions. An example is the “old boys network”. Bordieu defined social capital as:

‘the aggregate of the actual or potential resources which are linked to possession of a durable network of more or less institutionalized relationships of mutual acquaintance and recognition... to membership in a group’ (Bourdieu, 1986).

Social capital describes the: ‘connections among individuals - social networks and the norms of reciprocity and trustworthiness that arise from them’ (Putnam, 2001:19). A migrant worker, newly arrived in the country, ignorant of the local language and customs, without friends and acquaintances lacks social capital. The language barrier prevents the worker from accessing written or conversational information about how the

society functions, including information about sources of advice and assistance, perpetuating their ignorance. It is likely that more exploitative abuse is linked to greater individual ignorance (Andrees & Belser, 2009:94-99).

The most crucial feature of all for a potential victim is immigration status. Vulnerability is compounded for an illegal migrant. Anyone illegal is inevitably excluded from normal avenues of redress because of their illegal status (Andrees & Belser, 2009:123-125). Any appeal to the authorities requesting official intervention, for example to improve working conditions, is very likely to result in disclosure of immigration status. This exposes an illegal immigrant to punishment, extradition or similar because of their illegal status and is unlikely to result in the desired outcome of better working conditions.

It is hard to assess how bad abuse and exploitation would have to be before an illegal migrant would resort to seeking official help. The converse of this situation is that threatening to inform the authorities about an illegal person is known to be a tool used by abusers to control their victims. The illegality of an exploited and abused migrant worker appears to create a dilemma for enforcing authorities. For example, in the UK, too frequently the protection of the vulnerable individual is overlooked because the enforcing authorities believe that addressing their illegality is the greater priority (Craig et al., 2007:26).

Vulnerable and Undocumented Workers

UK employers can only legally employ legitimate workers. Legislation such as the *Immigration, Asylum and Nationality Act* 2006 section 15 imposes this requirement. Any employer is legally obliged to check the documents of any potential employee to ensure that they have a right to work in the UK before they are engaged. A quick glimpse of the documents is not enough. Original documents must be seen and photocopied before

work commences. The penalty for employing an illegal worker is substantial: £20,000 fine or up to 2 years in prison. This is no idle threat. A considerable number of fines have been imposed already (Morris, 2016). The *Immigration Act 2016* reinforced and toughened the requirements, imposing further restrictions on the employment opportunities for illegal immigrants. For example, those providing taxi licences are now required to check the legality of the applicant (2016: Schedule 5).

Patently, anyone looking for work who is unable to produce any of the required documents, will be excluded from employment in law abiding undertakings. This compels undocumented workers to work for the less scrupulous employers who do not comply with immigration law. These arrangements present an opportunity for exploiting illegal workers and it should not be of any great surprise that those willing to contravene immigration laws will readily also contravene employment standards.

Pai discussed undocumented workers in the UK, asserting that ‘the current estimate is that the ‘illegal’ population is somewhere between 700,000 and a million,’ of which, she calculated, some 170,000 to 200,000 were Chinese (2008: ix,246&258). Without doubt there appears to be an underground economy in the UK. This was explored in a *Panorama* television documentary ‘Immigration Undercover’ (2013), in which it was estimated that more than half a million foreign migrants lived in the UK, hiding from the authorities. The people involved were alleged to include failed asylum seekers and bogus students. The common feature of both undocumented workers and illegal migrants is the lack of ‘papers’ and both are vulnerable to exploitation.

Whatever the exact number, according to Wilkinson, (2014) there is ‘a vast reservoir of vulnerable, exploitable people.’ He explained:

‘We found several defining characteristics pertaining to undocumented migrant workers. They were illegally residing in the UK and in constant fear of deportation - oftentimes the gangmaster plays on that fear to maintain his/her control. Their lack of familiarity with the English language also facilitates gangmaster control. They cannot access legal employment and have no recourse to employment protection.

He continues:

‘They work long, unsociable hours, in sometimes hazardous conditions, for little, and sometimes no remuneration. They cannot access social welfare, including medical services or mental health support. ...There are threats of violence to themselves and their families back home and there is actual violence, both physical and verbal abuse and intimidation. Women live with the constant threat of sexual assault’ (Wilkinson, 2014).

Quantifying Forced Labour

In 2012, as part of its Special Action Programme to Combat Forced labour, (SAP- FL) the ILO) assessed the global extent and scope of forced labour, developing the conclusions reached in an earlier investigation conducted in 2005. The 2012 study used the basic statistical unit of a ‘reported case’ of forced labour and improved the ‘capture-recapture’ sampling methodology deployed in previous studies. The use of a revised method meant comparison with the 2005 study was not possible. The findings were reported in *Global Estimate of Forced Labour* (ILO, 2012b). They estimated ‘that 20.9 million people are victims of forced labour globally, trapped in jobs into which they were coerced or deceived and which they cannot leave’ (ILO, 2012b:13). More recent estimates suggest the number of victims has increased and that now 21 million are held in forced labour globally (ILO, 2016:3).

The ILO study classified forced labour into ‘three main categories or forms: forced labour imposed by the State, and forced labour imposed in the private economy either for

sexual or for labour exploitation' (ILO, 2012b:13). The study concluded that globally 90% of victims were exploited in the private economy, the rest being exploited by state institutions such as the military or penal institutions. Of the overall total, 22%, or some 4.5 million people globally, were estimated to be victims of forced sexual exploitation. Approximately 14.2 million people (68% of the total) were exploited in forced labour in industries such as agriculture, construction, domestic work and a broad range of other activities. Globally, both adults and children are victims of forced labour with a slightly larger proportion (55%) of victims being female (ILO, 2012b:13-14). The most recent ILO report shows little has changed, confirming 90% of victims are exploited in the private economy, while the remaining 10% are subject to exploitation imposed by state bodies such as the military or penal institutions (ILO, 2016:3).

The 2012 report interrogated the results by global region, calculating that 1.5 million people are trapped in forced labour in the developed economies and European Union (ILO, 2012b:16). The prevalence of forced labour in the developed economies is lower than all other regions at a rate of 1.5 per 1000 inhabitants. It is most prevalent in the regions that include Central and South - Eastern Europe and Africa, at a rate of about 4 per 1000 inhabitants (ILO, 2012b:15). In view of the comparatively lower rates of incidence of forced labour and relatively smaller numbers of people dispersed throughout the developed regions, it is easy to see how individuals exploited in forced labour in the UK could simultaneously be both disregarded by enforcing authorities and difficult to identify and detect.

The ILO report quantified selected characteristics of forced labour on a global basis. For example, with respect to forced sexual exploitation in the private economy, the study found that a preponderance of victims were migrants. Nearly three quarters of those ex-

ploited sexually were people from across the national border, with a further fifth migrated from elsewhere within the same country. In fact, the survey revealed that prostitution and sexual exploitation were the principal reasons for the majority of trafficking and forced labour around the world.

The situation globally for forced labour not involving sexual exploitation is almost reversed. Over 66% of forced labour exploited in the private economy involves local people with the exploitation occurring in the 'location where the victims usually reside.'

Forced labour victims originating from across the national border are calculated as just over 18% of the total with internal migration at 15% (ILO, 2012b:16). Unfortunately, detailed conclusions about the numbers and percentages of migrants engaged in forced labour in a particular region or country cannot be drawn from the information provided in the report.

Profiling Forced Labour in the UK

Labour exploitation in the UK has no obvious special or unique qualities. Forced labour seems to happen in much the same way as anywhere else in the developed world. It does not advertise its presence: it is likely that forced labour exists, hidden in plain view, and that exploited labour is employed in a range of work from cleaning public buildings, to caring for the elderly, to serving in restaurants.

UK government statistics suggests that in the UK, sexual exploitation accounts for the majority of the victims of forced labour. However, this might be simply because non-sexually related forced labour is not well understood or investigated with the same rigour. It is intended that this study will address these gaps in knowledge and understanding about forced labour for purposes other than sexual exploitation.

Numbers of Victims

It has been known for some time that it is extremely difficult to calibrate the full extent of trafficked and forced labour in the UK. Craig et al., (2007:21) identified this as an area of concern referring to a lack of 'reliable estimates for the number of trafficked people in the UK, (as) a problem that both the police and Home Office acknowledge'. A report from the Centre for Social Justice (CSJ) confirmed that the problem remained unresolved and that:

'The hidden nature of this crime means that building an accurate picture of the problem and its scale is a serious challenge. For this reason the CSJ decided not to estimate the number of victims of modern slavery in the UK since any number will be misleading and inaccurate' (CSJ, 2013:29).

Victims of forced labour can work clandestinely or 'be hidden in plain sight'. In many instances they are obscured from anyone attempting to identify and count them. In the case of domestic work, as Lalani and Metcalf explained, a victim of 'forced labour is virtually invisible because the work takes place within private households' (2012:7).

Lalani and Metcalf also suggest some explanations why victims of forced labour do not make themselves known. They explain, a high proportion of victims are migrants, often with dubious immigration status, who have understandable reasons for not drawing attention to themselves. Secondly some individuals 'may not necessarily see themselves as 'victims' ... they may well tolerate their poor working conditions because they view them as temporary' (Lalani & Metcalf, 2012:7).

It is arguable whether there is any useful purpose in attempting to quantify the number of people exploited by trafficking or forced labour. There is clearly little prospect of counting accurately, and statistics are all too often based on estimates, or indeed, on 'guesstimates'. However, some level of informed assessment is certainly valuable for

characterising the true scale of the problem, which in turn, may influence decisions about suitable remedial action and appropriate official responses.

In the UK, conventional sources of information about the labour market such as the data produced by the Office for National Statistics are of no value when dealing with illegal activity: illegal activity is not counted in a conventional way. More reliable estimates can be generated, for example, from factors such as the number of people in temporary employment combined with the numbers of known migrant workers. They can also be factored-up from the findings of field research by those voluntary and statutory agencies actually having an interface with victims.

It is also apparent that official data might, legitimately, be misleading with respect to issues relevant to labour exploitation. A victim of forced labour might well be counted in official figures but not in a way that reveals the true nature of employment. Lalani and Metcalf explained that many victims of forced labour are employed through employment agencies. They are therefore recorded in the appropriate official category in the statistics: ‘As agency workers are employed by the agency (not by the company where they work), strictly, they are employed in the ‘administrative and support service activities’ industry’ (2012:7).

In their 2012 report *Global Estimate of Forced Labour*, the ILO justified the methods they deployed to generate estimates of the numbers in forced labour from limited available information (2012b:Chapters 4-7). Their ‘capture and recapture’ method confirms the difficulties and challenges of basing worthwhile conclusions on minimal accurate data. It is safe to assume that the number of victims in the UK is a small percentage of the 1.5 million victims of forced labour the ILO estimated in the developed economies and the European Union (2012b:16).

The 2016 *Global Slavery Index* estimated about 12,000 living in slavery in the UK (Global Slavery Index, 2017). Although forced labour was discussed separately, the number exploited in this way was not specified. This estimate was similar to the one made by the UK government in 2013 of between 10,000 and 13,000 modern slavery victims in the UK (House of Commons, 2017b:5). Again, victims of forced labour were not counted separately.

Anti-Slavery International, expressed concern about ‘how widespread and common exploitation in the UK labour market is’ (Skrivankova, 2006:9). They point out that the term ‘exploited workers’ does not refer exclusively to the victims of severe abuse who feature in salacious press reports following high profile investigation and prosecution - ‘exploited workers’ also means those subject to practices such as failure to pay wages, lack of breaks from work and removal of documents from the individual (2006:8-9). This report recommended the application of the ‘Iceberg Phenomenon’ for calculating the number of forced labour victims. Although the Iceberg model had been used in connection with the more intensively policed trafficking for sexual exploitation, it was suggested that the same ratio was likely to hold for trafficking for other purposes too. It was asserted that the number of identified victims of forced labour represented only 10% of the actual number (Skrivankova, 2006:8-9)

There is a limited amount of reasonably accurate and reliable data about forced labour and trafficking in the UK. There are records from what was originally known as the UK Human Trafficking Centre (UKHTC) and the associated National Referral Mechanism (NRM). The NRM is the official system for dealing with victims of trafficking and forced labour and the government’s response to the problem is based on this data. The remits of both these bodies have been recently modified and this and their work is dis-

cussed in greater detail below (pages 99 - 102). Data relevant to human trafficking is also published by the Crown Prosecution Service detailing offences, prosecutions and cases (CPS, 2017:A37). The GLAA website publishes information about recent UK forced labour incidents, describing successful enforcement interventions and prosecutions conducted by that organisation (www.gla.gov.uk).

The UKHTC and NRM record the number of individuals referred to them, however, their statistics appear to present a partial picture. In 2013, a Centre for Social Justice report cited evidence suggesting that under twenty percent of male trafficked victims encountered by one charity had been referred to the official bodies. This therefore meant that the majority of that particular group of victims would not be counted in the official statistics (CSJ, 2013:37). Similarly, when 43 migrant women, identified as possible victims of slavery, were interviewed in prison, 74% had not been referred into the NRM (Hales & Gelsthorpe, 2012:3). According to IDMG:

‘Identifying genuine victims of human trafficking is a complex task. In some cases there is no initial disclosure of the person’s trafficked status. Even where an immediate claim of human trafficking is registered it will require careful investigation to ensure that false claims do not become a means to evade the criminal justice process’ (HM Government (IDMG), 2013:28).

Not all potential victims choose to enter the NRM. Groups of people have been identified who tend to decline referral into the NRM. This includes those generally wary of authority who are fearful that enforcement action will be taken against them (HM Government (IDMG), 2013:28). Others are frightened of reprisals from their trafficker or pimp (CSJ, 2013:75). Other victims avoid referral. In one study 64% of exploited domestic workers avoided referral, while another case showed only 18% of exploited homeless men opted for referral (CSJ, 2013:76).

The NRM statistics from the first quarter of 2016 show a variety of agencies from across the UK, such as local authorities, police forces, and third sector charities, were responsible for the referrals. The data revealed that each agency, in general, was responsible for referring a few individuals. For example, all but 4 police forces referred less than 10 victims. Exceptionally, Greater Manchester Police referred 19, Northampton Police 12, West Midlands Police 30 and the Metropolitan Police referred 25. Only one local authority referred more than 10 victims (Coventry City 11). The Salvation Army referred 100 victims, but this probably reflects the special role of this NGO as a first responder (NCA, 2016c, 14-15). The random distribution of referrals suggest victims were scattered in various places all over the UK but might also indicate indifferent officials neither looking for or reporting victims.

Some officials' ignorance of the NRM mean they fail to refer potential victims. This issue may in part be addressed by obligations introduced in the *Modern Slavery Act 2015*. The 'Duty to Notify' in section 52, places an obligation on agencies such as the police, the NCA and LAs to notify the Secretary of State if there are 'reasonable grounds to believe that a person may be a victim of slavery'. Once this legal obligation is widely understood and put into practice by the relevant agencies, it should result in better reporting and hence recording of all cases of slavery like situations. Further victims of all kinds of modern slavery, including victims 'only' subject to forced labour are now eligible for the NRM (*Modern Slavery Act 2015:s.52*).

Historical data from the NRM, although reliable within its own frame of reference, is of limited value for the purposes of this study. Until recently, NRM data presented inclusive totals collating all kinds of 'slavery' together. Data about non-sexual forced labour was not separately identified. Further, victims of forced labour who had 'only' been ex-

ploited and had not also been trafficked were excluded from the system (CSJ, 2013:70).

Victims recorded in the NRM were described by Kevin Hyland, Independent Anti-Slavery Commissioner, in evidence to the Work and Pensions inquiry as: “‘just the tip of the iceberg”, as there are likely to be many times that number of victims’ (House of Commons, 2017b:20).

Recent NRM statistics suggest the number of cases handled has increased every year, from 1745 in 2013 to 3805 in 2016 (NCA, 2016b:3). This points to improved detection of victims and better confidence in the system. There was a 12% increase in victims in the April to June quarter 2016 compared with the preceding quarter (NCA, 2017a).

An official perspective on forced labour in the UK was set out in the *First Annual Report of the Inter - Departmental Group on Human Trafficking* (HM Government (IDMG), 2012). Only limited conclusions can be drawn from the Report because its focus was victims of trafficking rather than those exploited exclusively in forced labour. Indeed, the report is silent on victims of forced labour who were not also victims of trafficking. It was based on data obtained from the NRM and the UK Human Trafficking Centre baseline assessment survey, an intelligence assessment produced by Serious Organised Crime Agency, carried out in 2011 on the nature and scale of trafficking (SOCA, 2012).

The authors of the report voiced caveats about the dependability of the data (HM Government (IDMG), 2012:7-8). For example in 2011, 946 people were referred to the NRM, some 84% of these referrals were from England and the greatest proportion were from London (HM Government (IDMG), 2012:9-10). However, figures generated by the UKHTC Baseline Assessment supported the conclusion that numbers were higher than those from the NRM, suggesting some 2077 victims, more than double the number

quoted by the NRM. Although this information offers a starting point for assessing those in forced and trafficked labour, it clearly represents a partial picture.

The courts are another source of data about forced labour. There have been a small number of prosecutions of people accused of trafficking or exploiting others in forced labour. Several inferences can be drawn from a successful prosecution. It demonstrates that forced labour or trafficking has been identified by enforcing authorities and that they have been motivated to take further action. Additionally, the authorities had obtained sufficient evidence during the investigation to enable a trial of the defendants to proceed. Overall a successful prosecution reveals that a crime has occurred and that enforcing authorities are prepared to punish perpetrators.

It appears that the number of successful UK prosecutions for slavery offences has increased. The data is hard to interpret because a “modern slavery” category was only introduced in April 2015 (Haughey, 2016:12). In 2015, prosecutions for all slavery and trafficking offences totalled 289. Of these just 27 offences were prosecuted under the *Modern Slavery Act 2015*. There were just 113 convictions (Haughey, 2016:13).

Prosecution data about forced labour has to be assessed carefully. A true picture cannot be gained from just counting modern slavery related prosecutions. By doing this, prosecutions that arise from forced labour- type circumstances but which have not alleged the exact offence of ‘trafficking’ or ‘forced labour,’ are excluded. Prosecutions are regularly taken with alternative charges such as assault, false imprisonment or kidnapping rather than forced labour charges or alongside modern slavery charges. Sometimes, evidence might seem insufficient to support a charge of forced labour, or enforcers might simply be more confident with alternative charges. More familiar offences are easier for them to prove and prosecute, making a successful outcome more likely. Although a successful

prosecution with alternative charges addresses the illegality, the case would not always be flagged as arising from a forced labour or trafficking incident and would therefore not feature in the statistics (HM Government, IDMG, 2012:32, Haughey, 2016:18).

A further complication is that prosecution data categories can refer to “offenders”, “offences” or an amalgamation of modern slavery offences rather than separate offences. Similarly, ‘conspiracy’ charges are perceived as effective when the role of an individual cannot be proved and there is evidence of group activity (CPS, 2016). In 2016, GRETA suggested improvements to prosecution processes related to modern slavery. Although their focus is trafficking, they recommended:

‘UK authorities should strengthen their efforts to ensure that human trafficking cases are investigated proactively, prosecuted successfully.... (and) encourage the specialisation of investigators, prosecutors and judges’ (GRETA, 2016:74).

Changes in the numbers of successful prosecutions over time are difficult to evaluate without additional explanatory information. An increased number of successful prosecutions might reflect an increase in trafficking and forced labour. Alternatively, an increase might simply reflect increasing efforts being devoted to countering trafficking and forced labour by the enforcing authorities. Improved focus on both searching out exploitation and in gathering better and more effective evidence might well result in an improved rate of cases proceeding to prosecution. Conversely, a fall in the number of prosecutions could reflect a drop in the numbers being trafficked and exploited or alternatively reflect a reduced capacity or interest on the part of enforcing authorities in finding exploited labour.

It is clear that there is still no grasp on the extent of the problem. In August 2017, Will Kerr the NCA’s director of vulnerabilities advised:

It's likely in the tens of thousands. ... The more we look for modern slavery the more we find evidence of the widespread abuse of the vulnerable. The growing body of evidence we are collecting points to the scale being far larger than anyone had previously thought (Grierson, 2017).

Countries of Origin

There is data from the NRM offering more specific information about those subjected to forced labour in the UK. Despite much NRM data being an amalgamation of all types of exploitation, including sexual exploitation, the NRM data does provide some insight into the circumstances of victims, in particular their country of origin. In the first quarter of 2016 the NRM registered some 255 adults, representing some 67 nationalities (NCA, 2016c:4-11). All of these people, and children too, had agreed to be referred into the system, although not all had been conclusively identified as victims (NCA, 2016c).

The data shows the nationality of those reported into the NRM changes over time.

In 2011 the NRM found the top ten source countries for forced labour victims in the UK were, in descending order, Nigeria, Vietnam, Romania, China, Slovakia, UK, Uganda, Albania, Czech and Eritrea (HM Government (IDMG), 2012:11).

This data also revealed that victims of different nationality were not distributed evenly across the UK. For example, although Nigerians were the largest group exploited in England and Wales, at the time, Romanians formed the largest group in Scotland (HM Government (IDMG), 2012:11). In the second quarter of 2016, the NRM statistics identified the top ten countries of origin of reported forced labour victims were: Vietnam, Albania, Romania, China, India, UK, Poland, Slovakia, Eritrea and Sudan (NCA, 2017a). Although there is considerable commonality between the two lists, they are not the same.

The IDMG Report identified from the data a connection between nationality and different types of exploitation. For example, ‘Slovakian individuals were mostly reported as being exploited for their labour, along with those from Czech Republic, Hungary, Vietnam and Lithuania’ (HM Government (IDMG), 2012:17). The term ‘labour’ in this context referred to non-sexual services. There are also differences between nationality and the type of exploitation perpetrated on males and females, adults and children. For example in 2011:

‘Nigerian victims are almost exclusively females who are subjected to sexual exploitation and domestic servitude. Vietnamese victims are predominantly males exploited for labour and females for sexual exploitation. Romanian and Chinese victims are generally exploited for adult labour exploitation and female sexual exploitation. Slovakian and Czech victims are almost exclusively exploited for labour with Czech victims predominantly male. The majority of Uganda and Albanian victims are females who are exploited for sex, with UK victims mainly female minors exploited for sex and adult males for labour exploitation. Eritrean victims are predominantly female, and almost exclusively exploited for domestic servitude’ (HM Government (IDMG), 2012:12).

Skrivankova suggested the existence of patterns in labour exploitation. She observed that the same nationalities group around similar work:

‘Certain industries seem to be predominantly occupied by some nationalities, whereas in others, people from all sorts of different backgrounds can be found. In some areas where there are specific communities, there is a high likelihood of finding migrant workers who are members of the same community or come from the same region’ (Skrivankova, 2006:18).

The link between established ethnic minority communities and new migrants seems entirely normal. Foreigners in a strange country are likely to seek out people who speak the same language and understand the same customs. The clustering of particular na-

tionalities in different industries is also asserted by Scott, et al. who observed 'European migrants have tended to work in food processing and packing while those from further afield have tended to work in minority ethnic catering' (2012:16).

Where is Forced Labour found in the UK

The review of extant literatures for this study found that forced labour has been reported across the UK: in cities, towns and rural areas, extending from the far North including Scotland, through the Midlands and down to the South of England, into Wales and Northern Ireland. As noted, the majority of the cases of forced labour reported to the NRM and UKHTC occurred in England, predominantly from London.

There are many accounts describing the perpetration of forced labour around the UK. For example, Pai has written about severe exploitation, especially of Chinese labour, in several locations in the UK. She presented detailed descriptions of extreme exploitation perpetrated in electronics factories in Hartlepool (2008:5-11); recounted abuse of labour in various food factories in Norfolk, on salad farms near Selsey on the south coast, and at a Chinese restaurant in Manchester (2008:40,67 & 97). Other research discusses the exploitation of domestic workers in London and widespread exploitation of workers in agricultural and related food processing work in the East Riding of Yorkshire (Craig et al., 2007:37,41-2). The exploitation of laundry workers in Basildon and cleaners at the University of East London is described in the Unison Report (2012). Infamously, the death by drowning of twenty one Chinese migrants, who were picking cockles out in Morecambe Bay in Lancashire in 2004 when the tide came in and overwhelmed them, exposed extreme abuse and exploitation of these migrant workers (Craig et al., 2007:10&12). This tragedy led directly to the creation of the Gangmasters Licensing

Association and remains etched into the public consciousness (Wilkinson, 2010:4, Lewis et al., 2015:6).

Various studies have identified the types of industries and commercial activities where there is a greater likelihood of finding forced labour. In general, it is likely to be found 'in low-technology, labor-intensive activities or industries such as domestic work, agriculture, construction, or prostitution' (Andrees & Belser, 2009:2). Apart from the sex trade, a 2006 study prepared for Anti Slavery International listed the following industries as being the most frequently mentioned in connection with forced labour: agriculture, construction, food processing, packaging and, of course, shell fish picking, cleaning and domestic work, care and nursing, hospitality and the restaurant trade. Other types of employment associated with forced labour 'included washing cars, heavy manual labour at ports, collecting shopping carts in parking lots in front of supermarkets and selling CDs DVDs and other items in the streets.' The report also found forced labour to have been associated with bakeries, laundry services, beauty parlours and motorway services (Skrivankova, 2006:15).

More recent work suggests that forced labour is strongly connected with the food industry, although this might also be explained by the overall dominance of the food industry in the UK (Lewis et al., 2015:53). The study explained: 'we found forced labour practices in farms, food processing and packing factories and minority ethnic catering businesses... to the end of the supply chain, including the construction of supermarkets, cleaning pubs and in small retail convenience stores' (2015:54).

Data from the UKHTC Baseline Assessment, an intelligence assessment produced by Serious Organised Crime Agency, supported these conclusions (SOCA, 2012:8,12-14). Apart from confirming that sexual exploitation is the most prevalent exploitation type,

the data revealed that adults exploited in forced labour were engaged in both legal and illegal activities. Criminal activities included street begging, shop lifting, drug production and benefit fraud. The legal activities included working in construction, primarily in ground surfacing and block paving, factory work, agriculture, food processing, restaurant work and nail salons. Although the most common type of exploitation among the adults referred to the NRM was sexual, the data shows that the second largest group of victims had been subject to labour exploitation and domestic servitude. Interestingly, the NRM data revealed that the situation for children was the reverse and they were primarily subject to labour exploitation. Sadly, a significant proportion of forced labour in the UK involves the exploitation of children, often trafficked from Vietnam, to farm cannabis. Victims of this kind of exploitation, are often locked permanently inside a property and compelled to grow cannabis. This crime is well understood and documented (Fouladvand, 2015, Gentleman, 2017a).

Andrees and Belser discussed contemporary forced labour, and explained that forced labour imposed by public authorities, such as the military and prisons, is ‘less relevant today’ (2009:1). They asserted that globally, ‘forced labour in the private economy, ... now represents an estimated eighty percent of all forced labour’ (2009:1). In the UK, in the twenty first century, forced labour is not imposed or required by public authorities, although the situation is not the same in all countries of the world (ILO, 2007: xi-xii).

Factors that foster Forced Labour in the UK

Anderson and Rogaly (2005) asked whether forced labour was encouraged by general characteristics of the UK labour market. They considered specific factors associated with the industries where it was most prevalent and questioned the premise that it was perpetrated by a small number of unscrupulous employers. They described the labour market in the UK as the most flexible in Europe:

‘The flexibility has several dimensions: flexible employment patterns, for instance with regard to working hours; easier hiring and firing of workers; widespread use of short-term contracts; greater flexibility in pay arrangements, linked to performance, for example; and high geographic mobility of the workforce’ (2005:23).

They pointed out that several features were common to the industry sectors associated with forced labour. The relevant industries operated in highly competitive markets, that pressurised the employer to reduce costs. The work was not highly skilled and labour charges represented a large proportion of the costs (2005:24).

Other researchers have also pointed to the adverse impact of the ‘flexibilisation’ of the UK labour market – for instance, researchers at the Universities of Liverpool and Sheffield found that:

‘Whilst the UK has one of the most significant recruitment industries in Europe, it is also one of the least regulated. Moreover, employment/workplaces have generally been subject to low levels of inspection/enforcement in the UK relative to other EU Member States’ (Geddes et al., 2007: 5).

Similarly, the second GLA *Annual Review* noted:

‘The UK has a relatively high level of temporary employment, a relatively low level of regulation, and relatively limited union powers. In addition, migrants make up a very significant share of the temporary workforce’ (GLA, 2008:58).

Financial factors

The motivating factor for exploiting labour is profit. In labour intensive situations, minimising labour costs and squeezing the workforce increases profits (Andrees & Belser, 2009:2) Lalani and Metcalf cite examples such as the contract cleaning industry where labour is estimated to make up eighty percent of costs. Similarly, in care homes, labour can be between forty five and sixty percent of the total cost (2012:12). These kinds of

industry are ideal for exploiting the workforce. A perfect environment for exploitation is created by a combination of features comprising a low skilled activity that does not require an educated workforce combined with emphasis on the intensity of the work rather than the quality.

Some businesses practices provide fertile ground for the development of forced or exploited labour. These are undertakings ‘that depend on casual or temporary labour, offer low wages, predominantly subcontract, and where it is often hard to track supply chains’ (Skrivankova, 2006:15). In particular, working environments where there is no single manager responsible for what happens to the individual employee, coinciding with patchy or non-existent official enforcement, can enable exploitation.

The flexibility of the UK labour market, while posited as a positive factor by successive British governments has been criticised by those considering the impact on the more vulnerable of workers (flexibility.co.uk, 2000-2015). Scott, et al. point out that:

‘In terms of criticisms, there has been concern that a group of low-wage workers, with insecure jobs, have been cut adrift at the bottom of the labour market and that unions have found it difficult to organise...to protect such workers (who have become increasingly of migrant origin). There has also been concern that the UK has a greater proportion of jobs targeting this ‘precariat’ ... than other comparable developed-world countries’ (2012:15).

Conditions for the development of forced labour are created by the combination of an extremely flexible working environment populated by a vulnerable workforce with very poor working conditions. Forced labour is most likely, but not exclusively, to be found in such an environment (Scott et al., 2012:15-16).

Anderson and Rogaly assessed the four industry sectors predominantly associated with exploitation of labour in the UK: construction, agriculture, contract cleaning and resi-

dential care (2005:24). Common factors were consumer pressure and competition to reduce price. The expectation of 'cheap and readily available food' is a good example of consumer pressure (2005:21). They identified characteristics common to all these sectors that might create an environment where forced labour could flourish.

In each of the four sectors it is evident that the businesses and industries comprise a distinct combination of very large and quite small companies. Larger companies can set the pace and drive up standards. They have assets, such as human resources departments, to keep them up to date with changes in employment law. A bigger company uses economy of scale to meet decent or at least better standards of labour at a competitive rate. A small company could find it challenging to keep up with the bigger company, meet the legal minimum standards continuously and to offer the same terms to employees as their larger counterparts (Anderson & Rogaly, 2005:25).

Both construction and agriculture operate in environments subject to time constraints, featuring intermittent bursts of activity. Clearly agriculture is seasonal and responds to natural rhythms, while construction projects tend to be 'one off', usually with financial pressure to complete within time limits. Recently the pressures in agriculture have been exacerbated because supermarkets insist that supplies should be provided, at short notice, in response to consumption, taking vagaries of weather and changes of taste into account (Blythman, 2007:162,172-183). These ways of working require a highly flexible workforce, available at very short notice for randomly long or short hours. The development of extensive sub-contracting including 'labour only subcontracting' in the construction industry is one industry specific response to these pressures (Anderson & Rogaly, 2005:26)

Subcontracting

The use of various forms of sub-contracting is another feature common to industry sectors where forced labour is found. Reducing costs, especially those arising from labour charges, is one reason for using subcontractors. Furthermore, the flexibility of the business can be enhanced by engaging subcontractors as and when the need arises. Sub-contracting is the normal way of operating in the construction industry. Major construction companies function like management organisations. They tend to only employ a labourer on site and no other construction workers (Anderson & Rogaly, 2005:30). Direct employment is rare and found mainly in traditional family run businesses. The gangmaster system is well known in the agricultural industry for the seasonal provision of labour. Contract cleaning is a familiar business concept. Cleaning is commonly contracted out by every kind of business from small offices to major hospitals.

Anderson and Rogaly described the development of subcontracting chains with bigger and possibly more reputable contractors depending on smaller contractors to support their response to variation in demand for labour. A long subcontracting chain can result in a link between the informal economy at the bottom end and regular legitimate work environments at the other. Sudden demands for large numbers of workers can result in labour agencies at the bottom of the chain 'putting the word out' among friends and acquaintances in their personal and community networks in order to meet the demand. In this way a workforce of all comers can be put together and this might well include illegal migrants and exploited labour (Anderson & Rogaly, 2005:31).

The same long chain of subcontracting can also create ambiguity around the identity of the actual employer of any individual worker (Anderson & Rogaly, 2005:32). This vague situation can be exploited by an unscrupulous employer or contractor in the chain

who can evade responsibility for the welfare of the workforce engaged in his business. Anyone running a business and using contracted labour can claim legitimately, for example, not to be the employer. At the same time, they can be quite ignorant about the identity of the real employer (Anderson & Rogaly, 2005:33). These arrangements can obscure the true legal position.

A subcontractor's employee can also be in a difficult position especially when located remotely from the actual employer and at the mercy of the local site supervisor. Anderson and Rogaly described the circumstances of contract cleaners who tend to work when buildings are vacated after normal working hours. The site supervisor has the power to control the cleaners, victimise some, apportion the tasks unfairly or exploit individuals with irregular immigration status (2005:34). It is very difficult for an individual employee to negotiate better conditions or complain about individual supervisors in such an isolated and segregated working environment.

In long contracting chains, layers of intermediaries can separate the worker from the ultimate employer. An intermediary within the chain can fix or agree terms that do not reflect the interest of any individual worker (Scott et al., 2012:21). An interesting example arises when workers with poor language depend on an intermediary offering interpretation and communication with the employer. This is a common practice and obviously of great help to an employer who wishes to explain the precise work requirements. In contrast, a worker without English is extremely dependent on the goodwill of their intermediary to agree only acceptable conditions (Lalani & Metcalf, 2012:16).

Unison (2012a) studied several businesses that contracted out labour. Many difficult working situations were attributable to the use of contractors. For example, chaotic organisation can follow a change in contractor. This might result in reduced supervision,

increased workloads, and in some cases, a rapid turnover of managers with each new contract. There could be an absence of preplanned work schedules, which might mean that a worker could turn up only to be sent home. Vulnerable workers could be isolated, for example, by having to work in a new geographical location or taking an anti-social shift. It is not unusual to find a two-tier workforce emerging as a consequence of re-tendering contracts with the newest employees on worse terms than existing ones. Problems have also arisen around pay with the wrong amount being paid, delays in pay, no sick pay and no enhanced rate for over time (Unison, 2012a:19,21,23,26,28,31-32). Unison believed that working conditions are unlikely to improve for the insecure and vulnerable worker. These workers are reluctant to raise concerns because they are scared that they will lose their job (Unison, 2012a:34). For many vulnerable workers, a job, however unpleasant, is better than no work at all.

Other employment related factors

Generally poor conditions of work and pay feature in all the industry sectors associated with forced labour. Scott et al., cited the culture ‘especially of long hours, limited breaks and the normalisation of paying for work’ as drivers of forced labour (2012:21). The illegal practice of paying an agent to find work or paying an employer to secure work is encountered repeatedly in studies of forced labour (Pai, 2008:20). Many of the jobs, for example in the care industry and agriculture, include accommodation as part of the package, especially in remote locations. Frequently problems arise from exorbitant charges or deductions from wages for substandard provisions. Employees in tied accommodation are also confronted by a challenging choice if working conditions are appalling but leaving the job would result in homelessness.

Other factors identified as facilitating the emergence of forced labour in the UK include blatant criminal activity on the part of employers and agencies. There is also a lack of

effective engagement by government authorities in enforcing the existing law. As a consequence anyone breaking the law and exploiting the workforce acts with impunity and has no fear of sanctions (Scott et al., 2012:21).

Studies point to a range of circumstances that facilitate the emergence of forced labour. Unfortunately, as Lalani and Metcalf observed: ‘The fact that there is no fixed pattern for such exploitation also makes it harder to identify’ (2012:16).

Migration

Analysis of the workforce in the industries prone to forced labour revealed: ‘Migrant workers are found in significant numbers in all sectors’ (Anderson & Rogaly, 2005:27). It appears that migrant labour is popular in the construction sector. The extent to which the workforce comprises illegal migrants is harder to determine accurately. Migrant workers in construction are not distributed evenly across the country. Estimates suggest that, overall, migrants comprise 8.2% of the UK workforce. They are disproportionately concentrated in London and the South East with the percentage of migrants in those areas being around 18% and 16% respectively of the total workforce (HSE, 2010:21).

It is interesting to consider the extent to which the presence of legitimate migrant labour might conceal the existence of forced migrant labour in much the same ways as wide scale global migration might hide trafficked migrants. In its manual of instructions for the inspection of migrant labour, the Health and Safety Executive (HSE) points out that ‘Migrants are no longer found only in large conurbations, but are working in rural areas or in regions that have had little or no previous history of migration’ (HSE,2010:4). This formal advice acknowledges it is highly likely that foreign nationals will be working all over the country. It could be inferred that the presence of migrants in any area of the UK would no longer attract attention and would not be a novelty.

Obviously not all migrants are in forced labour. However, if migrants are commonplace, exploited migrants would not attract particular attention. Skrivankova explained ‘in general, forced labour was found in areas with a high concentration of migrant workers and industries that use migrant labour’ (2006:20). The link between migrant workers and forced labour is also asserted by Scott et al. and particularly linked to ‘low-wage labour migration’ (2012:32). It is challenging to understand and explain any links between migrants and exploited labour, particularly when the evidence suggests that the majority of exploited workers enter the country legally (Skrivankova, 2006:18).

Anecdotally, a ‘large number of irregular migrants work in the agricultural sector, including some in forced labour situations’ (Anderson & Rogaly, 2005:27). Historically, the Seasonal Agricultural Workers Scheme (SAWS) permitted migrants from Bulgaria and Romania to work in the agricultural industry. It was ‘designed to allow farmers and growers in the UK to recruit low-skilled workers to do **short-term** agricultural work.’ The annual quota for recruits, was 21,250 in mid 2013 when the scheme finished (Migration Advisory Committee Report, 2013:Chapter3). The exact number of migrant workers in the cleaning industries is not known but ‘approximately 37% of employees working within cleaning companies in England are believed to be migrant workers ... the presence of migrant workers is believed to be fairly high’ (HSE, 2010:23).

There is a significant demand for migrant labour in destination countries like the UK. One reason is the ‘demographic time bomb’ of an increasingly elderly society (Wilkinson et al., 2010:3). Government schemes like SAWS provide official recognition of the need for some immigration. Surveys show that migrant workers are preferred by UK employers because they are perceived as more industrious and prepared to work anti-social hours (Wilkinson et al., 2010:3).

Current UK government policies dedicated to reducing immigration, especially of the unskilled, counter these ‘pull’ factors. Recent requirements have restricted the kind and type of person allowed to enter the UK as a worker. Those who wish to enter the country legitimately have to satisfy a number of standards (GOV.UK, 2014f). The *Immigration Act* 2016 is particularly stringent. For example, migrants with no right to work in the UK are called ‘illegal workers’ (section 34 &35).

Anderson and Rogaly explained that the industry sectors linked with forced labour often have: ‘recruitment difficulties and have retention problems leading to high labour turnover. The reasons vary, but... the work is often physically tough, informally skilled and not well respected’ (2005:28). They suggested the nature of such work, which is usually multi sited and intermittent, perhaps deterred ordinary UK workers. In general, the latter do not want to live on site or travel to temporary work places away from their usual place of residence to do an undesirable, low status job. Migrant workers on the other hand are easier to exploit and compel to work in this way (2005:29).

Types of Coercion practiced in the UK

A wide range of coercive practices are deployed in the UK, which are similar to the methods used to exploit labour throughout the world. The evidence is insufficient to show whether the types of coercion commonly employed in the UK have varied over time. Anderson and Rogaly identified and collated a list of coercive methods. They found: ‘physical and sexual violence, threats of violence, debt bondage, threats and intimidation based on immigration status, blackmailing, and confiscation of identity documents or withholding of payments’ (2005:36). Crucially they explained that all forms of coercion are more effective if the worker is dependent on their employer in some way. Dependency makes a worker more vulnerable to all kinds of exploitation and can

enhance the effect of subtler and less overt forms of coercion. Similarly, Skrivankova identified three main areas of coercion: controlling identity documents, debt bondage and threats (2006:17)

There is an up to date list of ‘the kind of behaviour that would normally... be evidence of coercion,’ on the Crown Prosecution Service (CPS) website (CPS, 2016). This is designed to assist those planning a prosecution for forced or exploited labour. The list incorporates violence and various threats against the individual and family, including threat of exposure to the authorities, not solely for immigration offences, but also for other offences too. It includes withholding documents and wages, debt bondage and restriction of movement. The list is supported by examples of ‘other factors that may be indicators of forced labour’. These comprise a variety of unacceptable employment practices which are unpleasant and possibly illegal. Although not coercive, they do create a feeling of vulnerability in the worker and can be coercive when more than one factor is practiced at a time. These include no or false information given to the worker about the law, imposition of excess hours, hazardous work, unexplained deductions from wages, no proper contract of employment, provision of poor accommodation and isolation of the worker (CPS, 2016).

Dependency

A worker can become dependent on an employer in a variety of ways. For example, dependence is created legitimately by UK immigration entry procedures. Domestic workers are permitted to enter the UK with their employer on a “Domestic workers in a private household visa”. This results in an individual domestic worker being tied to the holder of the visa, because the terms of the visa specify this requirement. This means an individual domestic worker is completely under the control of the specified employer

and in order to continue working in the UK the individual is tied to the specified job and exposed to whatever requirements that employer imposes. Crucially, a domestic worker cannot change employer and remain in the UK (Visas & Immigration, 2016).

Financial indebtedness can also tie a worker to a specific employer. A financially indebted worker is made dependent and therefore vulnerable to whatever conditions the employer imposes. There are two main manifestations of financial indebtedness. Debt bondage describes a worker paying off debts, accrued legally or illegally. There are also circumstances when a worker is owed money by his employer. For example, someone owed wages is disposed to persist in working for the same employer in the hope that the outstanding monies will eventually be paid. The amount of money outstanding can be substantial when a worker is being deliberately exploited. In some reported cases, employees have not received wages for months but have continued to work on the basis of a verbal promise that the money would be paid eventually (Anderson & Rogaly, 2005:38-39).

In debt bondage, the worker falls under a financial obligation to their apparent benefactor or employer and is then compelled to work to repay the debt. Debt bondage was described in 2005 by Anderson and Rogaly as the ‘form of coercion most often encountered during the course of this study’ (2005:38). A worker can be pushed into debt bondage in a variety of ways. Debt is commonly created when a willing but impoverished migrant is loaned money to travel to the UK and defray the costs associated with arranging work once they have arrived. The worker understands that they will pay off their loan by deductions from their wages once they are in work. Frequently a combination of high interest rates charges, together with modest wages means that the worker becomes indebted to an extraordinary degree and finds it impossible to pay their debts

off. In this way a victim can be compelled to continue working for the employer, suffering whatever conditions are imposed until they succeed in paying what they owe.

Debt bondage situations can also be created when employers charge exorbitantly for providing accommodation, food, transport and other provisions. The worker's wages are consumed by servicing the debts from artificially high everyday living costs. A vicious circle is created with the bill for ongoing living costs accumulating, adding to the existing debts which the employees wages never manage to pay off. It is easy to understand how a worker in this difficult situation feels obliged to work excessive hours in a desperate attempt to meet financial obligations.

There is evidence that workers become indebted because anticipated work is withheld. In this scenario, the worker pays an agency for work but is repeatedly given just enough work to meet the basic living costs only. The meagre wages mean further debts are incurred to meet other costs but the worker remains tied to the agency (Scott et al., 2012:51-52).

