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Evidence submission for Modern Employment Review

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Modern slavery: forced labour, exploitation and hyper-precarious migrant lives in the UK

In recent years, it has become clear that not only is 'modern slavery' still common in remote and poorer parts of the world, but that it is present in the UK and industrialised countries, in the form of severe labour exploitation, child labour, domestic servitude, trafficking for sexual purposes, cannabis farming, organ trafficking, forced begging and other forms. Abolishing 'modern slavery' has therefore achieved international policy consensus.

Evidence presented here (conducted by researchers at the Universities of Leeds, Sheffield, Durham and Hull over the last decade) demonstrates three significant themes to consider in addressing migrant labour exploitation:

1. **Migrant status** is relevant to understanding vulnerability to **forced labour**;
2. Such forced labour, and modern slavery more broadly, is not 'exceptional' but rather the **extreme end of precarity**, wherein normalised practices of **low pay and insecure work,** coupled with the steady deregulation of the labour market (including limiting resources available to statutory regulatory bodies) create the environment that allows forced labour to flourish;
3. The UK Government is currently pursuing **two divergent policy tracks** by publicly denouncing modern slavery whilst simultaneously overseeing both the **further deregulation** of the UK labour market and an intensification of the **exclusionary** asylum and immigration policies (as seen in the Immigration Acts of 2014 and 2016) that underpin the exploitation of asylum seekers, refugees and irregular migrants more generally.

Evidence will be presented on each of these themes.

1. Forced labour and migrant status

Key points:

- **Forced labour remains a (perhaps increasing) feature of work in the UK in the 21st century.**
- **Forced labour can particularly affect forced migrants.**
- **EU nationals with a legal right to work in this country can also be in forced labour.**

Based on international law, and codified in ILO conventions to which the UK is a signatory, forced labour, involves a situation in which a person is forced to work or provide a service under the 'menace of any penalty' and for which they have not offered themselves 'voluntarily'. Forced labour cases are deemed to be distinguishable from more generalised forms of labour exploitation by the existence of various forms of coercion by one or more persons on the worker who at the same time lacks a 'real and acceptable alternative' to the abuse involved.

The International Labour Organisation estimates there are at least 21 million people trapped in forced labour across the globe with the overwhelming majority exploited in the private economy. Although mostly concentrated in the so-called 'slavery super centres' of India, Pakistan, Brazil and South East Asia as a whole, modern-day slavery in the UK was brought dramatically to public and political attention by tragedies such as Morecambe Bay in 2004 when 23 smuggled and undocumented Chinese migrants drowned in treacherous tides as they picked cockles under the supervision of their Chinese 'gangmaster',

A growing number of forced labour cases are coming before the courts although it remains the case both that the number brought to prosecution is far below the number which might be expected from current estimates, and that the judiciary lack the training and understanding effectively to deal with many of the cases brought before them.

Current policies provide limited, highly conditional support for some, while promoting the destitution of others, including refused asylum seekers and irregular migrants. Migrants with limited rights to residence, welfare or work may be left with few choices than to engage in exploitative work to survive. One group, comprising Vietnamese men smuggled into the country to work in cannabis 'farms' are subject to both smuggling and trafficking and, having been 'rescued' from forced labour, find that their statutory defence as 'victims', enshrined in Clause 45 of the Modern Slavery Act, provides them with little protection in reality.

Forced labour and forced migrants

The research of Lewis *et al* (2014) focuses on understanding the forced labour experiences of refugees and asylum seekers in the UK. Headline findings include:

- Forced labour is experienced by three particular groups who interact with the asylum system at different points: asylum seekers at entry, trafficked migrants and undocumented migrants.
- Such groups find themselves on the margins of the labour market or in transactional exchange in catering/hospitality, care, domestic work, food processing, cleaning, manufacturing, retail, construction and security.
- The most common experiences were of 'employers' and/or 'intermediaries' abusing workers' diminished rights to welfare, work and residence to withhold promised wages, enforce excessive overtime and subject them to abusive working and living conditions.
- Payment below the National Minimum Wage is a normalised reality for asylum seekers and refugees, including those with permission to work.

