

Trafficking for

forced labour

UK country report

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Anti-Slavery International 2006

Trafficking for Forced Labour UK Country Report

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Executive Summary

This report is a result of research carried out by Anti-Slavery International in a six month period between 2005 and 2006 with the aim of finding out more about trafficking for forced labour in the United Kingdom (UK). This was a qualitative rather than quantitative project which aimed to provide information about how migrants become trafficked and which industries in the UK are affected.¹ During the research, 27 individual cases were identified in which migrant workers had been trafficked for forced labour in the UK.

More than one case of trafficking for forced labour took place in the following industries: agriculture, construction, domestic work, food processing and packaging, care/nursing, hospitality and the restaurant trade. Anecdotal information is available about people being trafficked and forced to work in motorway services, as casual labour in ports, doing laundry and in nail parlours. In several cases, information was received which indicated that people had been trafficked for illicit activities such as shoplifting, pick-pocketing and the sale of pirate CDs and DVDs on the street.

An example that appeared to be trafficking for illicit activities which was reported to the researcher, but not documented as part of the 27 cases, involved a group of women from the Baltic States who were repeatedly recorded on CCTV shoplifting in supermarkets in the South of England. The recordings showed a man who seemed to be supervising the group. The police raided the flat where the women were staying and found that they were all sleeping in one room. The flat was very basic and none of the stolen goods was found on the premises. The women denied knowing the man who appeared to be the supervisor and seemed anxious, afraid and intimidated. In an informal talk with a translator, they seemed ashamed of what they were doing and said that they had come to work, but the work they were promised was not available when they arrived.

Among the 27 trafficked people were nationals from European, African, South American and Asian countries. However, certain nationalities were concentrated in particular industries. For example, trafficking into agriculture mainly affected individuals from Central and Eastern Europe.

The migrants were compelled to work against their will in exploitative conditions through a variety of coercive mechanisms. The most common of these were debt bondage, the removal of their identity documents or the use of intimidation and threats.

Agencies commonly charged fees for arranging work which put the migrant workers in debt bondage even before they arrived in the UK. These fees ranged from several hundred to thousands of pounds. Care workers from Bulgaria paid £2,000 for jobs to be arranged in the UK, which was then deducted from their wages including very high interest rate charges. A Polish woman was told that according to the law in the UK she had to pay £300 as part of facilitating a job as an au-pair. Additional deductions were also made from wages and often justified as a requirement under UK law (for taxes, worker registration, visa extension, national insurance, etc.).

Removal of documents is also a key method through which people are controlled by their employers. A report produced by the NGO Kalayaan, which works with migrant domestic workers, found that, between 2001 and July 2003, 49 per cent of domestic workers registered with the NGO had their documents taken by their employers (511 people).

The research showed that migrant workers often do not speak English, are isolated from wider society and do not know what their rights are under the law. The vulnerability of the migrant means that any one of the coercive mechanisms highlighted above can be sufficient to coerce them into working in conditions they did not agree to. In some cases a variety of control mechanisms are used.

¹ In the course of the research 23 professionals working in various agencies that come into contact with migrant workers and 11 migrant workers employed in different industries were interviewed. Some 300 migrant worker case files which the Citizen Advice Bureau offices had recorded in the past year were also reviewed.

There are two key findings from the research which need to be highlighted because of their policy implications. Firstly, the majority of the trafficked people identified in the report entered the UK legally. Traffickers are using regular migration routes and work visas, but utilise debt bondage, the removal of documents and migrants' uncertainty about their rights and status to subject them to forced labour. Many of the migrant workers believed they were dependent on their employer in order to stay in the country (e.g. for visa extensions). In other cases the employer retained the migrant's documents, sometimes claiming they had sent the documents to the Home Office for official purposes, until the workers became irregular and were therefore much easier to exploit because they no longer had a right to be in the UK.

This clearly shows that regular as well as irregular migrants are subject to trafficking for forced labour and that strategies which look at trafficking only as part of organised immigration crime are not going to identify a significant number of people who are working in forced labour conditions.²

Secondly, none of the 27 cases was identified as trafficking cases by the agencies that initially recorded them. Furthermore, in the majority of these cases there is no information as to what has happened to the trafficked people. This reflects both a real lack of awareness about trafficking for forced labour amongst individuals in the relevant agencies and also a lack of support services for the people affected.

Even when agency personnel have concerns about the treatment of migrant workers they are unsure about what they can do about it or where they can refer them for assistance. One social services worker who visited a factory saw that the supervisor had many passports locked in a drawer of his desk. He explained that it was a safety precaution, because there were cases of theft at the factory. The woman who worked for social services was worried about the workers, but did not know what to do and was advised by her supervisor not to get involved in such issues.

The UK Government has taken action against trafficking for forced labour. It passed the Gangmasters (Licensing) Act 2004, which establishes a system for registering labour providers in the agricultural, shellfish gathering and associated packing and processing sectors. The licensing system came into force in 2006.