Coercion

A common method of coercion and restraint is created by the control of identity documents. It is often linked to immigration status. Removal, and subsequent retention, of passport and identity documents from a legal migrant worker is an effective way to control that individual. The person cannot physically leave or move away without first regaining possession of the documents. The migrant worker is consequently obliged to stay with the person who has the documents, doing whatever is required, until the situation is resolved. From the case histories, it seems that the documents are rarely forcibly removed. They are often obtained when a migrant hands them over to the person in charge, on an apparently legitimate pretext, such as obtaining a work permit, for safe

keeping or a similar reason. Dubious or deceptive reasons are then given for retaining the documents (Skrivankova, 2006:17 & Wilkinson et al., 2010:49).

It is particularly easy to coerce so called undocumented people who have entered the UK illegally and have no legal identity documents. Employers threaten exposure to the authorities, which everyone knows will inevitably result in them being removed from the country. In this way, an undocumented person is made dependent on the employer assuming they hope to remain in the UK. They are subject to a continuing threat of exposure and compelled to do whatever is demanded. Obviously, migrants who have had their legitimate documents taken are largely in an equivalent situation to the illegal migrant and are made vulnerable to threats of exposure to the authorities (Skrivankova, 2006:17 & Wilkinson et al., 2010:49, Lewis et al., 2015:79-80).

Other studies of forced labour in the UK support these findings. It seems that physical violence is not often used in relation to labour exploitation, with a notable contrast being cases of sexual exploitation. Skrivankova states ‘physical violence and constraint are usually not applied in the first instance. Indeed, incidences of actual physical violence are rather rare’ (2006:16). Similarly, Wilkinson states, ‘Tales of bullying and threats of violence, while not common, continued to surface..... Both Boston and South Holland Citizens Advice Bureaux provided accounts of violence and threats of violence’ (Wilkinson et al., 2010:26). The Equality and Human Rights Commission (EHRC) Inquiry into the meat and poultry processing industry claimed that ‘around one-fifth of interviewees told us about being pushed, kicked or having things thrown at them by line managers’ (2010:11). Bullying can take many forms and evidence has been obtained to showing that exploited labour, even when employed in ordinary factories, can be demeaned by being persistently shouted and sworn at, sexually and racially harassed by

everyone else in the premises (Scott et al., 2012:41-43). However, it does seem clear that most of the cases involving forced labour, especially those resulting from trafficking, involve a significant level of deception (CSJ, 2013:90).

Evidence shows that labour has also been controlled by threats of dismissal and dismissal without references. Dismissal has been used to get rid of sick workers and those reluctant to comply with the working conditions. It seems that dismissed workers are often denied outstanding pay (Scott et al., 2012:44-45). Workers have also been pressurised by the imposition of unrealistic work targets that are also used to calculate pay. The consequence is that actual pay is below the legal minimum despite excessive hours of work. Similarly workers can be required to work with no free time or holidays (Scott et al., 2012:45-49). The EHRC Inquiry reported examples of agency personnel entering homes to wake workers and send them into work on a day off. Similarly, describing managers standing 'at the factory exit and turning back agency workers to force them to work overtime after their shift had ended' (EHRC, 2010:14).

The coercive methods described can all be implemented subtly. They all offer the unscrupulous scope to taunt and threaten an illegal migrant or indebted worker with the prospect of losing their job unless they do as demanded. The evidence suggests that much of the coercion associated with forced labour is augmented by psychological pressure. The victims are made to feel vulnerable, anxious, uncertain and insecure. These unsettling feelings are enhanced through isolation, either physical or caused by language problems (Lewis et al., 2015:69-70). There are numerous methods used to undermine certainty and security. For example, transport to work might not turn up. Suddenly, only a few colleagues are given work. Living accommodation can be randomly subject to overcrowding. Individuals are unpredictably taken away from their accom-

modation. These and similar acts undermine the confidence stemming from stability and belonging (Pai, 2008:40-41,53-54, 39-140,142).

Vulnerable Work in the UK

People employed in vulnerable work are not always subject to explicit coercion, but there are aspects of vulnerable work that are exploitative. Some of this work clearly does not meet the ILO ‘Decent Work’ standards (ILO, 2006). Various studies, particularly by trades unions, provide a detailed understanding of vulnerability in relation to employment.

Vulnerable employment was defined in the TUC report as ‘precarious work that places people at risk of continuing poverty and injustice resulting from an imbalance of power in the employer - worker relationship’(TUC, 2008:12). Building on this report, Unison’s *Hidden Workforce Project* characterised the nature of employment for vulnerable workers especially in public service and highlighted common features of their employment and reported that privatisation, outsourcing, contracting out and decentralisation all played a part in creating an environment which made the workforce feel vulnerable (2012a:6). While Scott et al. in their study of the food industry referred to a culture of expendability and insecurity claiming that ‘employers actively make their low-wage workers aware of their precarity in order to ensure a compliant workforce’ (2012a:38).

Characteristics of Vulnerable and Exploited Workers in the UK

A European Union Directive addressing trafficking discussed vulnerability in the context of penalties for the offence. It asserted that ‘particularly vulnerable persons should include at least all children. Other factors that could be taken into account when assessing the vulnerability of a victim include, for example, gender, pregnancy, state of health and disability’ (Directive 2011/36/EU, 2011:§12).

The EHRC Inquiry discussed the vulnerability of a migrant worker in the UK. If a migrant worker's command of the English language is poor, then every day communication will be difficult. Accessing advice and information about legal rights could be hard. Understanding formal documentation about employment rights or tax deductions might be impossible for a non-English speaker. The EHRC produced evidence of migrant workers signing formal documents without being offered a translation and not comprehending what they were signing (EHRC, 2011:17). There was also evidence that migrant workers experienced unfavourable treatment based on their nationality with 'unfair allocation of work' (EHRC, 2011:17). It is evident that workers are repeatedly disadvantaged as a consequence of poor English. They fail to understand instructions, which apart from enabling them to carry out a task correctly, means they might be exposed to unsafe or unhealthy situations. They can appear stupid and be subject to verbal abuse from co-workers, supervisors and management (EHRC,2011:23).

It is likely that many of the factors associated with vulnerability for migrant workers reinforce each other. The inquiry 'found that vulnerability is increased by the interaction of a number of factors including: being an agency worker, limited English skills, pregnancy, lack of employment status and unfair tax status' (EHRC, 2011:20). For example, limited English skills might restrict a worker to a particular agency. Clearly an inability to access information might mean a worker remains exposed to poor conditions of work. There is also evidence that migrant workers suffer from racist behaviour from both employers and fellow workers which exacerbates their vulnerability (Wilkinson et al., 2010:26). This also makes it less likely that they can count on indigenous workers for support as indigenous workers themselves can do.

Conclusion

The literature on forced labour, confirms that people are exploited in forced labour both globally and in the UK. Similar methods are used worldwide to exploit vulnerable people. Characteristics of forced labour victims are well understood. They can be migrants or indigenous people and are vulnerable because of poverty, being a migrant, illiteracy, a lack of social capital and especially in the UK, illegality. The type of work people are involved in tends to be low skill and labour dependent and can include criminal activity. Forced labour is found throughout the UK, fostered by a highly flexible labour market, employment agencies and extensive subcontracting. Victims are compelled in a number of ways including physical force, withholding wages, threats of exposure to the authorities and through dependency on their exploiter. It is difficult to confirm the presence of forced labour and 'indicators' are used to identify it.

Factual information about forced labour in the UK is limited, with a theoretical quality. By amalgamating localised research and piecemeal experiences a picture of a dispersed and disguised phenomenon emerges. The literature addresses broader issues of extent, social characteristics of the vulnerable and the causal drivers of forced labour. It also charts its distribution, but it is not precise enough to explain how a specific case of forced labour has occurred or how it might be identified.

Some quantitative data is available about forced labour in the UK, for example from the NRM and court cases, but, caveats around scope, accuracy and validity of its estimates, limit its value. Currently, this data is too general and lacking in specificity to provide a sound framework for understanding forced labour in the UK. However, there are indications that both the *Modern Slavery Act 2015* and better official training and understanding are beginning to improve data quality.

This study focuses on real knowledge of workplace exploitation in the UK, including possible encounters with forced labour, through the voices and experiences of professionals who come into direct contact with workers. Their practical first-hand knowledge can deepen our understanding of the phenomena, and enlarge on the difficulties inherent in identifying and reporting forced labour.

The professionals who interact with workplaces range from government officials to union representatives. Their work and roles are discussed in the next chapter against the background of the prevailing legal framework.

Chapter 3: REGULATING UK EMPLOYMENT

This chapter discusses and assesses the work and remit of the many government agencies that oversee UK employers and workers to ensure decent conditions of work. The purpose is to consider their ability and suitability, in their current form, to tackle forced labour. Factors that impede their activities are described and limitations of the legislation they enforce discussed. Official provisions for assisting badly treated workers are also considered, to assess the ease with which they could obtain help.

Clearly, government agencies have a significant role to play in tackling forced labour. Clark's work demonstrated the importance of strong regulation, inspection and enforcement in the detection of forced labour (2013:04). He discussed enforcement in several European countries and focused on their particular provisions, particularly noting the benefit of a strong labour inspection force (2013:36). However, it remains the case that the UK continues to have one of the lowest resourced labour inspection systems in Europe (FLEX, 2015:6). It is arguable that this position is further undermined because no single agency has overall responsibility for all 'work and employment' matters. Different agencies enforce legislation addressing a specific aspect of employment or type of workplace.

Some businesses are monitored by national agencies, others by the local authority (LA). Roles can overlap. Other bodies, such as the Environment Agency, also interact with businesses, having wider oversight of conduct. Over time, workplace regulation in the UK evolved into the complicated structure described in the Hampton Review:

‘Regulatory inspection and enforcement is divided between 63 national regulators, 203 trading standards offices and 408 environmental health offices in 468 local authorities’ (Hampton, 2005:6).

Each government agency operates independently. Legislation determines the scope of each agency, prescribing standards and functions. Joint working between agencies is facilitated through ‘Memorandum of Understanding’.¹

Review and Control of Regulatory Bodies

From shortly after the turn of this century, the government subjected UK regulatory agencies to repeated appraisal and scrutiny. The foreword to the *Draft Deregulation Bill* (2013) summarised the purpose of the reviews as an ongoing drive:

‘to remove unnecessary bureaucracy that costs British businesses millions, slows down public services like schools and hospitals, and hinders millions of individuals in their daily lives...**Freeing business from red tape... Making life easier for individuals and civil society...Reducing bureaucratic requirements on public bodies**’ (sic) (2013:3-4).

The intention was to ensure that regulators were fit for purpose, that they did not regulate in a disproportionate way and, perhaps most importantly, did not impede business. Equally, when necessary, agencies had to regulate effectively. As a consequence of the various reviews, the operation and function of most government agencies, and in some instances associated legislation, were reorganised or modified.

Hampton’s review, *Reducing administrative burdens* (2005) had an immense impact, transforming the way in which government agencies work and operate. Hampton recommended several principles as goals for inspection and enforcement. The first priority was that regulators should ‘use comprehensive risk assessment to concentrate resources on the areas that need them most’. Another was ‘No inspection should take place without a reason’, and ‘Regulators should recognise that a key element of their activity will be to allow... economic progress and only to intervene when there is a clear case for pro-

¹ A Memorandum of Understanding or MOU is a formal agreement between two or more parties, in this case government agencies. MOUs are not legally binding. They establish the terms of official partnerships and often describe a common line of action. They are serious and formal.

tection' (2005:7). Hampton asserted that by following these principles there could be a reduction in the number of regulatory bodies, regulators would become more business focused and significantly, 'reduce the need for inspections by up to a third, which means around one million fewer inspections' (2005:8).

The Macrory review *Regulatory Justice: Making Sanctions Effective* made further recommendations on principles of penalties and effective enforcement (2006:10 -12). The *Regulatory Enforcement and Sanctions Act 2008*, implemented Hampton and Macrory principles. Guidance explained the need to regulate 'only when necessary ... in a light touch way ... proportionate to the risk', while 'tackling businesses that ... consistently flout their regulatory responsibilities' (2008:5). However, Balch pointed out:

'Risk based and intelligence-led inspection regimes might reduce the burden on business, but when resources are scarce the approach dictates that only the highest- risk businesses are inspected. It is not always clear how that risk is conceived or calculated' (2012:46-7).

Further legislation was introduced to reform and redefine the scope of regulators, restrict regulation, inspection and enforcement, requiring agencies to validate actions while having minimal impact on economic output. Agencies should not regulate disproportionately or impede business, but must regulate effectively when required.

A *Regulators Code*, introduced in 2013, was expected to 'reduce regulatory burdens' and support 'compliant business growth' (BIS, 2013a:2). The *Enterprise and Regulatory Reform Act 2013* had the same purpose of providing 'the right conditions for business success ... removing barriers that inhibit innovation and enterprise' (BIS, 2013b:4). Targets included improving the employment tribunal system, implementing measures from "The Red Tape Challenge"², and simplifying regulation (BIS, 2013c:2).

² The Red Tape challenge was a government initiative. Everyone was invited to identify legislation they thought unnecessary and which should be scrapped.

Regulatory Agencies

The agencies that regulate UK workplaces and employment are described in the following sections. Significant impacts following the recent regulatory reviews on the scope of their work are pointed out. The intention is to explain how the various agencies operate in practice and, in particular, to comment on the likelihood of an individual workplace being visited by a government regulator. The terms of reference of officials and the difficulties and challenges regulators encounter in carrying out their work are discussed.

Employment Agency Standards Inspectorate

The Employment Agency Standards Inspectorate (EAS) enforces the *Employment Agencies Act 1973* and the *Conduct of Employment Agencies and Employment Businesses Regulations 2003*, as amended. The EAS is not responsible for enforcing the *Agency Worker Regulations (AWR) 2010* (BIS, 2013d:2&9). Staffing levels are low. In 2013, there were 12 full time equivalents comprising 9 inspectors, the head of EAS and two senior managers (BERR, 2007:5, BIS, 2013f:6).

The *Employment Agencies Act 1973* makes it an offence for employment agencies to charge for finding work, withhold wages, make unlawful deductions or supply a replacement worker during industrial action. An employment agency has to ensure workers are paid correctly, only work 48 hours a week, have written terms of employment and keep records (GOV.UK., 2014a).

EAS was a stand-alone agency in the Department for Business, Innovation & Skills (BIS). Now, the Director of Labour Market Enforcement, (*Immigration Act 2016, s.1*) has responsibility for labour market enforcement strategy, including *Employment Agencies Act 1973* offences. Details of the new working arrangements are not yet known.

EAS officials have the right to enter and inspect premises and documents (*Employment Agencies Act 1973*, s.9). Officials target inspections in line with Hampton, investigate complaints, work with other enforcement bodies and raise awareness of the regulations (BIS, 2013d:2&7 -8). Targeting seems to be based on factors linked to geographical location and industry sector (BIS, 2013f:5). The factors triggering investigations are not clarified.

Poor performance

The EAS has been heavily criticised in comparison with the Gangmasters Licensing Authority (GLA):

‘The research team found not a single migrant worker ... aware of the Inspectorate’s existence. The CoVE enquiry found a similar picture ... The Commissioners found few workers, local trade unionists or voluntary organisations had heard of the EAS’ (Wilkinson et al., 2010:42).

Similarly Balch explained: ‘While the GLA has won plaudits for its ability to identify and tackle exploitation in the workplace, EAS remains synonymous with the lightest of light-touch approaches’ (2012:28).

Making meaningful comments about a national agency with such a small staff is impossible. EAS appears to judge itself by the money recovered for workers. Recent Annual Reports show nearly £170,000 was recovered in 2012/13 (BIS, 2013f:5). In 2011/12 just 1,134 visits were paid (BIS, 2014a). ‘In 2012 there were approximately 17,900 employment agencies ... within the recruitment sector’, suggesting EAS interacted with around 7% of agencies (BIS, 2014a). About 650 letters are sent each year, but this varied from 917 in 2010/11 to 471 in 2012/13 (BIS, 2013f:8). During 2012/13, EAS targeted 229 inspections into ‘high risk areas’ as diverse as healthcare, retail, catering and hospitality, and investigated 916 complaints (BIS, 2013f:8).

There were three successful prosecutions in 2012 (BIS, 2013d:3). The Annual Report 2012/13 mentioned seven prosecutions and two prohibitions (BIS, 2013f:4-5). EAS prefers to achieve ‘compliance through advice and persuasion’ (BERR, 2007:5). The Annual Report 2011/12 expressed a preference for using warnings to obtain compliance but ‘in severe cases, the inspectorate can consider prosecution or prohibiting individuals from running an employment agency for up to 10 years’ through application to an employment tribunal (BIS, 2013d:2). EAS publishes the List of prohibited people, those ‘banned from running an employment agency or business’ (BIS, 2013e). The list is publicly available, states individual names, duration of their ban and their last known geographical area of activity. In June 2017, there were 13 on the list of prohibited people and a further 3 people who had specific prohibitions (GOV.UK, 2017b).

Gangmasters Licensing Authority

As noted above, the Gangmasters Licensing Authority (GLA) is well regarded, in particular by the academic community. There has for some time been widespread enthusiasm for extending: ‘the GLA model to all sectors of the economy that are characterised by temporary/agency work or the use of labour providers’ (Balch, 2012:47) Similarly, Wilkinson et al.:

‘(t)he GLA has proved effective in tackling exploiters and protecting the exploited. It has proved as popular with labour suppliers, labour users and retailers ... The government should now build upon this success by extending the remit of the GLA. ... to the following sectors i. care; ii. construction; and iii. hotels, catering and contract cleaning’ (2010:78).

The GLA enforces the provisions of the *Gangmasters (Licensing) Act 2004*, operating a licensing regime ‘to regulate businesses who provide workers to the fresh produce supply chain and horticulture industry, to make sure they meet the employment standards required by law’ (GLA, 2014a). The original sectors were: agriculture, horticulture,

forestry, shellfish gathering and food and drink processing and packaging. Anyone supplying workers to work in these industries is required to have a licence.

In 2013, GLA chair Margaret McKinlay, advised that the then £3.9 million budget, represented a 17% reduction from a £4.7 million budget in 2009. Manpower was also reduced from 100 staff in 2009, to just 68 staff in 2013, yet, the number of licences increased from 1100 to 1155 (GLA, 2013a). McKinlay characterised GLA as confronting ‘heavy weight criminality’ with ‘light touch regulation’. She compared the nature of exploitation in 2013 with that in 2005, emphasising that the issues tackled by the GLA had become more complex and sophisticated, with an enhanced level of exploitation possibly entailing international elements (GLA, 2013a).

Following consultation, the remit of the agency was reduced by the *The Gangmasters Licensing (Exclusions) Regulations 2013*. Forestry, chick sexing, shellfish cultivation and some hatcheries were excluded from licensing requirements because the risk of exploitation was deemed low (GLA, 2013e). It is not known how risk of exploitation is assessed (House of Lords, 2013).

In response to repeated calls for an enlarged function, under *The Immigration Act 2016* the agency was reconfigured as The Gangmasters and Labour Abuse Authority (GLAA). The scope of the GLAA is wider and the agency is to have an enhanced budget, approximately £2 million more, and about 50 more staff. Precisely how the revised agency will operate in the future is yet to be explained (Broadbent, 2017). It is clear that the agency will continue with its current gangmasters licensing obligations. In addition, it will have a role with respect to employment agencies and the minimum wage.

The work of the GLA

GLA inspectors physically visit businesses. They conduct ‘compliance inspections’ to ‘check that licence holders are continuing to meet the licensing standards’. They also carry out investigative inspections in response to intelligence, often conducted with other agencies (GLA, 2014a&c). The GLA maintains a public register of those with licences (GLA, 2014b), an ‘active check service’ on the status of licence holders, and a revocations register.

The *Gangmasters (Licensing) Regulations 2005* and the *Gangmasters (Licensing Conditions) Rules 2009* describe licence requirements. *Licensing Standards* (GLA, 2012) and *Licensing Decision Policy* (GLA, 2013c) explain the licensing obligations in detail. There are eight principal ‘licensing conditions’: the ‘fit and proper test’, pay and tax matters, forced labour and mistreatment of workers, accommodation, working conditions, health and safety, recruiting and subcontracting matters. A person has to satisfy the standards of the licensing conditions to obtain or retain a gangmaster’s licence (GLA, 2012:1). Standards are not equally important and carry a points tally. If more than 30 points are accumulated, a licence will be refused or revoked, usually with immediate effect. ‘Critical’ standards are worth 30 points. Other standards accumulate points generally at a rate of 8 per standard (GLA, 2012:4).

Despite adjudicating licensing standard 3, which deals with forced labour and mistreatment of workers, the GLA do not themselves enforce on this issue. Prosecution of a forced labour offence is the preserve of the police.

‘Currently, where the GLA identifies offences that breach its standards but may also be prosecutable by other enforcement agencies the information is disclosed to them, so that appropriate action can be taken. The same applies to criminal offences dealt with by the police’ (GLA, 2013d:2).

There is a notable link between many of the conditions regarded as ‘critical’ in terms of the GLA’s licensing protocols and indicators cited by the Ministry of Justice as demonstrating the presence of forced labour. They are identical. For example, indicators used to show ‘coercion as part of forced labour’, such as violence or threats of violence, threats to expose a worker to the authority, withholding documents, restriction of movement, debt bondage and withholding wages are all critical conditions of licensing standard 3 (GLA, 2013d:4). Similarly, indicators that ‘may identify forced labour’ such as unexplained deductions from wages and poor accommodation are critical standards under licensing standards 2 and 4, while the provision of false information, excessive hours of work, and hazardous working conditions are major concerns of licensing standards 7, 5 and 6 (GLA, 2013d:4).

Apart from licensing activities, the GLA police unlicensed gangmasters and participate in criminal investigations. During 2012-13, GLA conducted 14 joint operations, ‘identified 1,373 workers who had been subjected to some form of exploitation’, 1015 days of withheld holidays, and £397,000 not paid to workers. 27 cases, all with guilty pleas were taken to court by CPS (GLA, 2013b:10). The number of convictions varies considerably, from single figures in 2008 (1), 2009 (5) and 2011 (6) to the higher teens for other years (GLA, 2014c).

The *Gangmasters (Licensing) Act 2004* defines four offences: operating as a gangmaster without a licence, using an unlicensed gangmaster (Section 12(1)&13), obstructing a GLA officer (section 18) or holding false documents (Section 12(2)). An enforcement officer has the power to enter premises at any reasonable time and to examine or take away businesses records.

Work in Practice

In 2014, the GLA reported the ‘worst UK gangmaster ever’, DJ Houghton Ltd, failed ‘18 separate licensing standards - enough for its licence to be revoked more than 10 times over.’ The abuses, ‘the most extreme exploitation ever experienced by the GLA’, involved dozens of migrant workers, some as young as 17 years old who:

‘were forced to work for days at a time in filthy conditions without a bed, a shower or proper food. They grafted through the nights and were forced to sleep through the days on a minibus as they were driven ... to jobs ... In one instance, a driver was paid for being out for 133 hours in a week, yet the employees stuck on his minibus ‘at work’ for the same period received payment only for the number of chickens they caught’ (GLA, 2014a).

In practice, some irregularities in licensing conditions must be far easier to find and confirm than others. It might be easier to determine wage irregularities by perusing the books, payslips, and records of hours worked followed up by interviews with the workers. Visibly cowed or injured workers can be observed. In comparison, it might be more difficult to confirm the provision of poor accommodation, the use of unsafe vehicles to transport the workers or threats and intimidation. Checking residential accommodation is possible, but it might be difficult making sure the workers actually live in any particular place unless they are ‘at home’ at the time. Proving threats, intimidation and violence is likely to be very difficult: witnesses can be unreliable and there is unlikely to be tangible evidence.

The Police

Police enforce the *Modern Slavery Act 2015*. However, slavery cases are not always a policing priority and historically, potential offences have been dismissed (Balch, 2012:23). There are suggestions that ‘police are not equipped to fight this form of criminality,’ (CSJ, 2013:133-4).

Police are essential to joint operations to uncover labour exploitation, because of, inter alia, their power to arrest perpetrators. The GLA co-opted the police in '*Project Advenus*,' 'a programme of visits to Derbyshire companies that might be at risk from trafficking within their labour supply chain' (Derbyshire Constabulary, 2014). Other collaborations included operations '*Atwood*,' '*Keepnet*' and '*Ruby*'. The latter 'led by Northampton Police ... involved 200 staff from 9 organisations', but did not result in prosecution (Geddes et al., 2013:26). *Operation Eagle*, a multi-agency initiative launched by the police was an:

'initiative to improve the response to human trafficking and organised immigration crime. ... to raise awareness, increase the amount of information we receive and improve coordination of ... operational activities on trafficking' (ACPO, 2014).

Although the police enforce the law when confronted with labour exploitation during a joint investigation, it is not clear whether they recognise it otherwise. Seeking out labour exploitation per se is not a specified priority for the police.

Historical evidence reveals police have treated victims of exploitation as criminals (Anderson & Rogaly, 2005:50-58). Frequently, non-British victims are labelled 'illegal immigrants' and indicators of exploitation ignored (CSJ, 2013:84). Officers have addressed cases of labour trafficking as civil rather than police matters (Anti-Trafficking Monitoring Group (ATMG), 2013a:43-44). Effective policing is hindered by cultural assumptions, such as perceiving a victim to be better off than in their home country (ATMG, 2013a:44). Another problem arises when police focus on their specific concern - such as closing a brothel - but fail to register that people present may be being held in slavery: 'They are not trained to identify the signs and are not being tasked to look for it' (CSJ, 2013:87). Further, 'victim narratives may be ... so terrible and out of the of-

ficer's cultural experience that they may appear inconceivable, leading to the view that they are fabricated' (ATMG, 2013a:56).

The response of the police to any situation will depend largely on their training.

The ATMG found 'current training programmes for frontline police are neither promoted nor regular' (ATMG, 2013a:46). Balch regarded 'effective and targeted training programmes' as needed, noting 'the most obvious gap in knowledge around forced labour concerns its scope and extent' (2012:37&34). The Inter-Department Monitoring Group (IDMG) reported 'over 26,600 police officers and staff have completed the police e-learning package on human trafficking' (HM Government (IDMG), 2013:32). E-learning packages seem limited, and by 2013, only 10% of officers had completed one (ATMG, 2013a:46). The College of Policing is expected 'to set standards... on training, development, skills and qualifications' (College of Policing, 2014).

Major Developments

Police activity is now determined by the National Crime Agency (NCA) and Police and Crime commissioners who both set requirements and priorities. In 2014 the NCA observed:

'The last few years have seen continuing change in the UK's law enforcement landscape, starting with Police and Crime Commissioners elected in 2012, followed by the launch of the National Crime Agency and publication of the Government's Serious and Organised Crime Strategy in October 2013' (NCA, 2014b:1).

Unprecedentedly, police budgets were substantially reduced as an austerity measure.

'Government core funding for policing will reduce by 20% in real terms on average police budgets would reduce by 14% in real terms' (Home Office, 2010:4). Between

2009 and 2013, approximately 16,000 police officers were lost together with similar numbers of support workers, leading to an adverse impact on service (McClenaghan, 2013). The Home Affairs Committee (HAC) was unequivocal: ‘morale among many police officers has sunk to its lowest ebb in recent memory.... (and) could have a direct effect on operational effectiveness’ (House of Commons, HAC, 2013a:§3 &5).

Police and Crime Commissioners (PCC)

A Police and Crime Commissioner (PCC) is democratically elected in each police area outside London. Their principal role:

‘is to be the voice of the people and hold the police to account. ... appoint the Chief Constable ... set the ... objectives for their area through a police and crime plan [and] contribute to the national and international policing capabilities’ (APCC, 2014).

The ‘Police and Crime Plan’ differs to reflect local priorities, but must support the national policing strategy and accord with Home Office requirements. In 2014, few of the published plans prioritised modern slavery and there was little official advice either. Exceptionally, Cambridgeshire Constabulary headed every page with a banner announcing:

‘Stop Human Trafficking. Open your eyes to human trafficking. It’s the second largest criminal trade in the world - would you recognise the signs if you saw it?’ (Cambridgeshire Constabulary, 2014).

Indicators were listed under the statement:

‘ An important part of the fight against human trafficking is having a public that is informed and aware of the indicators of trafficking and vigilant for signs of a crime taking place. Take a minute to familiarise yourself with the indicators of trafficking for sexual exploitation, labour exploitation and child trafficking - it could save someone one day’ (Cambridgeshire Constabulary, 2014, *Get Closer*).

‘Peterborough... has been identified ... as a hot spot for trafficking,’ perhaps explaining the police focus (Cambridge Constabulary, 2014. *Migrant Communities*). Cambridge constabulary and LA conducted *Operation Pheasant* ‘in Wisbech to identify seriously overcrowded properties where tenants might be subject to intimidation’ (BBC, 2013). A multiple agency task force simply went from door to door talking to tenants and assessing the state of their property (BBC, 2013). The task force found exploited migrants living unavoidably in squalor, with instances of human trafficking and evidence of gang-masters (Fenland District Council, 2010) .

Consultation of a range of police force websites showed modern slavery was barely mentioned in 2014 or 2017. The websites consulted were selected to be representative of different parts of the country and concentrated on areas where cases of modern slavery had been discovered. In 2014, there was no mention of modern slavery on Greater Manchester Police or Manchester PCC, Humberside, Surrey Police or Surrey PCC website. Neither the Metropolitan Police nor MOPAC, the London Mayor’s Office for Policing and Crime, websites presented information about modern slavery. In 2014, trafficking and modern slavery was not highlighted on the West Midlands Police website, although the site did provide some advice on human trafficking (West Midlands Police, 2014). Labour exploitation was not discussed on Hampshire Constabulary and Hampshire PCC websites, but their Twitter account references modern slavery (Hampshire Constabulary, 2014). The hashtag LookBeneathTheSurface, offers advice and the modern slavery helpline number.

It is not surprising that local police forces do not discuss modern slavery. Slavery tends to be hidden and only directly affects a few people. It is unlikely to be of widespread

concern compared with crimes such as burglary. Therefore, there will not be political or public pressure, either locally or nationally to make modern slavery a police priority.

Notably, the overall police performance with respect to modern slavery has been officially criticised. In his annual report for 2015-6, Kevin Hyland, the independent anti-slavery commissioner, pointed to shortcomings in police practices. In particular, he believed that crime recording needed to be improved to reflect the number of victims referred into the NRM, emphasising that adequate recording is a foundation for investigations (IASC, 2016:13). Kevin Hyland also criticised police for not investigating ‘cannabis farms’ properly and failing to gather intelligence (Gentleman, 2017b).

National Crime Agency

In October 2013, the *Crime and Courts Act 2013* created the National Crime Agency (NCA). The Agency has the remit to ‘tackle serious and organised crime, strengthen our borders, fight fraud and cyber crime, and protect children and young people from sexual abuse and exploitation,’ (NCA, 2014a: *What we do*, NCA:2017b). The NCA builds on, and incorporates, previous police agencies such as the Serious and Organised Crime Agency (SOCA), the National Policing Improvement Agency (NPIA) and the Child Exploitation and Online Protection Centre (CEOP) (HoC, HAC, 2011: 30-31, 56& 61).

The NCA is a non-ministerial government department. NCA officers are triple warranted: they can ‘be designated with one or more of powers and privileges of a constable, powers of a customs officer, and powers of an immigration officer’ (NCA, 2014a: *How we are run*). The NCA has two remits: a crime-reduction function and a criminal-intelligence function (NCA, 2014d:2). Reassuringly, it appears that the organisation adapts to changes in patterns of criminal behaviour. The NCA intend to work across borders and in partnership with other agencies both international and domestic (NCA, 2014c&d).

Initially the NCA operated several clearly defined ‘Commands’ such as Organised Crime command and Border Policing Command. The work of these commands was intended to impinge on activities associated with modern slavery and environments frequented by traffickers and exploiters. The Border Command tackled organised immigration crime and human trafficking, coordinating with other border agencies such as Border Force (NCA, 2014a: *Border Policing Command*).

One of the specialist capabilities of the NCA is the operation of the Modern Slavery Human Trafficking Unit (MSHTU) (NCA, 2017c). This was formerly called the UK Human Trafficking Centre (UKHTC). The NCA is also responsible for the UK National Referral Mechanism (NRM) for trafficked victims (NCA, 2017c).

NCA and modern slavery

The 2014 *National Strategic Assessment of Serious and Organised Crime* identified human trafficking as ‘a significant global problem’ and a key threat to the UK. The NCA admitted limited knowledge of this crime but believed ‘increased resources devoted to target modern slavery should increase understanding of the problem’ (NCA, 2014b:4,10&14). It stated that ‘modern slavery is often related to human trafficking but does not require the victim to have been an irregular migrant’ (NCA, 2014b:25). The NCA has created a liaison framework involving every enforcement agency in the UK, (and internationally), to improve the detection of organised immigration crime and human trafficking.

The NCA also promotes the obligation to treat potential victims of modern slavery decently. A *Best Practice Guide* outlines arrangements for interviewing victims sensitively, especially to obtain good evidence. A ‘neutral space’ is recommended, with offi-

cials out of uniform. Officials should consider language problems, serious health concerns, and proximity of traffickers (NCA, 2016a).

National Referral Mechanism

The National Referral Mechanism (NRM), a specialist capability within the NCA, is ‘a framework for identifying victims of human trafficking or modern slavery and ensuring they receive the appropriate support’ (NCA, 2016a: *NRM*). Potential victims of trafficking or modern slavery are, subject to their signed consent, referred by an authorised agency or so-called ‘first responder’, via the Modern slavery human trafficking unit (MSHTU), to one of two Competent Authorities (CA). The competent authorities are MSHTU, formerly the UK Human Trafficking Centre (UKHTC) and UK Visas and Immigration (UKVI). ‘Referrals from the police, local authorities, and NGOs’ are retained by MSHTU, and ‘referrals identified as part of the immigration process’ forwarded to UKVI. Currently, people are first assessed as potential victims of trafficking, and subsequently assessed as victims of modern slavery (NCA, 2016a:*NRM*).

Within 5 days of referral, the officials of the CA have ‘to decide whether there are reasonable grounds to believe the individual is a potential victim of human trafficking or modern slavery’ (NCA, 2016a: *NRM*). The standard used at this stage is: ‘From the information available so far I believe but cannot prove.’ If the decision is affirmative, the victim will be notified by letter and offered 45 days ‘recovery and reflection’. During this period the CA gathers additional information to make a ‘Conclusive Decision ... that on the balance of probability “it is more likely than not” that the individual is a victim of human trafficking or modern slavery’ (NCA, 2016a:*NRM*). The outcomes consequent on this Conclusive Decision range from the victim remaining in the UK and helping with further inquiries, to returning to their home country.

First Responders

First responders are police forces, UK Border Force, GLA, local authorities and charities such as the Salvation Army, Migrant Help, Kalayaan and Barnardos (NCA, 2016a:*NRM*). The reason for restriction to just these groups is not clear, and it has been recommended that HM Prison Service be included as a first responder (CSJ, 2013:72). A person identified as a potential victim can easily get administratively lost in the system if spotted by another agency. They have to be referred by that agency to a First Responder for onward referral to the NRM (ATMG, 2013b:12).

Pilots

The lack of standardised training for first responders has been criticised. Poor training results in poor quality referrals. Inadequate or incomplete information impedes the ability of ‘the relevant Competent Authority... to reach a fair decision’ (CSJ, 2013:73 -74). Criticisms of the NRM referral and decision making process led to a pilot scheme trialling an alternative approach. ‘First Responders’ were replaced by ‘Slavery Safeguarding Leads’. Conclusive grounds decisions were made by multi-disciplinary panels, restricting the sole decision making powers of CAs. The pilot arrangements were trialled until March 2017 (ATMG, 2016:48-9).

The ‘Duty to Notify’ introduced in the *Modern Slavery Act 2015*, prevents information being lost when a potential victim declines to enter the NRM. Several public authorities, including the NCA, are obliged to formally notify the Secretary of State about anyone ‘they believe is a suspected victim of slavery or human trafficking’ (Section 52).

Criticisms and limitations

Some officials, as previously noted, are ignorant of the NRM and fail to take action.

There is a strong link between the NRM and immigration control. Traditionally, this encouraged the perception of human trafficking as an immigration offence rather than a

grave human rights abuse (Balch, 2012:12) where the imperative to exclude illegal migrants overrides the needs of genuine victims.

The link between modern slavery and border control agencies is reinforced in current documentation. Official advice suggesting where modern slavery victims might be detected, concentrates on border related topics such as ‘entry clearance’, asylum seekers, the UK border, the work of Immigration Enforcement. Although, officials are reminded, that victims can be found ‘in any part of the UK’ (Home Office, 2016e:55-9).

Official suspicion of potential victims has been well documented. Border officials can consider evidence as fake and ‘view the person as an illegal migrant first ... allegations are made as an attempt to stay in the UK’ (ATMG, 2013a:43). Refugee agencies, the Home Office itself and researchers acknowledge a ‘culture of disbelief’, with ‘a strong propensity to disbelieve the testimonies of asylum seekers, and to refuse them asylum on that basis’ (Souter, 2011:48-9). Officials discredit claims by deploying devices such as the ‘manufacture of discrepancy’, from inconsistent peripheral details (2011:49).

Souter claimed there was also a calculated culture of denial, even where accounts were believed: ‘refusal to engage with the asylum seeker, ... the response is simply ‘your story is not accepted as true’ (2011:53). Conversely, official advice requires officials to be far more understanding and sympathetic to potential victims. For example, officials are reminded that emotional help or medical assistance might be required, as well as possible psychological help (Home Office, 2016e:17-8, 37&45).

Historically, the police too treated potential victims prejudicially, ‘misidentified as civil claimants by police reception staff or refused assistance altogether,’ and for some their visit ‘resulted in detention whilst attempting to report trafficking’ (ATMG, 2013a:43).

Institutional racism in the police and wider public service is another possible factor in-

fluencing decisions. The Macpherson report warned against complacency towards racism in public organisations, noting ‘collective failure is apparent in many of them, including the Criminal Justice system’ (1999:27, 46).

National Referral Mechanism Data

The importance of the NRM extends beyond facilitating assistance for victims of modern slavery. Their data is the basis for the government’s response to the problem. The changes in the NRM system in response to the revised requirements are too recent to make meaningful observations about function and performance. The available guidance and, as we have seen, the limited statistics that have been published indicate the system is becoming more responsive and sensitive to victims.

Health and Safety Executive.

The responsibility for enforcing the *Health and Safety at Work etc Act 1974* (HASAWA) is shared between HSE and 382 Local Authorities, with premises allocated by the *Health and Safety (Enforcing Authority) Regulations 1998*. HSE enforces in higher risk establishments such as factories, farms, construction sites and hospitals while LAs enforce in offices, shops, pubs and clubs, sheltered accommodation and care homes. In 2003/4, HSE was responsible for 740,000 establishments with LAs responsible for 1,194,000 establishments (HSC, 2004:51). HSE and LAs work closely together both nationally and locally.

The powers of Health and Safety inspectors can be exercised at any time, without further permission. An inspector is permitted: ‘at any reasonable time ... to enter any premises’, ‘require any person ... to give any information relevant to any examination or investigation ... to answer ... questions’ (HASAWA, 1974 s.20). Inspectors have powers to take photographs, measurements, inspect and copy documents and direct a

premises be left undisturbed. These would seem the perfect tools for revealing an exploited workforce, which can only be realised by visiting workplaces.

Notable Exceptions

Not everyone ‘working’ is covered by health and safety requirements. HASAWA Section 51 specifically excludes domestic servants from many provisions. ‘Domestic servant’ is not clearly legally defined. The *HSE Enforcement Guide* suggests considering factors such as working in a domestic dwelling and employment by a member of a family (HSE, 2014a). Abuse of domestic servants through forced labour is well documented. Clearly exploited domestic workers will not be encountered by HSE or LA inspectors.

The application of HASAWA section 2, requiring employers to ensure so far as is reasonably practicable the health, safety and welfare at work of employees, depends on ‘employment’. Section 53 defines employment as having a contract of employment. A person working without an employment contract, is only covered by HASAWA Section 3. This requires undertakings to be conducted to ensure those not employed are not exposed to risks to their health and safety. This means, for example, there is no obligation to provide protective clothing for ‘workers’, because a worker is not necessarily employed. It can be difficult to establish the legal status of ‘employment’. Casual workers, labour only subcontractors, agency workers and volunteers are unlikely to have ‘a contract of employment’ and might fall outside the protective remit of section 2. The link between forced labour exploitation and those in agency or casual work is well known.

The Work of the Health and Safety Executive

In 2013, 3183 people were employed by HSE. With just 1241 frontline inspectors, this was the smallest workforce for 5 years (HSE, 2014b:35). Clearly, the 740,000 business-

es which are HSE's responsibility, were unlikely to be visited regularly (HSE, 2014c). In fact, the 2012/13 *Annual Report* stated that just '22,240 proactive inspections were undertaken to high risk sectors, or poorly performing dutyholders' (HSE, 2014b:12). The number of complaints and incidents investigated fell too, possibly because of risk based selection criteria (HSE, 2014b:24).

HSE prosecuted 946 cases in 2012/13 with a conviction rate of 87%, more than the 838 prosecuted in 2009/10³. For comparison, LAs prosecuted 335 cases in 2008/9, but only 198 in 2011/12 (HSE, 2013a:13). The number of enforcement notices issued has also declined. In 2012/13, HSE and LAs collectively issued 13,503, 15% less than 18,308 issued in 2010 /11 (HSE, 2013a:14). This might reflect the smaller number of officials.

Health and safety prosecutions are very time consuming. The inspector concerned does everything from start to finish, including visits to collect evidence, interview witnesses and take statements, writing the report, and engaging in the court process. An inspector engaged in a prosecution cannot do other work, which means that all other investigations and inspections are prioritised and handled by inspectors who are not otherwise committed.

Imposed Changes

HSE's work was dramatically affected by two reviews. Young's (2010) '*Common sense, common safety*' reviewed the law and 'the growth of the compensation culture'. Professor Lofstedt's '*Reclaiming health and safety for all*' considered ways of reducing the burden of health and safety legislation on businesses (Lofstedt, 2011). Their proposals required inspectors to justify any interventions and also limited the type of premises warranting inspection. Now, HSE would only inspect 'sectors and activities which give

³ Conviction Rate not available.

rise to the most serious risks’ where: ‘robust evidence and intelligence indicate health and safety performance is of serious concern and where inspection is the most effective intervention’ (HSE, 2014b:9&12).

The self-employed were exempted from attention when their ‘activities represent no potential risk of harm to others’ (HSE, 2014b:18). Recent huge increases in self-employment makes this approach questionable. By 2013, approximately 4.3 million people were self-employed. This meant ‘a staggering one in seven of the workers in this country are now working for themselves’ (Goodall, 2014).

HSE discontinued routine inspection of the agricultural sector in favour of ‘awareness raising’. Investigations were conducted as required. ‘15-20% of all work-related fatalities reported to HSE each year are in this sector’ (HSE, 2014d). Inherent risk factors such as seasonal and migrant workers were acknowledged, but inspection ‘is a very resource intensive and a relatively inefficient form of regulatory intervention for geographically dispersed sectors such as agriculture’ (HSE, 2014d). The exploitation of workers in agricultural is well documented, but the chance of encountering them is minimal if businesses are not visited.

HSE rebranded ‘complaints’ as ‘concerns’. Now, complainants were required to try and resolve problems with their employer first. This approach only seems suitable for decent employers. If resolution is not achieved, a ‘concern’ will only be accepted by HSE if details are provided, preferably in writing. HSE requires: the name and address of the worker and the workplace, information about the concern, together with ‘what you have done to try and resolve the issue.’ HSE will not proceed without this information. In particular they will not investigate if contact details are withheld, because this prevents HSE from ensuring it is not malicious (HSE, 2017a: *Contact Us*).

This arrangement is not welcoming to complainants. It offers no protection or support to anyone who is terrified and desperate to remain anonymous. It is debatable whether a vulnerable worker would complain, if progress depended on waiving anonymity. A vulnerable victim of forced labour would have good reasons for remaining anonymous and would be unlikely to find this complaint reporting procedure sympathetic. HSE also implemented ‘a single centralised call handling process for health and safety concerns’ (HSE, 2013b:18). This is discussed further below.