2. Normalised practices of low pay and insecure work

Key points:

- **There is a growing body of evidence that exploitation at work is a continuing and growing problem in the UK, affecting both migrants and UK nationals alike, with forms of modern slavery the extreme end of a continuum of exploitation.**
- **There is concern that the ongoing effects of the global financial and economic crisis are deepening exploitation and having negative consequences for vulnerable workers.**

The term 'precarity' is often used when attempting to describe these growing levels of vulnerability and exploitation. In a literal sense precarity refers to those who experience precariousness and is generally used to invoke lives characterised by uncertainty and instability.

Although UK nationals have been involved in some cases of forced labour, it is known that *migrants in particular* are implicated in these precarious labourscapes. Migrants have long underpinned low-wage economies in, in particular, the 'Global North', yet this dependency is thought to have grown dramatically in recent years.

For many employers looking to cut labour costs and to establish or maintain a competitive advantage, migrant workers offer a cheaper and more compliant alternative to local

workers, especially for those looking to employ people to do the 'dirty, dangerous and dull' jobs at the bottom of the labour market. Migrants, especially new arrivals, are presented by many employers as being harder workers, more loyal and reliable, and prepared to work longer hours due to their lack of choice and frequently a limited understanding of their rights. This therefore intensifies competition and offers employers the pick of the 'best' migrant workers. As such, a growing body of work details the clear connections between migrants and exploitation in its various- and sometimes extreme – forms.

If the 'hard' Brexit settlement leads to restrictions on low paid migrant workers, there are some serious questions to be answered as to (a) who will undertake the work undertaken currently by EU migrants (e.g. fruit and vegetable picking, meat packing, hospitality and leisure, social care, construction etc.)?; and (b) how will those recruited to take their place be protected from the exploitation currently suffered by migrant workers?

Forced labour practices in the UK food industry

Forced labour can, in theory, exist in any sector of the economy. In reality, however, it tends to be linked to the least desirable forms of work. The majority of vulnerable, low-paid, and very demanding work will be legal and not involve forced labour. Nevertheless, it is this type of work that can act as a seed-bed for exploitative workplace practices. In their extreme manifestation they create forced labour practices.

Most of us consume food relatively uncritically and do not have the time, inclination or ability to look at the labour behind the label. However, at all stages in the food production industry, from 'field to fork', there are extremely tough, low-paid, and insecure forms of employment. These jobs are vital to keeping food affordable, inflation under control, and ensuring that we are able to consume less essential goods and services and therefore feel affluent. (Scott *et al.* 2013)

"The hours depended on how much work there was. In the beginning, we worked very little, the hours were not enough. When the season was in peak we started to work seven days a week without rest. For a whole month we didn't had a rest and we worked for 12 hours and even 15 hours well into the evenings. We had very little rests."

Flexibility relates not only to variable hours, but also variable pay. It might seem surprising that the same job can pay differently from one day to the next. This variability is sometimes linked to the particular whim of an employer:

"I was not paid for an hour. I was paid for the service. Yes, according to what the boss thought was appropriate for a particular day. When it was busy, so let's say I got £30 for a Saturday. But, for example, when he decided that a day was not very hard, I got £20, and for a normal working day, when I did less hours, I got £15, sometimes £20, depending on the boss' preferences. I never had a stable wage!"

3. The vulnerabilising role of the state

Key point:

- **The Modern Slavery Act 2015 is progressive in many regards, yet modern slavery is simultaneously fuelled by hostile state policies towards migrants in the Immigration Acts of 2014 and 2016.**

The desire to make certain migrants *uncomfortable* has been made most clear in the Immigration Acts of 2014 and 2016 which hold up the creation of a '*hostile environment*' as their explicit goals.

The Immigration Act 2014 changed the removals and appeals system, making it easier and quicker to remove those the government says have no right to be in the UK, whilst the Immigration Act 2016 has three main areas of focus:

i) dealing with exploitation of low-skilled workers by increasing the consequences for employing 'illegal workers' and strengthening the penalties for working illegally;

ii) preventing irregular migrants from accessing services such as privately rented accommodation, bank accounts, and driving licences; and

iii) making it easier to remove people from the UK if they do not have a valid immigration status, including by extending the use of electronic tagging, restricting appeal rights, and increasing immigration officers' powers.