It also introduced an offence in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 which makes trafficking for all forms of labour exploitation a criminal offence. Exploitation is defined as: slavery or forced labour; use of threats, force or deception to obtain a service; or a request or inducement to get someone to undertake an activity that someone who was not young, disabled or a family member would be likely to refuse.

In 2006, the Government announced that it would set up a UK Human Trafficking Centre which will be a dedicated national police-led unit (which will co-ordinate with the Crown Prosecution Service, Immigration, etc.) and will have a mandate to pursue trafficking for both labour as well as sexual exploitation.

Despite these positive initiatives there has not been a single successful prosecution brought for trafficking for labour exploitation since the offence came into force in 2004. Nor is there any specialised assistance available to people who are trafficked for forced labour. The Government still has not signed the Council of Europe Convention on Action Against Trafficking in Human Beings, which would ensure that people trafficked into forced labour are provided with minimum standards of protection and support. At the time of writing 30 other European countries had signed the Convention.

The UK's experience in relation to trafficking for sexual exploitation has clearly shown that the provision of good quality support services helps to ensure successful prosecutions. There is a clear need to approach the issue of trafficking for forced labour from a labour rights perspective which focuses on the forced labour outcomes rather than considering it only as an issue of organised immigration crime. In this context the

² The large percentage of trafficked people identified in this study who entered the UK through regular migration channels could simply be a consequence of the fact that they are easier to identify because they are more likely to come forward to the relevant organisations for assistance.

report highlights a number of additional policy recommendations which would help to tackle trafficking for forced labour, including the need to:

1. Ratify the Council of Europe Convention on Action Against Trafficking in Human Beings, 2005 and the United Nations Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990.
2. Review existing migration policy to ensure that there are sufficient regular migration opportunities available, for both skilled and unskilled work and to remove policies which are likely to make migrants more vulnerable to trafficking for forced labour. This would include the Government's proposal to reverse the 1998 rule relating to migrant domestic workers which will mean that migrant domestics will only receive a six month visa and will have no right to change their employer even if they are subjected to abusive practices.
3. Establish a body, like a "Fair Employment Commission" as proposed by the Citizens Advice Bureau, which would be responsible for co-ordinating between all the agencies that have responsibilities in relation to labour issues in order to ensure: an effective and comprehensive system of inspections; investigation of complaints; advice, guidance and support for all migrant workers and employers; as well as a pro-active approach to compliance and, where necessary, enforcement.
4. All those who are likely to encounter trafficked people or migrant workers at-risk should be trained in detection of indicators of trafficking for forced labour. The groups to be trained should include law enforcement, immigration, NGOs, social services, unions, labour inspectors, labour providers, etc.
5. Information about their rights should be provided to migrants and potential migrants at the earliest possible stage and in a language they understand.
6. Migrants who have been trafficked or are victims of labour exploitation should have the opportunity to take cases to court in order to receive compensation for the damages suffered and be allowed to stay in the UK in order to pursue their cases regardless of their immigration status.

1. Introduction

Trafficking in people has for a long time only been associated with trafficking for sexual exploitation and forced prostitution. Six years after the introduction of the Palermo Protocol, which introduced a comprehensive definition of trafficking in people in any form and for any purpose, the data available about trafficking for forced labour other than forced prostitution is very limited, and the policy is likewise anchored in combating trafficking for sexual exploitation.

The International Labour Organization (ILO) estimates that there are at least 12.3 million people in forced labour in the world; 2.4 million of these are in forced labour as a result of trafficking. Many experts argue that trafficking is the fastest growing 'criminal industry' and that the profits it generates as an organised crime of trafficking in persons is almost equal to that generated by drugs and arms trafficking.

It is no coincidence that growth in trafficking has taken place at a time when there has been a growing demand for migrant workers worldwide, which has not been adequately acknowledged or facilitated. Lack of opportunities for regular migration to take up work in other countries and the fact that many migrants are looking for work abroad as a means of survival, rather than an opportunity to improve their standards of living, has left them with little choice but to rely on smugglers or traffickers to access these jobs.³

Developed western economies (but increasingly also economies in transition) depend on the work of migrant workers. There is a great disparity between the profits migrant workers generate for these economies⁴ and the dependence of whole sectors of economies on the workers, and the level of protection from trafficking and exploitation states guarantee them. The United Kingdom (UK) relies heavily on migrant labour and acknowledges the positive contributions that migrants make to the economy. The Government has not systematically set out clear principles which embrace the notion of

immigration and its associated social and economic benefits. At the same time it uses immigrant labour⁵ Moreover, it fails to protect workers from being trafficked and exploited, and does not provide them with minimum standards of protection and support.

This report is part of a study looking into the situation of so-called 'invisible trafficked workers', i.e. workers trafficked and exploited in sectors other than the sex industry in four countries (the UK, Portugal, Ireland and the Czech Republic). The aim of the study is to identify and assess these other forms of trafficking and to determine as accurately as possible why this is happening. It does not seek to provide definitive answers. Given the limited capacity of the scope of the research, the report aims to provide an impetus for policy-making, to increase discussion of the topic in public and to stimulate further research into the issue. The results of this study have led to the drafting of recommendations for policy-making, collaborative approaches and law enforcement in this area.