Revisions to the 1995 *Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)* in 2013 meant that accidents only become reportable after 7 rather than 3 days’ absence. This seems designed to reduce reporting requirements. Other studies evidenced under-reporting of non-fatal accidents, with lowest rates ‘for workers in agriculture, having an average level of reporting of just 16 per cent⁴ over the three year period between 2009/10 and 2011/12’ (Geddes et al., 2013:56). Clearly, if an accident is not reported, no-one visits the premises to investigate it.

Local Authorities

The term local authority (LA) refers to all tiers of sub-national government. LAs have numerous mandatory duties, some ‘controlled by central government’, while others are discretionary (Local Government Group, 2011:2). Each LA is unique and acts independently.

Recently severe ‘austerity measures’ have adversely impacted their work. Cuts to local authority budgets have been substantial since 2010 and ‘local authorities in England lost 27 per cent of their spending power between 2010/11 and 2015/16’ (Hastings et al., 2015:3). The impact of the cuts has not fallen equally on all local authorities or on all

⁴ Obtained by comparison between RIDDOR statistics and Labour Force Survey

services, and some services have suffered cumulative cuts of 45 percent (Hastings et al., 2015:3&8). In financial terms, this represents a cut of £18bn, resulting in a reduction in services such as a reduced number of visits by council inspectors (Gainsbury &Neville, 2015).

Several LA duties are relevant to this study because these particular regulatory functions require officials to visit premises and engage with the local community. These include: fire and rescue services, fair trading, food safety and hygiene, building control, environmental protection, housing standards, various types of licensing including alcohol and public entertainment (BIS, 2014a).

LA duties are extensive. For example, food safety and hygiene standards apply to businesses storing, producing or selling food. Restaurants, shops, hotels, food warehouses and fast food vans have to register with the LA. Environmental Health Officers (EHOs) then travel around their local area to visit these diverse premises to assess compliance. EHOs become familiar with local activity and are well placed to observe workplace exploitation. Trading standards officials also interact with diverse businesses from shops to farms, and travel around their area.

Housing

LAs are responsible for licensing houses in multiple occupation (HMO) and are arbiter and assessor if a house ‘isn’t fit to live in’ (GOV.UK, 2014b). The government advises:

‘If you think your home is unsafe, contact your local council’s housing department. They’ll do a Housing Health and Safety Rating System (HHSRS) assessment and must take action if they think your home has serious health and safety hazards’ (GOV.UK, 2014b).

Although LAs have the duty and power to intervene in housing matters, it seems they only react when an issue is brought to their attention, and do not take a proactive ap-

proach. Again, it is clear that cuts to local government funding have an adverse impact on the ability of council officials to carry out their duties in a timely and thorough manner. An anonymous local authority housing inspector reported: ‘the demand for our help has increased substantially, but we face continual cuts. We have to make hard decisions about who to visit’ (*The Guardian*, 2016). In general, local authority housing budgets seem to have been cut to a greater extent than those for other services (Hastings et al., 2015:9). This is particularly relevant to cases of forced labour. If there are fewer officials investigating poor quality living accommodation, it makes it less likely that victims, compelled to live in bad accommodation, will be spotted. Living in poor accommodation is a specified indicator of the crime.

Licenses are mandatory for larger HMOs (Department of Communities and Local Government (DCLG), 2007:2). A licence specifies the number of permitted residents, bathroom and kitchen requirements. LAs can prosecute a landlord for failing to obtain a licence. LAs also check fire precautions, gas safety and confirm the landlord is a fit and proper person (DCLG, 2007:12). The Local Government Association (LGA) describes some landlords as ‘criminal’ and campaigns to tackle the problem of Rogue Landlords:

‘while most landlords are reputable, a criminal minority view fines as ‘operating costs’... councils are doing everything they can to tackle rogue operators, but they are being hamstrung by a system “not fit for the 21st century”’ (LGA, 2014).

There seems little incentive for a so-called rogue landlord to comply, apart from prosecution if discovered.

Government publications associate migrant workers, asylum seekers and employer provided accommodation with HMOs (DCLG, 2007:7). Poor employer provided accommodation is a forced labour indicator. It is unlikely that a vulnerable tenant dependent

on the landlord for employment, would report the landlord for failing to obtain a licence. Victims of abuse, illegal migrants and non-English speakers are unlikely to have the confidence, knowledge or language to report housing concerns.

Fire and Rescue

Apart from emergency work, ‘fire and rescue authorities have responsibility for ... enforcement of the *Regulatory Reform (Fire Safety) Order 2005* (London Fire Brigade, (LFB), 2011:4). This legislation, requiring a fire risk assessment and emergency plan, applies to all non-domestic premises such as factories, offices, shops, pubs and clubs as well as the common parts of blocks of flats and houses in multiple occupation.

The LFB enforces the law by physically inspecting premises. Teams of officers target ‘resources and inspections at those premises that present the highest risk’ (LFB/FEPA, 2014a). Other Fire Brigades function similarly, describing their performance in terms of inspection (for example: Humberside FRS, 2012, Greater Manchester FRS, 2014:39). In 2012/13, 13,876 inspections were conducted in London, approximately 50% of these were to premises not previously visited (LFB, 2013:15 -16).

The *Enforcement Policy Statement* confirms that inspections are not toothless exercises (LFB, 2008). Enforcement can range from advice to ‘enforcement or improvement notices, prohibition notices, simple cautions and prosecutions’ (LFB, 2008:3). In 2012/13, Humberside FRS issued 33 enforcement notices and 7 prohibition notices (Humberside Fire Authority, 2013:29), and Greater Manchester FRS prosecuted 19 successfully and issued 408 enforcement notices (GMFRS, 2014:14). Large numbers of enforcement notices are served in London every year. In 2012/13, there were 731 and 43 prohibition notices (LFB, 2013:19).

Fire brigades access a wide variety of premises, which presents an ideal opportunity to observe what is happening within them. In 2014, LFB reported alarming residential arrangements: ‘341 fires in buildings that appeared to have people living in them when they should not have been, with these blazes causing nine fire deaths and 58 serious injuries,’ and ‘unsuitable buildings such as garages, derelict office blocks and industrial units, being rented out as sleeping accommodation.’ LFB were concerned, not only for the people living there, but also because their firefighters were obliged to enter dangerous, derelict buildings to rescue people (LFB/FEPA, 2014b).

The connection between exploited workers and poor living accommodation was acknowledged in an MOU between LFB and the GLA. It was intended to ‘drive down fires in ‘beds in sheds’ and other unsafe sleeping accommodation’ (LFB/FEPA, 2014b). The LFB and GLA hoped sharing information would ‘identify any unsuitable buildings being used as sleeping accommodation’ and assist the GLA ‘identify unregistered labour providers and ensure those that are registered are housing their workers in safe and appropriate accommodation’ (LFB/FEPA, 2014b). Unfortunately, fatalities continued. LFB reported: ‘438 fires in London involving buildings that should not have been occupied as a place to live, resulting in 13 fire deaths and 69 serious injuries’ (LFB/FEPA, 2014c). In 2014, LFB prosecuted a landlord for renting out unsuitable living accommodation comprising bedsits above a car workshop. He pleaded guilty to 10 charges (LFB/FEPA, 2014d).

Extensive appalling domestic accommodation is possibly a London specific problem. A survey of other Brigades’ websites suggests they do not devote the same attention to this issue. Although, the Cornwall FRS website focuses on the living conditions of migrant

workers, who are significant in this rural county, providing guidance and a ‘caravan check list’ (Cornwall Council, 2014).

Fire services too have been subject to budget cuts. Andrew Scattergood, Chair of the Fire Brigades Union, discussed their impact, explaining this meant ‘10,000 firefighters had been axed’ since 2010, fire stations closed and equipment scrapped. He went on to emphasise the importance of the relationship between the work of fire prevention officers and reduction in the number of fires, explaining that a reduction in personnel meant less fire prevention work (Scattergood, 2017).

Border Force and associated agencies

From 2010, the political determination to improve control of the UK borders and reduce immigration, led to changes in the border agencies. In 2013, UK Border Agency (UKBA) was split into two, creating Border Force and UK Visas and Immigration (UKVI). There is also Border Policing Command, a part of NCA (see page 98).

Border Force and Trafficking in persons

The Home Office command, Border Force, ‘secures the borders... facilitates the legitimate movement of individuals and goods... preventing those that would cause harm from entering the UK’ (GOV.UK, 2014e). It operates at 140 of the UK ports and airports: ‘checking immigration status of people’, and searching for illicit goods or illegal immigrants’ (GOV.UK, 2014e). Border Force is well placed to intercept victims of trafficking. However, in 2013, Border Force performance was repeatedly criticised for the same shortcoming: prioritising passenger queueing time over other duties. The National Audit Office (NAO) in *The Border Force: securing the border*, reported explicit pressure to minimise passenger queueing times which: ‘retain a heightened level of importance ... regarded as more serious than missing other targets’ (NAO, 2013:18). Examples

were cited of officers ‘taken off controls to detect clandestine illegal entrants ... concealed in lorries in order to deal with passenger queues’ (NAO, 2013:18).

Identifying a trafficked passenger is not straightforward. They are unlikely to be detected by speedy interviews or superficial scrutiny of false stories or fake documents. The NAO report described staff morale as ‘exceptionally low’, criticised the quality of intelligence, and noted no obligation to provide information about passengers on private planes (NAO, 2013:20&24-25).

In oral evidence to the Home Affairs Committee (HAC), Sir Charles Montgomery, Director General of Border Force, was pessimistic that measures at the border would ‘stop the illegal trade in human beings’ and ensure the numbers dwindled to a few. He also acknowledged low staff morale (House of Commons(HoC), HAC, 2013b Q.21&85).

The Public Accounts Committee (PAC) report *The Border Force: securing the border* also described inadequate resources and poor data (HoC, PAC, 2013). It concluded the principal dilemma was ‘**(prioritising) passenger checks at the expense of its other duties thereby weakening security at the border**’ (sic) (HoC, PAC, 2013:5). Very poor staff morale and limited ‘Advanced Passenger Information’ was also noted (HoC, PAC, 2013:6). A permeable border enables trafficked people to be sneaked through with less likelihood of detection.

These concerns have yet to be resolved. In 2017, the Independent Chief Inspector of Borders, David Bolt, reported front line officials pressured ‘to keep queues moving’ as an absolute priority. The Border Force is tasked with ‘identifying potential victims at the border’, but many officers seem inadequately trained to do this. Data discrepancies make the performance of the agency hard to determine, but about 300 potential slavery victims are identified at the border annually (Bolt, 2017:6-8&18).

Immigration Directorates: UKVI and Immigration Enforcement

Two government departments focus on controlling immigration by preventing illegal immigration and supervising asylum seekers. Immigration Enforcement (IE) finds and removes people who are not allowed to stay in the UK. UK Visas and Immigration (UKVI) is ‘responsible for ... decisions ... about who has the right to visit or stay in the country,’ (GOV.UK, 2014f). Apart from visa work, UKVI administers the asylum process, deals with stateless people and is a competent authority of the NRM (NAO, 2014:5). Recent Home Office documents provide staff with comprehensive guidance about modern slavery and how to recognise it. For example, officials are cautioned that victims of modern slavery may not behave like a victim (Home Office, 2016e:8,22 &61).

Immigration Enforcement (IE) ‘is responsible for preventing abuse, tracking immigration offenders and increasing compliance with immigration law.’ This department is ubiquitous, working ‘across government and with employers, the voluntary sector and others to maximise compliance with the immigration rules’ (GOV.UK, 2014g). For example IE officers enforce the law with respect to illegal working and sham marriages. During the course of their duties they are likely to encounter people at risk such as those exploited in modern slavery. Recent guidance provides advice on how to identify a victim of modern slavery. It comprises simple headings itemising matters of concern (Home Office, 2016f:8-9).

Employer Obligations

Section 15 *Immigration, Asylum and Nationality Act 2006* obliges employers to conduct checks to ensure only legitimate people are employed. Employers have: ‘a duty to prevent illegal working. You should... make it harder for people with no right to work in the UK... to stay in employment’ (Home Office, 2016d:9). Penalties of £20,000 per il-

legal worker can be imposed on an employer who fails to check status. Extensive guidance lists acceptable documentation and how to check validity (Home Office, 2016d:12-20).

This regime makes an illegal employee very vulnerable. An illegal person could endure appalling working conditions, be threatened with job loss, yet feel prevented from seeking assistance. These seem ideal conditions to enable forced labour. The likelihood of illegal migrants being pushed into the hands of the least scrupulous employers has been documented (Flynn & Grove-White, 2008:26-27). Similarly a Joseph Rowntree Foundation (JRF) paper asserted: ‘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’ (JRF, 2014).

National Minimum Wage (NMW)

The *National Minimum Wage Act 1998* requires workers over school leaving age, whether part-time, agency workers, apprentices, agricultural workers, trainees, foreign or homeworkers be paid NMW (GOV.UK, 2014c). Self-employed, company directors, volunteers, people living in a family home and on various official schemes are excluded (GOV.UK, 2014c). The legal hourly rate is revised every April and there are currently five different rates, from apprentice to living wage. It is a criminal offence not to pay minimum wage or falsify records (GOV.UK, 2014c).

Withholding wages is a key indicator of forced labour (Geddes et al., 2013:50). Failure to pay NMW would always, except for genuine error, qualify as withholding wages.

Anyone not paid NMW is, to some extent, exploited. Sectors commonly failing to comply include: agriculture, catering, childcare, cleaning, construction, domestic work,

hairdressing, hospitality, leisure, retail, security and social care (Hull, 2013:43).

Broadly, these are the sectors associated with exploitative employment. Hull reported the risk of non-compliance was:

‘greater in the private sector and among small businesses, family businesses, recent start-ups ... [and] informal economy. Payment by results and cash-in-hand also heightens the risk. There are higher levels of non-compliance with the NMW in urban areas than in rural ones, among women than men, and among part-time workers than full-time workers’ (Hull, 2013:42-43).

Wage calculations can become complicated. Calculating ‘working hours’ is an example.

Legally, travelling as part of work duties counts as working time (Pennycook, 2013:18).

Care workers are often underpaid because their ‘working hours’ are based on ‘contact time’ only, excluding time travelling between clients. Calculating adjustments for someone on annual salary who works extra hours can be tricky. Payment for ‘employer provided accommodation’ involves deducting the ‘offset rate’ from wages (GOV.UK, 2014c). Accommodation that ‘comes with the job’ is obvious. However, ‘employer provided accommodation’ includes property owned or rented by the employer ‘even if there is no direct link between the job and the accommodation’, or when ‘the employer... gets a payment.... from the worker’s landlord’ (GOV.UK, 2014c).

Designating work ‘piece work’, a measure of output, is wrong when hours of work are controlled. Paying hotel cleaners’ on a ‘per room cleaned’ basis, ‘set at unattainable levels’ makes it impossible to earn NMW’ (Low Pay Commission (LPC), 2014:147 -8).

Other scams include bogus self-employment, ‘under-recording of hours worked, and paying cash-in-hand so that hours and wages go unrecorded’ (Hull, 2013:44).

The complicated rules about calculations allow an unscrupulous employer to make apparently plausible errors in wages. Official guidance does not help. Apart from the min-

imum wage calculator, the LPC emphasise: ‘(b)etter guidance is needed to ensure employers and workers clearly understand how to calculate NMW pay,’ especially ‘on the more challenging and complex issues’ (LPC, 2014:131).

Pay and work rights helpline (PWRH)

The Department for Business, Innovation and Skills (BIS) is responsible for NMW policy, but most enforcement is outsourced to HM Revenue and Customs (HMRC). Underpaid workers are advised by GOV.UK to first approach their employer. If unsuccessful, the worker can ‘call the confidential Pay and Work Rights Helpline to help them solve a payment dispute’ (GOV.UK, 2014c). 17,775 workers contacted the Pay and Work Rights Helpline (PWRH) in 2012 (Hull, 2013:30). Individual workers can also seek redress through County Courts (in England) or Employment Tribunals.

PWRH also handles complaints about employment agencies formerly directed to the EAS helpline. EAS regard PWRH as a: ‘strong stimulus to collaboration’, because it receives complaints to five different enforcing bodies. Although this makes it more likely that multi- issue complaints come to light, direct contact between members of the public and enforcing bodies is lost (BIS, 2010a:9).

All wages complaints to PWRH are pursued, each requiring a visit and detailed investigation. HMRC resources are modest, arguably insufficient, comprising only 153 compliance officers and a central team of 20 (Pennycook, 2013: 26 -27). HMRC aim ‘to ensure that workers receive what they are entitled to as soon as practicable’ (BIS, 2014b: 5). ‘It regularly takes upwards of 100 days to close complaints’ (Pennycook, 2013:28). A Parliamentary answer stated complaints took between 79.5 to 198.6 days, a challenging wait for an underpaid victim (Parliamentary Business, 2011).

Worker associated complaints initiate about 60% of enforcement action, meaning enforcement depends predominantly on victims complaining (BIS, 2010b:4.2, Pennycook, 2013:27). Many people might find using the PWRH difficult, including those unaware of its existence, not fluent in English, migrant workers and anyone with dubious legal status. Hull identified workers aware of NMW but ignorant about the helpline (2013:21). Information about NMW on the HMRC website is also hard to find. No official body oversees the reimbursement process:

‘HMRC does not keep statistics on the amount of arrears that have been paid or not paid back to workers, leaving the actual process of retrieval to individuals. In 2012/13 HMRC identified...£3.9m in unpaid wages... yet neither BIS nor HMRC actually have a role in making sure that all of this ... (is) repaid to those workers from whom it was unlawfully deducted’ (Pennycook, 2013:28).

Although, HMRC makes enquiries of at least 5 workers: ‘it is largely left to workers to complain if they are not repaid.... Chasing employers for arrears can be harder still if the business folds or disappears in the meantime’ (Hull, 2013:55-6). HMRC will take action to recover arrears, once they become aware they have not been paid (BIS, 2014b:6).

Clearer information is addressed to employers:

‘If HMRC finds you have underpaid the national minimum wage it will issue a notice of underpayment. This will show the arrears you must pay to your worker and the penalty you must pay to HMRC’ (HMRC, 2014).

‘Notice of underpayment’ is a significant step and a point of reference for further enforcement action. The penalty is a fine, maximum of £20,000 (BIS, 2014b:10). The involvement of HMRC ceases as soon as the arrears and penalty have been paid. There is no further sanction for failing to pay at the legal rate. This enforcement approach with

modest financial penalties would not deter an exploitative employer, who might cynically under pay and risk being caught (Pennycook, 2013:27).

The concept of ‘naming and shaming’ employers who failed to pay NMW was introduced in 2011. The first incarnation was difficult to implement, and new rules were introduced in 2013, which stripped ‘back restrictions, making it simpler for government to name more employers who break the law’ (GOV.UK, 2013). Twenty five employers were named in June 2014, (GOV.UK, 2014d) with five named in February 2014 (BBC, 2014). Naming and shaming is initiated by HMRC issuing the Notice of Underpayment and implemented by BIS. It raises awareness of NMW enforcement and exposes employers to social sanctions (BIS, 2014b:19).

Criminal prosecution is rarely deployed. A recent report deplored ‘only eight prosecutions since the introduction of the NMW’ (LPC, 2014:129). The prosecution process is resource intensive. HMRC passes evidence to the Crown Prosecution Service who assess whether prosecution is in the public interest (LPC, 2014:129). Prosecutions are not about obtaining arrears for the victims. Factors assessed include the ‘whole pattern of criminality’ and to some extent the size of the arrears. ‘The determinedly non-compliant’ are prime candidates for prosecution (BIS, 2014b:16-8).

Summary

The preceding sections discussed government agencies, from HSE to GLA, local authorities and the police, who have a legal obligation to oversee working environments and ensure decent standards. There is clear evidence to show that most agencies, for a variety of legitimate and institutional reasons, operate within constraints that impair their ability to respond proactively to labour exploitation.

Non-State Actors

Organisations such as trades unions and charities also play a part in improving conditions at work and assisting the exploited. The ways in which workers can obtain support are discussed in the following section.

Trade Unions and Employee Representation

Some concepts about the UK working environment are ingrained. ‘The direct employment relationship as the cornerstone of British employment law’ is one (Wright, 2011:7). Similarly, an ‘idealised model of representation ... a collective of union-based shop stewards, close to the membership and democratically accountable to them’ is another (Charlwood & Terry, 2007:320). Official guidance assumes these concepts prevail. Hence, workers are advised to approach their ‘trades union or staff representative for help and advice’ (GOV.UK, 2014h).

However, the notion of ‘employee representative’ is somewhat anachronistic:

‘in the great majority of British workplaces there is no employee access to any form of indirect representation, union or non-union. This is true of nearly 83 per cent of private sector workplaces and over one-fifth of workplaces even in the more strongly unionised public sector’ (Charlwood & Terry, 2007:323).

Various factors curtailed traditional worker representation, for example, ‘atypical employment,’ such as individual contracts, outsourcing, agency labour and ‘dependent self-employment’ is prevalent (Wright, 2011:7). The TUC report (2007), described the challenge unions experienced to engage with workers in precarious employment. Employers increasingly refuse to deal with unions (Wright, 2011:4). They prefer:

‘employer-sponsored forms of employee participation and representation... there has been a large increase in ... workplaces using non-union worker

voice mechanisms (from 16 per cent in 1984 to 46 per cent in 2004)' (Wright, 2011:4).

Current Trade Union membership

Twenty first century trade unions are different (BIS, 2014c:6). In 1980, membership density was 50% compared with 27% in 2010 (Wright, 2011:2). In 2013, there were 6.5 million members, half the 13 million membership of 1979 (BIS, 2014c:5). In 2013 members were more likely to be female, professional, older and born in the UK (BIS, 2014c:5-6). Membership varies in industry sectors and parts of the country. In the construction sector membership was only 15% (BIS, 2014c:16).

In 2013, there seemed to be no positive connection between an exploited workforce, an average union member and union representatives. In fact there appears to be a negative correlation. Exploitation seems less likely in a workplace with good employee representation. The data indicates that larger companies tend to have the highest density of unionised workers. Also the larger the workforce, the greater likelihood there is of all types of employee representation (Charlwood & Terry, 2007:325). A higher density of union membership also means representatives are more visible and accessible. The data does not show strong union representation in smaller workplaces, among manual labourers or construction workers (BIS, 2014c:14&16). These are the types of work environments where severe exploitation has been found. Whilst there are exceptions, in general, union representatives are not readily accessible to a worker in these situations and attempts to secure union representation can meet with sanctions (Wilkinson et al., 2010:44-45). Recent exposés at Amazon UK, alleged physically and emotionally abusive conditions of work combined with overt hostility to union representation (GMB, 2013).

It would be challenging for a non-English speaking worker exploited in a non-union environment, to get help from a trade union. Studies suggest people with work difficulties are unlikely to approach a union. Pollert and Charlwood found people sought advice elsewhere with:

‘a third approaching managers and friends and work colleagues. A significant minority approached Citizens’ Advice Bureau (CAB) (13%), but few sought advice from trade unions, ACAS... or Law Centres (5%, 3% and 1% respectively)’ (2009:350).

Types of Representation

‘Around half of employee representatives in the UK are non-union. Their role tends to be much more restricted ... being limited in the main to consultation’ (ACAS, 2009:2). Notably: ‘non-union representatives ... were significantly less likely to report having been elected to their posts’ (Charlwood & Terry, 2007:327). The Advisory, Conciliation and Arbitration Service (ACAS) do not endorse managerial appointment because this ‘limit(s) the authority of the representative in the eyes of the workforce,’ (ACAS, 2014:8).

Non-union representatives act similarly to union representatives, fulfilling equivalent roles, which can include handling individual grievances. ACAS cautions this role: ‘can involve ... legal action in an employment tribunal. There are ... no agreed programmes for the training nor means of validating non-union representatives who carry out this role’ (ACAS, 2014:11).

An elected union representative is independent, and is therefore more likely to offer advice independent of management interests. An independent union representative is in a better position to tackle disadvantage, represent a disadvantaged worker, calling on the

support of the union if necessary, and very unlikely to collude in exploitation of a worker such as in forced labour.

Statutory controls

An intense sequence of Acts from 1979 onwards has increasingly circumscribed the scope of trades unions. For example, the *Employment Act 1980*, controlled picketing and closed-shop voting rules. The *Trade Union Act 1984* required secret ballots before industrial action. The *Employment Act 1989* restricted time off with pay for union duties, and the 1990 *Employment Act* prohibited secondary action (The Institute of Employment Rights, 2008).

Evaluating the consequence of legal constrictions on trade union membership is difficult. It is clear that statutory controls have contributed:

‘towards the eradication of collective bargaining... the most restrictive trade union laws in the western world. This has severely limited the capacity of unions to protect workers. Britain has now by far the lowest level of collective bargaining coverage in Europe (30% compared to the normal range of 80-90%) (Ewing & Hendy, 2012:5).

In addition, a media onslaught on trade unionism since the 1970s has hardly engendered a positive atmosphere for the recruitment of new union members and it is also clear that the often transient nature of migrant workers makes them particularly difficult to recruit (Wilkinson et al., 2010:44-45).

Charities

Many charities work to assist and support victims of modern slavery. The role of charities such as Barnardos, NSPCC, Salvation Army, Migrant Help and Unseen is officially recognised. All these charities are nominated as ‘first responders’ to the NRM. However, it is difficult to generalise about the role that charities play. Many charities are geo-

graphically focused or restrict their involvement to a specific type of victim. For example, Kalayaan is London based and works exclusively with migrant domestic workers. Similarly, Barnardos and NSPCC work with children only.

Charities do not have the legal right to enter work places to find victims. Although most charities have outreach programmes, in many cases they appear to respond when contacted by victims. The Salvation Army, is contacted by other agencies, especially the police, when victims are likely to be imminently rescued and they arrange accommodation and support. It seems that most charities focus on supporting victims in their recovery. 'Unseen' works directly with survivors and is a group partner with Avon and Somerset Police and Bristol city council working on eradicating slavery in the local area (unseenuk.org).

Conclusions

For a variety of reasons, financial, legislative and political, there is not in place a systematic, regular and comprehensive programme requiring government agencies to oversee every workplace. Workplaces are now selected for interaction on the basis of perceived risk, an approach encouraged by the government's anti-regulation agenda and post-2010 austerity measures.

In this environment, a business not indicating risk and keeping a low profile could avoid attention and never see an official. This relaxed approach to regulatory oversight also means there is less likelihood that officials will find people working in an exploitative environment coincidentally to a routine visit. In turn, this enables businesses to operate unscrupulously with minimum chance of being discovered. These are ideal circumstances for exploiting a workforce.

At the same time, it is challenging for workers to draw attention to their situation. Trade union representation is limited and unions acknowledge the difficulty of interacting with workers in vulnerable employment. Workers experiencing problems are officially advised to speak for themselves. These factors combine to make it difficult for a person in forced labour to get assistance from government officials.

The important role that government officials fulfil in identifying unacceptable working environments is examined in greater detail in Chapter 6. Officials encounter many poor work situations, possibly involving abuses such as forced labour, during regular visits to businesses.

Chapter 4: LEGISLATION AND ENFORCEMENT

Having reviewed current research literature in relation to the extent and character of forced labour and the regulatory framework we now turn attention to relevant legislation. This chapter discusses UK legislation governing ‘modern slavery’ and considers the benefits of the *Modern Slavery Act 2015*. UK legislation draws on international provisions. The relevant articles of international treaties are outlined and the links between international and European anti-slavery legislation and UK laws identified.

UK legislation addressing forced labour is considered in greater detail. The difficulties arising from the legal definition of forced labour are considered, especially the problems confronted in gathering evidence of the crime and the consequent difficulties for prosecutors.

International Legislation

Ratification of an international treaty by a country means a commitment to observe the terms of the treaty. Many international covenants and treaties addressing slavery, forced labour, trafficking and exploitation of children have been introduced over the years. The Slavery Convention 1926 and the 1956 *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, were discussed in Chapter 2, along with the ILO *Forced Labour Convention (No. 29) 1930*.

Slavery and slave trading are now universally regarded as abhorrent crimes. The prohibition against slavery is accepted as customary international law and an obligation erga omnes (Shaw, 2009:124 &275). Further, systematic enslavement of a population is a crime against humanity (Evans, 2009:472).

In 1948, the international community established a framework of human rights principles in the *Universal Declaration of Human Rights*. Article 4 prohibited slavery and

the slave trade in all its forms (Ghandhi, 2008:10). This prohibition was reaffirmed in the *International Covenant on Civil and Political Rights 1966 (ICCPR)*. Article 8 prohibited slavery and the slave trade, and stated no-one should be held in servitude or ‘required to perform forced or compulsory labour’ (Ghandhi, 2008:41). Standards for decent work were described in *International Covenant on Economic, Social and Cultural Rights 1996* (Ghandhi, 2008:57).

In 1957, the ILO introduced *Abolition of Forced Labour Convention (No 105)* to close loopholes and exceptions in earlier legislation. Forced labour could no longer be used to punish those participating in strike action or for political coercion purposes (ILO,1957). In 2014, the ILO adopted a new Protocol and Recommendation to ‘complement and strengthen’ the existing provisions (ILO, 2016:3). The Protocol was designed ‘to address gaps in the implementation of Convention No. 29’ preventing and eliminating the use of forced labour, protecting victims and giving them compensation, while sanctioning perpetrators (ILO, 2016:9).

Decent labour standards are specified too in, for example, the *Declaration on Fundamental Principles and Rights at Work (1998)*. The elimination of slavery, debt bondage, serfdom, forced or compulsory labour and the sale or trafficking of children is required by the *Worst Forms of Child Labour Convention 1999 (no. 182)* (International Labour Office, 2009:15 &32). The *Declaration on Social Justice for a fair globalization (2008)*, established the *Decent Work Agenda* (International Labour Office, 2009:93-94). The ILO described decent work to include features such as productive work that delivers a fair income, security in the workplace, freedom for people to express their concerns, and the opportunity to organise and participate in decisions that affect their lives.

European Legislation

During this study, the UK was a member of both the Council of Europe and the European Union. The UK's approach to tackling modern slavery, including its legislative and administrative arrangements, is closely coordinated and linked with other European states. Forced labour can have international origins that requires addressing by policing beyond national boundaries. The Anti-Trafficking Monitoring Group (ATMG) produced a paper considering the many ways that 'Brexit' might adversely affect the UK's response to modern slavery (ATMG, 2017).

The Council of Europe and the European Union have both enacted legislation prohibiting slavery, forced labour and similar exploitation. The Council of Europe is:

‘the continent's leading human rights organisation... All Council of Europe member states have signed up to the *European Convention on Human Rights*, a treaty designed to protect human rights, democracy and the rule of law’ (Council of Europe, 2012a).

In 1953, the UK ratified the *Convention for the Protection of Human Rights and Fundamental Freedoms 1950* (*European Convention on Human Rights, ECHR*), a prerequisite for Council of Europe membership (Council of Europe, 2012a). Article 4 prohibited slavery and forced labour requiring: ‘1. No one shall be held in slavery or servitude 2. No one shall be required to perform forced or compulsory labour.’ Labour undertaken in detention, for military service, in an emergency or for civic obligations was again excluded (Ghandhi, 2008: 263). Notably, Article 19 created the European Court of Human Rights.

In 2005, the Council of Europe introduced the *Convention on Action against Trafficking in Human Beings*, ratified by the UK in 2008 (Council of Europe, 2012b). Article 4(a) defined human trafficking by incorporating the Palermo Protocol verbatim (outlined in

Chapter 2) . The term ‘human beings’ was used rather than persons, and ‘fraud’ was added to means (Ghandhi, 2008:307). Importantly Article 1(2) explained: ‘in order to ensure effective implementation ... this Convention sets up a specific monitoring mechanism’ (Ghandhi, 2008:306) Article 36 described a Group of experts on action against trafficking in human beings or more familiarly, GRETA (Ghandhi, 2008:315-316). Greta paid an initial visit to the UK in 2011 (GRETA, 2012).

In 2011, the UK opted into *Directive 2011/36/EU of the European Parliament and of the Council* on preventing and combating trafficking in human beings and protecting its victims. Trafficking, defined at Article 2, employed the familiar three stage Palermo Protocol definition and broadly the same language. Criminal activities were included as types of exploitation, defined as ‘pick-pocketing, shop-lifting, drug trafficking and other similar activities which are subject to penalties and imply financial gain’. Forced begging was identified as a form of forced labour (Directive 2011/36/EU).

The Directive sits alongside the Council of Europe Convention. Both the Convention and Directive required individual European states to legislate for themselves to criminalise trafficking. The domestic law should criminalise trafficking in a way that is ‘in keeping with the principles of the Convention’ (ATMG, 2013:27). The *Siliadin v France* judgement was a forceful reminder that each European country should create a domestic criminal offence of forced labour and servitude to comply with *European Convention on Human Rights* Article 4 (*Siliadin v France*, 2005:27 -28, ATMG, 2013:32).

The *Convention on action against Trafficking in Human Beings* 2005, and to a lesser extent, the Directive, set out parameters for the identification, treatment, protection and support of victims of trafficking. Some of the requirements include the need to train people in ‘identifying and helping victims’, protect the private life of victims, in particu-

lar their identity, the provision of appropriate assistance and a recovery and reflection period (2005: Chapter III).

UK Legislation

Until recently, there was no umbrella statute governing the many kinds of labour exploitation that might be perpetrated in the workplace and elsewhere. Fragmented legislation addressed human trafficking, slavery, forced labour and other types of exploitative practices in three different statutes. Piecemeal historical origins and various amendments did not in general offer clarity, facility of use or benefit (GRETA, 2012:13). Although Scotland has always had its own legal and judicial system, the UK situation was further complicated by devolution which affected justice and policing for both Scotland and Northern Ireland.

In December 2013, the UK government responded to widespread criticism and produced a white paper setting out proposals for a ‘Modern Slavery Bill’. The proposed legislation was intended to resolve the perceived problems. It was asserted that, ‘**Consolidation and simplifying existing offences** into a single Act will make enforcement administratively simpler’ (Home Office, 2013a:6). The proposals rapidly became law in the landmark *Modern Slavery Act 2015*.

In the Dock: Examining the UK’s criminal justice response to trafficking outlined the problems of earlier legislation (ATMG, 2013). Previously, slavery related laws were located within different statutes with non-slavery related titles. For example, legislation criminalising holding someone in slavery or servitude, or requiring forced or compulsory labour was inserted, as section 71, into the *Coroners and Justice Act 2009*. Offences governing trafficking followed by sexual exploitation were in the *Sexual Offences Act 2003*. Legislation governing non-sexual slavery and exploitation following trafficking

were found in the *Asylum and Immigration (Treatment of Claimants, etc.) Act (AI(TC)A)2004*. Basically, this meant that anyone attempting to enforce the law on a slavery case had to find the relevant legislation first (ATMG, 2013:36). A pernicious legacy of early legislation is the persistent association made by enforcing authorities between immigration and modern slavery. A connection between exploitative cross border movement and illegal migrants was perhaps an inevitable outcome of incorporating anti-trafficking provisions into legislation about immigration.

The *Modern Slavery Act 2015* is too recent for its impact to be fully apparent but appears of obvious benefit. It introduces new measures and remedies the previous shortcomings, whereby legislation associated with different aspects of slavery was located in different statutes. Section 1(1)(a) makes holding a person in slavery or servitude an offence. Section 1(1)(b) makes it an offence to require a person to perform forced or compulsory labour. Significantly, section 1(2) states that the terms used in section 1(1) should 'be construed in accordance with Article 4 of the Human Rights Convention.'

The section continues by pointing out that consent is not relevant to the determination of these offences, and that all the circumstances can be taken into account. The offence of Human Trafficking has occurred if a person has arranged or facilitated the travel of another person with a view to their exploitation. Exploitation includes subjecting a person to slavery, servitude and forced or compulsory labour (sections 2&3).

The role of Independent Anti-Slavery Commissioner is introduced in Part 4 of the Act. Section 41 specifies the duties to include, encouraging 'good practice in the prevention, detection, investigation and prosecution of slavery and human trafficking offences; the identification of victims'. The Commissioner also has to prepare a strategic plan and annual reports (s.42).

It is hoped that officials might feel empowered to respond proactively when they encounter suspicious workplaces prompted by their obligations under section 52. Other new concepts in the *Modern Slavery 2015* include slavery and trafficking reparation orders (s. 8-10), slavery and trafficking prevention and risk orders (Part 2) and an obligation for companies to ensure transparency in their supply chains (s.54). Importantly, section 45 provides a defence for slavery victims compelled to commit crimes.

Practical Considerations

Although the general principles of each types of exploitation are understandable in a common sense way, proving the presence of exploitation to a legal standard is challenging. The Anti Trafficking Monitoring Group (ATMG) pointed out:

‘a lack of clarity exists among even the most specialised practitioners on the interpretation of force, threats, deception, and in particular vulnerability, as these concepts are yet to be contested as points of law in the courts’ (ATMG, 2013:30).

If definitions within legislation are complicated and unclear, enforcers are not sure what evidence is required to prove such vaguely delineated offences. As discussed previously, the defence barrister in *R v. SK* requested elaboration ‘on how someone might be treated “more like property than a person”’, and what factors might be indicative of that treatment (*Regina v. K(S)* §32, Chapter 2). Haughey recommended updating the Crown Court Bench Book with directions on Modern Slavery Law to assist Judges ‘compelled to sum up cases with complex facts and untested law.... (in) the absence of certainty in the law and the limited availability of case law’ (2016:25).

Any prosecution requires evidential proof of every element of the offence. When a case of forced labour is alleged, evidence of coercion or deception between the defendant and the victim is essential (CPS, 2016). The CPS advises coercion can be demonstrated

by violence or threats of violence by the employer, threats against the worker's family, threats to denounce the worker, withholding documents, restriction of movement, debt bondage and withholding of wages. CPS reminds that if physical violence does not exist, control might be achieved through psychological means. CPS explains that potential indicators of forced labour might include excessive working hours, unexplained deductions from wages, a lack of a contract, poor accommodation. Providing conclusive evidence of some of these concepts is not easy.

Obtaining reliable evidence from a victim of modern slavery is not straightforward.

Complicating factors, such as their vulnerability, are widely acknowledged. The impact of their experience, fear of authority or retribution can make them reluctant witnesses (Haughey, 2016:10-11). There is plentiful advice about how to care for victims and the recommended measures for obtaining best evidence in a legal setting (CPS, 2016).

Penalties

It is not straightforward commenting on the sufficiency of penalties imposed after successful prosecution, because penalties for modern slavery offences are affected by the penalties for associated offences prosecuted at the same time. It is also difficult to identify a pattern in penalties for forced labour offences, because these cases rarely seem to be prosecuted and penalised in isolation.

Before the introduction of the *Modern Slavery Act 2015*, a written Parliamentary answer reported that 'the average length of sentence... for the offence of human trafficking is 4.69 years' (House of Commons, HA, 2014). However, the statement was qualified by the observation that, in reality, longer sentences were being served because, for example, penalties were imposed for rape at the same time.

In 2017, a prosecution for modern slavery offences, originally perceived by prosecutors as close to forced labour, resulted in imprisonment for six years for the two perpetrators. Again, in this case, there was a concurrent penalty for fraud (BBC, 2017). Another perpetrator was sentenced to four years imprisonment in 2017 for forced labour offences, but this was accompanied by a ten year Slavery Trafficking Prevention Order (West Yorkshire Police, 2017).

Immigration Act 2016

The *Immigration Act 2016* augmented UK legislation addressing workplace exploitation. This law is yet to be fully implemented and is too new to have had an impact. It creates a Director of Labour Market Enforcement (s.1), who has to produce an annual Labour Market Enforcement strategy (s.2). The GLA, renamed and transformed into the Gangmasters and Labour Abuse Authority (s.10), is given stronger powers to ‘deal with labour exploitation across the economy’ (Home Office, 2016c). GLAA inspectors now have additional powers extending their remit to minimum wage and employment agency legislation. Any new arrangements will not be to the detriment of the work currently undertaken by GLA (Broadbent, 2017).

The concepts of labour market enforcement undertakings and orders are introduced and labour market offences refers to offences under the *Employment Agencies Act 1973*, *National Minimum Wage Act 1998*, *Gangmasters (Licensing) Act 2004* and various sections of the *Modern Slavery Act 2015* (s.3). An ‘intelligence hub’ is introduced to facilitate the sharing of information and ‘to establish greater co-ordination and leadership of the enforcement bodies to drive effective activity’ (Home Office, 2016c).

Interestingly, the new powers were created in response to the belief that ‘exploitation is occurring that none of the enforcement bodies was designed to deal with without ad-

justments to their powers and the way they work’ (Home Office, 2016c). This concept is explored further in this study.

Conclusion

The *Modern Slavery Act* 2015 collates all UK slavery related legislation. Unfortunately, the offences, including “Forced Labour” are not explicitly defined. Arguably, it might now be more difficult to apply the law because the Act requires the offences to be construed in accordance with Article 4 of the *European Convention on Human Rights*, offering no further clarification. It seems that everyone from prosecutors to judges experiences difficulty using the Act and a preference remains for prosecuting cases of modern slavery using more familiar offences, such as false imprisonment. It is acknowledged that further training and advice is required. The introduction of ‘labour market enforcement’ in the *Immigration Act* 2016 should augment enforcement because it will involve more officials. Unfortunately, both Acts are too recent for their long term impact to be assessed.

It is important for enforcers to use legislation confidently and appropriately. Inadequate enforcement of the law encourages people to act with impunity, confident they will not be caught. Enforcing using the *Modern Slavery Act 2015* should make officials familiar with it, facilitating subsequent enforcement too.

Publicity arising from prosecution assists in spreading knowledge of the law. Apart from providing a cautionary warning to anyone enslaving people, it helps to inform other government officials and the general public about the crime of slavery. Information publicised about the crime assists other officials and members of the public to identify the crime in similar circumstances. Widespread ignorance about forced labour, even among

government officials, is revealed by this study, as described subsequently in Chapters 6 to 8.

Chapter 5: METHODOLOGY

This chapter explains the way in which this study was approached, describes the methods chosen to answer the research questions and discusses the methodological challenges. It explains how data was obtained from a range of sources, but especially through semi-structured qualitative interviews. The details of how individuals were picked for interview, such as the criteria used in the selection process, together with the practicalities of contacting the individuals will be described. The framing and scope of the interviews, the interview process itself and the role and significance of the interviewer/ researcher in that process will be discussed. This will refer to all ethical considerations and matters such as the safety of the interviewer. Finally the method of data analysis will be discussed.

Introduction - Purpose of study

This study had two principal objectives. The first goal was to present an up to date picture of the scale and extent of forced labour in the UK. The second objective was a critical appraisal of the adequacy and efficacy of the official government provisions in place to identify and tackle the problem of forced labour. It seemed the most sensible, and possibly the only way, of approaching the study, was by breaking the broad encompassing principal objectives into component parts and examining, studying and discussing them as separate issues. The decision to consider forced labour exclusively as a stand-alone crime and not study it as an outcome of human trafficking was prompted by concern that the latter crime would absorb too much attention.

It was argued that, because forced labour is generally an unseen, hidden crime and the data about it is scarce and incomplete, questions about its scale and extent cannot be answered directly. It was proposed to answer the question indirectly by finding answers

to questions about aspects of forced labour that, in turn, might indicate the true extent of the crime. These were questions such as, ‘is forced labour still present in UK industry or commerce?’ ‘How prevalent is it?’ ‘Are there particular locations where it is more common?’ ‘Is forced labour still associated with the same industries where it has been found in the past?’ ‘Do the victims seem to be predominantly the same kind of people?’ ‘Is it an increasing or declining problem?’ And ‘are there any significant new developments that have emerged in the understanding, knowledge and practice of this crime?’ It was argued that individuals who interact regularly with workplaces and workers, and especially officials dealing with the crime, were likely to have some experience of these issues. Obviously, any individual was unlikely to know the answer to all the questions, but if a selection of individuals were asked the same questions, then collectively their responses might provide some answers.

An assessment of the adequacy of government arrangements, meant considering whether the scope of the existing provisions was sufficient to address the task, identifying any shortfalls and inadequacies in the arrangements and looking at ways in which existing provisions could be improved if required. It would also involve a consideration of how those provisions were implemented. Again, it is argued that by questioning individuals and officials who interact with workplaces and deal with the crime, their opinions and experiences might reveal shortcomings in government arrangements.