As such, these Acts and their changes are sweeping and extensive in terms of the implications for vulnerable migrants in the realms of housing, financial resources (banking), health and legal assistance.

These changes will collectively enhance the susceptibility of certain migrants to workplace exploitation and forced labour; acting as they will to intensify and deepen situations of 'hyper-precarity' (Lewis et al., 2014).

Spotlight on banking

The Immigration Act 2014 disqualified irregular migrants from opening a bank account in the UK. The new Immigration Act 2016 builds on these measures, through a requirement for banks to check immigration status of all account holders and report on customers potentially breaching immigration controls. Not having a bank account is a risk factor that can contribute to susceptibility to exploitation as workers do not have control over their own money, especially if their wages are paid directly into a bank. This can facilitate a type of 'third party' exploitation:

"The money goes straight to him. And he was living in [another city], so if he decide to say I'm not going to give you money today, that's it I cannot go and accuse to someone he has taken my money. So what I have to do is to play, sort of diplomacy with him in order to get something from him." Frank, male, refused asylum seeker, *Precarious Lives*

The Gangmasters' Licensing Authority, now Gangmasters and Labour Abuse Authority, has produced a short film showing precisely how criminal gangmasters can achieve and maintain control over the bank accounts of migrants working through their agency. (see **References**)

Actions

Tackling severe and forced labour exploitation among asylum seekers, refugees and the wider precarious regular and irregular migrant workforce in the UK must address the root causes, not the symptoms:

- **Ensure that the GLAA has adequate resources** and powers to investigate the wide range of potential situations in which severe labour exploitation and forced labour is occurring. The recent shift in remit from the GLA to the GLAA has given the GLAA an additional 35% more staff to cover an extended labour market of 6000%.
- Encourage migrants to **talk about work** and economic survival mechanisms, allowing space for open questions to allow detection of exploitative labour situations.
- Work with trade unions to develop 'employment awareness' and 'work preparation' sessions **for all migrants to build awareness of UK employment rights.**
- **End the deliberate policy of destitution of refused asylum seekers** which lies at the heart of the current asylum system - this must be recognised as inhumane and ended.
- Give the **right to work to both asylum seekers *and* refused asylum seekers** who cannot be returned to their country of origin so that they can legally meet their basic needs and enjoy the legal protections and rights afforded to workers and employees.
- There should be a permanent ***regularisation*** of all undocumented or irregular migrants living in the UK. By regularisation we mean granting all irregular migrants Indefinite Leave to Remain with full legal rights to reside, work and claim benefits.

References

Craig, G., Balch, A., Geddes, A., Scott, S., Strauss, K. (2014) *What next for forced labour?*, Durham: Forced Labour Monitoring Group.

Geddes, A., Craig, G. and Scott, S. (2013) *Forced labour in the UK,* York: Joseph Rowntree Foundation.

Lewis, H., Dwyer, P., Hodkinson, S. and Waite, L. (2014) *Precarious Lives: Forced Labour, Exploitation and Asylum.* Bristol, The Policy Press.

Lewis, H., Dwyer, P., Hodkinson, S. and Waite, L. (2014) Hyper-precarious lives? Migrants, work and forced labour in the Global North. *Progress in Human Geography,* 39 (5): 580-600.

Lewis, H., Dwyer, P., Hodkinson, S. and Waite, L. (2013) *Precarious lives: Experiences of forced labour among refugees and asylum seekers in England.* University of Leeds. Available at: https://precariouslives.wordpress.com/

Scott, S., Craig, G. and Geddes, A. (2013) E*xperiences of forced labour in the UK food industry,* York: Joseph Rowntree Foundation.

Waite, L., Craig, G., Lewis, H. and Skrivankova, K. (eds.)(2015) *Vulnerability, exploitation and migrants,* Basingstoke: Palgrave.

Platform on Forced Labour and Asylum: www.forcedlabourasylum.org.uk

Joseph Rowntree Foundation Forced Labour Programme https://www.jrf.org.uk/work/forced-labour

'Horse trading' (GLAA video about trafficker practices including bank account coercion) https://www.youtube.com/watch?v=k-I5EtcewdM

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