The first section introduces the research methodology and the definitions used for the research. It considers the methodology of research into trafficking that have been tested so far, and uses the internationally recognised United Nations' definition of trafficking and the International Labour Organization's definition of forced labour.

The second section provides an overview of the UK context of trafficking, including the domestic and international legislation as well as examples of cases of trafficking for forced labour based on the results of the research.

The third section discusses the media coverage of the issue of trafficking for purposes other than sexual exploitation, the language the media uses when reporting on this issue and the way the media tends to portray migrant workers.

³ Kaye, M., *Migration-Trafficking Nexus: Combating trafficking through the protection of migrants' human rights*, Anti-Slavery International, 2003

⁴ It should be also noted that remittances to the countries of origin are an important development factor that can contribute to the long-term improvement of living standards and hence decreases the need for people to migrate in order to support themselves.

⁵ The Institute of Employment Rights London, *Labour Migration and Employment Rights*, London, 2005

The fourth section lists policy recommendations in order to effectively deal with the issue of trafficking for forced labour and to protect those who have been trafficked or are in situations that make them vulnerable to trafficking.

2. Research methodology and definitions

The first priority of the research was to draw a better picture of the nature and the extent of trafficking for forced labour in the UK. Given the covert nature of trafficking in general and the lack of support mechanisms for people trafficked for purposes other than sexual exploitation as well as the lack of information and entry points to research this phenomenon, the research methodology depended on qualitative methods. Data was gathered from a variety of primary and secondary sources. Research was carried out involving a questionnaire survey, direct interviews and media monitoring. The research sample was established by the so-called snowball method, using contacts which had been set up previously. The interviews were semi-structured and covered several topic areas. Two main target groups were selected for the interviews:

- a) Professionals who are likely to encounter migrant workers (and possibly trafficked persons) as well as individuals who are in touch with migrant workers on a non-professional basis
- b) Migrant workers (possibly trafficked). With regards to the latter, application of ethical principles (such as sensitivity, consent of the interviewee and data confidentiality) during the interviews was of utmost importance. The methodology was common for all four countries⁶ involved in national research in order to ensure comparability of the results.

The desk research involved reviewing relevant literature and studies. It further included a review of almost 300 cases of migrant workers collected in the files of the Citizens Advice Bureau (CAB).

At the initial stage, questionnaires⁷ were sent to relevant institutions, agencies, NGOs and

individuals who are likely to come into contact with migrant workers. As the response rate was rather low, some of the people and organisations identified were interviewed directly over the phone. In total, 19 completed questionnaires were received.

A total of 34 interviews were carried out. Of these, 11 interviews were conducted with migrant workers and 23 with professionals. A list of the topics covered in the interviews can be found in Annex II.

The following people were interviewed:

Professionals:

- 4 academics
- 6 representatives from different sections of the police force
- 5 NGO workers
- 1 owner of an employment agency
- 3 representatives of government agencies
- 3 CAB workers
- 1 auditor

Migrant workers:

- 3 domestic workers (Indian and Sri Lankan)
- 2 construction workers (Polish)
- 2 carers (Ukrainian and Bulgarian)
- 2 hospitality workers (Afro-Caribbean)
- 2 kitchen staff (Philippines)

2.1 Definitions

The definitions used in the research come from the United Nations (UN) legal instruments on trafficking and slavery, and the International Labour Organization (ILO) conventions on forced labour. The term ‘trafficking in persons’ is used

⁶ The research was carried out in the UK, Ireland, the Czech Republic and Portugal.

⁷ A sample questionnaire can be found in Annex I.

as defined by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the UN Convention Against Transnational Organized Crime of 2000, (this definition was also adopted by the Council of Europe Convention on Action Against Trafficking in Human Beings). Slavery, slavery-like practice, serfdom as well as debt bondage are referred to as contained in the 1926⁸ and 1956⁹ Conventions.

The definition and the regime of forced labour are covered by the ILO Conventions No. 29¹⁰ and No. 105¹¹. The term forced or compulsory labour according to the Convention No. 29 shall mean “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” (Article 1(1)).

The elements constituting trafficking, forced labour and slavery can be different, but at the same time, they may overlap or vary at different stages of exploitation. Also, the fact that coercion and exploitation are not defined in international legislation, makes it difficult to draw a distinction between severe exploitation, forced labour, and trafficking. The most challenging question is how exploitative does the practice have to be, how severe do working conditions have to be, and to what extent does a worker have to be deceived in order to be considered a victim of trafficking and/or forced labour?

The element of coercion is certainly a useful indicator of forced labour. In referring to the *travaux préparatoires* of the Palermo Protocol Weissbrodt suggests that coercion exists in “any situation in which the person involved has no real and acceptable alternative but to submit to the

abuse involved”¹². This is a crucial aspect in determining whether a person has been trafficked and makes the task of identification more complicated. Very often, the people themselves do not see or believe that they have any other option but to do what is demanded of them. It is necessary to assess their situation of vulnerability in order to see whether they have been coerced.