It was assumed that successful and adequate government arrangements would mean that the commission of the crime of forced labour was prevented or at least severely impeded. Acceptable arrangements would also lead to most instances of forced labour being systematically found and identified, perpetrators brought to justice, as well as the provision of appropriate support for victims. It seemed valid to compare what was

known about the existing provisions with this ideal standard. It was proposed to augment the opinions of the individuals with an assessment of the role and remit of the government officials tasked with finding and dealing with forced labour, and the scope, adequacy and ease of use of the legislation controlling forced labour in the UK. It also extended to an appraisal of the fundamental philosophical approaches of the government especially to the extent that their approach impacted on how this crime was addressed. For example, this meant questioning whether the focus on the strong association of forced labour with immigration and organised crime was detrimental or beneficial. Similarly, it meant considering whether current political attitudes towards public servants and the general economy had any effect on encouraging the use of forced labour.

Data collection

Statistics and documentary analysis

It would have been an understandable approach to consider questions about scale and extent of forced labour, matters of numbers and measurement, using a quantitative method of analysis. However, it became clear it would not be meaningful to rely exclusively on the numerical data collected about forced labour victims, such as through the National Referral Mechanism (NRM), (NCA, 2016c) because of limitations inherent in the data. It would have been futile subjecting poor quality data to quantitative analysis. The Centre for Social Justice report (2013:29) summarised the problem:

‘The hidden nature of this crime means that building an accurate picture of the problem and its scale is a serious challenge. For this reason the CSJ decided not to estimate the number of victims of modern slavery in the UK since any number will be misleading and inaccurate. Current figures on the size of the problem are already ambiguous, with government figures report-

ing a small percentage of cases and some organisations portraying poorly calculated estimates as fact.’

It was perceived that the available data was not entirely without value. It seemed sensible to try and make use of this data to provide background structure and characterise the situation. Content analysis allows data to be considered but alongside caveats that place it in context too (Spencer et al., 2003:200). Provided its limitations were understood and taken into consideration, it could assist in informing the direction of study.

Limitations of published data

Sometimes the published data tended to be quite narrow and limited. For example, data published by the National Crime Agency (NCA) collected through the NRM were historical only and referred exclusively to the victims that had both been identified and who had agreed to enter the NRM system. This did not offer any insight into victims that remained exploited or those that could be at future risk, or those who preferred not to enter the NRM system. The data were often insufficiently specific. For example, in the case of NRM data, only cases of forced labour that resulted from trafficking were included and there was no data about cases where trafficking was not involved.

The NRM data offered an incomplete and insufficient picture of forced labour in the UK. For example, in the first quarter of 2016 a total of 255 adults from the entire UK agreed to be referred into the NRM having been found to be exploited in forced labour (NCA, 2016c:4-11). These victims came from over 67 countries of origin and had been found in small numbers all over the UK and had been referred by a variety of agencies. There was no further breakdown of the data. Although this information gave some insight, there were too many variables to consider for sensible quantitative analysis. The NRM data lacked essential information about important factual details, such as which nationals were abused in which part of the UK, who had been referred by which agency,

a description of how they had been discovered and how victims had been exploited.

Analysis of the NRM data alone would not provide an adequate understanding of the state of forced labour in the UK.

Data calculated from prosecutions of cases involving forced labour were similarly inadequate as a basis for further analysis. There were several shortcomings in this data. In general the prosecution data were recorded under the composite heading 'modern slavery offences', which meant that cases about forced labour were not differentiated from cases of trafficking. The data was also time restricted. The recording of modern slavery offences as a separate item only began in 2015, which made year on year comparisons impossible at the time the study was carried out.

More importantly, data about forced labour cases and prosecutions did not reflect accurately the true situation. Unfortunately, in many instances cases of slavery or forced labour were prosecuted using non slavery specific laws. It was perceived by prosecutors that they were more likely to be successful if cases were brought under charges such as false imprisonment, rape or assault (Haughey, 2016:12). In turn, this meant that slavery or forced labour cases were not recorded as such, but were instead recorded as rape or assault for example. Further it was known that investigation and prosecution of these offences was not a policing priority and potential offences were often dismissed and not investigated (Balch, 2012:23).

Interviews

The detailed kind of information about forced labour in the UK that enabled the creation of a rich description of its features could only be obtained by talking to people who might have had some knowledge of it. As Charmaz pointed out, 'Intensive interviewing has long been a useful data-gathering method in various types of qualitative

research' (2006:25). Similarly, 'One of the most elementary forms of data collection is an interview which involves asking people questions and receiving answers from them' (Marvasti, 2004:14).

It was clear that forced labour was a crime predominantly, but not exclusively, associated with the work environment. It seemed logical to begin by discussing forced labour with individuals who were familiar with workplaces, to find out what, if anything, they knew about it. Interviewing individuals was the best way of 'generating in-depth personal accounts', exploring issues in detail and understanding 'complex processes and issues' (Lewis, 2003:60).

It seemed that there were two obvious groups of candidates that it would be beneficial to interview. In one category were individuals known to have encountered forced labour, or who were tasked with dealing with it or who worked with forced labour victims. These individuals could be expected to know a lot about forced labour and therefore to be a valuable source of information. The second category comprised people who were familiar with work places. It was thought that although this group of people might be completely unaware of forced labour, they might also have encountered forced labour or something similar and might be able to offer further insight into the issues.

Research method - grounded theory

The kind of study of the crime of forced labour that was needed to answer these research questions had to be based on more than analysis of numerical data listing cases and victims. It had to incorporate descriptions, explanations and philosophies about all aspects of the crime. A methodology had to be employed that incorporated numerical data but that also enabled the rich data of explanations and understanding of the crime of forced labour to emerge. It had to provide insights into the victims' experiences and

motivations and at the same time offer some understanding of the challenges faced by enforcing authorities tasked with tackling this crime. In other words, the classically rich and thick descriptions produced by qualitative research methods were required.

It seemed that using predominantly a grounded theory methodology presented the best way of examining the questions posed by this study. This methodology was inclusive, allowed consideration of data from all sources, including numerical information, and could be expected to provide a rich understanding of all aspects of the crime. Grounded theorists 'do not force preconceived ideas and theories directly upon our data. Rather we follow leads that we define in the data' (Charmaz, 2006:17). This approach seemed ideal for exploring the crime of forced labour. There were so many aspects of forced labour that were poorly understood, but also both numerical and descriptive data about the crime were available. At the same time, it was also essential for any theories to be faithful and closely linked to the data when dealing with a crime of this nature. Indeed, the benefits of being linked to the data was one of the merits of grounded theory advanced by Glaser and Strauss.

'a grounded theory that is faithful to the everyday realities of a substantive area is one that has been carefully induced from diverse data, ... Only in this way will the theory be closely related to the daily realities (what is actually going on) of substantive areas, and so be highly applicable to dealing with them' (1967:239).

There were two aspects of grounded theory that seemed particularly relevant and important to this study. The first was the requirement that theorizing be kept close to the data and any analysis should be kept 'within the boundaries of the(ir) data. This means that abstract concepts should remain grounded in empirical observations' (Marvasti, 2004:85). This disciplined approach seemed crucial for a study that was attempting to

understand and explore the commission of a human rights crime and assess the official provisions to find it and deal with it.

In order to make recommendations that would be perceived as valid by any future audience, it was essential that any analysis, discussion and proposals should be seen to be clearly and firmly linked and rooted in factual data. Obviously, validity is essential for any study, but it seemed particularly pertinent when it was anticipated that any recommendations from this research might have political significance and consequences.

Sturdy links between conclusions and data were crucial. However, as Chamaz noted it was important to avoid being too rigid in the application of the guidelines of the theory because that could limit its application (2008:398). She explained 'grounded theory methods as a set of principles and practices, not as prescriptions or packages (2006:9).

The second aspect of grounded theory that seemed pertinent to this study was the requirement to generate theories:

'Grounded theorists generate two types of theories: substantive and formal. Substantive theories explain a particular aspect of social life, ... Formal theories, while informed by their substantive siblings, take the level of explanation a few notches higher; they explain social issues at a higher level of abstraction' (Marvasti, 2004:85).

Theories are defined by positivists 'as a statement of relationships between abstract concepts that cover a wider range of empirical observations.The objectives of theory are explanation and prediction' (Charmaz, 2006:125-126). The purpose of this study was to explain and understand more about the crime of forced labour, and in particular how it is identified and dealt with by officials. Therefore the positivist description of the theories created through the grounded method seemed to be more appealing than the alternative interpretative definition of theory. The interpretative 'definition of theory

emphasizes *understanding* rather than explanation.’ However, the interpretative approach was seen to have advantages for this study too because it allowed for indeterminacy and prioritised ‘showing patterns and connections’ (Charmaz, 2006:126).

It was difficult to determine whether objectivist grounded theory, with its links to the positivist tradition, or a constructionist grounded theory approach would best meet the requirements of the study. There were clear benefits perceived for this study in adopting the objectivist approach. Marvasti summarised the essence of the latter as, ‘meaning is something to be ‘discovered’ in the data. Discovery means something akin to prospecting for gold nuggets of facts in a riverbed of data’ (2004:86). By using the objectivist approach it was imagined that a thorough study of the data would enable valuable facts about forced labour in the UK to emerge. This also exemplified the imperatives of this study because any facts uncovered would be clearly linked to the data.

However, when the objectivist approach was compared with the alternative constructionist approach, it was seen that there would be benefits to this study accruing from using both approaches: ‘A constructionist grounded theory, on the other hand, places emphasis on how the data and its analysis are products of social interaction’ (Marvasti, 2004:86). Thus, a constructionist approach could also provide valuable insights. It was evident that there were clear benefits to be gained from both objectivist and constructionist approaches and it was also obvious that by favouring one method that the advantages of using the alternative method might be lost.

It has been acknowledged that researchers have blurred the boundaries between methods to perceived overall benefit:

‘As well as using methods in ways which blur the edges between them, many researchers also wish explicitly to use multiple methods to address

their research question, and I would encourage such creative and lateral thinking about methodological choices and strategies' (Mason, 1996:79).

Accordingly, it seemed most sensible to avoid rigidly following one method only, but to use, as appropriate, the method that appeared to offer the best advantage to understanding at that point in the process. It was important to be aware of the implications of conducting research in this way and to be mindful of which approach was being used at any one time. It was vital to be conscious of any variation in factors that had to be taken into account.

Semi- structured interviews

Discussion through interview with participants was perceived as the most likely way of accessing their knowledge and experiences acquired through contact with a variety of workplaces. The in-depth interview offered 'structure with flexibility' and :

'permits the researcher to explore fully all the factors that under pin participants' answers: reasons, feelings, opinions and beliefs. This furnishes the explanatory evidence that is an important element of qualitative research' (Legard et al., 2003:141).

It was decided to use semi-structured interviews because they had the advantage of steering a middle path between the relaxed and free flowing unstructured interview and the rigid confines of more structured interviews (Marvasti, 2004:17-21). There seemed to be several benefits from using this approach. Primarily, this format permitted the interview to follow any significant or interesting path that emerged through discussion and focus as required on any specific topic. The direction taken in any interview would obviously vary according to the individual participant. Secondly, by basing the discussion in every interview on an identical set of open ended questions, it ensured that the same fundamental topics were raised with every participant and nothing was accidental-

ly overlooked. This consistent approach enabled improved comparative analysis of the evidence provided by each participant.

The purpose of the questions was ultimately to encourage each participant to talk as freely and widely as possible about forced labour in the UK and stimulate them to reveal anything relevant, no matter how trivial. The questions were devised in accordance with the advice offered by Legard et al. (2003:153-5). 'Yes' or 'No' answers and closed questions were avoided and the questions were posed unambiguously.

It can be seen from Appendix 2 that the questions comprised two sections. The questions in the longer first section were broad and were posed to every participant. This set of questions raised all the important issues associated with forced labour in the UK and were framed with a general open question followed by additional exploratory questions on the same topic. For example 'Have you encountered forced labour?', 'How did you confirm you were witnessing forced labour?', 'Do you think the Modern Slavery bill will be easier to use?'

The questions about forced labour were followed by more general questions intended to provide context through an understanding of the participant's working life. These questions were about issues such as the impact of reductions in the number of public servants, the consequence of any constraints imposed by government measures such as austerity and any other peripheral challenges that might limit or constrict the response to forced labour in the UK.

The questions from the shorter second section were sub-divided into specific questions tailored to a particular agency, such as the fire brigade or police. These questions focused on issues that were pertinent to that agency only and would only be posed to participants from that agency. For example, the fire brigade representative was asked to

comment on, ‘Do you think you have a role with respect to forced labour?’, and ‘Have your officers sufficient training to recognise forced labour if they found it?’. In contrast, a specific question directed at the police, for example, was ‘are your officers generally aware of their obligation to enforce on forced labour?’ These questions were intended to provide further understanding of the background to the participants perception of forced labour.

Sampling

Deciding which individuals to interview, or selecting the sample has been described by Mason as ‘vitally important strategic elements of qualitative research.’ However, she subsequently qualified this observation by remarking:

‘I do not think it is possible, however, to provide a recipe which sets out how sampling should be done in every qualitative research project, or even a set of common principles’ (Mason,1996:83, 105-6).

Marvasti concurred with this approach and outlined the issues relevant to the process of selection:

‘One of the first steps in conducting research is the selection of participants or respondents.In qualitative research who is included in the study is less about technical requirements and more about theoretical considerations. Sampling procedures in qualitative research are sometimes referred to as *purposive*, meaning that the theoretical purpose of the project, rather than a strict methodological mandate, determines the selection process. Furthermore, in some cases, ... random sampling is simply impractical and a purposive sample may be the only option’ (2004:9).

Mason offered further advice about purposive sampling describing it as:

‘a set of procedures where the researcher manipulates their analysis, theory, and sampling activities *interactively* during the research process ... This sampling strategy is broadly intended to facilitate a process whereby re-

searchers generate and test theory from the analysis of their data' (1996:100).

It was appropriate to use purposive sampling for this study because it was important to generate useful data to enable the development of theories. There did not seem to be any benefit or virtue from picking individuals at random. Similarly, a 'representative sample' of individuals who have knowledge of forced labour is arguably unknowable.

Clearly it was wise to select individuals who had some experience of workplaces, because forced labour was a crime principally associated with work. Although a selection of random people who worked might yield surprising insight into forced labour, it was apparent that this was not at all a dependable means of obtaining useful information. Many working people have had no direct contact with exploitation at all.

It was important to find participants who might reasonably be expected to have wide experience of many workplaces and working environments. This type of individual might have developed a comparative knowledge of a range of work places and have a reasonable understanding of what was normal, good, bad or worrying. It was also important to include participants who were known to have knowledge and experience of forced labour.

Interviews with government officials clearly had the potential to be fruitful, particularly those from the many national or local government agencies whose officials interact, as part of their statutory duties, with members of the public. Some of these officials have a duty and right to visit and enter all kinds of workplaces for a range of statutory reasons, normally gaining access to premises by using official warrants. For example, there are local government officials such as fire officers who visit to assess fire precautions, food hygiene inspectors who assess premises and processes for cleanliness, environmental health officers as well as national agencies such as HSE. Other officials such as immi-

gration officials and housing officials encounter and assess individuals, during the course of their work, in domestic settings.

Clearly, it was also important to interview an official from the Gangmasters Licensing Authority (GLA) to understand their role as the only government agency statutorily tasked with actively assessing work environments for forced labour. Officials from this agency were the only ones who were guaranteed to have had first hand contact and experience of dealing with cases of forced labour in a work environment. It was vital to find out what they knew about forced labour and to discuss their experiences in greater detail.

Immigration authorities obviously encountered victims of forced labour in the course of their work, as indicated by their referrals into the NRM. Similarly, the police also dealt with victims of forced labour, and they too were shown to have reported into the NRM. The police are also responsible for enforcing the law with respect to forced labour. It seemed important to select participants from these two bodies to find out about their knowledge and experiences.

Government officials were expected to have a highly developed knowledge of workplaces because they went into so many different ones and therefore would be aware when they had encountered really bad places or seen truly poor employment situations. They also had a statutory obligation to look round a workplace or examine a particular work situation thoroughly and therefore they were in a better position to find out exactly what was happening. It seemed likely that these individuals would also be familiar with recording what had been seen and then reporting this information to others in an accurate and realistic manner.

Trade union officials were another group of people with a broad encompassing knowledge of many workplaces. Although union officials cannot enter everywhere freely and not every workplace is unionised, trades union personnel were highly likely to have up to date understanding of issues and working practices of concern through their contacts in various workplaces. Further, their principal purpose was improving poor standards at work, and therefore their officials were likely to be au fait with forced labour situations.

Various charities, such as the Salvation Army and Citizens Advice Bureau supported or worked with victims of forced labour. It was important to include representatives from this sector among the participants because it was anticipated their experience would offer insight into forced labour experiences from a different perspective.

Interviewing government officials served several purposes. It met the need to establish ‘an appropriate relationship between the sample or selection on the one hand, and the wider universe to which you see it as related on the other’ (Mason, 1996:84). The data from the interviews provided direct evidence and information about the extent and nature of forced labour in the workplace.

By interviewing a mixture of officials, evidence was acquired beyond information about what individual officials knew. Data was obtained revealing the relative knowledge and experience about forced labour of those government officials tasked with dealing with forced labour compared with that of those who did not have the same contact with this crime. In turn this was an indicator of the extent of general awareness, training and so on about forced labour among government officials. This information would help to answer the question posed by this study about the official capacity and provisions for addressing forced labour in the UK.

Survey Questionnaire

It was initially intended to send a simple online survey using an ‘off the shelf’ package to large numbers of officials from a wide range of agencies in geographical locations all over the UK, in order to refine the selection of participants for interview. It was planned to ask a few simple and straightforward questions related to their knowledge and understanding of forced labour, to be answered anonymously but with respondents supplying general identifiers such as agency and location.

Unfortunately, this approach foundered in several ways. The first problem was gaining permission from different agencies to allow the circulation of the survey. For example, an approach to the secretariat of the Police Federation was declined without explanation. The Chartered Institute of Environmental Health was the only organisation that showed interest in the research. Helpfully, the secretary agreed to circulate my survey by email to all members along with their other regular internal communications. Anyone interested in the topic was invited to respond directly to me. Only two, albeit informative, replies were sent from environmental health officials. These individuals had clearly encountered troubling exploitative circumstances and they wished to share this information.

In view of the difficulty of conducting the survey questionnaire and the negligible response, this method of selecting suitable participants was abandoned. This false start was unhelpful but was viewed as a point of departure for the next phase of the research, in line with the recommendations of Charmaz (2006:17).

Selecting Interviewees

I had identified the type of participant I wanted to talk to, but because using a survey questionnaire as a method of refining the search had failed, I had to use an alternative

approach to find interviewees. As a minimum I intended to interview officials from as many agencies as possible such as the police, the GLA, local authority environmental health departments, fire authority and the Health and Safety Executive (HSE). I intended to interview representatives from several trades unions and charities known to be associated with forced labour.

I hoped to interview officials across the UK to obtain a nationwide perspective. The identification of suitable participants was framed by knowledge of where forced labour had been found. For example, the NRM data showed high levels of forced labour referred by Greater Manchester police (GMP) and it was a priority to interview a representative of that force. Similarly, forced labour was strongly linked to Derbyshire and to the Fens in Cambridgeshire and interviewing officials from these areas was important (Derbyshire Constabulary, 2014, Fenland District Council, 2010).

A variety of agencies were approached using publicly accessible contact information from their websites. The first communication, addressed to the receptionist, was by phone call, email or letter. I explained who I was, what I was doing and how I would like them to assist me. I emphasised that the university had given the study ethical approval and assured them of confidentiality. I preferred initiating contact in writing because that enabled me to explain myself more thoroughly and to incorporate further information about my study. A letter was also more tangible than a phone call and less easy to lose. I remained courteous and polite at all times.

Approaching agencies in this way was not particularly successful. It was almost impossible to communicate with the appropriate people and then persuade them to agree to be interviewed despite direct personal requests and assurances of confidentiality. Numerous reasons were given for refusing: people had given too many similar interviews

or had no time, some needed to consult with superiors, some referred me to their website, at times I was referred backwards and forwards between officials, to no avail. Others required me to complete extensive questionnaires then failed to offer an interview, or others asserted that they had no knowledge to impart. Many organisations simply stopped communicating or failed to respond in the first place. Some agencies declined because they claimed to be party to other research.

The range and extent of organisations that rejected the opportunity to assist my study was illustrated by the following list: Metropolitan Police (MET), Greater Manchester Police, Hampshire Police, environmental health departments in Southampton, Brent and Grimsby, the unions Unison and Unite, branches of the charity CABx, and all departments connected with immigration. This was a set back and suggested I would be unable to interview the range of officials I thought desirable, either from an agency or geographical point of view.

In the case of the refusal of any border agency to participate, the findings of a recent inquiry conducted by the chief inspector of borders and the anti-slavery commissioner may be relevant. Newspaper coverage claimed their report found: ‘The UK Border Force is “missing thousands of victims of modern slavery at our borders”. This might explain why these agencies were reluctant to undergo further scrutiny (Travis, 2017).

I resorted to beginning my interview programme by encouraging participation from officials I had known professionally. Although this sample might be perceived as a limited and a biased selection, it enabled a start to be made on the study and gave me practice and experience of the whole process. Reassuringly, this experience confirmed that interviewing government officials was a good source of evidence about workplace events. It was surprising to find that every official interviewed had encountered some circum-

stance that was probably exploitive and which had had a sufficient impact to be recalled in detail.

I subsequently identified a number of officials who were willing to be involved in the study, particularly from the GLA, London fire brigade and various local authorities. I gained the impression that enthusiastic participation was associated with some previous knowledge or personal interest in the topic of modern slavery and an interest in learning more. None of the sample were 'snow-ball' referrals. The participants indicated they felt they were being interviewed on behalf of their organisation, that official time was precious and that their opinions should be sufficiently representative. Under these circumstances I felt it would be impolite to ask if there was anyone else I could talk to. I gradually persuaded a wider range of participants by being highly persistent and eventually succeeded in conducting 20 interviews in total.

I conducted approximately one hour long semi-structured interviews with 18 people from various government agencies, trades unions and voluntary organisations. There were also two telephone interviews that lasted about 15 minutes. The participants were predominantly from the south of England and were representative of a broad range of agencies. An anonymised description of each participant is provided in Appendix 1.

Everyone interviewed was an adult and the sample comprised 9 women and 11 men. 3 worked for trade unions, 4 for charities, 5 were environmental health officers, 3 worked for HSE, 2 for the fire brigade, 2 were with the police and 1 with the GLA.

Interviews

In view of my extensive professional experience of interviewing all kinds of people, I was confident I could create a good rapport with all the participants by being courteous, prompt and looking professional. I set out to 'play the role of the guest' (Legard et al.,

2003:145) and create a friendly atmosphere in order to gain as much information as possible.

I hoped that I would be permitted to record all interviews and expressed this expectation, in writing, when arranging the meetings. I made it clear to every participant that they could choose not to be recorded and that I was equally happy with taking notes. I reassured each participant that the recording was for personal use only, would be kept safe and destroyed when the study was completed. When I first met each participant, I explained that it assisted me to record the interview because the record would then be accurate and the process quicker because I would not be taking detailed notes. I used the recording facility on my mobile phone, which I think the participants found unthreatening.

On average, I talked to each witness in depth for at least an hour. In some cases interviews were much longer, with one interview lasting nearly two hours. The phone interviews were much shorter, as noted, only lasting about 15 minutes. I began each session by describing forced labour and I also left a brief written account of the main facts about forced labour with each participant. All of the participants were very interested in the topic and keen to learn more. They were all exceptionally helpful and provided valuable and fulsome evidence.

All of the participants were adults, of varying ages, and were widely experienced, collectively representing many points of view. It would have been desirable, in order to have presented the best possible picture of forced labour in the UK, to have interviewed representatives from more agencies from a wider geographical area. However, the spread of geographical locations of the participants was adequate to demonstrate it was not a localised problem, nor was it just a problem for cities. It would have been valuable

to find out more about the work and experience of Border Force and Immigration Enforcement officials and the work and opinions of some of the major police forces. As noted previously, both of these bodies have experience of forced labour, and it would have been very informative to understand more of their work.

It was appreciated that the topic of modern slavery is currently politically sensitive and an issue the government is addressing. The high profile that modern slavery enjoys might have deterred agencies from participating in this study, especially if the agency was already under official scrutiny.

The interview process commenced in summer 2015 when formal requests were sent out to the various agencies. The first interview was conducted in June 2015. The process of inviting participants and interviewing continued steadily over the course of the next 12 months, with the last formal interview session conducted in May 2016.

Interviewer

‘The success of the interview depends, to a large extent, on the personal and professional qualities of the individual interviewer....qualitative research interviewers are, themselves research instruments’ (Legard et al., 2003:143).

The researcher who carried out this study and conducted all the interviews was a white middle aged woman. She had been employed as one of HM Inspectors of Health and Safety for over 25 years. This working background was of particular significance to the conduct of the study in two principal respects. It was essential that this was acknowledged because it probably had an impact on the research process, specifically on the collection of data (Mason, 1996:41).

Firstly, as a former civil servant and an official who visited and interacted with an enormous range of workplaces, the researcher had empathy with and understanding of

the officials interviewed for the study. The researcher knew how it felt to enter unfamiliar premises, deal with total strangers and conduct an inspection visit. It was easy for the researcher to relate to the work experiences of similar officials. The researcher was able to express realistic understanding of situations and experiences recounted by participants and establish a good rapport. It was likely that the participants responded favourably to the researcher and perceived her as credible (Legard et al., 2003:143). It was possible that this encouraged and enabled participants to offer more information than they otherwise would have done.

Secondly, the researcher had had training, appropriate to a law enforcement official, in investigative procedures, including training in taking evidential statements. This was combined with experience of interrogative interviewing. Familiarity with the process of taking statements from a very wide range of complete strangers was enhanced by many years of experience. This professional ability made the researcher appear confident to participants.

Extensive previous experience meant the researcher was accomplished at the interview process and experienced at avoiding leading or closed questions, as well as skilled at listening and concentrating. The researcher was always mindful of taking down accurate information that reflected precisely what an individual actually said or really believed. Long experience of carefully recording evidence for use in legal proceedings had instilled the vital importance of a faithful account. The researcher naturally avoided 'putting words in someone's mouth' but attempted through careful listening and questioning to understand and record exactly what had been said without unduly influencing the process.

Interviewing witnesses during investigations from a law enforcement perspective also gave the researcher familiarity with analysing verbal statements for evidence about events and descriptions of experiences. The researcher was confident that verbal accounts from someone who had experienced or observed a situation provided a valuable record of things that had happened. Although the researcher was aware that recall and memory could be fickle and unreliable, equally, the researcher was convinced that there was no better practical method of gaining information about things that people had experienced. The researcher's positionality is discussed below.

Data Analysis

Formal analysis of the data did not commence until all the interviews recorded for this study had been completed. Although it was almost inevitable that the researcher would gain impressions of common themes and matters of particular significance emerging from the evidence during the interview stage of the study. The analysis was conducted using the Nvivo computer package.

As a first step, all the recorded interviews were transcribed verbatim into writing and then uploaded into Nvivo. The interviews were then coded using what the computer programme called 'Nodes'. This term was used to describe categories, and the computer automatically collated and tagged selected text into the nodes.

It was straightforward to specify several 'Node' categories immediately. Previous analysis of legislation and consideration of the background material had identified many issues of concern, general themes and specific points of obvious interest about the topic of forced labour. These issues, such as 'what do you know about forced labour' and 'have you ever had any training', and similar topics had become the starting point for the majority of the questions posed during the interviews. In turn the subject matter of

the questions formed the initial set of Nodes for the analytical process and they therefore formed the starting point for coding. At this preliminary stage, the node categories facilitated the collation of text from different sources into general themes and also enabled its subsequent retrieval (Mason, 1996:111).

Each participant's transcript was read carefully, and as appropriate sections highlighted and tagged into the appropriate 'Node' category. The analysis and coding process was relatively simple to begin with, because on the whole, the answers given by each participant were a response to a question, which had then become a node topic. This process of reading and coding was carried out twice to ensure all of the evidence from the data had been gathered and coded.

The need for additional nodes became evident during the analysis phase. Sometimes an important theme emerged during the process that did not fit within any of the existing nodes, but was too significant to be ignored. A new node was then created to accommodate this point and then all transcripts were re-analysed with this new point in mind. The way the data was analysed was reminiscent of Seidel's model of analysis with iterative and recursive elements (1998). This process was repeated with further categories added as required. As soon as all the transcripts had been coded, other material such as reports and so on were assessed and relevant passages coded against the nodes.

Many common themes and topics emerged during the analysis of the data as a whole, especially from comparing and amalgamating different points of view and experiences. It also became apparent during the analytical process, that in some cases the transcript had importance and value in its own right. Each transcript in fact comprised an account of an individual's thinking, experience and behaviour. In some instances, an individual participant provided insightful evidence that was specific to them and their circum-

stances. The analysis was carried out in a way that was mindful of retaining the impact of the entire individual transcript and considering the document as a whole and not just selecting excerpts. The researcher was careful in the way this evidence was used. It was made clear it was an example of a specific or even unique situation and not illustrative of a more general theme.

The process of analysing the data also generated theories and ideas. These were recorded and saved as written memos. The time and date they were prepared was noted. The memos were a useful way of tracking emerging themes and general points of importance and were augmented as required. They were consulted throughout the analytical phase.

The data obtained through the interviews was analysed in accordance with the principles of grounded theory. Marvasti's advice informed the data analysis process:

‘My larger purpose here is to suggest that data analysis is inseparable from theory and theorizing. As you analyze your data, keep in mind that you are explicitly or implicitly applying a way of seeing, a particular analytical vocabulary and related insights’ (2004:84).

As noted previously, he went on to remind that analysis should be kept ‘within the boundaries of the(ir) data,’ and quoted Strauss and Corbin's opinion that theory should ‘consist of *plausible* relationships proposed among *concepts* and *sets of concepts*’ (2004:85). It is considered that for this study the link between data and theory was clear, strong and obvious.

Ethical considerations

Clearly this research had considerable ethical implications. The research project was submitted to the university authorities for ethical approval according to the University of Hull's rules for ethical procedures and reviewed by the Faculty's ethics committee.

Approval was granted subject to an ongoing obligation to be aware of any ethical issues that emerged and a requirement to consult with supervisors closely. This caveat was carefully adhered to because the study was expected to raise issues that were likely to be politically sensitive.

Informed consent

Informed consent was sought and obtained from all participants in this study. Introductory emails and letters set out the scope and purpose of the study and the reason for seeking an interview with that particular participant. This message was reinforced by a short conversation reiterating the main points before the interview commenced. The participant was offered the chance to withdraw, and reminded that this option was always available at any stage and that they could also withdraw any contribution they had made. Participants were also given a short written summary outlining the scope of the study, and given sufficient time to read it properly. A consent form was signed that confirmed the participant agreed to participate in the study and/or allowed the interview to be taped. Finally the participant selected whether or not they consented attribution by picking from two clearly identified alternatives.

The interviewer was quick to remind participants during the course of their interview, whenever it appeared that an issue became unduly difficult to address, that they were not obliged to answer every question. Similarly, the interviewer was careful to avoid encouraging participants to incriminate themselves or otherwise put themselves in an embarrassing position.

It was understood that consent processes were prone to being insufficiently comprehensive. Mason discussed this issue querying, for example, whether consent extended beyond the interview process to include the right to use the data, analyse and publish re-

sults (1996:58). Marvasti went further and discussed the concept that informed consent is almost impossible when dealing with qualitative studies because their nature is less controlled at the outset and ‘tend(s) to be more deductive, proceeding from observations to general statements’ (2004:141-2). The researcher believed that the consent obtained from participants in this study was good enough to extend beyond the interview and to include subsequent use of the data. None of the participants were vulnerable per se, but were mature, professional people who clearly grasped the purpose of the research and entered into the project with enthusiasm.

Anonymity

The identity of each respondent was protected because their evidence was only used in an anonymised way. Individual participants were never referred to by their own name or identified as belonging to a particular local authority or police authority. Every respondent was assigned the pseudonym listed in Appendix 1. Any quoted verbatim evidence was simply ascribed to an ‘official’, ‘inspector’ or representative of a particular organisation. There was occasional reference to gender of the respondent, but this was not systematic.

Data security: storage and confidentiality

There was an obvious obligation to store all data securely in such a way that the confidentiality promised to the participants was preserved. All electronic data were stored on a personal desk top computer, which was password protected with a secure password. The computer was used exclusively by the researcher and was located in a secure, burglar alarmed, domestic premises.

Confidential data collected for this study were predominantly in the form of recordings. Apart from signed copies of consent forms and brief handwritten notes taken during the

interviews, there were no other confidential paper documents. This small quantity of paper documents was retained in a secure domestic premises and stored in an untitled file. No-one else knew about the location of this file or the contents.

Immediately after interviewing a participant, the recording of the interview was transferred to the personal desk top computer. After this, the recording was transcribed directly into an electronic document that was also stored on the computer. A copy of both the recording and the transcript were uploaded into the Nvivo computer programme. The transcripts were not printed and were subsequently only used as electronic documents. Once successfully transferred and transcribed, the original recording was deleted.

All useful material will be retained until any further studies have been completed. At this point all the data will be destroyed.

Safety of researcher

Interviews were planned to be conducted in a private, one to one setting, with only the interviewer and the participant present, but there did not appear to be any enhanced risk to the physical safety of the researcher or the participant. Although interviews were not going to be held on university premises, they were expected to take place in the equivalent safety of private spaces in offices within public buildings. The interviews were not going to be conducted in private homes or at a time of day when the office building was otherwise unoccupied. The participants were all professional public officials and it was assumed they would adhere to their usual professional norms of behaviour deployed when working with members of the public. It seemed unlikely that any of the concerns raised by Craig et al., (2000) such as allegations of impropriety or psychological effects would become matters of concern. Although the interviews were seeking personal expe-

riences and information, none of the material was likely to be of a sensitive or emotional nature, because it principally concerned professional work related events.

Research Diary

A diary was maintained during the interview phase of this study. The diary was used primarily in a straightforward way to record events, plans and proposals. For example, all attempts to contact participants were recorded and the diary was used to keep track of responses or lack of them from respondents. It was used to date and record each contact with each participant and plan any subsequent contacts as required. For example, the diary was consulted when deciding an appropriate date for a follow up call or reminder. In effect, the diary became a research tool to ensure that systematic approaches were made to participants in a professional manner.

The diary preserved the history of interaction with each participant, the approaches and contacts initiated by the researcher and the responses of the participants. The material recorded in the diary revealed patterns of behaviour among participants. It was immediately apparent when there were systematic refusals to engage in the study from a particular agency or geographical location. A series of excuses, refusals or 'failure to respond' collated in the diary was also supportive of a decision to stop attempting to engage with a particular participant. Conversely, this also enabled timely remedial efforts to be initiated in an attempt to change the situation and engage with a reluctant participant.

The diary was helpful too for identifying shortcomings in the research process. Consulting the diary quickly highlighted when too many participants came from the same background and was a reminder to widen the scope of the research by selecting participants from different backgrounds.

Reliability, Validity and generalizability

It was essential for any study, such as this one, based on qualitative research to address the issues of reliability, validity and generalizability. It was important to consider these matters in order to assess the strength of the data, establish the rigour of the research and to demonstrate the general trustworthiness and soundness of the study (Merriam, 1995:51&53).

As Lewis and Ritchie explained, questions about issues of rigour and reliability arise from comparison with the quantitative research traditions associated with the natural sciences and their concerns about accuracy and the ability to repeat measurements of the same phenomena and so on (2003:270). It is obvious that tests of validity and reliability used to assess the veracity of quantitative research are unsuitable for qualitative research. Equally there is still understandable ‘concern (about) the replicability of research findings and whether or not they would be repeated if another study, using the same or similar methods, was undertaken.’ Lewis and Ritchie go on to point out that ‘the concept of ‘replication’ in qualitative research is naive given the likely complexity of the phenomena being studied and the inevitable impact of context’ (2003:270). This study offered a perfect illustration of this concept. Repeating this research and obtaining the same results would be impossible. As soon as a participant had been interviewed and spent time engaged in a discussion about forced labour with the researcher, their knowledge about the issue was transformed, and any subsequent interview would inevitably lead to a different outcome from the first one.

Reliability in qualitative research was clearly important but had to be assessed in a way that was more appropriate to this method of inquiry. Lewis and Ritchie outlined the appropriate and relevant concepts, those perceived as having ‘greater resonance with the

goals and values of qualitative research'. They proposed consideration of ideas such as 'confirmability', 'trustworthiness', 'consistency' and 'dependability' (2003:270-1). Merriam described a similar approach, and also included concepts such as accuracy of representation and authority of writer (1995:52-3). Merriam emphasised the significance of the role of the researcher and asked the pertinent questions, 'How do you know the researcher is not biased and just finding what he or she expected to find? If the researcher is the primary instrument for data collection and analysis, how can we be sure the researcher is a valid and reliable instrument?' (1995:51-2).

The experience, background and training of the researcher who conducted this study was set out above. There was an honest admission that their particular skill set would have been likely to have a beneficial impact on the quality of the data obtained, but only by comparison with a differently skilled researcher. There was no suggestion of bias, or that the researcher had a specific area of interest or a point to prove. It seemed likely too, that more detailed information would have been obtained than average, because of the researcher's experience. There was no implication that the data was corrupted or biased because of this. On the contrary, the familiarity of the researcher with providing evidence for court proceedings, suggested she would endeavour to be as true and faithful as possible when gathering data.

Lewis and Ritchie believed 'that reliability should not be seen as an alien concept in qualitative research.' They pointed out the 'need to be reassured about the sturdiness of a finding, beyond just the study sample,' meaning that there should be a belief that the results would be similar if another sample had been studied (2003:272). In practice, this meant both demonstrating and assessing the robustness of the research by checking the quality of the data and its interpretation and by providing information about the research

process. They set out a number of questions about the design and conduct of a research project, perceived as essential to assessing reliability (2003:272):

- Was the sample design/selection without bias, 'symbolically' representative of the target population, comprehensive of all known constituencies; was there any known feature of non-response or attrition within the sample?
- Was the fieldwork carried out consistently, did it allow respondents sufficient opportunities to cover relevant ground, to portray their experiences?
- Was the analysis carried out systematically and comprehensively, were classifications, typologies confirmed by multiple assessment?
- Is the interpretation well supported by the evidence?
- Did the design/conduct allow equal opportunity for all perspectives to be identified or were there features that led to selective, or missing, coverage?

This study met all of these criteria. Energetic efforts to incorporate in the study all of the agencies perceived as having the potential to offer valuable insight, met with insuperable difficulties. Nonetheless, the sample of participants was representative to the greatest possible extent of government agencies. The fieldwork was certainly consistent. Although the interviews were held in different places, all were conducted in the same way with as much time and opportunity available to each participant as was wanted. All the evidence was analysed as systematically as possible. None of the relevant evidence was excluded. There were no conscious exclusions arising from the design or conduct of the study.

Triangulation: Merriam preferred to focus on consistency and dependability as a hallmark of reliability in qualitative research and believed it essential to assess '*whether the*

results of a study are consistent with the data collected' (1995:56). She advocated triangulation to that end, describing this as multiple methods of data collection. This study depended heavily on evidence obtained from interviews. However, where possible, the information obtained in this way was cross referenced and supported with data obtained from other studies, available public records, newspaper and court reports and through conference presentations. The results of this study did not appear to represent a radical departure from other data, in that they are clearly linked with what was already known. However, they develop and extend previous knowledge in this field.

Peer Review: The study and research was discussed regularly with a supervisor throughout the period of study. For example, an interview transcript was discussed with my academic supervisor to confirm the quality and standard of the work.

Audit trail: This study includes a detailed description of how data were collected and how categories were derived, to enable other researchers to follow the work.

Validity: Philosophically, the concept of validity has: 'two distinct dimensions, the first known as internal validity, concerned with whether you are 'investigating what you claim to be investigating' ... and the second, termed external validity concerned with the extent to which 'the abstract constructs or postulates generated, refined or tested' are applicable to other groups ... or to other contexts or settings' (Lewis & Ritchie, 2003:273).

Clearly, external validity was associated with the ability to generalise too. Ritchie and Lewis pointed out, as with reliability, so with validity, that there has been an inclination to move away from this terminology and towards concepts such as credibility and transferability. Merriam depends on the same procedures to demonstrate validity that were deployed to show reliability, namely triangulation, peer review and audit trail, but also

incorporated 'researcher positionality' and 'submersion in the research process' to establish validity (1955:54-5).

Researcher positionality: Merriam regarded a statement of the researcher's positionality as important to facilitating a better understanding of the way the data was interpreted. Positionality was summarised as a 'Statement of researcher's experiences, assumptions, biases' (1995:55).

The events described in the introduction provided the motivation for engaging in this study. This experience meant a probable case of forced labour was not recognised because of my ignorance of modern slavery. My former employment was principally directed at the amelioration of poor conditions of work. I had been engaged in this work for several decades and was shocked to discover how little I knew about modern slavery and how prevalent it was in the UK.

My previous employer, the Health and Safety Executive, is required to assess and improve conditions of work, as was its precursor body, HM Factory Inspectorate, which came into being in response to the employment of children and other abusive working arrangements in the early 19th century. A knowledge of this history and my professional duties exposed me to the many ways that unacceptable conditions of employment and work can be imposed on those least able to change their situation and strongly influenced my attitude. I had personal experience of many cases where individual workers were seriously harmed or killed as a consequence of indifference or carelessness on the part of their employer. I was aware that the well-being of legally employed workers was not always a priority.

The same professional duties also made me aware of the considerable goodwill among the many people employed in government agencies and others who interface with

workers and workplaces. Most of these officials take active steps to improve conditions of employment. I formed the opinion that all these people were an untapped resource that could be used to deal with modern slavery.

Submersion in the research: The researcher has been involved in this study for nearly 5 years and devoted 12 months to the collection of data by interview.

A reflexive participant: There is no attempt, or interest herein to claim ‘detached objectivity’. On the contrary, the researcher throughout takes on the position of reflexive participant who brought to the table a range of perspectives and values that clearly impacted upon how the research topic was generated, how it was shaped, how questions were framed and how the findings were evaluated. In that sense, the researcher was in a very real sense, a partner ‘in the process of the development of knowledge’ (Moon, 2005:9). However, the researcher’s awareness of her own positionality acted as a constant reminder of the need to avoid skewing the interview process to confirm previous assumptions and to instead attempt at all times to facilitate the generation of information through the eyes of, and from the perspective of the respondents.

Generalising: Although Lewis and Ritchie believe that it is possible to generalise from qualitative research, they also believe there are strict limits on what can be generalised (2003:277). It is widely accepted that it is inappropriate to generalise by ‘going from a sample to a population... The goal... is to understand the particular in depth, rather than find what is generally true of many’ (Merriam, 1995:57). In the case of qualitative research, generalisation had to be thought of in a different, more appropriate way.

The concept of ‘working hypotheses’ proposed by Cronbach seemed particularly relevant to the research undertaken in this study. Merriam recounted Cronbach who had argued:

‘empirical generalizations are too lofty a goal for social science research... An observer collecting data in one particular situation is in a position to appraise a practice or proposition in that setting, observing effects in context’... Working hypotheses reflect situation-specific conditions of a particular context’ (1995:57-8).

The goal of this study was never to discover some wider revelatory truth, incontrovertible fact or insight that would be generally applicable to some other unnamed context. Instead the purpose was to provide thick descriptions of forced labour in the UK that would enable an improved understanding of this crime and the measures required to deal with it.

A conservative goal was consistent with the scope of this study. I believed that the 20 people interviewed in depth, although comprising a reasonable range of officials, was too limited to permit the generation of authoritative generalised conclusions. There is always a danger that too much may be extrapolated from limited data. Nonetheless it is clear that even within the inevitable restricted limitations of qualitative research a number of broad themes have emerged from across the data, which lends credence to their veracity and deepens our understanding of forced labour.