The ILO suggests six indicators of forced labour:

- i. Threats or actual physical harm to the worker
- ii. Restriction of movement and confinement, to the workplace or to a limited area
- iii. Debt bondage (where the worker works to pay off a debt or loan, and is not paid for his or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt)
- iv. Withholding of wages or excessive wage reductions that violate previously made agreements
- v. Retention of passports and identity documents so that the worker cannot leave or prove his/her identity and status
- vi. Threat of denunciation to the authorities, where the worker is in an irregular immigration status

During the course of the research, a case was considered to be forced labour whenever at least one of the above listed indicators was identified.

When researching trafficking for forced labour, it is crucial to examine the relation and connections between migration and trafficking. The category of ‘migrant workers’ used in this

⁸ League of Nations Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention (1926) and its 1953 Protocol define slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (Article 1(1) of the 1926 Convention).

⁹ United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956) Article 1 offers a definition of debt bondage and serfdom, otherwise known as ‘slavery-like practices’:

- (a) Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt, or the length and nature of those services are not respectively limited and defined;
- (b) Serfdom, that is to say, the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.

¹⁰ ILO Forced Labour Convention No. 29

¹¹ ILO Abolition of Forced Labour Convention No. 105

¹² Weissbrodt, D. & Anti-Slavery International, *Abolishing Slavery and its Contemporary Forms*, HR/PUB/02/4, 2002, at para. 19. Available at: <http://www.antislavery.org/homepage/resources/Weissbrodt%20report%20final%20edition%202003.pdf>

¹³ See the ILO *Human Trafficking and Forced Labour Exploitation: Guidelines for legislators and law enforcement* (2004), Geneva. In Anderson, B. & Rogaly, B., supra note 2, at p. 16.

report refers to people who come from one place and migrate to another for employment purposes. In this report, this group constitutes foreign nationals who have not been in the UK for more than five years and have had various forms of immigration status. The evidence from the research shows that migrant workers are more at risk of being trafficked. When deceived and coerced into different types of work or different working conditions to those previously agreed in the destination country, they become trafficked. There is a debate about the advantages and disadvantages of including exploited migrant workers in the trafficking framework. Nevertheless, the combination of instruments on the protection of trafficked people and those on the protection of migrant workers¹⁴ shall be explored to try and comprehensively address the issue of the ‘migration-trafficking nexus’. After all, many migrant workers who have been trafficked may benefit from the measures contained in the Protocol and Council of Europe Convention. These standards will not however deal with the long-term and more general problem of the exploitation of migrant workers. Equally important is the way in which cases of trafficked people are examined. The situation of exploitation shall be the leading criterion for investigation rather than looking first at the aspects of movement and how the person arrived at their destination.

3. Context of trafficking in the UK

With regards to trafficking for forced labour, the UK appears to be mainly a country of destination. The evidence from the research also suggests that internal trafficking is happening in the UK. It is commonly known that pull and push factors play a crucial role within the trafficking context. The lack of opportunities in home countries and the demand for cheap labour (which is generated by the demand for cheap goods and services) in countries of destination vis-à-vis the restrictive migration policies, provide a fertile ground for trafficking and exploitation. As Kaye points out: “It is no coincidence that the growth in trafficking has taken place during a period where there has been an increasing international demand for migrant workers, which has not been adequately acknowledged or facilitated. The lack of regular migration opportunities to take up work in other countries and the fact that many migrants are looking for work abroad as a means of survival, rather than an opportunity to improve their standard of living, have left migrants with little choice but to rely on smugglers or traffickers in order to access these jobs.”¹⁵

The root causes of trafficking are structural, systematic and also of a global nature. Poverty is clearly one cause, but it is not the only one.

Social changes, economic and political factors all affect trafficking and can contribute to its expansion or elimination. Furthermore, the increase in migration in recent years has been dramatic, and labour migration has become a necessity of life for many people. Migration policies, however, have so far not reflected this.

Sociologists, like Ulrich Beck, describe the period we live in as “second modernism”, which is marked by individualisation, globalisation and a fall in permanent employment.¹⁶ Beck asks a very relevant question: “What answers beyond protectionism and indifference will countries find to migratory movement of the poor into the wealthier regions of the world?”¹⁷

Beck’s question very fittingly reflects the reality of trafficked people, especially those who have been trafficked for purposes other than sexual exploitation. If in an irregular situation, trafficked people are simply dealt with as illegal immigrants and deported. In many instances, they are not identified as having been trafficked at all. The so-called iceberg phenomenon is used in connection with trafficking for sexual exploitation and the identification of trafficked people. According to this model, the tip of the iceberg which represents the cases we know about, constitutes around 10 per cent of the

¹⁴ Especially the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.

¹⁵ Kaye, M., *Migration-Trafficking Nexus: Combating trafficking through the protection of migrants’ human rights*, Anti-Slavery International, 2003

¹⁶ Beck, U., *The Brave New World of Work*, Polity, 2000

¹⁷ *Ibid.*

actual number of people trafficked.¹⁸ It can be assumed that the same is true for other forms of trafficking. Although the percentage would probably be even lower, given that enforcement, prosecution and well as other attempts to identify victims have so far mainly focused on trafficking for sexual exploitation.

A worrying fact is how widespread and common exploitation in the UK labour market is. Stories about exploited workers in the media only concentrate on very severe cases or if they are likely to catch the attention of the public in some other way. However, exploitative practices such as wage reductions, failure to pay, long working hours, lack of breaks, holidays, health and safety issues, removal of documents, dismissal as a result of complaining about working conditions, and demanding unlawful fees by employment agencies, are situations which are directly or indirectly experienced by what seems to be a significant proportion of migrant workers in low-pay sectors, sectors where work can be described by the ‘three Ds’ (difficult-dangerous-dirty) or where there is a high concentration of migrant workers in general.

Anderson suggests that the existence of some labour-related factors which underpin labour exploitation are the constant pressure on owners and employers to cut costs and increase productivity, a growth in sub-contracting and the creation of long sub-contracting chains as well as outsourcing.¹⁹ Employers need temporary workers who are available on demand and can be laid off when they are no longer needed. It is usually the role of the employer, agent or gangmaster to have such ‘disposable’ labourers available to meet the demand. In such an environment, labour is treated as a commodity which can be purchased whenever needed and at very low costs due to the fierce competition for work. Nevertheless, labour cannot be separated from human beings who are its embodiment.

Policies need to focus on the real situation of

migrant workers – on stopping their exploitation, the denial of their employment rights, and on ways to ensure that their entitlements and interests are protected. Furthermore, any situation where weak employment laws permit employers to engage in the abusive exploitation of migrant workers, undermines the position of workers as a whole.²⁰

One of the construction workers interviewed described the environment like this: “I was expecting to come to a free, developed country. Instead of that we were treated worse than animals. More like machines that have to work whenever somebody pushes the button. All the folks that came with me were at some point treated badly. The people were unscrupulous – they said if you do not like it, then leave, I have another 10 that come in your place, will keep their mouth shut and do your job. Or even worse, they would threaten us or arrange that someone gets beaten up.”²¹

An environment of exploitation increases vulnerability to yet more severe exploitation – to forced labour and trafficking for this purpose. A person subjected to exploitation, as the migrant, will try for an alternative way out which turns out to be trafficking for forced labour²². Vulnerability is a product of dependency. Dependency and multiple dependencies are underlying factors of trafficking for forced labour. They lead the person into and keep them in an extremely exploitative situation. Immigration policies play a role as well. Failure to provide adequate entry routes (where the labour market clearly demonstrates demand) also creates conditions for unauthorised employment. The negative consequences of this are exposure of workers to coercion and exploitation, subjecting of legitimate employers and their workers to unfair competition, and the Government itself losing tax and national insurance revenues. Dependency relationships and their connection to restrictive migration policies will be examined more closely later.

¹⁸ Limanowska, B., *Trafficking in Human Beings in South-Eastern Europe*, UNICEF, OHCHR, OSCE/ODIHR, 2002

¹⁹ Anderson, B. & Rogaly, B., *Forced Labour and Migration to the UK*, Compas, 2005

²⁰ Institute of Employment Rights, *Labour Migration and Employment Rights*, London, 2005, p. 79

²¹ Polish construction worker

²² Even people who are already in the UK may become trafficked internally. When in an exploitative situation, they are an easy target for traffickers who promise them a better job somewhere else and then make them accept a different job in slavery-like conditions.

The extent of trafficking is very hard to assess. The only hard data available are the number of people identified as being trafficked and the number of traffickers who have been prosecuted. Assumptions about the overall extent of trafficking are often based on dubious mathematical exercises. Although it is important to have a rough idea about the size of the problem, in order to develop effective strategies to combat trafficking, it is crucial to understand its nature, mechanisms and the driving forces behind it as well as how those who profit from trafficking operate. For this reason, the research was a qualitative one from the outset. Nevertheless, numbers were recorded where possible. During the course of the research, 27 cases were identified that provided enough information to conclude that the people were trafficked for the purposes of forced labour.

3.1 Legal provisions on trafficking for forced labour in the UK

Before examining how UK legislation deals with trafficking and forced labour, it is necessary to mention the international legal framework relevant for the UK. The so-called Palermo Protocol²³ is the universal international legal instrument that addresses all forms of trafficking in people. According to the Protocol, the trafficking offence constitutes the movement of a person by means of deceit or coercion into a situation of exploitation. The focus of the Protocol is on the 'three Ps' – prevention of trafficking, prosecution of the traffickers and protection of those who have been trafficked. The UK ratified the Protocol in early 2006.