Conclusion

This chapter has outlined how data were collected for this study through one-to-interviews and explained how the data were analysed predominantly using grounded theory. Deviations from a strict grounded theory approach, particularly in the data analysis process, were acknowledged. This chapter set out the methodological approach and described the research design, including false starts. The rationale behind the way in which the participants in the study were selected was described, as were the interview techniques and arrangements. The status of the researcher was discussed, particularly

with respect to positionality and particular skills and experience. This chapter also addressed ethical concerns, safety of researcher and most importantly examined the reliability and validity of the study.

Chapter 6: FORCED LABOUR IN THE UK: CURRENT UNDERSTANDING

Introduction

Forced labour has been documented in a wide range of industrial and commercial undertakings in the UK, including construction, manufacturing, nail bars, restaurants and amongst domestic workers (Geddes et al., 2013). Before the provisions of the *Immigration Act 2016*, the only agency tasked with looking for forced labour, the GLA, was not legally permitted to inspect these businesses.

Officials from other government agencies visit every type of commercial and industrial premises for their own purposes. Similarly, union officials and representatives have contact with workers in many workplaces. Front line officials from these bodies, all described encounters with situations indicative of workplace exploitation. Many of the scenarios involved forced labour indicators, such as poor living accommodation, but in general, no remedial action was taken. The factors that might prevent any official from identifying forced labour when it is encountered and the reasons for failing to take any further action are considered.

The accounts of front line officials' experiences bolster understanding of how forced labour manifests itself in the UK. The links between forced labour and organised crime are explored. The officials' accounts also reveal how the crime of forced labour varies over time: an important issue for investigators.

This chapter also profiles victims of forced labour. Methods of enslavement are discussed and specifically the link with trafficking is examined. The vulnerabilities of victims are explored and in particular the adverse consequences in relation to obtaining evidence, relying on them as witnesses and investigating a case of forced labour are discussed.

Forced labour continues apace

It is unarguable that there are people who are currently victims of forced labour in the UK. This is most clearly illustrated by the National Referral Mechanism (NRM) statistics that record the numbers and particulars of the most recently reported victims of forced labour. Unfortunately, as discussed in Chapter 2, it is impossible to draw sound and meaningful conclusions about people in forced labour from the currently available data. It is too variable and lacking in coherence to state more than that ‘forced labour persists’ and that some respondents feel that it may be on the increase. Marie, a police representative explained:

‘If you look at the NRM trends over the last few years it's certainly increased since 2000. Well every year increases and I always said that either comes down to the fact that either more people are being held or we are getting really good at investigating. Unfortunately I think it's a little bit of both. ... I think it's becoming more of a problem. We are identifying it as more problem.’

The reassuring impression that officials were getting better at finding forced labour is reinforced by Fran, a Salvation Army official:

‘We’ve got much better identification. So whilst it is a hidden crime, its often hidden in plain sight and so it is there for people who are aware of it and alert to the possibility... doing some kind of intervention. The police are definitely becoming more aware of it and are taking more positive action to combat it.’

Interestingly, it was apparent that improved connections between the police and other agencies resulted in better identification of victims. For example, ‘in Greater Manchester where a multi-agency task force involving NGOs was set up in 2014, the number of referrals to the NRM by the police reached 89 in 2015’ (GRETA,

2016:36). This represented a significant improvement from just 30 referrals the previous year (NCA, 2015:10).

Interviews with officials from the GLA, the police and various support agencies confirmed that they continue to encounter victims. This study found that forced labour appears in many and various forms – as Marie the police officer recounted:

‘It is mostly things like rogue trading, so paving, roofing, landscaping all that sort of thing. But we also see things along the lines of, with forced labour, people being forced to commit crime. Shoplifting, vehicle crime, all those sorts of things and it's different ways of using that forced labour against somebody.’

Tricia, a GLA officer confirmed the pervasive and appalling nature of the situation:

‘I think it's across the board. I really do. You've got people working in care homes, in restaurants, in car washes. It's just everywhere.’... ‘The workers were stepping off the minibus from Lithuania, being put on another minibus to go out to work, ... with just the clothes that they'd travelled in ... in a chicken catching shed ... the smell of urine and dust and the feathers and they're supposed to wear masks they're supposed to wear gloves, but of course it impedes how many they pick up ... But they were coming home and they were sleeping in - they were almost hot bedding so one would get out and another one would get in - and of course all this chicken mess on their shoes and their clothes...’

Although clearly a UK-wide phenomenon, it was also evident that forced labour was more prevalent in particular locations. One union official, Bruce, referred to ‘magnet areas’:

‘which is Aberdeen, Hull, the south coast, Southampton particularly and London. And those are major ports where people come in and London is so huge. I mean the whole stuff about world cities, London is bigger than the UK in economic, social ... a magnet. Those people at Calais are not coming to England they're coming to London.’

Work Environments of concern indicating forced labour

The majority of the officials interviewed in connection with this study did not have a specific duty or role with respect to forced labour. As discussed, only the GLA inspectors and the police have legal obligations to investigate and prosecute it. However, everyone interviewed had encountered, during the course of their work, dubious labour situations or employment arrangements that gave them cause for concern.

The following scenarios were perceived by the official involved, as so different from normal expectations, that they were remembered or ‘stayed in the mind’ for some time. Most of the following examples relate to circumstances beyond the remit of the particular official. In each case an official had visited premises or undertaking for their own duties or enforcement reasons and unexpectedly came across the events described. Between them they experienced a wide variety of abnormal situations.

These examples also illustrate the challenging nature of the decision making faced by officials when determining the best course of action to resolve a situation. Although appalling workplace conditions may be an indicator of forced labour, equally the same conditions can simply be a very bad work environment. The appropriate course of action differs in these situations.

The evidence suggests that environmental health officers (EHO) have encountered troubling circumstances across the UK. Apart from where indicated, the officials are based in various locations in the south of England. Andy, a senior EHO explained:

‘I walk into businesses that I know will probably sell four or five pizzas a night and somehow manage to sustain a workforce of about five or six people. So you think how on earth is that business surviving’. He described: ‘really filthy mucky food businesses and above that are really filthy mucky living accommodation - mattresses on floors and that sort of thing.’

Living in poor or substandard accommodation is an indicator of forced labour as set out in the GLA pamphlet *Labour Exploitation* (GLA, 2015:9). Although an overstuffed and underused fast food restaurant does not, of itself, evidence forced labour, it nonetheless does seem puzzling.

Dave, another local authority inspector, described poor living arrangements:

'...(there were) instances where I found someone sleeping in cellar - and I thought hang on a minute why would you be sleeping in a cellar and that individual disappeared very quickly while I did the inspection then disappeared during follow up inspection. We don't know who he was, he didn't speak English and he wouldn't speak to us.'

This is evidence of a person living in an unsuitable place, the cellar, and also showing obvious distrust of the authorities. These are both forced labour indicators (GLA, 2015:8-9). Dave also reported:

'I've been in restaurants and only one man speaks to me and the rest stand there grinning and smile at me and nod and I shake all their hands but they will never speak to me. But nine times out of ten where have they come from - because I go back next week and they are all different.'

This example includes several forced labour indicators. There are signs that the movement of staff is controlled, but more importantly the staff seem unable to communicate freely with others, but 'allow others to speak for them when addressed directly.' Further, the staff appear 'unfamiliar with the local language' (GLA, 2015:7-8).

The same inspector also reported the wholesale removal of staff at another restaurant:

'... he had a restaurant in London ... every time that someone went into the restaurant in London to check out his staff he shifts them up to the one in the country where no-one is ever going to ask any questions and when the coast is clear and it's cooled down he passes them back. We see the same individuals in different restaurants'.

Dave also recounted a colleague's experience. This was clearly of sufficient concern to warrant a discussion with a colleague:

'they've seen something (in a)...Chinese restaurant which was ...the manager was Chinese but all the staff were Romanian. She didn't know any of their names. I said well that's odd. If she's a manager she should at least know the first name Mary, Bob, Fred whatever, and if they're not speaking English how does she communicate with them?'

This again involves a potential indicator of forced labour. It is hard to imagine how the workforce would negotiate conditions of work, contracts, payment of wages and other essential elements of decent working arrangements if there was no common language between them and the management.

Two forced labour indicators are fear and distrust of authorities (GLA, 2015:8). Several respondents encountered workforce behaviour demonstrating these attributes. For example, Sarah, a senior EHO, described a visit to a nail bar:

'it's more difficult to get anywhere with sort of Vietnamese population. You know we've tried to ask names of individual workers and they've run out the shop and never come back (while I was on the premises).'

Exploitation was evidenced in many forms. An EHO from central England, Tim, reported people living in unacceptable accommodation:

'I have come across local food businesses that have people sleeping on the premises. We recently had a fire and two men were found in the loft area. It appears that this is not high level forced labour. The workers get a work visa and come to work in local Indian/Chinese/Bangladesh restaurants. I believe they are paid a small amount that is possibly sent back home. The problem is they have no choice where they live. So if the business owner makes them rough sleep at the business address what can they say?'

Natasha, an EHO from the north of England, had a similarly troubling experience:

'neighbouring businesses were complaining that people were sleeping in the unit. So I went and they were - and it was a young boy and one other gentleman that was sleeping in a store room. ... I reported it to Border Control, ... one chap who was here illegally and they could do something about him because he was over the age of 16. So I think they arrested him ... and took him for deportation or whatever it is they go through. But the boy was actually fifteen, and the food business operator alleged that it was his nephew, so the Border agency couldn't do anything. He's a family member and a child and they couldn't do anything. And I was just thinking well why would an uncle let his nephew live in a store room? ... That always stayed with me 'cos I think what else could I have done? I guess I could have phoned the police if I'd known. But then that boy disappeared, so you know, and then the business shut down.'

None of the above examples provide clear evidence of overt exploitation, but they all describe an event in a workplace that could be indicative of forced labour.

On other occasions, environmental health officers have encountered situations that immediately suggested exploitation to them. In the following example, remedial action was initiated promptly to rectify the situation, although it is not clear what steps, if any, were taken to protect the individual workers involved. The EHO involved, Anna, recounted:

'a colleague of mine went into a very very big food manufacturer and looked at - did it kind of night time ... but kind of felt very uneasy about the cleaners who were cleaning the equipment that was in connection with the food. ... couldn't quite work out what he wasn't sure about but ... they all looked very kind of miserable (and) - it didn't sit right with him so straight away he was like - because of the links we already had - referred it to the GLA to see whether or not it would fit within their remit ... We were able to do a late night visit where we all went out in kind of force - police, immigration, gangmasters licensing and ourselves. ... they were able to establish, the gangmasters licensing, they did need a licence - and that - actually there

and then they had to bring everyone off the floor of the factory to get them signed up directly with the factory - or with the company that own the factory rather than this cleaning company.'

Health and Safety inspectors (HSE) too have encountered workplace events that are very unusual and completely different from their normal experience and expectation.

One highly experienced inspector, Frank, remembered investigating a tragic accident in an extraordinary context:

'I had a very, very nasty accident I had to investigate - Polish - quite a few years ago now which wasn't reported. This is a guy who was paralysed for life... it transpired that when the accident happened, his fellow Polish workers attempted to drag him off the site so it looked like the accident hadn't happened on site but off site. None of the other workers would give me a statement. I managed to get one of them to come to a pub with me one night with an interpreter ... and we spent an hour and a half attempting to persuade him just to tell us what happened and not even - not even give us a statement. Just tell us what happened and he refused to do it - on the grounds that 'they' will deport me even though he was Polish with a right to be here. That was his explanation and we couldn't budge him.'

Normally, accident victims are very keen to tell their story. This incident suggested that the site workers were, at the very least, 'afraid of revealing their immigration status', and obviously did not trust the authorities, both of which are forced labour indicators. No access to medical care, and having to work under such conditions are also listed as forced labour indicators. (GLA,2015:7-10)

The same HSE inspector described a similarly awful accident, which apart from a lack of compassion, also evidenced 'being forced to work under certain conditions' another indicator of forced labour (GLA, 2015:9).

'We had a report of a worker falling from the roof. I think two storey house - falling from the roof, and they were all Indian, none of them spoke English.'

So we sent out an inspector with HSE's out-reach worker, who could speak Gujarati. When they arrived on the site there had been five or six workers doing work on the roof. I don't know what they were doing ... with no edge protection just a ladder going up ... and what has happened was one of them had fallen off landed on a concrete patio. The other workers had come down and tried to get him to walk off his injury. His injury was a fractured pelvis - they could have killed him ... The only person who was communicating with them was our outreach worker who arrived. And they said to her please don't make them put edge protection up because if they put edge protection up we're out of a job, because the whole reason we're employed is because we'll work under any conditions. So the more dangerous the better from our perspective.'

Both of the previous examples also illustrate how peer pressure from fellow workers can be exercised in support of an employer's interests. The workers in question were complicit in covering up accidents to a colleague. Paradoxically, those who were being exploited through forced labour practices 'policed' the maintenance of these practices in the interests of their employer. These workers were obviously under extreme pressures to act in a way that perpetuated their exploitative situation even when presented with an opportunity to confide privately in officials.

Another HSE inspector, Mike, recounted an incident with less serious consequences but involving blatant exploitation, which the inspector understood fully at the time. In this case, although the exploitation was remedied from a health and safety point of view, no further action was taken with respect to the possible presence of forced labour:

'the first time I went there, when they were working out in the fields, I had some suspicions. ... I took the action within the ambit of HSE as I remember ... because they didn't have any rainwear or things of this sort and they were out basically in 12 hour shifts in the fields. I remember having the argument with the company about actually raincoat is PPE (Personal protective equipment) - if you're standing out in the freezing cold and ... throwing

it down with rain ... and I remember enforcing that they had to provide them, because they were saying 'ah they bring their own', and they had no boots obviously and all this. ... and I think now sometimes that's an indication, without a doubt.'

This represented a clear indicator of forced labour exploitation. The GLA's *Labour indicators* includes not being 'dressed adequately for the work they do: for example they may lack protective equipment or warm clothing' (2015:9).

Fire authorities also find situations that may well be associated with workplace exploitation. Living in 'poor or substandard accommodation' or living 'in groups in the same place where they work' or living in unsuitable industrial buildings are all indicators of forced labour (GLA, 2015:9). One officer, James, reported examples in the London area of appalling residential accommodation, physically connected to commercial properties, especially fast food type restaurants:

'We are coming across more and more very poor housing now. Inappropriate - really, really sort of appalling conditions sometimes where ... this is the beds in sheds scenario - but its also within the Chinese restaurants I can think two major examples right at the top of my head. ... The first one was a Chinese restaurant and out the back of the restaurant was built like a shanty town - a favela sort of thing out of plywood, bits of wood and things like that with wooden door ... the whole of the rear yard was covered and there was about a dozen little bedrooms off of it - as well as the sleeping upstairs above the shop as well'.

Similarly, Andy, an EHO from Hampshire was aware of the link between dubious housing and fast food restaurants:

'I passed our housing team a converted garage round the back of a chippy that I found. You know, one with windows put into a garage and it had windows and doors and curtains and things like and I thought that's not general storage it was probably dealt with as a housing issue but whether it was

forced labour in association with all of that I don't know ... it wasn't pursued.'

James described another London residential premises:

'another Chinese restaurant [had] a false ceiling between the roof of the restaurant and where the sign out the front is. There's sort of a crawl space of about a metre high and there were about 17 beds within that crawl space. You had to climb up through a hatch in the ceiling with a ladder to get in there. So we prohibited that and ... so thinking about this one ... this would probably almost certainly in hindsight fall into this category because the owners of the premises changed hands within a week after we [put] the prohibition notice on and it seemed like the conditions were still going there as well. So we lost track of the original owner to prosecute for this and then we had a new owner.'

It is clear that these situations are hidden within a wider context of appalling housing conditions in London, some associated with illegal immigration. The same fire officer described:

'HMOs - houses of multiple occupation, which we end up regularly with 17, 18, 20 people in a 3 bedroom house. Is that just a factor in the London prices and living accommodation? The housing crisis in London is very much more hidden than people realise in a way ... there's so many people piling into sort of inappropriately set up houses, just whole bedrooms covered in mattresses and you know climbing over each other to get in and out.'

There was also evidence of subletting:

'Usually we do know that there's a certain element of ... you're probably not legally allowed to be here in this country that's why you're doing that, so we deal with that. We go through our legislation and we get hold of the landlord if we can or the letting agent and say you need to do ... "Oh they must be subletting" and that's quite often ... and it does take a lot of digging to get to the bottom of it ... and the usual one is, "Well I rent to that one person

and he or she has sublet it out to everybody else”, and sometimes that is true. I mean we find one person who has rented the house and then they’ve moved themselves to the upstairs and just rented out the whole rest of the room to about 20 other people just to pay the rent for them.’

There is clear evidence that officials, other than GLA inspectors and police, encounter work situations that are very far from normal. All of the above examples involved exploitation of some kind, some possibly, legally qualifying as forced labour. In all cases, the official mentally registered the circumstances, but took no specific action to address the abusive working arrangements.

Is organised crime responsible for all forced labour in the UK ?

It is widely argued that organised crime is responsible for much of the forced labour in the UK (Balch, 2015:7). This is perhaps best illustrated by the location of the Modern Slavery Human Trafficking Unit within the Organised Crime Command of the National Crime Agency (NCA, 2016a). The UK Independent Anti-Slavery Commissioner, Kevin Hyland, shares this opinion and referred to the connection in his first annual report (Independent anti-slavery commissioner, 2016:24). There is evidence that organisation, planning and similar arrangements are associated with forced labour cases.

The accounts of the respondents to this study pointed to well organised and planned arrangements associated with exploitative treatment of the workforce. For example, as previously cited, the wherewithal to move and replace all staff from a restaurant within a week. Similarly, fire officers are aware of chains of substandard accommodation in the ownership of one person or group. They are also aware of the systematic movement of people between premises as will be discussed below.

An officer of the GLAA, Tricia, clearly asserted that organised crime was behind all forced labour:

'We have found ourselves ... investigating the end product of organised crime groups. So you've got organised crime groups sitting behind, moving lots and lots of workers into the horticulture and food processing factories. ... we are intelligence led. We have intelligence sharing protocols with all our partner agencies. So if we've got a name to work on, we'll work with the police and Europol ... and very often if we identify that individual, that individual is very often linked with other individuals . .. so then we know . '

Two Salvation Army officers, Fran and Ellen, who assist victims, gave several examples pointing to the organised side of forced labour. They knew about the difficulties involved in tackling the criminal chain. In answer to the question: 'What steps do you think could be taken to improve the way forced labour is dealt with in the UK?' they replied:

'It's such a difficult criminal network that operates that its not a simplistic answer, because if they are bringing them in from abroad, then the roots of the exploitation start abroad. An NRM that I did, the Polish gentleman was recruited in Poland and believed he was coming over here to a legitimate job, to find himself when he rang the number and was picked up, to be suddenly enslaved.'

Again:

'I had two girls one from Ghana, one from Nigeria and as I went through their stories, - this was set within weeks apart, - I discovered they'd both come in via Amsterdam and Ireland into Liverpool and down to London. And it was in Ireland they gave me two men's names, where they were held and both names were the same ... When I finished my form ... I then highlighted ... please note these two ... you will find this on another case'.

Further:

'I mean the Vietnamese boys. They're recruited in Vietnam but they're brought here usually via Russia by plane and then overland by various means of trucks, what have you, trains, walk. ... They're handed from one gangmaster to the next. So to get back to Joe Bloggs who started it all ... is

almost an impossible task. ... You see with the Vietnamese you might pick up the people who are running the cannabis farm in this country but you don't pick up the people who have trafficked the poor person in ... to be the farmer of the cannabis farm. ... you're only getting - touching the tail ... you know you only take a bit off the tail and the whole of the body's still there.'

Fran and Ellen provided examples of criminal networks in which organized groups 'sell on' enslaved workers to each other:

'Eastern Europeans are trafficked to the UK to be exploited or they're tricked into coming because they've been told that there's a job available for them and there's a network of people in this country and they could be handed from one group to another. There's a network ... and the police will have a named group ... They'll know networks that actually network together to pass the person on. ... and it can be that the police have intelligence that they're in this location but by the police say get there they've moved. But they'll be in another location and they'll still be being exploited. ... and sometimes a person is troublesome and so they get kind of sold on because they're troublesome. So they will be moved on to a different kind of exploitation because they - this group's had enough of them - so sells them on to the next group'.

Fire officers are also aware of the involvement of criminal networks. James reported:

'Although we find that with rogue landlords ... they've got multiple chains of places and a steady flow of clients to exploit and rent to, not even cheap rent but ... They make a lot of money. ... There is definitely ... several key people in these sorts of organisations, that are from the bottom up, recruiting from other countries and then bringing them across, and then a different person that does the housing and a different person that does taking care of the money and another person that, whether its trafficking women or bringing people for work - the way these things work its a multi agency, different levels, different jobs. It's like a company isn't it. Everyone's got their little jobs'.

Trades unions too are aware of a highly organised system that, alongside legal activities, also facilitates illegal immigration, supplying forced labour. Bruce explained:

'I think it's highly organised the main magnet in our economy wasn't the benefit system in any shape or form ... it was work ... and not just work on the off chance ... it was jobs, in that I've got a job. I'm coming in smuggled by a boat out of Rotterdam. I have a new job to go to in Park Royal. So it's very highly organised. Some of it was legitimate and legal...'

He continued:

'Also there is a lot of businesses certainly in agriculture, I think certainly the GLA found, ... a lot of businesses that have built their entire business model and labour force model on the profit and loss plans on forced labour. So if you meet one, you're going to meet lots of others. ... I think it's organised crime. ... I'm not saying all employers obviously not, ... but the employers where we find and have found forced labour, ... and sometimes it takes you a while to track it back to the employer, but normally there's a controlling mind in the business. This is what we found on blacklisting. This is what we found in these companies, in one company we found that they were passing it all off as the agency, in another one we found that the managing director's daughter... was the chief executive of the agency. So you can find these things and so we tend to investigate.'

Police representatives were also confident that organised crime was behind forced labour. Marie explained:

'I think it's very safe to say that it's all organised crime. ... As I say, it's very easy to sell a person over and over again. ... and that's not just by one person, that's usually by a large group of people. ... and it's very well-managed. ... Well the way to look at it is, if for instance you've got a girl and you can sexually exploit her and you can sell her for £150 an hour to a man, you can sell her maybe 7 to 10 times a day. So she could see 7 to 10 men a day so that's easily £700 / £800 easily. Okay, so if you can do that with one girl and you've got a big house, why not put three or five girls in there. ... and you're making thousands and thousands of pounds a week. Okay so you've got that,

so why not do that with another house down the street. So it's never just one person, it's never just one house. That's why it's always linked and it's all very well organised.'

Although, many of the above examples refer to the sexual exploitation of women, there is clear evidence suggesting a strong element of organisation in forced labour only situations. Tricia the GLAA respondent was unequivocal on this point:

'National crime agency ... are increasingly picking up more and more of the work the local / regional police aren't able to take on, because what you have to remember is that even if you have got one case of trafficking ... and they have to be mindful that if they're going to conduct an operation, you're going to have so many elements to that. You're going to have to have probably surveillance, you're going to have to have investigators ... everything has to be done by the book. ... and it is imperative that if you're going to start meddling in any of these organised crime groups that what you do is done properly in the first instance, because you not getting a second bite.'

Some officials, however, did not share the belief that all forced labour was linked to organized crime. One trade union official, Bill, explained: *'I'm not convinced it is ... I think it's disorganised crime. ... I don't think it's the mafia running this. ... I think in construction it's not.'*

It is obviously helpful, when investigating any crime, to have a broader understanding of its general nature and usual context. This background knowledge assists the conduct of an investigation ensuring that the relevant evidence is sought for and assessed. However, it seems in the case of forced labour, that the link with organised crime is regarded as a defining characteristic and, in effect, the sole official interpretation. Focusing exclusively on this one feature can exclude alternative presentations. This could mean a case of forced labour being overlooked or dismissed, simply because it presents differently and does not fit the accepted 'usual pattern'.

Balch (2015:7) pointed out the adverse consequences arising from a restricted, defined, conception of forced labour. He explained how the policy on forced labour ‘was framed in the UK as a question of transnational organized crime, immigration and border control.’ He then pointed out ‘that some incidences of forced labour might be overlooked by enforcement agencies because of the emphasis within anti-trafficking policies on sexual exploitation and immigration.’

Domestic servitude is an example of a type of forced labour that, although it may be organised, is not normally linked to organised crime per se. Victims of forced labour are frequently described as having been brought into the country by their employer. A family bringing their existing domestic servant into the country with them to continue working for them is a common pattern. This can include diplomatic families too. In 2015, 10 of the 75 allegations of domestic servitude recorded by the Metropolitan Police concerned diplomatic households (GRETA, 2016:26). The overseas domestic workers visa arrangements reinforce the difficulties for a domestic worker and can act to trap them in an abusive situation (Lalani, 2011:10). Concentrating exclusively on links with organised crime will not assist in uncovering or tackling domestic servitude.

Forced Labour: a crime that evolves and changes

Attempts to find and address forced labour have to accommodate continuous change in the way the crime is executed and how it manifests itself. Although the principal, legally defined, elements of the crime remain the same: forced labour is an individual coerced by a threat into work that they did not want to do, the manner in which this is accomplished seems to evolve and develop over time. There is evidence that every element of the crime changes, from the type of work involved, to the kind of people exploited and to the way they are coerced. It is probably correct to describe the continual changes as

evolution rather than revolution. Haughey (2016:29) seemed to share this perspective: ‘Modern slavery and trafficking is a form of offending that is constantly evolving’.

Anyone trying to tackle the problem, has to avoid being too prescriptive about what they are looking for, if they want to be successful in unearthing forced labour. For example, if they concentrate on looking for Chinese workers exploited in cockle picking they will miss the Indian workers exploited in fast food restaurants.

There is evidence of change in the type of commercial activities associated with forced labour. For example, Bruce, a trade union official, recounted exploitation associated with the textile industry:

‘10 years ago we were actually breaking into sweatshops in the east with the Fire Brigade and these were workplaces, the textile industry still, where workers were on two occasions actually locked in for the day so the Fire Brigade had to come and break in. You know it's very hard to organise it but at least we were exposing it’

James from the fire authority also recalled sweatshop abuse, but also related more recent changes:

‘the old sweat shop system. We used to have this quite badly in the 70s ... where people were working in appalling conditions. We don't tend to get that so much anymore. ... that used to be garment manufacturing and we did sort of end up with some appalling deaths and multiple fatalities The odd thing now, is the ones we're getting, it seems to be housing or living accommodation rather than working accommodation we see. We see a Chinese restaurant which has 15 beds in it and you think they must be working somewhere else, so they go out and work somewhere else presumably but maybe not, maybe they're all employed, I don't know.’

The evidence reveals that the type of people who become victims of forced labour exploitation change too. Bill, a union official, explained how, particularly in the case of

migrants, an individual's vulnerability to exploitation varied over time. Vulnerability to exploitation also seems to depend on nationality as well as connections within wider society.

'Our experience of exploitation is it happens to the highest level when people are first in the country, because the longer you're here, the more you know the system and you know what's right and what's wrong. ... you know what the rate of the job is, because you know that's a big thing. There's such a differential between pay rates in Eastern European countries to here that you don't realise that you're being robbed - seriously under paid. I think you are more likely to be exploited depending on the level of support network. For example there is a much larger Polish civil society here than there is Romanian. So Poles are less likely to be ripped off ... but Romanians and Bulgarians, there is less of a society networks and they are weaker which means that the levels of exploitation tend to be higher and go on for longer. ... and obviously when you get to the Somalis and the Afghanis ... Also it depends... if you talk about Romanians and Bulgarians their level of exploitation was particularly high when they weren't allowed to be directly employed.'

Another union official, Bruce, offered a similar historical perspective on forced labour, also explaining how widespread it probably was:

'When I was a front line organiser in London, in the workplaces we organised in Park Royal estate, in warehousing, packing, logistics, video production and food to some extent - forced labour, we have to debate how you define it, but paperless workers, workers who were not - who didn't feel free to engage with their colleagues in the normal way, it was probably endemic to be honest with you. It was probably more or less every workplace that we went and that was my direct experience from 10 years ago from talking to colleagues ...'

A fluctuating pattern in the nature of the individuals exploited was also highlighted:

'And what we find, ... in the big food factories in West London over many, many years, is ... there would always be every two years a new community to be exploited. So you have a workplace that might have been established with a very loyal community and then there would be an influx of a community from Pakistan. So then there would be an influx of a Hindu community. So you bring in the religious thing. Then you would bring Polish, so you've got another religious group ... so then almost every group. You could reasonably easily even work out which would be the next. Tamils, hundreds of thousands of Tamils came and then they've kind of disappeared. Somalis - but at every point you had a culture, a language and often religious dimension.'

Bruce continued:

'So again I don't want to give them too much credit for strategy but it is a very smart move. There is always "the other" that you can turn a workforce around ... and it's sometimes colour of skins, sometimes language and so obviously we had to counter that by building solidarity amongst those communities and that was often the challenge.'

NRM statistics also reveal variation in the nationality of exploited victims. This data is not presented in sufficient detail for easy comparison year on year, and the percentages given include all types of exploitation. However, in the first quarter of 2016, the number of Polish victims of all types of exploitation, including forced labour increased enormously, by 104%, in comparison with the previous year. Similarly, the number of Chinese victims of all kinds of exploitation increased by 59% (NCA, 2016c:5). It is unsafe to state with confidence what these numbers actually indicate. As discussed, they could indicate an actual increase in the numbers of victims but they could equally reveal a great improvement in the detection of the crime. It is interesting to note that the number of British victims also increased by 22% over this period, but the figures suggest that this was mainly due to an increase in the number of victims of sexual exploitation.

The Salvation Army were also familiar with fluctuations in the nationality of the victims of exploitation over time. They also felt that enforcement agencies were becoming more aware of the forced labour indicators. Ellen and Fran explained:

'Now because we've got a very clear definition and you're looking at the indicators, ... you know its based much more on a systematic identification process. So the country isn't relevant, except that if somebody's from Albania, you're probably thinking "oh this person could be trafficked", more than if they were from Bulgaria. ... the British consular officers are becoming more aware. So someone will come into the British consular office in Europe and say "I don't have any papers. I've lost my passport" and they'll start asking questions. looking for people who actually don't have their papers because the traffickers have taken them and so on.'

Unsurprisingly, because of their frequent contact with forced labour situations, the GLAA is well aware of step changes in the way victims are exploited. It appears that methods of exploitation are modified in direct response to enforcement interventions. As soon as exploiters realise that the enforcing authorities are looking for a particular sign or indicator of exploitation, they stop using that precise method of exploitation. They revise their approach and start exploiting in a new, slightly different, way. Tricia, a GLAA officer, explained how victims' bank cards can be abused. This account demonstrates how exploiters methods of abuse develop over time:

'When... we started to regulate the industry what we found was, ... lots and lots of workers would have their money paid into one single bank account and then monies were shared out afterwards. Very often the most vulnerable of those didn't see any wages at all. We insist during our compliance inspections that each worker must have their own bank account. But the gangmasters are one step ahead of us. So they open bank accounts for all these individuals. But now they've looked at it as another source of revenue. So they won't just open one bank account, they'll open many bank accounts

without the worker knowing, with their details, then they'll claim benefits for that person.'

The GLAA inspectors are now alert to this abuse and actively assess the financial arrangements of individual workers to confirm that they are receiving their wages correctly:

'Another tell tale sign is on the back of the bank card. A job I did just recently, they've got their number written down on the strip at the back. That was mainly because the gangmaster had so many workers that he was running that he couldn't, he didn't remember all the numbers and he won't let the worker have the numbers. So the worker will very often have a bank card. The money is withdrawn in total apart from a few pence every Friday once the worker's been paid.'

Similarly, Tricia described changes in the type of domestic accommodation exploiters provide for their victims:

'In the early days they would all go into multi occupancy housing which was easily identifiable. ... Now what they've done, is that they tend to chose 3 bedroom semi detached properties that look completely ordinary from the front, and very often they will get the workers to use the back entrances only. So that for all intents and purposes ... You're looking at the neighbours. Not many people come and go from over the road. Don't think about it. But actually at the back of the property, people are coming in and out all the time No you can have up to 13 people in a very small [house].'

Tricia recounted a further example, illustrating the rapidity with which exploiters can change arrangements in response to investigation. This observation is also evidences the involvement of organised crime in forced labour:

'It is imperative that if you're going to start meddling in any of these organised crime groups that what you do is done properly on the first instance because you're not getting a second bite. ... because very often ... even if they get a whiff that you're sort of looking around ... (there were) places in

Cambridge last year - where houses of up to 14 or 15 people just disappeared over night.'

Victims

It is important to know as much as possible about the victims of forced labour, their profiles and characteristics, together with some understanding of how they can become enslaved in order to create effective interventions and prevent other people becoming enslaved in the future. The evidence shows that forced labour victims are not at all identical and comprise a widely varied group. For example, data from the NRM statistics (NCA, 2016c) reveals forced labour victims can be male, female, adult or child, British nationals or migrants from around the world with a very wide range of nationalities. The available evidence also shows the extensive variety of ways in which victims are exploited - from being locked in a premises growing cannabis to tarmacking drives.

Enslavement processes

Although there is a broad understanding of how individuals are trafficked into the UK and then exploited in forced labour, research suggests that:

‘there is still little understanding of forced labour that occurs *without* trafficking, and almost no recognition that refugees and asylum seekers are susceptible to forced labour’ (Lewis et al., 2015:173).

This is despite, as Balch pointed out: ‘plenty of evidence that cases of forced labour can occur without a trafficking or immigration element’ (2015:7). Unfortunately, there was scant evidence obtained during this study that offered further insight into this process. It was not possible to explain conclusively how people become victims of forced labour without trafficking. However, respondents clearly confirmed that the same well known methods of enslaving people remain in use.

The comments from the Salvation Army personnel quoted above, described a perfect example of the use of deception to enslave a victim. They explained how a Polish na-

tional arranged to travel to the UK to take up what appeared to be a legitimate job, only to find on arrival that he had been duped and was enslaved. It is important to emphasise that this was a textbook example of trafficking. Section 2 of the *Modern Slavery Act 2015* defines trafficking to include arranging or facilitating the travel of a victim with a view to their exploitation in forced labour and the law is clear that the consent of the victim is irrelevant. In this example forced labour exploitation followed on from trafficking.

Again and again, respondents to this study associated forced labour with trafficking. A trades union organiser, Bruce, described a scenario at a commercial premises:

'I think it is still the case now where you have employers who are employing large parts of their workforce in other parts of the world and bringing them. ...when you do talk to people and you can build that relationship, you find that they are quite common. They would be employed in Bangalore. Their wages would [be paid] through an agency to their family in Bangalore. They are held in what we would say was in indentured servitude here, because accommodation is a caravan So the trafficking thing, I don't think can be entirely teased away from forced labour.'

This study also pointed to some new pathways through which victims might become enslaved, ones that are encouraged and facilitated by the current overarching market conditions for employment. For example, the same trade union official described circumstances, which arose in a workplace where there were only tiny hours contracts available to the workforce. Effectively, this created an opportunity for exploitation:

'It got so bad for the forced work for the Goan community, that the only way you could get enough hours of work each week was bringing in gold jewellery to the manager. So we finally got this manager sacked. She left the office and we had a photo of this box full of gold rings and bracelets, because zero hours contracts, tiny hours contracts are actually mostly about

command and control. They're not actually the biggest problem you face as a worker on those contracts. ... [if] you've got insecure earnings and insecure hours, it's about command and control. If you want enough hours you have to grovel and beg and bribe your supervisor. So that's why it's attractive and that's why forced labour's attractive.'

A similar arrangement was described by Lewis et al. (2015:134) who recorded the evidence of a person who had observed fellow workers giving small gifts to agency staff to secure regular work.

This form of master/suppliant relationship can take on many forms, as Bruce explained:

'(it is) very easy to make them scared fearful. These people would do anything for you. The stories are legion of forced workers cleaning the bosses house at the weekend or cleaning the car or being asked to do any number of extra duties because they are in no position to say 'no'. Especially if their passport has been taken or they haven't passport, haven't papers.'

It is important to acknowledge that these methods of exploitation are not novel and have already been well documented. It is obvious that depriving people of their identity papers presents a perfect tool for coercion and exploitation. Similarly, impoverishing workers by refusing to pay them or by withholding wages is another well known method of exploitation acknowledged by the ILO (Skrivankova, 2010:7). However, the really significant point about the above example is that exploitation was enabled by a completely legitimate UK employment practice: the use of tiny or zero hours contracts. By offering very few reliable hours a week, the exploiter makes the victim desperate for money and work, which lays the foundations for coercion and exploitation.

Bruce, the trade union official, described a case where legitimate rates of pay were abused to create vulnerability:

'We found a bunch of people working in a factory in Northampton and they were all kind of mid 40s to mid 50s. ... They were all apprentices, paid as apprentices £3 an hour ... they're learning on the job so they are being paid £3 an hour.'

There is no legal maximum age for an 'apprentice'. Official rates of pay for apprentices are set deliberately low to encourage the provision of apprenticeships. However, the small wage paid legally to an apprentice assumes the apprentice does not depend exclusively on that income and perhaps still lives in the family home. Requiring mature, non-dependent adults to survive on such a small wage is exploitation.

Employment Agencies

Another current employment phenomenon in the UK is the, almost exclusive, reliance on Employment Agencies as a gateway into work. Again, this presents a perfect opportunity to exert control over job applicants' access into work, and creates ideal conditions for exploitation. Bruce again explained:

'If effectively every job applicant only accesses the workplace via an agency now, if that's the case and we think it is broadly, apart from high skilled ... where they headhunt you. But new entrants or re-entrants, if that's the case, then the scale of agency work ... is bigger than any other industry put together almost. ... [Interviewer: but anyone can open an agency] ... that's right. So that's one of my problems. A gangmasters, if you wanted to do that now and set up you'd jump through all these hoops. An agency could open ... next week.'

Another union official, Bill, also pointed to the central role played by employment agencies for the workplace and explained:

'Most people are employed through employment agencies now. ... yeah [construction] sites in particular. ... so they will have subcontracted down a couple of tiers and then that subcontractor will then recruit the actual work-

force through the employment agency. ... Yeah it happens all the time. And then the employment agency divests themselves of the responsibility ‘

Employment agencies are pervasive and there is minimal official information about them. Official statistics do not cover employment agencies. It is likely that there are multiple thousands of employment agencies throughout the UK. Their overall number cannot be readily determined and there are no registers or lists of agencies. It is easy to open one. Anyone can, and does, open an employment agency, with no specific qualifications or requirements. This contrasts unfavourably with gangmasters, nursing and domiciliary care agencies who are required to have official approval in the form of licences or registration (GOV.UK, 2014c:*Employment agencies and businesses*).

At present, there is minimal official oversight of employment agencies. The Employment Agency Standards Inspectorate (EASI) charged with the task has only approximately 11 inspectors for the entire country. It is hard to see how this inspectorate could control effectively the enormous number of agencies involved. However, the provisions of the *Immigration Act 2016* may well have a transforming impact in due course. Sections 1 and 3, provide for a director of labour market enforcement who will have a role with respect to enforcement in this area.

There is unfettered scope for an employment agency to abuse or exploit workers within their purview. This is another instance of a legitimate business practice enabling exploitation of workers. The above examples of workers bribing agencies or managers to obtain work are good illustrations of how exploitation can happen. There are numerous similar exploitative methods known to be practised, such as restricting the hours given to a specific individual, paying wages to an intermediary who then deducts their share, or consistently giving one individual the worst jobs (Lewis, 2015: 116,118-119). None

of this is novel. Controlling access to work and denying sufficient hours are well known methods of exploitation (Scott et al., 2012:51-53).

Rejecting Assistance

The information collected for this study revealed victim attributes that seemed surprisingly different from those anticipated. In particular, it appeared that only some of the people exploited in forced labour feel like the oppressed and subjugated victims that might be imagined. In some cases victims do not perceive themselves as exploited. Clearly, this may well be the result of clever manipulation on the part of the exploiter. The evidence suggested that some individuals who would legally be classified as exploited and victims of forced labour, self-regard as having choice and control over their own lives. Marie, a police representative explained:

'In many, many cases you speak to the victims and they don't even identify themselves as victims. With nail bars for example they will be told that they're coming to the UK to do their training in nail treatments and things and so they'll be there 4/5 years down the line ... and you speak to them and they're like "oh I'm here just doing my training," and they don't see the fact that they are being exploited and it actually is forced labour.'

Ellen from the Salvation Army made the same observations:

'They don't always realise that they've been trafficked or they are enslaved to begin with, because ... they're still hopeful that "OK I'll get paid next month - I'll get paid next month" so ... things are going to improve.'

If a person does not regard themselves as an exploited victim and does not feel scared or threatened, they are probably not motivated to change the arrangements. They may also have good reasons for accepting their situation. This presents an obstacle to an official attempting to challenge their position, 'rescue' them from their plight and initiate remedial action.

There is also evidence that some victims of exploitation can be sympathetic and supportive of their exploiter:

'In some cases there is certainly a Stockholm syndrome element going on, in the fact that the people believe ... that the offenders are their family and basically anything they do is for their family. They are one of them and therefore they can't do anything against that family because that's disloyal. ... It's a very common thing that we see.' (Marie police officer)

Bruce, the trades union official, offered some insight into the mindset of newly arrived migrant workers, revealing how their attitude towards their work situation can change over time. Importantly, he also pointed to a pragmatic acceptance of appalling working conditions when a migrant first arrives in the UK. These are tolerated because they are perceived as temporary, with the expectation that the situation will definitely improve in due course:

'The ... newly arrived migrant worker there's two things. ... Well the first thing is you just assume that if it's coming out officially on a payslip it must be about right. You just assume that the employer wouldn't be so obviously transgressing the law. It takes you a while to build up your knowledge that they are and some anger around it...'

Bruce continued:

'... but the other thing as well is that migrant workers tend to factor in for six months to a year exploitation in our experience. So again it's quite about consciousness. Often if you can speak to a migrant worker in the first few weeks, they may very well fully accept that they are being ripped off, exploited and in forced labour. But their attitude will tend to be, "Well I left a worst situation in Poland to come here. ... Of course I'm going to be exploited. Things will get better when I can get my family here and all the rest."'

Further:

'So you've got that period and we think it's six months to a year, where often - what I'm saying is - We can have mass meetings with people and convince them that absolutely what's going on is illegal and its forced labour and all the rest of it. "Leave it, I need to settle first." Once you understand, it's perfectly legitimate because they need to get secure accommodation, they need to find the community of other Polish and Latvian people and then we can begin to build. So often it's after six months at least that people are angry.'

Official considerations: coping with victims

In general, victims of forced labour are acknowledged to be very vulnerable people.

Forced labour victims are not identical, they are all different, with different needs and concerns. This presents officials with a multitude of challenges when they are investigating a case of forced labour. Victims can be too reticent or terrified to be interviewed, making it difficult to find out what they know or what has happened to them. Their vulnerability may make them uncooperative. They can be hard to rescue, make and keep safe. They might be very frightened, or even terrified, of their enslaver and worry what might happen to them or other people they care about if they assist the authorities. They might have their own reasons for not wanting to comply with officials who are intervening and trying to get them out of the situation (Lewis et al., 2015:23,40,181,189).

Unfortunately, for many victims of forced labour, exploitation can be just one of their problems. Frequently they are also illegal migrants, undocumented people, refused asylum seekers and so on (Lewis et al., 2015:173). For such a person, encounters with the authorities will not simply result in freedom from exploitation. It will also possibly mean, for example, exposure as an illegal migrant and that could lead to deportation from the UK.

Officials attempting to identify and rescue people from a forced labour environment have to acknowledge all these factors and plan how they will take them into account in

their investigations. GLAA inspector, Tricia, explained their organisation's carefully considered method of dealing with potential victims of forced labour. The GLAA select individuals for interview and further discussion in an apparently random and round-about way, designed to prevent any one person from feeling specifically picked out.

Police officer, Marie, also described a very vulnerable person who was in such a desperate situation, that he requested arrest to avoid giving the impression to his enslaver that he was volunteering information to the police. With respect to the identification of victims of forced labour the officer explained:

'you think it's obvious and you speak to someone and they make no disclosures to you, and they're quite adamant that their situation is fine. They do not want help and then that kind of throws off your senses a little.'