Trafficking is also being addressed at European level. The most relevant European instruments are:

- The European Union (EU) Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings. This Decision required member states to harmonise their domestic criminal legislation on trafficking by 2004 and to adopt the definition of trafficking consistent with the Palermo Protocol. The UK brought its legislation in line with the Protocol in 2004 (see relevant paragraph below).
- The EU Council Directive 2004/81/EC allows residence permits to be issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action that facilitates illegal immigration provided they co-operate with the competent authorities. This Council Directive came into force on 29

April 2004. The Directive sets out the criteria for issuing a residence permit to victims of trafficking, i.e. they have to have shown a clear intention to co-operate with the authorities. The UK is one of only three EU countries that have opted out of the Directive because of the concern that this provision could act as a pull factor for trafficking in human beings.

- The Council of Europe *Convention on Action Against Trafficking in Human Beings*, No.197. The purpose of this Convention is to protect the rights of victims of trafficking and to design a comprehensive framework for their protection and assistance. These include a reflection period of at least 30 days if there are reasonable grounds to suspect that the person has been trafficked. So far, 30 countries have signed²⁴ the Convention and two countries have ratified it. The UK is not among the signatories and therefore does not guarantee trafficked people the minimum standards of protection and assistance set out in the Convention.

In recent years, there have been some significant changes in UK domestic legislation with respect to trafficking and employment laws. The UK introduced an offence of trafficking for sexual exploitation in the Sexual Offences Act 2003 (which replaced the stop-gap offence of trafficking for prostitution in the Nationality, Immigration and Asylum Act 2002). It also introduced a separate offence in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, which

²³ Protocol to Prevent, Suppress and Punish Trafficking in Persons supplementing the UN Convention Against Transnational Organized Crime of 2000.

²⁴ The Convention was opened for signature on 16 May 2005. Status of signatures and ratifications as of 30 August 2006. For the current status see:

<http://conventions.coe.int/Treaty/Commun/ListeTraites.asp?CM=8&CL=ENG>

covers trafficking for all forms of labour exploitation. Exploitation is defined as slavery or forced labour, use of threats, force or deception to obtain a service, or a request or inducement to get someone to undertake an activity that someone who was not young, disabled or a family member would be likely to refuse.

Protection of trafficked people is also supported by the Human Rights Act 1998, which brings UK legislation in line with the standards laid out by the European Convention on Human Rights (ECHR).

UK employment law as such is well developed and covers a number of relevant issues such as wages and working conditions.²⁵ However, it offers little protection to those working without a legal contract. As Anderson suggests, this area is rather complex and its application is far from straightforward²⁶ Neither has employment law (or rather violations of it) so far been connected with trafficking and forced labour. This is because government and law enforcement agencies primarily perceive trafficking as an organised immigration offence.

Similarly, regulations on employment agencies in the Employment Agencies Act 1973 could potentially protect workers from trafficking and forced labour. The Act prohibits agencies from charging for finding or trying to find work; it obliges them to give written terms and conditions to temporary workers and to pay them even if the agency has not been paid and to pass the pay collected by them to the worker within 10 days. In many cases examined during the research, these regulations were being violated and these led or contributed to trafficking or forced labour situations. This clearly shows that enforcing employment law is a crucial element in combating trafficking in human beings.

The Gangmasters (Licensing) Act 2004 is a new piece of legislation which came into effect in April 2006. This Act is designed to regulate the supply of labour by gangmasters and came in as a result of the disaster in Morecambe Bay in Northern England where 21 Chinese migrant workers

drowned while picking cockles in February 2004. The Act has a potential influence on preventing and discovering trafficking and forced labour. It obliges gangmasters recruiting workers for agriculture, horticulture and the processing and packaging of produce, including fish, as well as for the gathering of shellfish, to register and obtain a licence. From October 2006, it will be an offence to provide labour without a licence. The use of an unlicensed gangmaster will be a criminal offence from December 2006. These regulations affect all the above sectors but not the collecting of shellfish, where offences will be introduced in April 2007. The Act also tries to ensure that gangmasters only employ individuals that are legally entitled to work in the UK.

Immigration law and practice impact on the situation of trafficked people and can unintentionally contribute to migrants becoming vulnerable to trafficking. The visa application system for the UK is very complicated. It divides people into various categories according to which they can apply for a specific visa and work permit. Recently, the UK Government has proposed new changes to immigration law and practice. The proposal of a points-based immigration system with its focus on skilled migrants is likely to increase the risks of trafficking as the opportunities for regular migration, in particular for low-skilled migrants, will become limited.

Let us, for example, consider the implications for migrant domestic workers. Kalayaan is a UK-based NGO working with migrant domestic workers. It has found that between 2001 and July 2003, 49 per cent of domestic workers registered with the NGO had their documents taken by their employers (511 people). The removal of documents and debt bondage are key mechanisms with which employers coerce people into continuing to work against their will.

In March 2006, Kalayaan wrote in its position paper to the Government's proposal that "...[it] will have devastating effect on Migrant Domestic Workers (MDWs), who are one of the most vulnerable group of workers in the UK.