Continuing:

'It's never easy to make a decision, because there is a huge amount of risk involved. If you are looking at intelligence about something and Joe Bloggs is apparently on a site and he's being told to do this that and the other and he's been forced into it, we have a huge amount of risk involved. Because if we go and talk to him on the site are we subjecting him to risk. ... If we remove him and then release him from police custody or whatever are we putting him at risk. If we remove him and he doesn't want to talk to us are we putting him at risk- and so the decisions are not easy ... it's just what is the best course of action, where we can reduce the risk to that person.'

The Salvation Army cares for victims of forced labour from the point of rescue onwards until the victim chooses whether to enter the NRM. Their officials interview the victims and complete the paperwork for the NRM. They regularly find clear evidence of fear and the intimidation of victims:

'Usually... they have been intimidated, they may well have been beaten and starved and malnourished. They definitely get maltreated. So there is this sense of being scared witless by their traffickers, their exploiters. So, they do

have a fear of being caught and re-trafficked and re-exploited. So that's one reason why, if someone is rescued in the south, we tend to send them away from the south so that we can try to remove them from the area that they've actually been exploited in. Yeah they are vulnerable to the traffickers.'

Fran and Ellen also related another reason why some victims are not keen on being rescued:

'with victims ... who have been used in labour exploitation, sometimes it is actually difficult to convince them to come into the NRM. Partly because, even if they've been abused, even if they've only been receiving a few pounds per day, even if they're in horrific conditions, at least they're getting something. And often they're plied with alcohol or maybe even drugs and for them to be removed away from that kind of dependency situation - They suddenly don't have their alcohol, they don't have their drugs and they don't have any income. Once they come into the NRM they are cared for but they can't earn any money. And so for men who have told their families they are coming over to the UK to earn money to send it back home, sometimes it's difficult to persuade them to actually come into the NRM even though they are victims of slave labour.'

Police officer, Marie confirmed this tendency: *'all these workers want to do is work'*. In these cases, the hands of enforcement and support agencies are sometimes tied as Ellen and Fran explained:

'There are frustrations. There are concerns because they are vulnerable. But there's nothing we can do about it, because they've got a freedom of choice and if they don't choose to engage, nobody's going to force them. ... You can't do it. So if they choose to go back, even if you know they are choosing to go back to their exploiters... if there's not enough evidence for the police to arrest those exploiters, there's nothing that anybody can do.'

It seems that in some cases, a victim's reluctance to enter the NRM system stems from indoctrination by their exploiter. Fran and Ellen from the Salvation Army relayed information obtained from the GLA :

'Well I guess if you've talked to the GLA they will tell you that they actually tell their, the men, that if you get picked up by the police they'll take you to a room, they'll sit you down at a table, they'll start asking you questions about your age, your name and actually the traffickers will outline the process of form filling but - and then they change the story - and then they'll throw you into prison. So as this all unfolds so the trafficked person thinks "Ah its coming true". They said it would happen.'

Obviously, any vulnerable person being interviewed as a precursor to entry into the NRM would have no reason at all for doubting the truth of the story their exploiters told them. Fear of imprisonment would be a real and compelling reason for avoiding entry into the NRM. Marie, the police officer had also come across this subtle form of coercion, whereby the enslavers make the victim very scared of the police, or any other of their potential rescuers. She explained:

"oh yeah the police here can't be trusted they're like the police back home. You can't go to the police here" - and they enforce that'.

As with the GLA, the police have also considered ways in which they can communicate with possible victims of forced labour without intimidating them or exposing them to retribution. For instance, in one area they approached this problem obliquely using intermediaries - a method also advocated by Kevin Hyland, the Independent Anti-Slavery Commissioner, in his annual report (2016:19). Marie described the approach:

'It's really so important for us to work with partner agencies like the NHS and like homeless shelters, because the NHS... You might have somebody that walks into an A and E to receive treatment and they're not going to give you a real name, they're not going to give you a real address, they're not

going to give you real details. They're going to get treatment and they're going to leave. There is no interaction with law enforcement, and yet you've got staff there, doctors, nurses that could be going hold on that's funny ... and you could take them off for an x-ray and say have a little chat with them. Just a generic chat while you're waiting. You can gain a lot of information. So we've been doing work with doctors and nurses in those emergency departments and saying, "These are the things to look for", and we do have people, like doctors that have gone "Oh my god I've seen that".'

The accounts provided by respondents to this study reveal how complicated it can be to assist a victim of forced labour. They illustrate the many considerations that officials have to take into account to optimise the chance of a successful outcome. Obviously, it could be counterproductive for anyone to attempt to intervene with a victim in this way, without proper training and a thorough knowledge of all the implications. The possible pitfalls of tackling a forced labour situation without a good understanding of the complexities, was illustrated by the conversations with some respondents to this study.

On being asked what she would do if she came across an example of forced labour, Natasha, an EHO was clearly uncertain:

'Up until this point, I didn't know that it was the police that dealt with it. So I don't know to be honest. I mean if it was forced labour with a minor, so they're in full time education, then I would probably refer it to [the] County Council, because they're the ones that deal with employing under age children. And they would do the permit for an employer and set down the number of hours and such like and make sure the parents were involved. But I don't actually know what I would do if I came across an adult in that position. At the moment, because if I thought it was perhaps an illegal immigrant, then I would contact the Border Agency.'

She continued:

'But I don't know what I would do if it was an English speaking person. I'd be a bit, because you've got to be careful, because you could lose that per-

son a job. If you say well actually you're exploiting that person and that person might not want you at that point to intervene. I guess you've got to think of a lot of things haven't you.'

For perfectly understandable reasons, this officer could have blundered into a forced labour situation, and then dealt efficiently with the issues she perceived as crucially important. So in this case for example, it is likely that the EHO would regard under age employment and the presence of an illegal migrant as the critical matters to be tackled. In reality, this would mean that because she did not recognise the presence of exploitation, the victims of forced labour would not be identified, and may not have been taken out of that situation - and the perpetrator would escape punishment because the case was not referred to the police or the GLAA.

In addition to simple ignorance of forced labour, officials often find themselves in a quandary regarding the illegal status of many of the victims. As Anna another EHO explained:

'I feel sort of - I suppose two ways about the whole thing because, in many respects I look at the immigration side of things as protecting the workers because they are getting exploited. But obviously, you know, their predominant aim is to make sure that they're legal to work here or not legal, and if they're not then its like "well we'll send you back to wherever it is that you've come from", which doesn't necessarily sit well with me as a, you know, from a sort of moral point of view I suppose.'

Victim as witnesses

It is evident that victims will require some kind of care and consideration after they have been 'rescued' from a forced labour scenario. The state also has legal obligations to that effect. Additionally, officials inevitably hope that victims will become witnesses in legal proceedings taken against their enslavers. Victims do have a choice in this and they are not necessarily compliant. A victim of forced labour cannot be compelled to be

a witness and cannot be made to stay somewhere safe and secure until required by the court process. In reality, court proceedings may not commence until several months after the rescue.

Official guidance recognises the vulnerability of a modern slavery victim. In the *Human Trafficking, Smuggling and Slavery* section of CPS guidance (CPS, 2016) it is made quite clear that careful consideration should be given to victims of modern slavery. Advice is offered on the arrangements that should be available to protect potentially vulnerable witnesses, such as provision for giving evidence by video. Haughey's review of the *Modern Slavery Act* reinforced this point (2016:14).

The GLAA inspector, Tricia, described the issues that need to be considered when trying to keep victims safe after rescue, often for a considerable time. The problems include deciding on where the victims should be taken, where they should then live and just as importantly, whether or not they can be found appropriate work. It has already been explained that victims often simply want to work. There is also the task of trying to sustain, in whatever arrangements have been made, a victim who the police hope to depend on as a witness in a prosecution:

'Our biggest problem ... is maintaining contact with that victim. It's certainly an area that needs to be tightened up, from the police, from all of the agencies. If you've got ... your witness, its maintaining that witness for a considerable length of time before they will actually get to give evidence. Now there's all sorts of possibilities. Can they go home and be supported at home and then make themselves available? ... or do you keep them within this, within the NRM/safe place? ... but it's still trying to maintain that contact and they could disappear at any time.'

This is clearly problematic - and not just for the victim. Tricia explained:

'So what you've got is thousands and thousands of pounds spent on multi agencies all joining together to do an extraordinarily expensive operation and it all hinges on maintaining your witness to give evidence. And we have lost quite a lot of cases by the witness either changing their mind at the end of the process and/or just disappearing.'

Tricia elaborated on the practicalities involved:

'From a practitioners point of view, it can be quite frustrating to try and get through to the right person to get support, and then you've got the practicalities and the mechanics of getting that person from A to B., its very nice that you're going to have a little old lady who's volunteered and she's going to drive a car. But you don't know who you're putting in your car. You have to manage that.'

She continued:

'And I've found that workers ... they're actually given an allowance to spend, will spend it on drink. So then I would travel hundreds of miles and lunchtime or late morning and they would be drunk from the night before. So I'd end up waiting in the afternoon to see if they could speak to me and of course, as you know, the efficacy of taking a statement, that person has to be competent and able to make that statement.'

The complexity of the considerations when rescuing a victim is obvious from this description. The adverse impact on any legal proceedings of rescued victims declining to give evidence or simply moving on is also apparent. Interestingly, this problem has been addressed by the CPS. As Marie from the police explained:

'In most cases, the CPS guidance to law enforcement is to proceed as if you have no victim and to gather evidence as if you have no victim. [It is] very very difficult, yes, which is why it's so difficult to get a conviction because in most cases victims won't support you.'

Conclusion

The research conducted for this study did not reveal anything radically new about the ways in which people are exploited or the types of employment associated with ex-

ploitation. What it does suggest is that forced labour may be more widespread than previously recognised. Significantly, the evidence analysed in this section shows that the crime of forced labour continues to be perpetrated in the UK with workers exploited using the same methods identified in previous studies. The research produced many examples of exploitation including poor standards of accommodation, instances of wages withheld, workers moved en masse from workplaces, underpayment and cases of excessive hours of work, with people exploited in industries from construction and food to nail bars. The evidence also confirmed exploitation in illegal ways too, such as growing cannabis, benefit fraud and street crime. The evidence confirms forced labour is practised in a wider range of industries than those overseen by the GLAA.

What is of particular value is the fact that respondents to the study provided accounts that build upon our understanding of how exploitation happens and how it is sustained. Notably, they reveal how exploitation is facilitated through perpetrators taking advantage of legally acceptable devices such as zero or tiny hours contracts, employment agencies and official wage structures. Importantly, the accounts also reveal how methods of exploitation subtly change in response to investigative efforts and also how forced labour has evolved over time.

It is clear from the interviewees' responses that many different government officials, as well as trades union officials, have encountered work situations that suggest a high probability of involving forced labour, or at least very exploitative situations, but that no remedial action was instigated, mainly because of a lack of awareness of what they were looking at.

Chapter 7: DETECTING FORCED LABOUR SITUATIONS

Introduction

This chapter explores the challenge of spotting forced labour in practice and examines the factors that contribute to making identification of the crime difficult. Reliable and rapid identification of forced labour is a prerequisite to dealing with the crime. If it cannot be identified quickly and confidently, ideally at the precise moment the circumstances are encountered, then the task of bringing the perpetrator(s) to justice and liberating the victim(s) becomes much more difficult.

In reality, forced labour is not straightforward to identify. It might be imagined that this abhorrent practice, compelling people to work against their will, would be easy to recognise whenever it is encountered. It would seem reasonable to think anyone could see immediately that such exploitative employment falls far short of decent work. In practice, it is hard for anyone to be confident when they come across what seems to be forced labour, that that is indeed what they are looking at. This chapter explains why the vague legal definition of forced labour is not useful in practice. ‘Indicators’ used to identify forced labour are similarly unhelpful because the majority of them cannot simply be observed and instead must be determined through detailed investigation.

The predominant problem is the challenge of differentiating between a scenario that would qualify legally as a forced labour situation, from one that only involves some form of less serious exploitation. The prevalence of this difficulty was raised in the previous chapter. This chapter argues that features of the wider economy such as ‘gig’ economy jobs involving somewhat exploitative work and the widespread abusive kinds of employment stemming from employment agencies create a generally exploitative milieu. In turn, this obscures the presence of forced labour.

This chapter also considers factors that might improve the ability of officials to spot and identify forced labour. The benefit of having previous experience of forced labour and the advantage of being explicitly tasked with finding it are discussed. It is suggested that any official who has had previous encounters with forced labour enjoys an advantage over others in spotting the crime.

The importance of gathering and preserving evidence of a forced labour scenario is emphasised in this chapter. Prosecutions can only proceed if based on a foundation of good, strong, reliable evidence. The difficulty of acquiring adequate evidence is explained. Identifying forced labour is a time critical activity because evidence of an exploitative situation can vanish or the circumstances change rapidly, indeed, almost the instant they are found, thus limiting the effectiveness of any intervention. The necessity of the careful and meticulous methods the GLAA inspectors and police use to obtain evidence is also explained.

Identification: comparison with decent work and definitional consequences

A fundamental problem hindering the identification of forced labour stems from the legal definition of forced labour. The benefits of the broad and general legal definition have been discussed previously, (pp. 26-31 & 129-132) but the lack of a specific and precise legal definition means that officials and others have to work with vague descriptors of exactly what forced labour is in practice.

It has been persuasively argued that it is unhelpful to think of forced labour in binary terms with its opposite being ‘not forced labour’. Similarly, considering forced labour in terms of free or un-free labour is also inadequate (Skrivankova, 2010:16 &18). The idea that there are just two types of employment comprising two simple sets of opposing conditions, does not accord with reality. Using a binary concept does not take into ac-

count the kinds of employment that clearly fall short of decent work and involve, to a varying extent, some element of exploitation. The numerous descriptions of less than decent, and at least somewhat exploitative, work described in the previous chapter, were examples of real employment practices perpetrated in the UK. They were recounted by the person who came across them. It seemed clear, they were all remembered because they were clearly not decent and acceptable work. However, no further action was taken, because it was not obvious to the person who came across the situation, precisely how unacceptable the particular work scenario was.

One of the barriers to identifying forced labour in reality arises from the lack of a straightforward working definition that can be clearly and easily applied in practice to a work situation. It can be helpful to use the concept of decent work as a benchmark for assessing a work scenario through simple comparison. The ILO characterised decent work as ‘productive work under conditions of freedom, equity, security and dignity, in which rights are protected and adequate remuneration and social coverage are provided’ (ILO, 2006:15). However, there appear to be many undefined work situations that fall between the two extremes of forced labour on the one hand and decent work on the other. This means as Skrivankova argued ‘that there is no objective and clear line demarking the beginning and the end of one form of exploitation from another,’ continuing ‘forced labour can also be seen as the extreme form of exploitation when compared to ‘lesser’ forms of exploitation (namely violation of labour laws)’ (2010:17-8). Although Lewis et al., reluctantly found the legal definition of forced labour defensible for enforcement purposes, they otherwise regarded ‘such a neat distinction between forced labour and highly exploitative working conditions as unhelpful’ (2015:12).

Skrivankova proposed the concept of a continuum of exploitation to encompass the many different types of employment from decent work through various degrees of exploitation to forced labour (2010:18). She asserted that the scheme had benefits and helped 'understand the individual reality, identify the most appropriate remedy and to probe structural causes and underlying problems that allow for various forms of exploitation to occur' (2010:21). Although this description is helpful because it reflects reality, adopting this approach still has limitations from both an enforcement and identification point of view. Whilst the many degrees of exploitation and the most appropriate remedial action are acknowledged, unfortunately it does not help anyone to clarify what they are dealing with when they encounter, in practice, an exploitative environment in a workplace.

An official cannot quickly and easily place a particular example of unacceptable work in the appropriate place on the continuum. Whether using the continuum approach or not, sufficient time is required to analyse the elements of what has been encountered in an exploitative workplace, determine the severity and then consider the appropriate location on the spectrum and therefore decide on the appropriate response. The information presented in this study showed that a potentially exploitative scenario could change very rapidly, making it difficult to conduct the thorough assessment required. Sound and reliable evidence of what has happened is essential to determine whether or not the workplace was exploitative and whether the nature of exploitation amounted to an instance of forced labour. It is very difficult for an official to make this decision if vital evidence has vanished or is otherwise no longer available.

It seems that the changes in a dubious work situation often happen instantly, at the time of its discovery. Numerous examples from the recollections of the respondents, de-

scribed how at the moment of discovery, the workers present vanished immediately the official entered the workplace, ran away and never returned. If a person runs away, it is almost impossible to establish their motives. Their reasons can only be guessed without the opportunity to have a proper discussion. They could be a victim, perpetrator or witness. Their motives could be anything, ranging from fear of authorities, possibly because of some kind of illegality, owing money to the revenue, or being a victim of exploitation. Obviously, it is impossible for anyone who comes across this circumstance to take any action without more information.

The difficulty of identifying forced labour, by application of the legal definition only, was acknowledged by the ILO, who addressed the problem by introducing forced labour indicators (page 23). Unfortunately, it seems that, in practice, it is equally difficult to apply and use the indicators to confirm the presence of forced labour. Many of the indicators cannot be just observed by someone simply looking at the working environment or living arrangements. Instead, they have to be determined and assessed through detailed investigation of each situation. For example, it might be obvious from a victim's appearance and demeanour if he or she has been subject to physical violence. There might be signs of injury. There might be visible evidence if a victim is confined or restrained, such as a locked premises, that the victim is clearly unable to leave. An official might happen to be present to overhear and see a victim threatened and intimidated. Similarly, there might be clear visible indications that a victim has been *compelled* to live in unacceptable accommodation and not allowed to make an alternative arrangement.

None of the respondents interviewed recollected hearing workers being audibly threatened and there were no reports that anyone had actually observed workers suffering

physical violence. However, there were reports that workers had been seriously injured in the course of their work, and that their colleagues had attempted to obscure the circumstances by dragging victims away from the accident location. The reason for this cruel treatment was not established, but it is clearly not decent and it seems very likely that it might have been related to some form of exploitation.

There were plenty of recollections obtained for this study from various officials, working in different parts of the UK, who had seen beds and bedding in commercial premises and cellars, and other grim, dangerous and dirty residential provision. This was clear visual evidence of abusive living conditions, a forced labour indicator, but in the absence of further evidence, it formed inconclusive proof by itself. There was no evidence to confirm that the workers had been compelled to live like that.

Unfortunately, many of the forced labour indicators, such as debt bondage, withheld wages, retention of identity documents, excessive overtime, abuse of vulnerability and deception cannot be simply observed. The existence of most of these forced labour indicators can only be confirmed through detailed investigation of the business practices and the individual's work contract and arrangements. A discussion with a potential victim would be required, so questions could be posed about all aspects of their work, to establish the necessary information. Alternatively, information about the work situation has to be obtained by interrogating witnesses or employers, or by a very thorough and protracted inspection of the living and working environments, the business books and possibly in very suspicious situations, through covert observation. GLAA officials are required to conduct this type of thorough investigation. They are therefore in an ideal position to find out the information that allows them to determine the use of forced labour. Any other official or person is not in the same position.

Further, it seems that evidence of unacceptable work circumstances can be ephemeral and vanish rapidly even after it has been recorded and used as a basis for initial enforcement action. Various respondents described occasions when they had initiated enforcement action requiring remedial measures to be taken, but subsequently discovered circumstances had completely changed. Protagonists or vital evidence used as a basis for legal action disappeared. For example, the ownership of the premises or business in question might have been transferred to another person within days. Similarly, an entire overcrowded house full of workers vanished overnight. If crucial evidence about ringleaders and perpetrators, or victims, or the situation itself is no longer available, this effectively curtails or prevents further enforcement action.

Working practices masking Forced Labour

The “Gig” economy

It is easy to see how features of the current UK working environment obscure and camouflage the presence of forced labour and make it much less obvious. The prevalence of poor standards of employment blurs what should be a clear demarcation between decent work and exploitation. Some parts of the present commercial and industrial environment appear to be riddled with so called ‘lesser’ exploitation. This is the kind of work that cannot be described as decent work because, to some extent or in some respects it falls short of that standard.

Lesser exploitation is an umbrella term for the kind of working conditions that breach some requirements of labour laws and clearly do not meet the standard of decent work.

There are various ways in which workers are treated unacceptably, such as terms of employment that result in pay falling below the minimum wage, no or inadequate contracts of employment or contracts for either zero or tiny hours. To some extent these practices are endemic in the current UK working environment, which has the effect of normalis-

ing lesser exploitation and making it appear unremarkable. There also appears to be general indifference in the wider population and no evident concern at all about the conditions in which people are obliged to work.

The so-called gig economy has been widely promoted as beneficial to industry and it is perceived as an ideal solution to many problems for both employers and workers. For example, gig economy type jobs are promoted as allowing workers to pick up a job, or a second job, with convenient hours that fit into their available free time. Alternatively people are encouraged to make use of their assets, such as a car, by doing some taxi work in their spare time. In the same way employers can hire and fire workers as required to meet peaks and troughs in their business activity. Evidence to this effect was given to the Work and Pensions Committee by the managing director of Deliveroo, Dan Warne, Andrew Byrne, Uber's head of public policies and Carole Woodhead, chief executive of Hermes (HoC, Work and Pensions Committee (HC 847), 2017a). Gig economy type jobs have been characterised as 'an alternative to a job with sick pay, holiday pay and protection against unfair dismissal.' They are renowned for exploitative type work practices such as constantly being subjected to last-minute scheduling (Stern, 2017).

The evidence to the Work and Pensions Committee was given by senior executives at the new and high profile companies that exemplify the gig economy, namely the delivery companies Hermes and Deliveroo, and the taxi firm Uber. It appears that people working for these companies, in practice, have unreliable and often limited hours of work, none of the benefits associated with permanent employment such as sick and holiday pay, and pay terms that mean they earn less than the minimum wage. Pay can be calculated on a small fee per delivery basis and mileage rates can be reduced subsequent

to initial agreements (Khaleeli, 2016). People can also feel compelled to go to work regardless of personal circumstances, in order to retain their jobs (Booth, 2016).

The number of workers employed in these kinds of companies is considerable. For example, in a 2016 employment tribunal, it was stated that about 30,000 drivers worked in London for Uber, with 40,000 in the UK as a whole [Aslam & Farrar & others v Uber B.V et al., 2016]. Significantly, dissatisfaction with conditions of work have been sufficient to provoke workers into taking legal action to improve their circumstances for example in the cases of both Uber and Hermes (Booth, 2017). Again, the prevalence of workers employed in less than decent work accustoms everyone to this kind of employment and makes it feel normal and less unacceptable.

Agency Work

The adverse impact of employment agencies on conditions of work has already been discussed. These perfectly legal undertakings provide opportunities for exploitation, primarily by controlling access to work. A recent report *Secret Agents. Agency workers in the new world of work* described the current position of agency workers in the UK, and offered insight into their numbers and status. It estimated that there are about 865,000 workers employed through agencies, a figure which incorporates 340,000 employed in temporary agency work as their main job and 440,000 permanent agency workers (Judge & Tomlinson, 2016:4-5). Curiously, there is a further group of agency workers (66,000) who classify themselves as self employed, who are linked in the report with other 'insecure workers'. The report explains:

‘Those classified as employees are entitled to the full suite of employment rights (although enforcement can be a challenge); those with worker status forgo some entitlements in return (at least in theory) for greater flexibility; and those deemed self-employed trade off almost all their protection under

employment law in return for the control that working in this way (supposedly) brings' (2016:5).

Obviously, it is reasonable to conclude that a significant number of workers in the UK are employed through employment agencies, with the expectation that this number will rise to more than a million by the end of the decade (Judge & Tomlinson, 2016:4).

Many of these workers appear to be engaged in less than decent work. The report found that a greater percentage of agency workers (14%) were on zero hours contracts than the national average of 3%, that 6% of agency workers regarded themselves as under employed, and critically:

'found that there is a significant pay penalty attached to being an agency worker, with only little evidence to suggest that other features of this way of working compensate for this loss' (Judge & Tomlinson, 2016:40-41).

Evidence obtained for this study supported these conclusions. A trades union official, Bruce, explained:

'in general terms anyway if you are a youngster looking for your first job, or you are made redundant in your 30s 40s 50s and looking to get a job, almost nobody now walks straight into another job. It's everyone's experience you have to go through an agency or bogus self employment or self employment.'

He continued that it was very unlikely:

'In most of the country that a youngster's first job is with an employer, a 40 hour week or 35 hour week. It's mostly on a tiny hours contract, zero hours contract with an agency three four hours.'

He attempted to quantify the extent of the problem:

'What you might call, for want of a better term, student jobs have gone from maybe 2% of the workforce to 20% since 2008. So it's growing, it's huge. ... They've replaced unemployment with underemployment ... But the biggest problem most workers have at the moment ... is not enough hours.'

The proliferation of agency workers with poor quality conditions of employment makes it more likely that officials will encounter individuals in this type of work, that is to some extent, or in some way, less than decent.

Another well publicised example of unacceptable working conditions was discovered in the warehouse of the company *Sports Direct*. An undercover investigation revealed that temporary workers were effectively paid below the minimum wage because they were required to stay behind after their shift had finished and wait, in their own time, to be thoroughly searched. At the time 80% of the staff were also on zero hours contracts. The company also operated a controlling and demeaning regime that subjected workers to ‘six strikes and you’re out’, prohibiting excessive chatting, errors, excessive or long toilet breaks (Goodley & Ashby, 2015).

Similarly, Carole Cadwalladr, a reporter went undercover to work in an *Amazon* warehouse as an agency worker. She was subject to a 50 hour working week and was expected to walk about 15 miles per shift. She described poor conditions of work:

‘everything is pared to the absolute bone – from the cheapest of the cheap plastic safety boots, which most long-term employees seem to spend their own money replacing with something they can walk in, to the sack-you-if-you’re-sick policy, to the 15-minute break that starts wherever you happen to be in the warehouse’ (Cadwalladr, 2013).

Withheld wages, underpayment and unfair deductions

Issues around being paid less than expected or reductions in anticipated pay, being paid nothing or only a little money in wages as well as being required to work excessively long hours over long periods are indicators of forced labour (GLA, 2015:9-10). However, these same indicators could also reveal a straightforward cynical failure to comply with legislation governing hours of work and the requirements of the national minimum

wage. The failure to comply sometimes happens with the connivance of the employee, who expects to avoid paying any income tax or other deductions, by agreeing to a particular arrangement. Failure to pay the minimum wage is an example of what has been called a lesser form of exploitation. There are many kinds of work that appear to consistently pay less than the statutory requirement.

It is apparently commonplace in the pub and restaurant trade to oblige workers to work the last hour for no pay while the cleaning up, putting away and cashing up is completed. The workers feel pressured to comply with this in order to keep their jobs. This arrangement seems to be universal in the UK and is almost certainly exploitative but may not be forced labour, because the workers can choose to walk away and the coercive element is therefore missing. However, the extent to which any worker in this type of job is entirely free to walk away is arguable, because many live such precarious lives that they depend on the income to just survive (Lewis et al., 2015:2).

In a contribution to this study, an EHO in the north of England, Natasha, outlined the plight of some workers:

‘Certainly in the catering industry, because sometimes it’s minimum wage, sometimes it comes across like it’s cash in hand and you think ooh long hours and you always hear the anecdotes about “Well we’ve got to stay behind to clean. We’re not paid to clean” and stuff like that’.

Bruce, a union official, was also familiar with this type of exploitation associated with the food and drink industry:

‘If you get a job in a local Yates’s wine bar or one of the cafes on the forecourt of Euston station, you’re in exactly that situation. Typically a lot of young workers working in pubs now will be told. “Well you’ve got to stay to 12, but we’re only paying you till 11. If you don’t do that extra hour for free - locking up - we won’t call you again.”’

An HSE inspector, Frank, recounted a personal experience:

*‘It’s like my son ... I was amazed. He was about 18 or 19 ... Got a job in a bar and they said well do the first shift ... (it) will be a training shift and training won’t pay you, and the second day was a second one and then the third day. ... I said to him ... they’re taking the **** out of you, ask for some money, and he did and he didn’t get any more shifts. So he had three days unpaid labour. The implication being that this pub does that fairly regularly.’*

Withholding wages during a training period has been described as ‘one of the most common experiences of withheld pay’ and the practice of not paying ‘forms one of the most serious and commonly experienced mechanisms of forced labour’ (Lewis et al., 2015:60-61). Unfortunately, it is very easy to perceive withholding wages and ‘working the last hour for nothing’ as just the behaviour of a greedy and unscrupulous employer and the price that has to be paid to retain a job. If a worker looks at the situation from this perspective, the conditions can be perceived as reluctantly tolerable.

Many union officials have direct knowledge of irregular arrangements with respect to wages and pay. Bruce explained another common way in which wages are controlled:

‘Generally speaking if you find somebody tells you my wages are paid to the village elder in rural Goa, you know that there is something going on. ... and then often that conversation can lead into, it’s likely you are unpaid what is your accommodation like and that.’

UCATT publicised a case in June 2008 that despite being historical provides a classic illustration of the issues in this type of wage exploitation. The men concerned were paid inadequately and were charged excessive amounts for tools and living accommodation.

It was described as:

‘a case of appalling systematic abuse of vulnerable migrant workers on a PFI hospital in Mansfield.....some workers took home just £8.80, after

working a 40 hour week. Dry lining subcontracting company Prodom employed the dozen Lithuanian workers. The workers were paid below agreed minimum rates for the site operated by Skanska, 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....The workers were initially scared of approaching the union because the company also provided their accommodation' (UCATT, 2008).

Another example surfaced during the preparations for the 2012 Olympics. Bill, a union official described the situation:

'There was a couple of Bulgarian workers and they were just - you know basically the agency knocked them for the last two weeks pay. Just said well we're not going to pay you. You know at that stage you just embarrass the companies involved.'

'Bogus' self employment has also been a particular problem in the construction trade, where traditional protections have been gradually eroded and where it has enabled legitimate labour suppliers to be undercut by more exploitative ones, but it is clear that the malaise is now spreading across a range of sectors (Elliott, 2012).

The notorious pay arrangements for home care workers have received national publicity, because the way their pay is structured means their overall wage does not meet the requirements of the minimum wage legislation. These workers are paid at the correct hourly rate for the time they spend with clients but they do not get any money for the time they have to spend travelling between visits. This means their pay for the total time they have to spend working falls below the minimum rate. It is claimed 'that more than 200,000 care workers are receiving illegal wages' as a consequence of this practice (Merrill, 2016). This is another example of the endemic nature of lesser exploitation.

Remarkably, it appears that all these exploitative pay arrangements tend to be helpfully recorded in completely accurate and truthful payslips. A union official, Bruce, found this quite surprising:

'payslips almost always tell you everything. They tell you everything because there is such a level of confidence by these gangmasters, employment agents, ... the payslips invariably have everything in front of you. They'll have deductions for agents ... it's insane if you think about it. It's almost as if, and I don't want to look a gift horse in the mouth because this is mostly how we get them ... It's almost as if they've decided their massive transgressions of every other law can be out weighed against their minute detail in payslips.'

Just how commonplace the practice of below minimum wage payments is, can be gauged by the most recent government 'naming and shaming' list of almost 200 employers who failed to pay the minimum wage. Between them they owed £465,291 in pay arrears (Department for Business, Energy & Industrial Strategy, 2016).

This information shows that collectively, many thousands of workers in a variety of jobs all over the UK, are subject to exploitative pay arrangements. The significance of this extends beyond a simple failure to comply with the national minimum wage provisions. It is a further element in a generally exploitative working environment that conspires to make lesser forms of exploitation at work feel normal. The prevalence of this type of so called lesser exploitation obscures the presence of any forced labour.

Officials with experience: identifying forced labour in practice

In practice, GLAA officials are in a better position than any other official to identify forced labour in the workplace, because their legal duties require them to proactively assess a complete working environment for evidence of forced labour. Historically, the GLA worked exclusively in agriculture, forestry, horticulture, shellfish-gathering and

food processing and packaging industries. Their duties have been partially extended by the *Immigration Act 2016*.

The GLAA remains the agency responsible for enforcing the legal provisions governing the licensing of gangmasters. The legislation required their inspectors to conduct a thorough, detailed examination of all aspects of a gangmaster's working arrangements, in order to assess compliance with the prescriptions of the *Licensing Standards*. An inspector is obliged, inter alia, to ensure that the national minimum wage is paid, that workers are provided with an itemised pay slip, that the worker retains possession of his identity documents; to ensure that workers are not coerced or subject to mistreatment or threatened; that legal working hours and breaks are observed and that where provided, accommodation is safe (GLA, 2012). Many of these standards are exactly the same as indicators used to identify forced or exploited labour. In effect, GLA inspectors proactively examined an entire workplace for forced labour indicators.

The police also have a very significant role with respect to forced labour, because they are currently the only officials who prosecute the offence. They have experience of investigating cases of forced labour, collecting evidence and presenting prosecutions too. Interestingly, this process is not regarded as particularly easy or straightforward. Marie, a police officer, implied that the challenges of prosecuting a forced labour case arise because of the elusive nature of the legal definition:

'human trafficking, including slavery, can be very difficult to prove and so we will always look for other things as well. So we may look at fraud or money laundering or just no insurance on the car or any other ways to tackle that offence. Because ... the legislation is very, very tricky to get round and to prove.'

This scattergun approach to enforcement was supported by another officer, Mark, who described forced labour offences as ‘less easy to prove’ and also indicated a preference for using alternative charges of rape, domestic abuse, assault, false imprisonment and kidnapping instead. This policy of prosecuting alternative offences is designed to ensure that perpetrators are brought to justice one way or another.

Even when individual police officers have some knowledge or understanding about forced labour, they may need support from more experienced officers to help them to make confident decisions about what they are actually looking at. Marie explained:

‘They’ll contact me and say “Look this is what we’ve got what do you think it is? What do you think is going on here?” - and we can put it into context for them and just say “Have you got these elements involved?” ... and then they will go to CID and a senior investigating officer will make relevant decisions around that. ... If it’s say a referral that we’ve made, we’ll get CID to be involved from the beginning. If it’s a uniformed officer, he will phone up and speak to the duty sergeant in CID and refer it to them ... They know where they need to go... to put everything in context for them.’

First Contact

It is not clear how the majority of cases of forced labour come to the attention of either the police or the GLAA. Certainly there is evidence to show that the GLAA pick up exploitation cases through their routine work. There is also evidence to suggest that some cases are not encountered randomly in the normal course of police or GLAA duties. Instead it seems that matters of concern, such as intelligence about unsatisfactory work situations are brought to the attention of the authorities. Mark, a police officer, described gaining information from ‘proactive police work in response to intelligence’ about brothels or caravan sites, with victims coming to the attention of the police because ‘something bad happened’. For example, intelligence could show that victims were mi-

grants, had been arrested for shop lifting, were linked to a dubious caravan site and were then found to be working under duress. Marie explained how they respond to the information they have acquired:

'It could be that we are getting multiple pieces of intelligence about, for instance, a nail bar or something and so therefore we will start our own investigation. It doesn't necessarily involve another agency. If we've got enough information to suggest there's something there, we can start our own investigation and deal with it ourselves. ... It could be that somebody goes in to have their nails done and is not happy with the situation that's going on in there and they phone in to Crimestoppers or they phone into the police directly and tell us about it and we'll go "Actually that matches up with something else that someone else has told us."'

The GLAA also make use of intelligence. Tricia described possible sources of information about cases of forced labour:

'people disclosing, by intelligence taken from others, from different sources and really worker interviews and people creating relationships with certain sort of agencies and individuals who ... pick up the phone and say .. "this is happening - I don't think its quite right" ... and one of the most effective methods we've found is this Stronger Together'

Stronger Together is a multi agency initiative that is primarily directed at 'tackling modern slavery in supply chains'. The stakeholder partners are predominantly associated with the food industry and include the GLAA, the Association of Labour Providers (ALP), all of the major supermarkets as well as many charities such as Migrant Help. The initiative's multi lingual website offers links to training provisions and resources about forced labour and provides a forum and up to date news. Most significantly, the home page of the website highlights the need to report hidden worker exploitation, setting out a simple list of the situations that warrant reporting, together with the ways of doing this (*Stronger Together*, 2017).

It is important to note too, that methods of investigation, that are the exclusive preserve of the police, are particularly helpful for conducting investigations into forced labour. Covert surveillance by CCTV, for example, was shown to be especially useful for obtaining evidence in one forced labour scenario. It enabled the police to discreetly observe and track vehicles and people coming and going on a remote site. This evidence was used to prove the movement of people for forced labour in a prosecution.

Despite the general perception that identifying forced labour is very difficult, unsurprisingly officials who have reasonable personal experience of it, can claim to find identifying a victim relatively straightforward. Although they also admit, that they too can feel less confident in some situations. As Marie explained *'it's not always obvious because of the environment you see it in.'* However, she elaborated:

'It depends I think on the experience of the person that's encountering it. Like for me, I think I would be more alert to that sort of thing, because I know things to look for. Whereas an officer that's maybe only had a little bit of training maybe not so much. So yes it can be quite obvious. You look for certain things. But in other cases you think it's obvious and you speak to someone and they make no disclosures to you and they're quite adamant that their situation is fine. They do not want help and then that kind of throws off your senses a little.'

In reality, it seems that it is never straightforward to identify a possible victim of exploitation and the recollections shared with this study, suggest this may well be the case, even for a trained professional tasked with the role. The crux of the problem has already been discussed, which is that the indicators and definition of forced labour are not sufficiently definitive on their own to be applied, with confidence and certainty, in practice. Supporting evidence, such as a victim or a witness providing details about their working and living arrangements, is required to substantiate any information obtained through

just observing the situation. It is apparent that gaining this type of evidence from a victim is not straightforward and their general reluctance to freely admit to their situation has, again, previously been discussed.

GLAA inspectors have certainly encountered workers who are reticent to admit that they have problems in their workplace. Tricia explained:

'We do a sample dip test on workers. We will talk to each worker. Very often some workers will say "Oh no no no everything's fine, everything's fine". But we will give them a card and very often it can be up to a year and they'll gather the necessity ... and they will make that phone call. "I need help ... can you come and visit me again" whatever.'

Tricia continued, giving a nuanced reply to a question asking how easy it was to identify a victim of forced labour:

*'If you've got one worker then you'll have lots of others. So it isn't just dealing with **an** individual ... Say you've gone to your building site you can see quite clearly that there's issues there. They're unwashed, they're unhappy, they won't have eye contact, they're only allowed to contact or to communicate with you through another person and that person always seems to be communicating on their behalf.'*

But she also explained that there were times when the signs were not so obvious:

'Sometimes yes, other times its more complex. ... The perception of trafficking / forced labour is that they are kept under lock and key, they're not allowed to move about without any supervision...they're not allowed contact with the outside world. The reality is that's not the case. Very often they will be given their passport back, very often they will actually have a bank card.'

This observation describes a classic misunderstanding, that stops many people from even considering the presence of forced labour. There remains a widely held belief among officials from a range of agencies that anyone enslaved will always be physically

locked up. This is clearly a significant factor in the failure to identify some cases of forced labour. As Marie, a police respondent explained:

‘There is a lot of confusion around ... police officers, they’re like: “well the gates were open, the door was open of course they could go.”’

It appears that this approach is an historic legacy, when it was normal practice to establish if a person had been locked up because this was the test of whether they had been a victim of slavery.

Workers with the Salvation Army, Fran and Ellen, were familiar with this method of assessing the legitimacy of a potential victim:

‘I think that used to happen and I think that’s the growing awareness that actually there are other ways of entrapping people. ... you know, to threaten the families is a very powerful way to keep people in this situation. ... I would say in years gone past, ... they would ask were you locked in? Could you have left the house or wherever? And if they weren’t locked in or physically tied ... then it was assumed that they didn’t fit the criteria. But obviously there are other ways of entrapping people.’

It is helpful to learn how meticulously and thoughtfully GLAA inspectors assess a workplace. Tricia outlined some of the arrangements she made when speaking to the workforce. The cautious approach described is intended to protect vulnerable people, gain their trust and reassure everyone in the workforce. Ultimately this enables a good picture of working conditions to emerge because the workers are made to feel confident enough to confide in the official and speak out. In this way, reliable corroborating evidence is also obtained. Apart from illustrating the care required when dealing with potential victims, this cautious approach suggests that it is not straightforward, even for experienced officials, to identify forced labour reliably or gather evidence. This is a

template of the approach that anyone else investigating this crime would benefit from following in order to secure evidence from vulnerable workers.

Tricia explained that it was vital to proceed very carefully when selecting a worker for a one-to-one discussion about their working conditions. There is a major problem. The simple act of picking out an individual worker draws attention to him/ her. This immediately makes them vulnerable and exposes them to potential harm, because the employer assumes they have complained or requested the interview. The respondent described the lengths GLAA inspectors take to protect the individual worker. The elaborate precautions emphasise the precarious situation of a victim of forced labour:

'You always talk to them on their own or if they don't want to talk to you at that time give them the ability to contact you. You never ever talk to a worker, if you can help it, in amongst other workers. You have to take them away and ... The process is, you will go into a pack house. You will ask the HR manager ... "Can I have a list of all your workers on site today." I will randomly pick workers. Usually I will give that list to my interpreter, whatever his or her nationality is: "Can you pick out the Slovaks, can you pick out the Czechs" or whatever and we will ask for a percentage number of those people that are employed that day to interview. Now that will be random and the first thing I will explain to the worker is that anything they say is in confidence and the only reason they've been chosen ... is randomly picking. OK - because they are very, very nervous that they have been singled out for a reason. If they speak to us they might have problems.'

Tricia continued:

'If I've conducted inspections and I've spoken to workers and if I think something's not quite right I will actually go back or go to their accommodation if they're in caravan accommodation or whatever in the evening after work. Very often, if they're in caravans on their own they're more likely to speak.'

She also described another, more covert method:

'You can never be sure, because we've actually had incidents when we've put people into the NRM and actually the controller is coming to the NRM as well. So you've got all your workers lined up and actually sitting in the middle of them is their controller. So what we very often do, is have extra interpreters. ... We do not identify to the workers that they are an interpreter and the interpreter reports what's being said. So then we know - we have an idea of what's happening'.

The police confront similar difficulties and are familiar with the same circumstances.

Marie referred to *'cases in the UK where the translator has been the trafficker.'*

It is important to appreciate the fear, anxiety and vulnerability of a victim of forced labour and the consequences for them of being picked out by officials. Any attempts to interview a victim to gain information or evidence, and any proposed intervention directed at rescuing a victim or dealing with exploitation must take this into account. Obviously, blundering, under prepared, into a forced labour environment without considering how the victims might respond or how to reassure them and make them feel safe, is unlikely to be successful and might well have disastrous consequences for the victims.

Marie from the police explained:

'It's never easy to make a decision, because there is a huge amount of risk involved. If you are looking at intelligence about something and Joe Bloggs is apparently on a site and he's being told to do this, that and the other and he's been forced into it, we have a huge amount of risk involved. If we go and talk to him on the site are we subjecting him to risk? If we remove him and then release him from police custody or whatever are we putting him at risk? If we remove him and he doesn't want to talk to us are we putting him at risk? So the decisions are not easy because we have to assess ... Obviously, we will take action. It's just what is the best course of action where we can reduce the risk to that person.'

A further illustration of the extreme vulnerability of exploited workers and their inability to be open about their situation was an example described by Marie:

'In one case we had a male that we were worried about. He was reported missing. He was on a site in another force. So the force sent a police officer to go and put eyes on him, because if you've got a person missing you have to actually go and physically see them to write that off. So they spoke to him for like a good 20 minutes and he was like "No no I'm fine, I'm quite happy here. This is what work I've been doing blah blah blah" ... and after 20 minutes he looked at the police officer and he begged to be arrested. So had she not been there for the 20 minutes ... she would've gone away saying "oh he was fine". But actually after 20 minutes he begged to be arrested, to be removed from the site and the only way that he could think of doing that without ending up being beaten was to look like he'd been arrested for something.'

The officer reflected:

'So it's not something easy at all. ... I could go and talk to someone and they'd be like "no I'm fine don't worry about me I'm all good " but actually ... so it's not something easy. I don't think it's foolproof.'