²⁵ Laws such as the Employment Rights Act 1996, the Employment Relations Act 1999, Working Time Regulations 1998, and the National Minimum Wage Act 1998.

²⁶ Anderson, B. & Rogaly, B., *Forced Labour and Migration to the UK*, Compass, 2005.

It will establish legal channels to bring MDWs to the UK for the purpose of exploitation, removing even the most basic of their employment rights, leaving them powerless before abusive employers. It will effectively legalise trafficking.” Under the new rules, migrant domestic workers will only be given six-month visas and they will be tied to one employer. This means they will not be able to leave their employer even if they are abusive. It also reverses changes to current practice, which had removed the link between the granting of a work permit and the requirement to stay with only one specific employer in the UK. Granting MDWs at least basic protection under employment law in this way as well as other rights set out by the UK, were seen as good practice by the international community and other European countries. It was also seen as a positive example for the prevention of people trafficking. With respect to this particular group (but not exclusively), the current proposal constitutes a considerable step backwards, and it is likely to encourage exploitation and trafficking as it makes it impossible for MDWs to challenge maltreatment and abuse.

4. Support to people trafficked for forced labour in the UK

In its consultation document on the proposal for a UK action plan on trafficking, the Government recognises that trafficked people require specialist case and protection as well as support in order to make choices about their future.²⁷ Despite recognising the importance of providing specialist care and support to trafficked people, the relevant section of the document deals almost exclusively with assistance to people who are trafficked for sexual exploitation. The Government does not make a commitment to extend the services to persons trafficked for other forms of forced labour.

There is an urgent need to challenge the situation of exploited migrant workers having “nowhere to turn”²⁸. There is an absence of low-threshold protection available to migrant workers and those who have been or are at risk of being trafficked. As a result, people who have been exploited are often left without any assistance. This makes them very vulnerable to being trafficked and exploited again and again. A person who was subjected to exploitation and forced labour, and escapes or is thrown out for causing trouble is usually without any means of support or accommodation (as accommodation usually comes with employment). Without any money and a place to live, such a person is an easy target for

criminals who appear to offer a way out of a difficult situation.

Migrants often feel betrayed by the authorities and turn for help to the very people exploiting them. One of the workers interviewed explained it very clearly: “I left my first employer, because he was abusive. I had no means to live on, but I believe that I paid my taxes and had a national insurance number, the authorities will be able to help me. But the social office told me that my national insurance number was false and because of my sort of visa I do not have recourse to public funds. I had no money and after sleeping outside for three days I went back to the employer who took me back, but I had to pay a big fine.”²⁹

Once a migrant’s confidence in the authorities is damaged, it is very hard to regain trust irrespective of whether it is a governmental agency or an assisting organisation. A domestic worker interviewed as part of the research (a client seen by Kalayaan³⁰) reported her friend’s experience to the local police: “She managed to run away through a window from the family that treated her like a slave. She was terrified and had bruises on her body. Her passport was locked in the house. The policeman at the station asked her for her documents. She of course did not have

²⁷ Home Office, *Tackling Human Trafficking – Consultation on proposal for a UK action plan*, 2006.

²⁸ *Nowhere to Turn* is the title of a CAB report on evidence of exploitation of migrant workers. It describes the current situation in which migrant workers, when exploited, for various reasons do not have any place where they could turn to for solid, professional assistance.

²⁹ Afro-Caribbean hospitality worker.

³⁰ Kalayaan is a charity that provides advice, advocacy and support services in the UK for migrant domestic workers. It is one of few organisations providing support to migrant workers who have been exploited or trafficked for forced labour in the UK. According to the experience of Kalayaan, 80 per cent of migrant domestic workers working in private households suffer psychological abuse and 47 per cent have been locked in the premises.

them and wanted to tell him what happened, but he insisted to see her documents first and said he needed to first know who she was.”

One policeman interviewed for this research highlighted the need to make police officers more aware of the issue and to train them in how to deal with migrant workers, who might potentially be trafficked or be victims of crimes such as forced labour. He also felt that the police were still rather biased against migrants and saw them as criminals or people who violated immigration rules rather than as potential victims of crime.

Several agencies, charities and individuals have started to provide advice to migrant workers who have been exploited, or they have adjusted their services to meet the needs of an increasing number of migrant workers seeking help. Some migrant workers turn to the Citizen’s Advice Bureau (CAB) or to organisations which specifically help refugees and asylum seekers (such as the Refugee Council). Several CAB offices have launched specific programmes focusing on migrant workers and their needs. There are also community-based organisations that assist people of specific nationalities and hence are also encountering migrant workers who have been exploited or have been in forced labour.³¹ Nevertheless, available advice and assistance is limited and these organisations are not equipped to provide the level of protection and support needed by trafficked people. Advice services are able to deal with legal or immigration advice and sometimes also with employment and benefits advice. However, the most pressing needs such as housing, financial support, legal aid and legal representation, are often not covered. The responsibility to protect and assist should not lie with these organisations. In first instance, protection should be guaranteed by the Government which can then equip them to provide such services.