The fact that a person felt so vulnerable that they resorted to requesting arrest to protect themselves from their situation reveals their desperation. This incident also illustrates how unexpected and difficult encounters with forced labour exploitation can be and how hard it may be to confirm the presence of forced labour despite direct contact with a victim. If the officer had taken the initial reassurance offered by the victim at face value, the interview might easily have ended before the disclosure occurred. It would have been understandable if the officer had walked away after 10 minutes. This illustrates the barriers that have to be surmounted to gain the confidence of a victim. It is not straightforward and may take both time and reassurance before a victim feels confident.

The victims' point of view was understood by the trades union official, Bruce, who offered the following explanation for evasive behaviour:

'That's one of the other problems when you're going in and trying to find forced labour. The forced labourers themselves will hide it from you because it's rational. I think it is rational. Once you sit and really think about where they're coming from and what it looks like to them. ... We have to get them to a point where they are confident enough, secure enough and angry enough to do something about it.'

However, the same official also recalled that sometimes it was essential to abandon a cautious approach. He had experienced a situation when there was evidence that the risk to the safety of the victims was perceived as so great that immediate action was warranted despite the potential impact on the victims:

'You know somebody kicking the door down when you're locked in and fearful for your life ... it's not necessarily the way to organise people but we felt that the levels of exploitation, the obvious fire hazard was so much that we had to'.

The police respondent, Marie, offered further insight into victims' behaviour and suggested that it can be driven by other factors apart from fear:

'in some cases there is certainly a Stockholm syndrome element going on - in the fact that the people believe ... that the offenders are their family and basically anything they do is for their family. They are one of them and therefore they can't do anything against that family because that's disloyal.'

Victims found to be in this position will obviously require careful management to assist and encourage them to speak out about their experiences.

The available evidence clearly suggests it is often very difficult for anyone to be confident and certain when identifying forced labour. The task for GLAA inspectors is made simpler because they have both the legal power and obligation to scrutinise items like the accounts, wages books, and time sheets. These documents can be an important

source of information. They are also obliged to look at living arrangements. This gives them direct contact with evidence that they can assess for signs of forced labour. Unfortunately, any other official who visits workplaces is not in the same position. These officials do not have the same legal obligation or permission to examine wages books, find out about hours of work or discuss wider employment arrangements. Although in some circumstances, they may be obliged to go into these matters in greater detail, to prove, for example, the employment status of an individual worker. Instead, non GLAA or police officials have to respond to indicators that are either so blatant that it is impossible to miss them or subtle hints that things are not quite right. This makes the task of spotting forced labour in the normal course of their work, much harder for them.

A feeling that something is wrong

Many of the respondents to this study, especially government officials, described occasions when they experienced feelings or subtle hints that things were not quite right when they were in a workplace. Several of the examples quoted in the previous chapter involved officials remembering an occasion when they had a strong sense that something was wrong. For example, the GLAA inspector, Tricia, quoted above, depended on the sense that there was something ‘not quite right’ in order to visit workers in their own accommodation after work. Similarly, the EHO official, Anna, who ‘kind of felt very uneasy’ about the cleaners employed in the food factory, relied on this sense to take the matter further. Similarly, Bill, a trades union official reflected:

‘There was a concern that something wasn't right. You know there are concerns that things aren't right.’ and ‘something wrong there but ... There was something going on but we couldn't really get to him.’

It is hard to assess the relevance or value of ‘sixth sense’ or a ‘feeling’ for finding forced labour. At best it is perhaps only of vague benefit and useful simply for alerting the offi-

cial involved to the possibility that something might be wrong. It is perhaps ridiculous to suggest that any government official should respond constructively to 'just a feeling'.

This does nonetheless happen and it is important to acknowledge that there might be some worth in a sense, especially when reported by a more experienced official. A person with a lot of experience in a role usually develops an understanding of what comprises 'normal' for their work. A sense that something is wrong might point to elusive irregularities that are hard to specify. Most of the examples described by respondents were recalled or stayed in the mind, precisely because of the feeling that things were not normal or differed substantially in some way from their usual expectations.

An EHO, Natasha, described the consequence of both experience and a sense of situations:

'I don't know if its just my awareness, because I think as a person you change. I've been doing this for ten years and what I was looking for ... is probably different to what I notice now, because I am more aware ... I maybe see it more now? When I'm talking to people I think mmmm yeah. I feel quite sorry for the situation that you are in. Whereas back then I wasn't particularly empathetic.'

Natasha continued:

'Things that I've experienced has made me more aware of what could be going on in the background for sure. The trouble is it's something that is not black and white or evidence based. ... So you can't say conclusively there was a problem ... because that's what people tend to look for when it comes to interpreting law isn't it. Have you got the evidence as well. A feeling is not evidence unfortunately is it ?'

There is recognition of some possible value in a sixth sense and gut feelings. The Salvation Army officials Fran and Ellen thought so:

‘I encourage people to actually do something about the feeling, because the probability is if you feel somethings not right, the chances are that something isn’t right ... and the police would rather waste their time checking it out than for (it) never to be seen ... so we do tend to encourage people to respond to a gut sense that something isn’t right.’

Paul Broadbent, of the GLAA, was also inclined to respond to a hunch that something was wrong. In his opinion, if someone felt that something was wrong then it probably was wrong and the person should act on that information (Broadbent, 2017).

Confirming the presence of forced labour

Clearly, it is vital to improve the ability of an individual official to confirm, or at least consider, that the situation they have suddenly encountered involves forced labour.

Identification is fundamental to dealing effectively with the crime. It is therefore helpful to analyse the factors that might benefit or influence this process.

It seems that it is essential to retain an open mind and also to have the ability to respond effectively to the totality of the information available. An official has to be receptive to what they see and hear and then absorb all this information, consider it and then decide what it actually means. GLAA respondent, Tricia, pinpointed the crux of the matter with the following illustration:

‘Even when they are educated in forced labour and trafficking, with trafficking indicators, its the ability to turn that knowledge into action. Because one of the very first signs of, ... being controlled or not having enough to eat is that ... the number of migrant workers shoplifting will spike. They’re only doing this because they’re hungry and very often the shoplifting is all related to food. There’s incidents of behaviour, you know, disruption in the community where they are scavenging from bins or if they do get paid a little bit of money very often, nationality dependent, they will spend it on alcohol and then you will have incidents of unruly behaviour.’

She continued:

'So you've got almost like a cyclical problem going on but its not being picked up ... there's something about intuition and there's ... something about the ability to recognise "that blokes been in 3 times. What's he stolen, oh he's stolen a chicken and a bag of potatoes. Why? Where does he come from? Who comes to pick him up? ... Who always comes to pick him up?" ... And very often those patterns of behaviour will inform greater criminality going on behind the scenes.'

Some government officials are advised to look out for more concrete 'tell tales' that might suggest the presence of something inappropriate, perhaps forced labour, during their inspection visits. There seems to be an emphasis on looking for signs that people live in a commercial property. One EHO, Natasha, looks for slippers, another EHO, Sarah, has been instructed:

'When we go into the pizza parlours we are looking for beds in pizza parlours. We are looking for toothbrushes and I say pizza parlours - any restaurant. So those kinds of things that shows there maybe isn't a home for them to go to, that they're living there and sometimes its very difficult to ascertain. Are they living here, because sometimes there's a split shift and they may be having a snooze in the afternoon before they do the evening shift. Its a very difficult one.'

The problem of establishing the true underlying significance when bedding is found in a fast food restaurant epitomises the challenge of turning minimal knowledge into action. Finding items that suggest people are living in a restaurant appears to be a very common experience among EHOs as discussed previously. It is indicative of something not being right, but by itself it is not unequivocal evidence that the workforce is being exploited.

During an inspection visit, Dave, an EHO recounted:

'In the same place there was a bed made up in one of the rooms and I found a double mattress stuffed into another and I suspected that they were living on site. ... We find it a lot... in the back of a shop, in the back of a petrol sta-

tion. They are sleeping when they've locked up at night. Who actually sees them leave? ... I've been to a local restaurant where I caught them sleeping on the floor on mattresses and very very quickly if I arrived to do an inspection, they would all disappear, apart from the two people who spoke English, and wouldn't come back until we left.'

Similarly:

'Sometimes we find a bed in the store. We found that in the restaurant down the road. We found beds in the store room and ... we actually caught them ... when they woke up. There were mattresses all laid out in the restaurant and there were about 9 of them sleeping in this restaurant and I arrived on site with the fire service and we prohibited them from sleeping.'

Other officials reported similar experiences. A respondent from the fire services, James, reported a discussion with the owner of a property:

"It's only the employee, who when they finish the late shift they stop over" ... they're guarding the premises even though that's illegal. ... it seems to make it better than, organised sleeping, this is your permanent home sort of thing.'

However, there is insufficient evidence in all of these examples to prove the incidence of forced labour, and therefore, these circumstances are insufficient, without further corroboration, to take any action on those grounds - though action could be taken on the lesser offence of using commercial premises as a dwelling place. The information available at the time did not explain why the workers were sleeping there. Once the workers had disappeared, it was not possible to confirm whether this was how they were compelled to live. If evidence of compulsion had been available, then it would have been appropriate to consider exploitation. Being *compelled* to live in unsuitable accommodation is a forced labour indicator (GLA, 2015:7&9).

Interestingly, in these particular cases, officials considered the scenario from a more benign point of view. Questions about compulsion or severe exploitation did not seem to occur to them. Instead they proposed an equally valid, and possibly much more realistic, to them, explanation. It seemed possible that the workers were choosing to sleep on the floor of the restaurant because they were unable to afford the rent of a local residential property. They wondered if the employer was sympathetic to their plight and allowed them to sleep in the restaurant as a favour. The limited available information did not clarify the circumstances for them.

It is impossible to be certain, but it seems likely, in view of the information presented about their working methods, that a GLAA inspector would have investigated these scenarios more effectively. They are familiar with how forced labour can appear, they know how to approach a dubious situation carefully and are familiar with the evidence required to confirm forced labour was present and take enforcement action.

Obtaining evidence from the workforce

Testimony from those employed in a workplace about their experiences, has been shown to be essential for proving the presence of forced labour. Discussions with workers, who could be victims or witnesses, is the best way to find out what actually happened. Only the exploited individual will know for sure, if they have been a victim of the abuses categorised as forced labour indicators. For example, they can say if they were paid incorrectly, were charged exorbitantly, were obliged to work excessive hours or compelled to live in squalid accommodation. Therefore interviews with members of the workforce are a significant element of an effective investigation into forced labour. Indeed, it is likely that their evidence will be essential to prove that the crime of forced labour has been committed.

People involved in these circumstances are vulnerable and the need to protect them by avoiding picking out individual workers has already been made clear. It also seems that many of the people involved tend not to be competent in English. A respondent from the GLAA, Tricia, confirmed:

'All the work that we're doing demonstrates the fact that you have to be able to speak to someone in isolation away from anyone else. It's imperative that you do that and you have to take an independent interpreter.'

A trades union official, Bill, similarly recounted from personal experience: *'When it comes to exploitation, what we found at the peak of it was that there was language barriers and people weren't willing to talk to us.'*

The GLAA are well aware, from their own experience of the need for independent, competent and professional interpreters to communicate with victims and witnesses.

This is the only way of guaranteeing effective, reliable and un-biased information. The GLAA respondent explained:

'We usually do our research and we will take our interpreter with us. Interpreters cost the GLA an absolute fortune. ... They have to be accredited, court accredited and very often, we require that they pass several exams ... We have people that would be court interpreters, interpreters for police, UKBA etc and that's ... the one thing that runs through the whole of this like a stick of rock is that workers are isolated because of language.'

Importantly the GLAA know:

'On ... site you cannot rely on a friend, their friends, their supervisor because very often this control mechanism is entirely that. It's their friend who's probably gone into the house and has gone up the chain of command within the house and is a lieutenant ... controlling the workers from that angle. So very, very quickly this isolation manifests itself in such a way that they're actually discouraged from learning the language. ... even television. They'll have sometimes satellite TV, but it'll only show programmes in their

own language. So it is the language and the isolation and the inability to communicate.'

It is clear that the vulnerability of a fearful victim combined with a language barrier makes effective, productive, communication difficult.

Other government officials do not conduct the same scrutiny of the workplace and the workforce as the GLAA. They assess a workplace from the point of view of their duties under their legislation. For example, this might be an assessment of cleanliness, the adequacy of fire provisions or the safety of scaffolding. While engaged in their proper business, these officials have to weigh up the significance of all manner of peripheral information. Given their primary responsibilities, and therefore focus, it is not surprising that some may overlook dubious circumstances if they do not seem directly relevant.

In the normal course of a regular inspection visit, non GLAA officials, such as a local authority inspector or an HSE inspector would make general inquiries of individuals. They would seek to talk to willing volunteers and would not anticipate interrogating workers nor expect to talk to someone in private. Provisions are made for officials to communicate with non-English speakers during visits. For general visits, officials can access interpreters by phone. This laborious process facilitates simple communication between the official and the workers. On the whole, the conversation would not be particularly relevant to exploitation. Matters such as wages and hours of work would not normally be discussed. The focus would be on issues relevant to that inspection visit. The questions might be "who employs you" or "what training have you had", "who owns this building" and "what procedures do you have for this". Clearly, this type of communication would be very unlikely to persuade a frightened non-English speaking victim to come forward and disclose problems about exploitation.

Domestic Service

Unfortunately there is one group of exploited workers which it is almost impossible for officials or anyone else to encounter. Workers abused in domestic servitude are beyond the reach of the usual gamut of officials and broadly speaking they remain outside the protection of employment laws. The classic scenario is for these domestic servants to be kept hidden inside private houses and in the worst cases, not allowed out of the building on their own. In effect no-one, not even neighbours, would necessarily know they were there. People employed in homes are not overseen by officials in the same way as other workers would be and do not have the same legal protection. Ordinary government officials simply cannot gain entry to a private house and would have no reason to do so.

Marie, a police respondent, also made the point that they have no automatic right of entry to private houses - and characterised a classic example of how domestic servitude arises:

'Say for instance the family brings over one of their staff from Pakistan. ... In Pakistan (it is) quite normal for you to have somebody living in your home. They'd sleep in the kitchen, they do your cooking and cleaning. ... because they think its okay there, they think it's okay here ... they think that it's the same here and therefore they can treat them the same here, that it's fine if you give your maid a slap or whatever. It's fine if you don't feed her for two weeks. Over here the laws are very different.'

An HSE inspector, Mike, provided an illustration of the way health and safety law, in particular, functions with respect to domestic employment:

'I have come across them ... in things like agriculture with ... gardens. People who become a gardener one minute and then might become ... a game-keeper or a forester the next minute and ... what they don't realise is that they don't have the protection of the law at a particular point.'

He elaborated:

'There was a guy who lost four fingers in a lawn mower which he was trying to unblock. To all intents and purposes, he was a gamekeeper. But he worked at a large estate and the large estate had private grounds ... that were very specifically private. They were nothing to do with the shoots or anything else or public access and when he was conducting the lawn mowing he was doing that, in effect, on a very large lawn of the private house. At that moment, in law, he was deemed to be a domestic servant.'

Conclusion

There are many factors that contribute to the challenge of identifying forced labour. The unspecific phrasing of the legal definition creates a fundamental problem, because it does not generate a simple description of the crime of forced labour that can be applied in practice. It is difficult to identify forced labour in a real workplace using forced labour indicators, because only some of the indicators can be observed. The presence of many indicators has to be confirmed through investigation and discussion with witnesses or victims.

The existence of forced labour in the workplace is masked by the prevalence of exploitative working arrangements in the UK economy. In this climate, the contrast between severe exploitation and decent work is less obvious and everyone becomes inured to poor working practices. The evidence obtained for this study revealed that even the officials who have experience of dealing with forced labour and have been trained, can find it hard to be sure, just by looking, that forced labour is present. This study demonstrated that the testimony of victims is essential in most instances to prove the crime has occurred.

The study describes the meticulous approach taken by GLAA officials to enable confirmation of forced labour through communication with victims and witnesses. Caution is vital for dealing with very frightened and vulnerable witnesses. The process of identi-

fication of forced labour is complex and overall requires the ability to absorb a wide range of information and the confidence to convert it into action.

What this study also suggests, is that however effective the GLAA are, there are clearly many instances of forced labour indicators being either missed altogether or misinterpreted by a range of other agencies, and therefore not followed up. That of itself suggests that incidences of forced labour in the UK may well be significantly larger than are currently posited by official government estimates. This is compatible with the concept of the “dark figure” of crime, the gap between recorded crimes and the estimated number of crimes (Jansson, 2007:7). This study has illuminated the difficulties in identifying what so often remains hidden.

Chapter 8: IMPEDIMENTS TO IDENTIFYING FORCED LABOUR

This chapter considers current features of public bodies that might act to obstruct or limit the opportunities to identify and find forced labour. Some factors restrict the ability of officials to find the crime, while others possibly undermine the confidence of a victim to report their abuse to the authorities.

Austerity has constrained the way government agencies function in many ways. The impact of reductions in the numbers of staff is perceived to reduce the opportunities for any official to find forced labour. Officials now disproportionately focus on investigations to the detriment of routine visits to premises. Some agencies have responded to austerity by restricting the scope of the work undertaken.

Austerity has caused many enforcement agencies to withdraw from a High Street presence which effectively makes officials inaccessible and remote. This, combined with a general preference for officials to be contacted through websites limits the ability of a vulnerable exploited worker to report their plight. At the same time, complaints procedures have become more selective, restricting attention to ‘worthy’ issues which may not include forced labour. Official provisions such as Employment Tribunals are irrelevant to most victims of forced labour.

Identification of forced labour scenarios would benefit from improved inter-agency communication. The police emphasise the importance of collating snippets of information to generate a wider picture. Currently, officials are unlikely to share information about dubious situations for a number of reasons including ignorance of who to tell and a lack of training.

Government austerity measures: impact and responses

Since 2010 the UK government has pursued an explicit policy of austerity. This policy was intended to comprise drastic government budget cuts, which would result in sweeping contractions in public spending and ‘dramatic reductions to core departments’. Reductions of 490,000 public sector jobs were also proposed and, in particular, cuts of nearly 30% to local government provisions were to be achieved by 2015 and the police force budget was to be reduced by 16% (Pimlott et al., 2010).

The proposals were put into effect. Their dramatic impact was evidenced by a large drop in the numbers of public servants. By 2015, numbers employed in the civil service were calculated to have fallen by 28%, from a peak in 2005, to under 400,000. There were similar falls in the numbers employed in the wider public service, such as local authorities, too (Civil Service Numbers, 2016).

Budget cuts and the consequent reductions in manpower have had an adverse impact on the ability of public and civil servants to address forced labour. Respondents from all relevant central government agencies and local authorities reported significant effects as a result of austerity measures. Their agencies were affected in a variety of ways. For example, a reduction in the number of officials limited the amount and type of work that could be undertaken. In several cases, the way of working had to be changed. Significantly, even the GLAA, an organisation responsible for tackling forced labour had experienced adverse consequences from austerity measures. Tricia reported:

‘We’ve been cut in half since (2010) and then when people leave, [are] not often replaced. ... Sometimes you need people to ... recognise. They need more money in order to do their job. ... We have to prioritise it.’

Contractions in staffing levels have a consequent impact on the officials who remain.

The amount of work an agency has to deal with remains broadly the same and it seems

those left often have to work harder to make up for the shortfall in numbers. Tricia from the GLAA pointed out:

'We're only supposed to work 7.24 (hours a day) but all of us work far in excess of that. ...There's just not enough of us. You're not doing your job properly because our whole mission statement is the protection of vulnerable and exploited workers.'

There is a further effect caused by major reductions in personnel. The remaining officials can find that the proportion of their time devoted to particular types of work has to change in order to cope with the volume of work. This can significantly alter the balance of their working week.

One HSE official, Richard, pointed out that *'HSE has been obliged to shrink*, whilst another, Frank, explained the impact of recent developments:

'More and more of our time is spent on investigations and not proactive inspections. I think it's running at about 80/20 or 70/30 It's a massive shift. That is creating all sorts of knock on effects in terms of levels of stress, burn out and stuff like that. We're more focused on accidents and complaints than ever before.'

The number of accidents reported to HSE in any given time period remains relatively constant, but with fewer inspectors, each inspector is obliged to take on more investigations to deal with the work. Investigations can be extremely time consuming. Apart from attending the site to take pictures and measurements and so on, there are visits to interview victims and witnesses, preparation of written reports, consideration of the best way to proceed and possibly time spent in court. When an official is dealing with an investigation, their attention has to be focused almost exclusively on that issue. This means there is no time to devote to inspection of other work places, which means these other places have reduced official oversight.

It appeared that austerity measures in some agencies did not just result in a simple loss of officials. Several respondents reported that budget cuts led to the departure of more skilled and experienced personnel. In effect, talent and competence drained out of departments, leading to smaller less experienced agencies. This also has an adverse impact on chance encounters with forced labour in a workplace. In simple terms, if there is a reduced number of officials they will carry out fewer inspection visits and therefore have fewer opportunities to come into contact with instances of labour exploitation.

It was argued previously that, on the whole, more experienced officials will have developed their own internal standards of what is normal for the places they see (page 238).

In turn this can mean they are likely to be more confident in perceiving a situation as abnormal and then motivated to do something about it. A less experienced official is not as likely to be in the same situation. Andy an EHO considered:

'I think we've seen a loss of long in the tooth experienced uber competent senior managers. I think there's a different mould of officer coming through, those that are more attuned to the new ways of working around priorities. ... I think we are seeing a loss of competency. I think we are seeing a greater refocusing on what matters.'

James, a fire officer, expressed a similar opinion:

'We've a reduced number of inspecting officers. We've lost mostly through natural wastage. I suppose at the top end of the scale you do lose people but you don't bring so many people in at the other end.'

A local authority official, Dave, explained:

'Austerity measures - There's only me doing a whole district. So it's reduced our effectiveness to target our primary role but it also affects the amount of intelligence that we can feed back to the other agencies.'

Sarah, an EHO, recounted a related problem:

'We've got very experienced, qualified staff, but when we lose a member of staff, it's very difficult to get them replaced. Not necessarily because the council doesn't want to replace them, it's a market out there for environmental health officers that has not enough of them coming through now and so they've basically got the pick of the jobs. And you really struggle (to) recruit people.'

Several agencies cope with reduced funding by changing the way some parts of their organisation function in order to continue offering equivalent services and facilities.

This can mean providing assistance in a different format, restricting access to officials or changing the work undertaken.

Some of the consequences seem to have a particular impact on people more likely to be affected by forced labour. For example, Richard explained that one consequence of the reduction in personnel was a decision that *'There is no longer any proactive inspection of agriculture'* by HSE inspectors. Frank, his colleague, believed that *'Farmers don't take any notice of what we say anyway, so what's the point.'* This may of course, also have been impacted by the Hampton Review and the Red Tape Challenge, both of which sent signals to both agriculture and industry that lighter-touch modes of inspection can be expected.

Withdrawing from regular inspection of an entire industry, particularly one strongly associated with forced labour, could have two effects. Any protection afforded to the workers in the industry from official oversight vanishes. In reality, it means there is less likelihood of an official from HSE coming across, by chance, a case of exploitation in agriculture. A casual official encounter might be crucial for a vulnerable worker subject to exploitation. At the same time a perpetrator is likely to be emboldened because he believes he is less likely to be caught because no-one comes to inspect his undertaking.

Similarly another industry, forestry, was withdrawn from official oversight from the GLA by legislation. The *Gangmasters licensing (Exclusions) Regulations 2013* were enacted to exclude those working in forestry from the licensing obligations of the GLAA.

Raising concerns with Agencies

It is essential for those subject to exploitation, or worried about an exploitative environment, to be able to raise their concerns easily and quickly with an official body. Equally, it is of fundamental importance for officials to hear promptly about dubious work situations, so that they can take remedial action. Members of the public, victims and witnesses, should feel encouraged and empowered to talk to agencies. The arrangements made to enable contact should also take into account the well known characteristics of exploited workers. As discussed, they are always vulnerable, often very frightened and frequently reluctant to engage with authorities (see previous Chapter). Many of the individuals exploited may be migrants, may not speak English, and may not have any familiarity with UK public service organisations. Lewis et al. referred to the ‘Lack of knowledge of UK systems and of potential help available from service providers’ (2015:125).

Inaccessible Officials and website barriers

At present, there are significant barriers to those wishing to contact an official in order to discuss an exploitation experience. Although those barriers may seem modest to a well educated and moderately competent English speaking individual, they may not appear the same to a vulnerable migrant.

The first hurdle is to determine which agency it would be best to contact in the first place. It might seem obvious to an ordinary British person, to phone the police and request further advice. For a non-English speaking illegal migrant with their own personal

understanding of policing, this may not appear to be a wise option. Equally, it might not be clear to anyone, which agency would be most appropriate for a discussion about conditions at work.

All too often, it is hard to find officials to speak to, face-to-face, in an accessible local office. Communicating with someone you can see rather than speaking to a stranger in a call centre over the phone, is perceived to be more reassuring for a victim. Face-to-face contact also enables an official to absorb visual signals about the complainant such as a dishevelled appearance or obvious anxiety. In general, local authorities seem to persist in maintaining a high street presence and appear to be welcoming to all members of the public. However, many government agencies, including the police, no longer have a permanent high street presence. There has been a tendency for main or head offices to be sited in remote locations and for smaller satellite offices to open for restricted hours. Using Hampshire police as an example, although there are local offices in most towns, none are open after 8.00pm and many are only open for two or three days a week (Hampshire Police, 2017). Similarly, Tricia from the GLAA explained:

'We've gone to much smaller premises. ... 30 people run the office from Nottingham and we have to make do a lot of time. The rest of us, like myself, are all home based and we run our own diaries.'

It can prove difficult to obtain a phone number for some of the relevant agencies. Many, including several local authorities, do not publish contact phone numbers on the front page of websites and prefer people to contact them through their website by email. An EHO, Sarah, explained the background: *'Basically it's to cut down manpower. Everything is by email so you then respond by email as well.'* If a person does not write reasonable English they may feel deterred from sending an email and communicating in writing. This system also builds delays into the contact process. A phone call is immedi-

ate and allows for instant discussion of an issue to clarify the problem. An email is answered when the official finds time.

The nature of official websites varies considerably, but several agencies appear to use them as a barrier. All of the websites are written in English, the provision of foreign language options is not universal. For example, neither Hampshire Constabulary nor HSE offer this provision. This makes it more difficult for a non-English speaking person to navigate sites and ultimately access official advice and information or initiate contact.

Communicating with officials: administrative and language barriers

It is useful to examine the process of communicating with official agencies in greater detail. It is clear that agency and authority responses are variable. Bruce, a trades union official, provided an insightful perspective:

'It depends on the agency. I think ... gangmasters (licensing authority) is pretty open, and the minimum wage people are pretty open ... they have been able to take a lot of cases that haven't come from unions, that have just come from individuals phoning up. So I think in fairness to them you'd have to say something must be going right. (But) ... I wouldn't know about HSE now. I mean it's almost not there anymore from a customer's point of view.'

He continued:

'The problem with immigration (officials) is that the calls they get are normally ... motivated by (spite) - "This person I've heard about, we think he is illegal. Come and arrest him." And unfortunately they have to act on that.'

As for local authorities, the response frequently depends entirely on the employees working in reception and is very much dependent on whether they have been trained to recognise what they are dealing with and respond appropriately. Problems can be predicted to arise from inadequate language skills as well as limited knowledge and experience. An EHO respondent, Dave, remarked:

'our teams on the telephones ... are only trained to deal with missed bins and general complaints about members of the public, about their environment. I doubt very much whether they have had specific training on how to deal with someone who is distressed.'

He continued:

'If you were to go to one of a line of people in a customer call centre, we're a very white anglo-saxon environment and therefore migrants in our community are not a day to day thing and therefore (we are) a bit awkward about dealing with johnny foreigner'

Other EHOs made the same observation about language difficulties. Andy: *'We don't necessarily have people we could get easily to deal with, for example Polish migrants ... and migrants who just don't have English as their first language.'* In contrast, the GLAA seem well prepared to cater for a range of languages: *'At the office, we have four people who speak the essential Eastern European languages. Very often they can get by with different bits of Russian.'*

Some individuals are so frightened of possible reprisals from their exploiter that they do not want to say anything about themselves that would identify who they are, where they work or who they work for. They are worried in case that information is subsequently disclosed to the perpetrator, and exposes them as the source of the information. A fear of reprisals is understandable. One of the ways this can manifest itself is in a strong desire to remain anonymous. This is problematic, as it conflicts with official requirements that those making complaints reveal who they are, who they work for and all the other employment details. As Dave, an EHO, explained: *'We will take anonymous calls but I think that they wouldn't go too deep into a subject if pushed because they don't have those details.'*

Officials offer a number of reasons why they require significant details of a complainant before they will take a reported problem seriously, respond to the information and begin an investigation. An HSE respondent, Richard, explained the concern that if someone phoned in anonymously, they might be making mischief, the complaint might be based on spite and therefore not be justified. Alternatively, he explained that HSE might need to get back to the complainant and would therefore need their details. More circuitously, he suggested that HSE might need to be sure that there wasn't another issue going on in that workplace which could create a legal conflict. Whilst taken in isolation, some of these approaches may appear valid, they nonetheless have the potential to act as barriers to genuine concerns and complaints.

Clearly, a shortage of resources has led to the creation of an administrative procedure for dealing with all complaints to HSE that could filter out attempts by vulnerable victims to report and seek help with a case of forced labour. Such a complaint might fail to meet the investigation criteria for a number of reasons. Firstly, the issue is unlikely to be perceived as a straightforward health and safety issue. Secondly, a complainant might be very reluctant to provide the required personal details and contact information. Finally, a complainant might not know the name of his employer or company, or indeed the location of the place of employment. All of these matters are regarded as justifiable grounds for the HSE to dismiss the complaint.

Frank, an HSE respondent explained the new process for handling all complaints at the HSE head office in Bootle: *'There is no complaints team anywhere ... the only place there's a complaints team is in Bootle. It's centralised'*. He continued :

'I don't know what it would be like if someone rang up with a complaint about forced labour. I could quite imagine the (team)... going "and what is

the health and safety issue here.” I could imagine them putting them right off.’

Another HSE inspector, Mike, confirmed:

‘Even for English people when contacting us now for a complaint, ... 9 times out of 10, they’re not contacting an inspector at the office. They’re contacting somebody via a telephone in Bootle, who indeed could be anywhere all over the country, who won’t necessarily know about very much detail of any of the things you are talking about. They’ve got to get through not only the language barrier, but the administrative barrier of understanding who’s even supposed to be doing something for them, the categorisation of their complaint and things of this sort. So it’s more complex than it used to be without a doubt.’

He described how complaints are categorised, using colour codes to indicate urgency, before being forwarded to inspectors:

‘They’re called Complaints and Advisory Team (CAT), ... a national team based in Bootle and they haven’t got enough staff.... So these are largely people who used to work at the child support agency who came across when that was downsizing. Then there’s all sorts of Band 5s and some band 6s in offices around the country that report directly to somebody in CAT. Look CAT, will have about 25 people who will all be Band 5 and Band 6s reporting to somebody up in Bootle. So it’s totally impersonal now. I get things sent through by email to me. If I get a complaint ... it doesn’t come to our office it goes to there and they decide whether it is red, orange or green.’

He went on:

‘The complaints team ... can’t even promise that anybody will come. They’re not allowed to do that ...they can’t promise can they, because you imagine, they are in Bootle they don’t know. Half the time they don’t know where the place is. They have to look it up on a locator map and find out which office it even relates to.’

It is reassuring that other agencies appear much more sympathetic to a potentially exploited worker. Both the police and charities such as the Salvation Army, have an ad-

vantage over other agencies, because many officers in these organisations have a reasonable understanding of exploitation having worked with victims of the crime. This facilitates a greater familiarity with aspects of the crime and encourages empathy towards its victims. The attitude of both the police and Salvation Army appears sensitive and supportive towards people in this situation.

Salvation Army officers try to adopt an approach more likely to make a person feel comfortable and therefore confident enough to reveal information about the exploitative situation. Usually, the Salvation Army officials are working with people they anticipate referring into the NRM. In this situation they are aware they are likely to be working with an exploited person. In fairness, this is a completely different scenario from dealing with a random stranger who suddenly contacts an agency with a grievance. Fran, a Salvation Army official explained: *'If there's the opportunity to build a trusting relationship then all of that might help.'*

The police too plan to offer potential victims a sensitive reception where their story is believed. Marie, a police officer, explained:

'This crazy story about this person that's been held for 20 years ... that is a genuine account. We've done a lot of work there... (to) treat all accounts and reports (sensitively) ... a victim is the priority... our priority (is) to safeguard that victim ... '

She went on to explain:

'We will obviously take (a victim) away from the scenario so they don't feel ... controlled ... We wouldn't take them to a police station, because we wouldn't want them to feel they were being interviewed. ... We would talk to them ... general chit chat. " How long have you been working there and do you enjoy it? Do they pay you quite well?" Questions along those lines and you can ... gauge things ... triage them almost and see do we need to take this further with them?.'

The Salvation Army pointed out that administrative processes could present a dilemma between conducting a prompt interview or creating a more sympathetic environment:

‘A telephone NRM (Interview) ... would be the usual procedure. ... it has its advantage of being immediate so that interview can be conducted straight away. If its not possible ... because the person perhaps is too traumatised or very often because they are in prison ... We’re asked to conduct a face to face interview. ... I think it is best... But the time it takes to arrange that interview another couple of days may have passed. ... by the time you’ve got a translator as well.’

From the information provided by the respondents to this study, there would appear to be a wide variation in the response of official agencies to those presenting with a claim of exploitation. On the one hand there seems to be some very good practice but on the other, it seems likely genuine cases are not adequately investigated.

Employment Tribunals

It is relevant to consider Employment Tribunals when discussing the attempts of exploited workers to get assistance from officials to remedy their unacceptable work circumstances. An underpaid or exploited worker, who believes he has been treated illegally and wants redress might perceive taking a claim to a tribunal as the ultimate forum. Unfortunately, until July 2017, there were a number of obstacles that made it surprisingly difficult for a person to get their case heard.

The first hurdle is establishing whether the problem is the kind of issue that the tribunal can hear. Broadly, relevant matters include unfair dismissal, discrimination and underpaying (Employment Tribunal, 2017). If a worker’s problem is not covered by one of these topics or is not a strong, evidenced, case then it is unlikely that a tribunal will be the appropriate forum. If a case appears unlikely to succeed, it is rejected.

Recent changes in the procedures for going to a tribunal came into effect on 6 May 2014. An applicant is now obliged to consult with ACAS before going to a tribunal, and attempt to achieve conciliation in that setting. A certificate has to be obtained to confirm that the applicant has been to ACAS before the case is permitted to proceed to the tribunal. Although ACAS is a free service, it seems to place another obstacle in the path of a worker wanting redress. In addition, it might be imagined that a conciliatory agreement would not give the same satisfaction to an exploited worker as a ‘day in court’.

Unfortunately, until the Supreme Court ruled it unjust, taking a case to an Employment Tribunal was not free and users of the service were not supported by legal aid (Marsh and Elgot, 2017). Costs and fees were incurred by an individual, firstly to arrange the tribunal and then to conduct the hearing. Fees varied according to subject matter, but from June 2014, a complainant alleging unpaid wages would pay £160 to initiate the process, followed by a fee of £230 for the hearing (GOV.UK, 2017a). These are daunting amounts for someone who is trying to recover lost income and who almost by definition has very limited means. Although there is provision for helping those who cannot pay the fees, the arrangements are not simple and depend on various tests such as ‘disposable capital test’ and ‘gross monthly income test’ (HM Courts and Tribunals Service, 2013b:2).

The complexity of the process, combined with the uncertainty around reimbursement for the required outlay, was recognised by the Supreme Court in 2017, as making this an unattractive option for most workers. The CAB had recognised this dilemma and advised:

‘You may need to do more yourself to get a settlement. It’s important to think about negotiating with your employer. Consider whether you would be prepared to make the first offer and how much you would realistically be prepared to settle for without going to a tribunal’ (Citizens Advice, 2017).

The Supreme Court described the fees as ‘inconsistent with access to justice’ (Marsh & Elgot, 2017). It seemed unlikely that a vulnerable worker in an exploitative work situation would ever feel that an Employment Tribunal was relevant to his circumstances or a useful way to obtain redress for their treatment. This was supported by the figures showing a significant fall in the number of applicants to tribunals (Marsh & Elgot, 2017). However, Employment tribunals remain of no value to undocumented migrant workers or to those whose asylum cases have been rejected.

Considerations in official decision making

Some officials, such as the police, GLAA inspectors and possibly union officials, will from time to time attend a premises anticipating that they will be dealing with a case of forced labour. In these circumstances, they can plan and prepare their intervention so that they address the situation to the best of their abilities, offer and provide the appropriate support to victims and aim to obtain the best evidence to prove that forced labour exploitation was present.

In contrast, the majority of government officials do not enter a premises with the expectation that they will find forced labour or even with the intention of looking for it. Usually they will have another purpose for visiting. However, they might unexpectedly encounter a scenario where there are indicators pointing clearly to the presence of forced labour. This presents a significant opportunity for a case of forced labour to be identified and for remedial action to be taken.

It is important to try and understand the response of any official to an unexpected encounter with forced labour and to examine in greater detail the factors that might influence their approach to decision making in this circumstance. Their reaction might vary depending on their reason for being in the premises, whether they have been primed to expect the presence of dubious activity, or whether they are concentrating on what they regard as another, more important issue. For example, they might have been instructed to focus on specific matters such as finding illegal migrants or terrorists or to investigate an accident.

An official tasked with addressing a particular issue would regard this as their priority and would concentrate their attention, almost exclusively, on that objective. An example is given previously where Frank, an HSE inspector, was investigating a very serious accident (see page 180). Although aware of the generally exploitative surrounding circumstances, Frank had the legal duty to conduct an effective and thorough accident investigation, find out what had happened, interview witnesses and then take appropriate remedial action. At the time, he apparently did not consider that the exploitation was of particular significance or that it was relevant to the accident investigation. Therefore that aspect was overlooked and not explored further at the time, although the situation was clearly remarkable enough to remain in the inspector's mind.

Similarly, Sally, a fire brigade official, recalled irregular labour employment practices in London. It seemed in these circumstances, that the overwhelming concern of the fire authority was the dangerous living arrangements of the workers combined with their illegal migrant status. These matters were focused on as an exclusive priority. The likelihood that the workers might have been obliged to live and work in dangerous condi-

tions because of exploitative employment arrangements, was evidently not perceived as a significant enough factor to be considered:

'There's certain areas in London ... Southall comes to mind, where you've got groups of migrant workers which line up the streets at 5 in the morning. It's well known these are hubs to pick up cheap labour, because these people are illegal or don't comply with EU regulations to live and work here.'

She continued:

'For us, there's increased fire risk where there's overcrowding. For us there's increased risk where you've got people squatting in places they shouldn't, because they'll be using alternative means of lighting like candles or gas. They'd build these little temporary shelters we call them, ... So we had to obviously work with the council and the police to get it abolished. I'm not sure what happened to the actual individuals. I think we work with the UK Border Agency to try and get certain people removed if they're not here legally.'

From their descriptions, the fire brigade knew that these people were not in regular, normal employment. The workers were called “cheap” labour, who were working for “cash in hand”, implying that they were working for less than the legal minimum wage, and probably without national insurance etcetera. However, these aspects of the situation were not within the remit of the fire brigade officials who accordingly took no remedial action.

Obviously spotting and dealing with labour exploitation depends to some extent on the state of mind of the official, their point of view, their institutional priorities, their personal understanding of the situation and professional responsibilities, any or all of which might well make labour exploitation irrelevant. It appears in this example, that the fire brigade and local authority focused exclusively on their principal concerns.

Training

If a government official is to respond confidently and appropriately to a forced labour exploitation situation and initiate remedial action, it is essential that they have sufficient knowledge. Adequate information could be very basic such as the knowledge that the crime exists, awareness of the accepted indicators that suggest it is present, alongside simple instructions about the best way to proceed once it has been found. There does not appear to have been much, if any, training given to any government agencies apart from those that have a specific role with respect to forced labour.

It is interesting to note a precedent. In the past, training has been given to officials about matters that are regarded as important by the government but which are not the direct concern of that agency. Frank (HSE) described his brief, but effective, training on racism that enabled him to comply with a broader duty to report any instances he came across:

'I got trained ... when the Race Relations Amendment Act was passed and put a duty on public sector bodies to (be) on the lookout for overt racist behaviour. We were trained for ... half an hour or so. But basically there is a phone number to ring, I know where to get the phone number and I can ring the phone number if I see it'.

In contrast with this situation, training provision on forced labour appears to be very patchy, even among the officials who have a duty to take action. Although work is being done by the College of Policing to improve the training packages for the police, at the time of interviewing officials, training appeared to be ad hoc and not compulsory. Mark (police) explained that training varied according to local force needs: *'Each force is different and has different training needs according to what presents itself.'*

Marie, another police officer, explained that her force appeared proactive and committed to providing training to enable their police officers to understand and deal with modern slavery whenever it might be encountered. The training she described seemed a very good basis for spotting forced labour:

'We have staff training now for officers and we will talk to them about scenarios where they may encounter - when they are looking at something else. ... If they are going onto a traveller site or going to a car wash or going to a fruit picking site. We talk about things like brothels ... they know if they go into a scenario where they could encounter forced labour "What could we look for". Now they know to look for it rather than just go in with their blinkers on.'

Marie also referred to using different kinds of training, as appropriate, for CID officers or new starters in the force. Their training covered genuine case studies, discussed press clippings and examples of different types of exploitation. She explained that she had also introduced training to other organisations in her area, including workers in a hostel, homeless shelters and doctors and nurses in emergency departments. In her opinion, these are all places where it is more likely that the workforce will encounter people who might have been exploited. Their training was designed to make them confident to intervene in dubious situations.

However, she was critical of the provisions from the College of Policing:

'Training packages are issued out from the College of Policing and they say train using this. ... No ... We'll take your guidance and we will expand upon it. I think it was generic and that wasn't enough (for) somebody to turn round and go that's forced labour'

In August 2015, the College of Policing advertised a new e-learning course in response to the introduction of the *Modern Slavery Act 2015*. This was:

‘aimed at anybody within policing who will need to deal with the early stages of a potential modern slavery investigation..... (and) designed to equip officers and staff with the knowledge and skills to pick up investigations into the offences, specifically within the first six to eight hours of them being reported.’ (College of Policing, 2015)

For his part, the Independent Anti-Slavery Commissioner’s 2016 annual report stated:

‘The Commissioner has been working to develop training programmes for police forces ... to improve their response to modern slavery crimes.’ It continued, ‘The training for police officers will cover all 43 police forces in England and Wales, with a training manual to be distributed to attendees, so that each separate police force will, thereafter, roll out this training within their own respective units.’ (2016:24-25)

Clearly, some progress has been made, but there is an explicit acknowledgement that more needs to be done in this regard.

Unfortunately, the training given to employees in other agencies can be poor or non-existent. For example, Mike (HSE) didn’t know about any specific training for HSE inspectors, although he thought that:

“The majority, with the exception of the trainees, will have heard about the Gangmasters Licensing Authority and anybody that had worked on agriculture certainly would have done.”

James from the Fire Authority related that he had placed some of his inspecting officers on human trafficking courses run by the Metropolitan police. However, those had been a couple of years previously, so refresher training was now required.

It was reassuring to find that some of the respondents to this study had sought out training for themselves, indicating a willingness to deal with the issue. For example, Natasha (EHO) explained: *‘There was a road show that went round about a year ago ... about ... slave labour they called it.’*

The benefits of training were demonstrated through NRM data. There was a startling increase in the number of victims discovered and reported by Greater Manchester police as recorded in the NRM statistics between 2014 and 2015. (NCA, 2015 & 2016b). Fran from the Salvation Army offered an explanation:

‘Greater Manchester is one of those police authorities that up until a couple of years ago ... there were very low numbers being referred and low levels of identification. But over this last year they’ve put some resources in place to really raise the profile of this particular issue within their authority. ... I think they’ve trained 100 police officers specifically to a good level around human trafficking so there’s broad awareness.’

Communication between officials

The legal restrictions defining the remit of any government official have already been discussed. Any official is obliged to focus on, and can only take remedial action with respect to, issues within their legal remit. They cannot take action on matters outside this remit, because they would then be ultra vires (Chapter 3). Anything an official encounters that is irregular or of obvious concern but beyond his remit has to be left or passed on to be dealt with by the appropriate authority. It is important to look at aspects of the connections between agencies in greater detail. In some instances, rescuing a worker from a forced labour situation might depend on one official passing on information to another official in a different agency. Marie explained the importance of passing on every snippet of information to the police:

‘It will fit into a bigger intelligence picture. So if you’re worried about a person that might be involved in forced labour you might tell us that you saw him in this van. Great that you’ve told us that because that then may then match up with other intelligence elsewhere that we’ve got about somebody else that might be being exploited.’

The concept of inter- agency communication and arrangements is well understood among all agencies. There are formal agreements in place, called *Memorandum of Understanding* (MOU), that address the way the interface between two or more different agencies will be approached by each agency. For example, HSE has, inter alia, MOUs with the Gangmasters Licensing Authority and a joint MOU with both the Maritime and Coastguard Agency and the Marine Accident Investigation Branch.

Joint working

Officials are also familiar with conducting joint visits alongside officials from another agency. Generally these joint arrangements are arranged to cope with a common interest in a particular situation. They also enable agencies to present a united front and prevent the parties under investigation taking advantage by playing them off against each other. It is potentially useful to consider the nature of joint agency visits to see if there are any lessons that could be applied to the search for exploitation or forced labour.

From its inception, the GLA has been proactive at developing inter agency understanding through joint working. There is a suggestion that many of these joint ventures are facilitated because the officials involved already know each other. Tricia from the GLA explained:

‘We’re trying to get closer joint working partnerships with the police, HSE, HMRC. So very often if we have indicated an issue to look at, we will very often get a multi agency operation going together. ... To have one agency to be responsible just isn’t feasible and it’s not practicable either.’

Sarah (EHO), described her view of the obligation to cooperate with other agencies:

‘There’s a lot more sharing of information between organisations as well. ... So there’s HMRC, all these organisations, even the police, they all want a have a piece of us..... There is also at the same time a drive for joint working, which in itself can be time consuming.’

Interestingly, it appears that for the respondents to this study, the task of finding illegal migrants frequently attracts a cooperative approach. It seems that, specifically in this context, officials from one agency can attempt to take advantage of another agency's superior rights of entry and enforcement powers in order to gain access to a premises to further their own objectives. James from the Fire Authority described the circumstances:

'Well we quite often do a bit of work with Border Agency - we do joint visits with them. ... They get something from us being there ... we both get something from each other when we do these joint visits. They get us taking premises out of circulation sometimes if we feel the risk is so high but it gives them a bit of weight to their elbow as well.'

Anna (EHO) was also very familiar with an arrangement between the local authority and Border force to look out for illegal migrants: *'HMO licensing and private sector housing do a lot of work with immigration (Border Force) on a daily basis'*. Again, Dave (EHO) also described referring information about a potentially illegal migrant to a personal contact:

'Passed back to (the) police. In fact special branch were told. It was only because I had a contact that I said that I was a bit concerned about someone living in a cellar in poor conditions. There is a bed ... and there are also his possessions....We don't know what the next step is. We can only report back.'

Frank from HSE was also aware of joint ventures explicitly directed at finding illegal migrants. HSE was expected to participate in this activity, though it is not within their legal remit:

'One of the areas HSE is dabbling in is being part of workplace sweeps and raids by the Home Office immigration officials. People are arrested and deported. Deported because they are illegal workers. A list which had emanated from, I think it was the Home Office, of dozens, if not hundreds of workplaces across the country where they had intelligenceand

these are all the places we are considering raiding. They wanted HSE to be part of the raids ... It was part of something called Operation Centurion.'

Joint working is conducted with other agencies for other purposes apart from hunting for illegal migrants. Sarah, an EHO, explained that their trading standards officers in particular were asked to look out for bootleg goods because duty was not being paid.

For this reason: *'We do raids with HMRC.'*

The respondents also provided examples of agencies being required to look for matters that did not form part of their usual remit. These roles and relationships are significant because they could be regarded as a template for enlisting all government agencies to search out cases of forced labour. Again, a frequent concern in these circumstances is looking for either illegal immigrants or terrorism indicators. For example, Dave, a local authority official is tasked with reporting any evidence of terrorist activity in the course of his normal visits. He explained:

'At the moment, the interest is in left wing groups and right wing groups where they are getting money by crimes. So, you might have fascists, BNP, where they use biker gangs or tattoo parlours, where they are tattooing certain emblems on people or providing emblems. We are looking for emblems that are being used as part of Al Qaeda or Isis. We see them and we pass the information on for the special branch. ... No-one else is (going) to see it we ... go into those businesses. ... we'll see their workspace, stuff pinned up on the wall, we might see a pamphlet laid around.'

Information sharing

Respondents also imparted how tips were passed between agencies at a local level in less formal ways, with intelligence about a lack of fire provisions passed to the fire brigade and suspicions about illegal immigrants passed on to the police and immigration related officials. For example, when Natasha (EHO) encountered people sleeping in a

store room, she: *'reported it to the fire service because I was worried about that and I reported it to Border Control'*.

Importantly, several respondents to this study did not seem to know what to do with any information they might come across about a potential labour exploitation situation.

They did not know which agency to tell or who to approach for discussion and advice.

Natasha (EHO) revealed that despite the familiarity she displayed about interaction with other agencies, she did not know who to contact about exploitation. Instead, she proposed addressing individual elements of the problem:

'Up until this point I didn't know that it was the police that dealt with it.... I mean if it was forced labour with a minor, so they're in full time education, then I would probably refer it to ... (the) County Council... If I thought it was perhaps an illegal immigrant then I would contact the Border Agency'.

Factors that Hinder Information Sharing

Surprisingly, there appears to be a number of factors that act to prevent an official passing information promptly about a matter of concern to the most appropriate agency.

Crucially, an official needs to know which is the relevant agency to report to. Again, the motivation to raise an issue of concern with another authority might be adversely affected in several ways. It might depend on how the official perceives the severity of the situation; whether or not they are preoccupied with their own work; or simply whether they remember or find the time. The likelihood of reporting appears to be improved, if there has already been informal interaction and communication between two agencies.

Natasha (EHO) summed up her priorities clearly: *'Obviously for me if I'm dealing with dirty premises then unfortunately that takes precedence over anything else ... my primary remit.'* Similarly James (fire brigade):

'When you are dealing with fire safety issues where you considering prosecuting, prohibition things like that, you're so focused on "Right, I've got to get this right legally. This might wind up in court." ... I need to gather this evidence and this and that and so people are so technically focused in their jobs ... that they may not be looking at the bigger picture.

Several officials expressed concern that the information they were considering passing on would not meet the criteria for another agency to take any action. They feared it might not seem sufficiently serious or be inadequate in some way, and therefore they decided against sending it. Andy (EHO):

'I've previously been in contact with other investigatory bodies, but I think sometimes their bar is quite high. You know the selection criteria for them to take it on any further is quite a challenge'.

In a similar way, officials can be concerned about how intelligence might be received. It is easy to understand why some officials expressed a preference for communicating with a special contact. Talking to someone familiar implies some previous connection and possibly a more relaxed approach to any discussion. At the very least, there is no need to explain who you are or the role of your agency. Dave (local authority) was pleased to explain: *'I have a contact. I have established now a regular informal link with the beat managers.'* He also offered:

'People do not feel empowered to provide that information to someone. "Oh I don't think I should. That is someone else's job." Or, "Can't do that. That is the police's job." "Do not know how I (am)going to be received ... (they) want someone to say "We'll deal with that".'

Push for joint working

The obvious adverse consequences resulting from adhoc arrangements for passing information between different agencies has been acknowledged. Official opinions about poor communication between officials suggested it was because they all seemed to

work in silos. This has led to a Cabinet office project with trials at five locations around the UK, under the banner of Better Business Compliance Partnership (DCLG, 2015).

The proposal was to use local authorities as the base for joint working with other departments such as the Fire Service, police, HMRC, Gangmasters Licensing and the Home Office Immigration Service. This was because local authorities were regarded as best placed as an agency to look out for a wider range of irregularities. The theory underpinning this arrangement was simply that if a business is non compliant in one area, there is a good chance they are generally non compliant. Anna (EHO) explained how the concept worked in practice in her local area, but also that relationships could be less well-developed elsewhere:

'We have police officers co-located with us in the department. We have licensing police and ... anti social behaviour police. within the council on this floor.and there's also the safer communities police as well within the different areas. So we've already got really good working (relationships). You know who to go to ... Because I think one of the things you probably find in other local authorities, where there isn't the same already built up relationships, is that you email someone and then that takes a week for them to come to you and then you get something out. Then its kind of a long process and you're kind of by then losing 1. probably the will to do it but 2. if there is a problem then it might well have gone away by then. Someone's already been rumbled.'

Extensive preparatory arrangements were required for pursuing this way of working. In Anna's authority this included:

'Some sort of training of the on-the-ground officers as part of the project. The idea was that each partner involved would have some learning around what each department did. So we've got like an aide memoire that details the triggers to look out for on a visit. So now, our food officers are very good. If they go out into a food business and if there's anything that they

think seems unusual - they're very good at feeding that back, particularly the immigration side of things - obviously the immigration side of things often links to kind of the forced labour element.'

More formally:

'The kind of preliminary stuff to be able to set up the partnership was quite complex in respect of having to have an MOU - a memorandum of understanding - between the different partners and how information can be shared. Obviously all that has to be done within the right remits and that's quite a long process.'

This trial joint working has been perceived as sufficiently beneficial in some circumstances for the GLAA to propose embedding officers from their enhanced workforce within the police and local authorities (Broadbent, 2017. DCLG, 2015).

Risk Based Inspection

Currently, 'Risk Assessment' is the philosophy underpinning the enforcement process.

The recommendations of the Hampton Review emphasised the benefits of this approach:

'Risk assessment is an essential means of directing regulatory resources where they can have the maximum impact on outcomes. Undertaking risk assessment makes regulators take proper account of the nature of businesses, and all external factors affecting the risk the business poses to regulatory outcomes. On the basis of this information, regulators can direct their resources where they can do most good. They can end unnecessary inspections or data requirements on less risky businesses, identify businesses who need more inspection, and release resources to improve broader advice services' (Hampton, 2005:4).

Depending on risk assessments to determine where to go and visit represents a considerable change from the methods adopted in the past. Previously, every business premises was visited on a systematic and routine basis, meaning that an official went into every workplace from time to time. Using this approach meant that no business was

overlooked or ignored, and new enterprises were picked up. The use of a risk based system depends on processing intelligence about a business to decide whether or not an official visit is warranted. If nothing is known about a business then it can be hard to justify an intervention.

Against a background of risk assessment, the crucial importance of receiving intelligence and information about labour exploitation is obvious. Intelligence would alert a government agency to visit a particular business. Anything preventing or limiting the free flow of information from any source whether victim, another official or a member of the public, also prevents an agency from responding to the situation.

Conclusion

This section has discussed a wide range of issues that act to restrict or limit the ability of agencies to respond quickly to intelligence and to discover labour exploitation in the work place. The problems stem from a number of sources. There are direct effects from government policy. In particular, there are many restrictions that arise as a consequence of austerity, circumscribing the scope of agencies and limiting the work officials can do.

Other problems are manifested in various ways but are the result of poor communication. There are a number of barriers that hinder information about labour exploitation from being passed quickly and freely between all parties. Inter agency communication can be poor, and victims and witnesses can both feel, and be inhibited from reporting their experiences. There are problems such as language barriers, and inaccessibility of officials.

A significant difficulty is created through simple ignorance on the part of all officials. Suitable and effective training about forced labour is not provided universally. This has many repercussions. At times, officials do not believe reports of exploitation, do not see

the indicators of forced labour, do not interpret what they see as exploitation and do not know how to deal with the problem appropriately if they do recognise it.

Chapter 9: CONCLUSIONS

This study, which commenced in 2012, has been conducted against a background of considerable interest in the crime of modern slavery in the UK. Since 2010, Conservative-led governments have been active, generating rapid and frequent change in the administrative and legislative arrangements for dealing with this crime. Possibly the most important development was the introduction of the landmark *Modern Slavery Act* in 2015.

This study was designed to answer two questions. First, to describe the current state of forced labour in the UK. Secondly, to consider the adequacy of the current arrangements for tackling forced labour.

Forced labour in the UK

This study showed that the available quantitative data such as the statistics published by the NRM and CPS are adequate only to confirm the presence of forced labour in the UK. The quality of this data is too poor to provide insight into the scale and extent of forced labour or to underpin any worthwhile analysis. This study argues that quantitative data will never reflect the actual situation until government agencies and officials can confidently recognise forced labour and report accurately.

The considerable deficits in relation to awareness amongst stakeholders, particularly government officials, and their capacity to both identify cases of forced labour and react appropriately was described by the respondents to this study. Government officials from a wide range of agencies are simply not comprehending the significance of the circumstances they appear to encounter regularly. This finding was unsurprising to the researcher and, as outlined in the introduction, tallied with her own experience as a government official. In turn, this highlighted significant inadequacies in relation to appro-

priate levels of training among officials and revealed the majority had not received any effective or useful training about forced labour at all. Further, this study identified such inadequate communication between agencies that important information about potentially abusive situations was not shared or discussed. This poor performance was exacerbated by the currently reduced capacity of government agencies. Given these apparently widespread shortcomings, there are obvious concerns about the quality of available data on both the scale and form of forced labour in the UK.

Respondents interviewed for this study supported previous research findings that forced labour is a significant presence in the UK (Wilkinson et al., 2010, Scott et al., 2012, Craig et al., 2007). It remains elusive, ‘hidden in plain view’, with people exploited in a wide range of industries. Strong links were identified between forced labour and migration, in particular, the undocumented. There was plentiful evidence pointing to a strong association between exploitation at work and sub-standard accommodation. This study identified constant change and evolution in forced labour in the UK, and described wily exploiters, varying their behaviour in response to enforcement initiatives. This confirmed the importance of maintaining a flexible open-minded attitude when searching for or identifying forced labour. Officials should be trained to look beyond the superficial and focus on detecting the presence of key elements of the offence whatever the surrounding circumstances.

Official Responses

There is a stated intent on the part of government to deal with the malaise of modern slavery proactively and effectively. In 2016, the UK Prime Minister, Theresa May, claimed to be leading the way internationally in the fight against modern slavery when

she announced the creation of the modern slavery task force (BBC, 2016). This body was subsequently chaired by the Prime Minister reinforcing its stature and significance. The appointment of a dedicated minister in 2014 revitalised the onslaught on this crime at the highest level. The *Modern Slavery Act 2015*, perceived as essential for confronting this widespread scourge, introduced the role of Independent Anti-Slavery Commissioner. Section 52 of the Act imposed a duty on police forces, local authorities and the GLAA to notify the Home Office of those potential victims of modern slavery not referred into the NRM who previously went unrecorded. This requirement will also improve the quality of quantitative data.

The *Immigration Act 2016* incorporated several sections addressing labour offences. Notably, the GLA was transformed in the GLAA with an enhanced remit and the new role of Director of Labour Market Enforcement was created, tasked with setting the strategic priorities for other labour market enforcement bodies. This Act also extends and links enforcement arrangements for National Minimum Wage legislation, the *Employment Agencies Act 1973*, and also offences under the *Modern Slavery Act 2015*.

Reality behind the rhetoric

Unfortunately, reality does not conform with the rhetoric. It is hard to be confident of the success of the new regime. The *Immigration Act 2016* addresses issues of great relevance to forced labour and exploitation in the workplace: wage irregularities are a forced labour indicator and exploitation linked to employment agencies is well understood. How the provisions of this Act are expected to be enforced in practice is yet to be clarified. The precise way the new Director of Labour Market Enforcement will work with the Anti-Slavery Commissioner is not explicit.

The revitalised GLAA, will be expanded by 40-50 officials to meet the revised obligations (Broadbent, 2017). This is a very modest number of people to patrol every industrial and commercial undertaking in the whole country. As Craig (2017:22) points out:

‘the GLA’s remit, covering about 0.5 million workers in the food-related industrial sectors, was being monitored by a workforce at the GLA of 70 staff of which 40 were field staff. The new all-encompassing GLAA has, technically a target of upwards of 30 million workers but is only being offered resources for an additional 40 staff.’

Clearly, the GLAA is simply too small to assess exploitation in every business in the UK. A less generous commentator might assert that the agency was being set up to fail.

The *Modern Slavery Act 2015* has deficiencies. It only applies to England and Wales, with similar legislation introduced in Northern Ireland and Scotland. This means somewhat different standards exist with respect to various provisions between the home nations. The impact, if any, of this disparity is not yet apparent but there are calls for universal provision (ATMG, 2016:77).

Crucially, the *Modern Slavery Act 2015* failed to clarify the term “forced labour”. Its convoluted definition refers to the *European Convention on Human Rights*, which also fails to provide a succinct definition. This does not assist enforcement action. The Act also failed to address problems experienced by Overseas Domestic Workers (ODWs). ODWs remain vulnerable to exploitation because their visas legally tied them to their employer (ATMG, 2016:72-4).

Fragmented policy and enforcement community

A central argument of this study is that the government fails to deploy existing resources to tackle forced labour. This study concurs with Craig (2017:21) that:

‘there is no group of concerned professionals... where the level and quality of training for identifying and supporting victims of modern slavery, and of knowing how to progress their cases, can be regarded as adequate.’

Currently, no agency is tasked with systematically searching for forced labour wherever it is perpetrated. The police have the duty to investigate and prosecute forced labour but mainly they seem to react to intelligence rather than seek out the crime. This situation might improve once the requirements of the *Immigration Act 2016* have been implemented.

Many officials from both local and central government visit workplaces. If they were all adequately trained they could look routinely for signs of worker exploitation. All the respondents to this study had encountered unsettling, potentially exploitative, work situations but had taken no further action. Most officials did not know who to inform. Pre-occupation with their own duties was one reason for doing nothing. Overall, the likelihood of serious exploitation in a UK work place never seemed to occur to most officials, suggesting widespread ignorance of modern slavery. A modest training programme would easily change this perspective.

This study exposed barriers inhibiting casual and easy communication between agencies. Officials were reluctant to pass on information that might be too trivial to share.

The tendency for agencies to work in silos has been acknowledged and the government is trialling agency co-location in the Better Business Compliance Partnership. Although this initiative focuses on finding illegal migrants, it could be beneficial for unearthing labour exploitation.

The barriers inhibiting officials from contacting each other should be tackled. There is dramatic evidence of the benefits of training and cooperation between agencies. The detection rate of forced labour by the Greater Manchester Police increased by 300%,

following a brief training session and joint working with other agencies such as Local Authorities and Border agencies (GRETA, 2016: §295).

Whenever matters of major importance to the government are concerned, it appears that all available resources, including a wide range of officials, will be co-opted. Government officials are required to participate in work beyond their normal legal remit, such as assisting immigration enforcement officials in workplace ‘sweeps’ to find illegal migrants. Individual officials described looking for evidence of terrorism and extremism. The principles of this approach could be adapted to deal with modern slavery issues. Obviously, workplace sweeps would frighten vulnerable people but all officials could look for evidence of forced labour.

Neoliberal agenda

This study exposed the paradox between austerity and light-touch legislation and the UK purportedly leading the global fight against modern slavery. Factors that diminished the capacity and role of government officials to enforce legislation were considered. The ‘Red Tape Challenge’ was a ‘coconut shy’ approach to legislation with de-regulation the prize. Laws perceived as unnecessary were repealed, which at the same time denigrated the stature of the law and those who enforce it.

The concept of risk assessment, based on intelligence, to determine official priorities was introduced by the Hampton Review. Officials no longer visit premises speculatively or routinely. Inspection agencies are compelled to visit according to perceived risk. This arrangement creates a conundrum. If you don’t proactively inspect, how do you know what is there? As a consequence, the risk of exposure is less likely for those running an exploitative business, there is a reduced chance of any official unexpectedly encountering an instance of forced labour and mistreated workers are deprived of the opportunity

to contact officials informally. These principles will also govern the inspection regime of the GLAA.

Austerity Measures

From 2010, funding of government agencies has been significantly reduced and the number of public servants cut. These measure restrict the capacity and scope of agencies and mean less work is accomplished overall. Constant reorganisation and restructuring have impacted negatively on officer morale in both the police and immigration services.

Austerity measures impose changes on individual officials. Everyone has to do more work to cover the shortfall in personnel and individuals now spend a significantly larger percentage of their time on reactive work. These factors restrict the time for planned visits and therefore limit the opportunities to see what is happening within businesses. Austerity measures led to time and money saving administrative devices making government officials less accessible to the public and limit direct contact between official bodies and worker experiences. For example, phone dependent centralised complaint teams prevent people from talking, face to face, with local officials. Offices relocated away from high streets to cheaper remote locations, coupled with restricted opening hours, reduce opportunities for directly contact with officials. A preference for contact by email is a common policy, promoted by using web sites as the gateway to the organisation and not publishing phone numbers. Inevitably, these measures are barriers that restrict victims of forced labour seeking assistance.

Victim experiences

Government policies create a dichotomy for workers. There is a tension between treating workers as victims requiring rescue and protection from exploitation and alternat-

ively, in the eyes of immigration enforcement, seeing illegal immigrant workers as criminals who should be tracked down and deported. The *Immigration Act 2016* created ‘illegal worker’ status and a very hostile environment for illegal migrants, thereby giving employers tools for exploitation. An illegal worker exploited in forced labour would justifiably be reluctant to approach official agencies.

Victims of forced labour have to surmount many obstacles to obtain official assistance. Simple problems include finding out who to speak to, and for a non English speaker the challenge of communicating by phone or writing a clear explanatory email. Vulnerable victims experience anxiety about appearing plausible and are apprehensive about reprisals from their abusers. A trades union representative is unlikely to be available to assist an exploited worker and they appear obliged to depend on their own resources. The officially provided self-help arrangements are neither helpful nor accessible. The Pay and Workers Rights Helpline recommends an initial approach to the employer: a useless suggestion for an exploited worker. Notoriously, until recently, a significant fee was required to access an Employment Tribunal.

Responses of government officials to complaints about modern slavery reportedly range from indifference to incredulity, with genuine problems all too often dismissed as fanciful. Unless a complaint is authenticated with full particulars of the complainant and comprehensive details of the work place, there is widespread reluctance among government agencies to accept it. As this study pointed out, a non English speaking illegal migrant may not know where he is or the name of his ‘employer’.

Whilst a government agency’s intention to only deal with genuine complaints is understandable, this study found that vulnerable victims were all too often overlooked.

Conflicting Goals

While taking overt pride in the measures to control slavery, the same government has encouraged the poor working practices of the “gig economy”. The benefits to employers are regarded as overwhelming, while any drawbacks for individual workers are overlooked. Many characteristic working practices of the gig economy generate a potentially exploitative environment for workers. For example, zero and tiny hours contracts commonly result in workers feeling obliged to do whatever is necessary to retain a job. Employment agencies proliferate, and control, and are known to restrict, access to employment. Pay arrangements are often contrived so that the worker is not reimbursed in accordance with the minimum wage.

In November 2016, the Taylor review, an inquiry into modern employment practices, reported as *Good Work* in July 2017. The impact of gig economy type work was considered as well as ‘the implications of new forms of work on worker rights and responsibilities’. The reception to the ‘seven steps towards fair and decent work’ proposals was ambivalent. Although welcomed, there was no commitment to implement the recommendations (Taylor, 2017:110-111).

Apart from the appalling impact on individuals, this study argues there are broadly two further consequences of the gig economy. First, it blurs the boundary between decent work and modern slavery practices and secondly it generates an encouraging environment for exploiters. The pervasive presence of less than decent work, camouflages more serious exploitation such as forced labour. This study found that observers become inured to abusive working arrangements through commonplace encounters with them. All the respondents to this study had encountered less than decent work personally, or through official duties or because of news items. It has become familiar. It is incorrect

to say everyone finds it acceptable, but fair to say it is no longer surprising. This means that severe exploitation, such as forced labour and slavery, is not as obvious against a background of generally abusive working conditions. The vivid and stark contrast that should exist between decent work and forced labour is obscured and blurred by extensive instances of work that is not decent or is exploitative to some extent.

In an environment where widespread abusive employment practices persist unchecked and appear acceptable to government officials, it is easy to imagine the milder abuse of gig economy type work escalating into a more extreme form. Indeed, exploitation has been previously characterised as a continuum (Skrivankova, 2010:18). Demonstrating a direct connection between gig economy practices and the development of forced labour would be difficult. However, using the concept of a continuum as a framework, allows discussion of where types of exploitation sit on the continuum and enables consideration of where the criminal line is drawn and why (Scott, 2017).

The official tendency to regard organised crime as responsible for forced labour (Balch, 2015) was found by this study to provide an unduly narrow explanation. It is argued that the government's wilful neglect of these interlinked areas of the market economy, the machinery of inspection and immigration policies are giving a 'green light' to the exploiters. Forced labour is not a few 'bad apples' but intrinsic to an exploitative environment.

Study Limitations

A surprising and significant problem encountered during this study, was a widespread reluctance to participate in the research. Agencies such as immigration enforcement and various major police forces, all with very significant roles with respect to modern slavery, refused to participate, without explanation. Speculation about their reluctance is

futile, but the evidence they might have provided could have been instructive. Both agencies encounter and process victims of modern slavery, referring them into the NRM system (NCA, 2016b). It would have been valuable to hear from both agencies about their approach to working with modern slavery victims and to learn from their real life experiences. Discussing workplace sweeps and learning how victims of modern slavery are selected from among other illegal workers would have been informative.

Recommendations

These recommendations predominantly comprise administrative steps the government could take to improve the way forced labour is tackled in the UK. No specific recommendations have been made about legislation. The explicit link to European legislation in the *Modern Slavery Act 2015* is a complication and the future relationship with European laws currently uncertain.

1. Training

Effective provision should be made to achieve and maintain knowledge of forced labour among all government officials, including the police and local authorities. Training should develop their understanding of forced labour and should be compulsory for officials such as the police. Any government employee, who interacts directly with the public, on help desks for example, should be trained to the highest standard, making them more likely than not to spot forced labour.

Training should draw on actual experiences of forced labour cases. Practical advice, such as how to protect victims and preserve evidence should be included. This is not rocket science, as a recent guide for nurses and midwives by the Royal College of Nursing (RCN, 2017) and joint training initiatives coordinated by the GLAA and a team of

academics from the Law and Business Schools at the University of Derby serve to illustrate.

2. Inter- agency communication

Currently, government agencies work in silos. The virtue of joined up working between agencies is acknowledged and inter-agency communication should be improved. Trial arrangements, such as, agency co-location, have been deployed for finding illegal migrants and this could be a template for tackling forced labour. Links should be strengthened between the police, GLAA and every other agency that interacts directly with the public. The police understand the importance of collating the most piecemeal facts. All officials should know how to share all apparently trivial information about exploitative situations.

Precedents for effective inter-agency working include the Humber Modern Slavery Partnership (HMSP), incorporating over 60 member agencies: ‘a strategic partnership of front line organisations across Humberside dedicated to tackling all forms of modern slavery’ (HMSP, 2017a). Activities include information sharing meetings, training events, an awareness raising regional conference, establishing task groups and a regional media presence. The Partnership facilitated the identification of 3 victims, one forced into cannabis cultivation, one exploited for sex and another ‘exploited for labour’ in the Travelling community (HMSP, 2017b).

3. Victim concerns

It must be made very easy for a victim of forced labour to contact any official directly and be helped. Effective publicity should direct victims to multi-lingual advice and offer reassurance that their status as an illegal worker will be disregarded. A potential victim should be treated as vulnerable and perceived as credible. Barriers deterring or prevent-

ing victims from coming forward should be removed. Agency protocols should be reappraised to ensure ‘bureaucratic procedures and requirements’ do not deter victims.

The legislation curtailing trade union representation should be reconsidered because these officials would provide valuable assistance to victims and would also tackle workplace exploitation.

It is particularly difficult to gain access to domestic workers. Implementation of the GRETA (2016:28) recommendation ‘that inspections can take place in private households ... preventing abuse of domestic workers’ seems unlikely. UK legislation affording ‘Powers of Entry’ was reviewed ‘as part of the Government’s agenda to roll back unnecessary intrusion into the lives of citizens’ (Home Office, 2014:4). Eleven powers of entry were repealed and a further 3 amended. Political enthusiasm for augmenting powers of entry to domestic property seems unlikely. Craig (2017:23) suggested reducing the vulnerability of ODWs by tying employment contracts to Embassies rather than individual diplomats. Other measures, such as providing advice at entry points into the UK should be considered to protect ODWs.

4. Undocumented Migrant Workers

This study confirmed previous research that undocumented migrant workers and rejected asylum seekers are extremely vulnerable to exploitation (Lewis et al. 2015). As a priority, the UK government should reconsider the hostile environment targeting these groups. Legislation requiring employers and landlords to check ‘legality’ before offering work or a place to live, form a perfect tool for abuse. Deliberately denying the right to work to asylum seekers makes them completely destitute and therefore, vulnerable to exploitative working conditions to stay alive.

The repeal of these legal provisions is unlikely in the current political climate with the prevailing view that foreigners are ‘other’, to be treated indifferently. However, the UK government should assert its human rights obligations in accordance with international treaties and act to ensure the human rights of all people in the UK are observed at all times.

5. Slavery Test

A “slavery test” or assessment procedure should be introduced to appraise every government measure for its potential impact, especially inadvertent consequences, on modern slavery. All official initiatives including legislation and administrative policies should be reviewed. Any measure, especially new provisions, likely to enable slavery should be revised.

Conditions that permit slavery to develop should be reversed, such as no longer making individuals extremely vulnerable. The current macro-economic and neo-liberal free market policies relating to enterprise and industry should be appraised.

By adopting the recommendations of this study, the government would demonstrate a clear commitment to eradicating modern slavery, and forced labour in particular, from the UK.

Future Research

This study raised questions it was unable to answer and left avenues of inquiry unexplored. The true extent and prevalence of forced labour in the UK remains unknown and hidden. Further studies are needed to find out more and quantify the scale of this crime.

The information about forced labour presented in this study would be enhanced by data from a wider spectrum of sources. For example, the experiences of officials from agen-

cies such as Immigration Enforcement and the voices of employers and victims would provide valuable insight and further work should be undertaken to seek their views.

Future studies are required too to assess the benefits and impact of the *Modern Slavery Act 2015* and the *Immigration Act 2016*. Questions to be answered include whether the legislation is beneficial and assists in identifying victims, whether the laws are easier to use and facilitate the prosecution of perpetrators. Future studies should consider whether revision of the complex legal definition is necessary to assist those enforcing the law.

A comparative study between the UK and other countries would establish whether forced labour is equally prevalent in all countries or whether the UK is exceptional with specific features that engender the crime. Finally, in due course, the impact of 'Brexit' on forced labour should be considered.

Appendix 1

Dramatis Personae

The participants in this study have been given a pseudonym to protect their identity. All recognisable identities have been removed. An anonymised description of their roles and status is set out below and where relevant, an outline of their knowledge and experience of forced labour is provided.

Salvation Army

Fran: A senior manager with the Salvation Army. She had a thorough understanding of the Salvation Army's role in countering slavery and trafficking. She worked with victims of exploitation and slavery on a daily basis. She arranged emergency accommodation for rescued victims and conducted interviews and prepared paperwork before referring slavery victims into the National Referral Mechanism (NRM). She interacted with other agencies involved in tackling slavery.

Ellen: A senior employee of the Salvation Army who worked with Fran. She had detailed knowledge and understanding of trafficking and slavery victims through direct interaction when she arranged their emergency accommodation and interviewed them before referring them into the NRM.

Amy: A volunteer worker for the Salvation Army. She worked with Fran and Ellen and assisted them in processing victims of trafficking and slavery into the NRM.

Environmental Health Officials

Andy: Widely experienced senior Environmental Health Officer (EHO) who worked in an urban area in the south of England outside London. He managed several staff who visited and interacted with local businesses. He was knowledgeable about all aspects of environmental health work and was also familiar with the wider obligations of a local

authority. He visited workplaces less frequently than in the past but maintained an up to date understanding of business activities and problems through discussions with his staff.

Anna: EHO who worked in a London borough. At time of interview was participating in a trial arrangement working with other agencies. She visited premises and interacted with the people who worked there.

Dave: Experienced local authority official who worked in a large rural authority in the south of England as a health and safety officer. He spent his time travelling around the area to visit premises. He worked alongside EHOs and had extensive knowledge of and encounters with a wide variety of industrial and commercial premises and the people who work there.

Natasha: An EHO from the midlands who worked in a predominantly rural environment. She had 10 years' experience in her role and spent most of her working time visiting premises and talking to the people who worked there.

Nic: EHO from the north. Expressed an interest in labour exploitation.

Sarah: A mature and experienced senior EHO who worked in a large southern city. She managed several staff. She was knowledgeable about all aspects of environmental health work as well as the wider duties of a local authority. She spent less time visiting premises than in the past but maintained an understanding of workplace issues through discussions with her staff.

Tim: EHO from the midlands. Expressed an interest in labour exploitation.

Trade Union Officials

Bill: A national organiser of a major Trade Union who was based in London. He had worked for the union over 20 years and had direct interaction with workers and work places in the London area during that time. He had extensive first-hand knowledge of

exploitation in the work place through personal involvement with a number of cases. He was familiar with forced labour through numerous personal encounters with workers exploited in this way. He maintained his knowledge of the current situation through discussions with union officials from around the country.

Bruce: A senior official of a major Trade Union who interfaced and communicated with the public on behalf of the union. He gained his knowledge and understanding of current work place issues through discussions with union officials based around the country who go into workplaces, talk to the workforce and hear about their problems.

Sam: An employee of a major Trade Union who worked in its publicity department. He communicated and interfaced with the public on behalf of the union. He had no particular knowledge of labour exploitation.

Health and Safety officials

Frank : A mature and highly experienced health and safety inspector employed by the Health and Safety Executive (HSE). He worked in London and had many years' experience in all kinds of industry including construction. He was required to visit premises and interact with employees to conduct both general inspections and investigations. He had a particular interest in migrant workers and was familiar with their circumstances and experiences while working in the UK.

Mike: A Health and Safety (HSE) inspector with a wide experience of industrial processes including the construction industry. He managed a small group of inspectors who operate in an area covering several counties in the south of England. He spent very little time visiting premises himself but had direct contact with inspectors who visited premises and discussed the situations they encounter with him.

Richard: A very senior Health and Safety (HSE) official. He was responsible for managing large numbers of HSE inspectors. He had personally worked in many roles within

HSE and had an overview of the agency's work. He maintained his knowledge of UK workplace concerns through discussion with the inspectors.

Gangmasters Licensing Inspector

Tricia: A highly experienced and knowledgeable inspector from the GLA. She was based in the south of England but her duties required her to visit undertakings all over the country. She repeatedly encountered cases of forced labour when inspecting businesses. She had personal experience of all aspects of this crime including identifying it, investigating individual cases and preparing prosecutions. She had had extensive discussions with exploited individuals, had experienced the many ways in which exploitation can be carried out and knew the challenges of addressing this crime.

Police Officers

Marie: An experienced intelligence officer with a southern police force. Her professional speciality was modern slavery. She worked with partner agencies and trained officers within her own force. She was regarded as the force expert and acted as consultant and point of contact for any other officer in the force. She had been involved in prosecuting a case of forced labour.

Mark: A police detective inspector from a rural police force in the south. He was the strategic lead for slavery and trafficking. He understood the problem of modern slavery and was familiar with the key issues.

Fire Authority officials

James: A fire safety manager who worked in London and who had 25 years' experience in the role. His work required him to visit both commercial and residential premises and to advise or enforce as appropriate on fire safety issues.

Sally: A London Fire Brigade official who conducted an investigation into unsuitable and inappropriate residential accommodation in the London area. She found many of

the occupants had vulnerabilities such as non-English speaking, migrants, casually employed.

Citizens Advice Bureau

Steve: An expert advisor with the central CAB advice team. He claimed he had no particular expertise with respect to labour exploitation.

Appendix 2.

Questionnaire: Forced labour in the UK

1. Introduction

Brief introduction of Interviewees role, background, service and responsibility

2. Knowledge of forced labour.

*Discuss the concept of forced labour to confirm we are talking about the same thing.

*principal elements of forced labour/ nature of crime (human rights) / where it is found / indicators/ legislation/ difficulty finding it / not necessarily linked to trafficking

*Discuss awareness of forced labour - have they heard of it / is it always in their mind / do they consider it a current problem or only an historical issue / minority issue?

*What do you think is the scale of the problem/ is it increasing ?

*Establish role, if any, (of the force too) vis à vis forced labour eg. Is forced labour peripheral to main focus of the police / officers would only encounter forced labour coincidentally to main work /the police enforces the law on forced labour/ the force looks for forced labour directly /

*What would your officers do if they came across an instance of forced labour?

Do your officers deal with forced labour for themselves or hand it over to others in the force?

*Would your officials initiate legal action or would investigation and enforcement require specialist input from others?

*Is the force asked to assist joint investigations into forced labour ?

*Do requests to join investigations pose problems to your organisation ? Is it easy to arrange / time consuming / expensive/ worthwhile / hard to find the manpower etc ?

*What training do your officers receive to equip them to deal with forced labour?

Is it going to help them find forced labour, recognise it when they see it and respond appropriately? Is training compulsory or voluntary / important / a priority/ comments ?

3. Experience of forced labour

Forced labour is an elusive crime. Can we discuss situations where forced labour has been found.

*Have you encountered forced labour / have officers in your force encountered it?

Describe circumstances and situation(s) Was this unique ?

*Was it obvious that workers were being exploited in forced labour ?

*Was the decision made immediately /was it easy to find / was it found by chance in course of other duties / found following a tip off /or found by investigation into a complaint

*How did you confirm that you were witnessing forced labour?

*What questions did you ask? What did you look at ? What did you see?

*Was it easy to legally prove the presence of forced labour?

*What evidence did you use?

*Was it easy to obtain / get witness statements/ dependable witnesses?

*Has this experience made you confident to deal with forced labour appropriately in the future? Would you take assurance from this experience that would benefit investigations into another forced labour case?

*Do you think it is easy to make mistakes when investigating forced labour that might jeopardise a good legal outcome?

*Have officers in your organisation ever talked about instances when they felt in retrospect that they had probably seen forced labour but didn't recognise it for what it was at the time? Can you explain further?

4. Potential difficulties and barriers in investigation

4a. Targeting and Priorities

- *Do you think that requirements such as targeting and prioritisation requiring justification of activities and so on restricts your organisation and officials?
- *Do you think you are as effective today as you were in the past. Do you cover the same ground?
- *Compared with the organisation's historical role, do you feel you operate in a narrower framework or that officials are now more blinkered and avoid looking beyond their targets?
- *Do you think that focusing on priorities means that other work you believe to be relatively important is neglected?
- *Do you think that employers etc are aware of the focus on targets and therefore feel they can operate with impunity because they are unlikely to be caught?
- *Are you aware of any examples where employers have expressed the opinion that they thought they wouldn't be caught?

4b. Austerity

- *Have austerity measures changed your way of working?
- *Has austerity had an impact on your force. What have been the consequences eg reduced staff numbers or resources, less experienced or qualified staff?
- *Has austerity meant concentrating on core activities because there is insufficient manpower to do more, leading to work being neglected?
- *Do you visit the local area as often as you used to or are you more office based?
- *Has the scope of interventions been restricted because of reduced resources eg joint investigations?

*Do officials have the same traditional opportunity to get to know their 'patch' and build up relationships with people and businesses etc?

*Are offices located less conveniently making it harder for officials to visit all areas and making them remote from some industrial areas?

4c. Legislation and Enforcement

*Do you think the Modern Slavery bill will be easier to use than the previous laws on forced labour. Do you think it addressed the difficulties of the previous legislation?

*Will it make proving a case of forced labour more straightforward?

*Have you experienced any problems with witnesses in forced labour cases. Are they reliable, easily intimidated, keen on attending court and giving evidence?

4d. Official guidance:

*What do you think about the official advice on forced labour. e.g. Do you think it is readily accessible / well publicised / clear enough / comprehensive / suitable for a vulnerable non English speaker?

*GOV.UK has been criticised as too simplistic and lacking in detail. Do you think the guidance could be improved. Recommendations?

*Is there too much dependence on internet based information?

*Do you think your force is welcoming to anyone who approaches seeking support / advice / justice?

*Is your organisation properly responsive to individual complaints? eg. Would the complaint system be sensitive to a timid victim attempting to report exploitation.

In particular :Would it respond seriously to a non English speaking migrant victim who was attempting to report a crime.

*Are officials on front desks and telephone helplines trained and supervised to ensure they treat a potential victim sensitively and supportively ?

*Are you confident your front desk officers would always see the victim beyond the cannabis farmer or illegal migrant ?

4e. Solutions and suggestions

*What steps could be taken to improve the way forced labour is tackled in the UK?

*Are there procedural arrangements your organisation could make to get more officers out into the field?

*Would it be beneficial to know local areas better / develop links with local people / pressure groups etc?

*Is there a role for better training / refresher training such as role play training or the opportunity to hear from people who have direct experience of forced labour - learn from their experience ?

Second part: Questions for specific agencies

Police:

*Are officers generally aware of their obligation to enforce s71 on Forced Labour?

*Do you think that patrol officers have a good understanding of forced labour?

*How likely would it be for officers to find forced labour through their own actions?

*Do the police mainly enforce s71 during joint operations with other agencies for example GLA?

*Do you know of any occasion when s71 was exercised proactively by the police?

*Have you experienced joint operations with other agencies. Are you wary of joint operations Do you feel they are too resource intensive?

*How does enforcing on forced labour fit into your other priorities?

*Are you more likely to find out about forced labour through reports / complaints from members of the public etc than you are for other crimes ?

*Do officers systematically visit / patrol all areas or only priority zones/ or just respond to complaints / emergency calls etc ?

HSE

*Do you think that HSE has a role or responsibility to find and /or prevent forced labour?

*Does the current operational practice of targeting high risk premises mean that many premises are never inspected. Does this help or hinder the discovery of forced labour?

*Do inspectors and visiting officers develop a good knowledge of a local patch. Would this be sufficient for them to be aware of bad employers / businesses?

*Do you think that many HSE offices and therefore inspectors are located too remotely from many work areas?

*Is information from the concerns handling process regarded as a source of intelligence about exploitative workplaces?

*Is much of this intelligence lost in the concerns handling process which sifts out those where full disclosure is not forthcoming and the ‘unworthy’ and less important concerns classified as green and amber?

*Do you think that accident reports are another useful source of information. Is good use made of this information?

*Official publications state that visits to the agricultural sector are an unproductive use of HSE time, do you think this allows the unscrupulous to do as they please?

*Is there evidence that the alternative arrangements promoted by HSE are effective at persuading recalcitrant farmers and labour providers to meet the legal health and safety requirements?

Local Authorities

EHO:

*Do your officials have good local knowledge. Would they become aware of abusive employers or exploitative businesses?

*Do you feel that having to pick priorities and justify visits means that you don't inspect what could turn out to be dubious businesses?

*Do your officers know about Forced labour?

*Have they had sufficient training to recognise it if they encounter it?

*What is the procedure if forced labour is found in your area?

Housing:

*What provision do you make for inspecting HMOs or unsuitable domestic accommodation / migrant accommodation?

*HMOs: How do you normally find out that HMO premises do not have the correct licence inspection visits / complaints / local informants?

*Do you consider forced labour automatically whenever unacceptably poor HMO premises are found over crowded with foreign nationals of working age?

*Do you question such occupants about where they work/ what they do?

*If you suspect worker exploitation what do you do?

Fire Brigades:

*Do you think you have a role with respect to forced labour?

*If you find what seem to be unacceptable working conditions when visiting non domestic premises what do you do? Is there a protocol?

*Do you think that workers accommodated in overcrowded and poor domestic accommodation is a problem in your area?

*Have you heard of the beds in sheds initiative conducted by LFB. Would an initiative of that kind be worthwhile in your area?

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