Lack of systematic protection and assistance to people who have been trafficked for forced labour can lead to them being re-trafficked. Similarly, the lack of services for migrant workers in general (in order to prevent their exploitation and trafficking)

can lead to them being more vulnerable and at greater risk of being trafficked. If no official help is available, migrant workers will seek it through more informal channels, where there is a high risk that they are being brought back into an exploitative situation or into forced labour.

Locally developed systems of assistance, ad-hoc assistance and already established good practice need to be joined up to form a system of referrals where individuals involved have clearly identified roles, responsibilities and competences.

The need for pro-active work on behalf of migrants (i.e. those who are most vulnerable to being trafficked and exploited) has become very apparent. The Scottish CAB briefing paper on migrant workers states: “...too often they slip between very large gaps in service provision, and currently have very few sources of help and information available to them. In dealing with most of these issues the CAB could take a lead. In others a multi-agency approach is necessary.”

Hence it is crucial to ensure that protection and assistance to trafficked people is dealt with in a systematic rather than an ad-hoc manner. Such an approach focuses on long-term sustainable solutions on two levels: to stop the situation of exploitation and to prevent the situation from occurring or re-occurring by empowering the trafficked person and by decreasing their vulnerability to being re-trafficked.

Countries have a clear and urgent responsibility to put in place comprehensive rehabilitation programmes that meet the particular the needs of men, women, boys and girls respectively if they have become victims of forced labour. Experience shows that without proper support for rehabilitation in place, rescue and release of forced labourers may put them in an even more vulnerable situation and lead them back into forced labour. Governments’ overall approach should concentrate on social and economic empowerment, enabling victims to rebuild their lives, and to develop secure livelihoods in conditions of freedom and dignity.³²

³¹ One such an organisation is Lingland in Southampton. It is originally a translation company; but it provides *pro bono* advice, translation and other services to Polish workers in the Southampton area.

³² *A Global Alliance Against Forced Labour*, ILO, Geneva, 2005.

This chapter cannot be concluded without mentioning the role of unions and their potential to assist migrant workers. The Institute of Employment Rights has suggested that there is widespread recognition by the unions that migrant workers are and will remain a fact of economic life in the UK. Union representatives encounter cases of exploitation of migrant workers and have come to realise the gaps in the system. As the General Secretary of the Transport and General Workers' Union representative pointed out in an interview for the Financial Times: "The lack of enforcement of the law by the appropriate UK authorities means that the abuse and mistreatment of these workers ... is widespread yet undetected and certainly unpunished."³³ Many unions have started to look into organising migrant workers and offering them their support. After all, the remit of a union is to ensure fair and equal treatment for all workers. Representing workers in negotiations with the employer as well as monitoring their treatment are some of the major benefits unions can offer migrant workers. In this respect, unions can play an important role in preventing as well as identifying workers subject to forced labour and trafficking. The Platform of International Cooperation on Undocumented Migrants (PICUM) has found that undocumented workers sometimes feel that union membership gives them some level of protection and that their membership card provides them with a proof of residence in the home country.

Nonetheless, unions cannot always assist trafficked migrants or accommodate their needs. For example, temporary or illegal workers as well as those switching employment regularly are unlikely to join a union. Furthermore, workers from former communist countries might be reluctant to join a union because of the negative connotations they had in the past in their home countries.

The level of support from unions is significant in improving the conditions and treatment of workers at the workplace. However, the much needed psycho-social, financial and other relevant support is beyond the remit of unions. Here, it again becomes clear that the lack of a clear mechanism of protection and referral cannot be substituted by and requested from organisations that are not equipped to do so.

5. Evidence of trafficking for forced labour in the UK

This section, analyses information and data collected in the survey. The results are analysed and presented so that they can provide as accurate a picture of the situation as possible. Even though the core of the information focuses on sectors where exploitation is happening and the nature of coercion, it also looks at the individual circumstances that led to a person being trafficked.

In general, the respondents understood trafficking to be mainly for the purpose of sexual exploitation. Even if they described a situation of a person being trafficked for forced labour, they would not associate it with trafficking. The two most common reasons respondents gave were:

a) because the people were not illegal in the UK/came legally or voluntarily to the UK;

b) because they had agreed to the work or to the conditions at some point.

These answers reveal the most common confusions and misunderstandings about some of the reasons that lead to trafficked people not being identified as such. It also shows that the irrelevance of consent (obtained through coercion, deceit and abuse of their vulnerable position) is generally not taken into account. Furthermore, trafficking is often confused with smuggling. Current UK policy clearly deals with trafficking as an organised immigration offence, which sends out a confusing message – it suggests wrongly that migrants who are legally in the UK cannot become victims of trafficking.

The ILO and the EU Experts Group on Trafficking in Human Beings proposed that the initial focus

³³ *Financial Times*, 25 November 2005.

of investigation needs to be on the situation of exploitation, i.e. forced labour as a result of trafficking. Thus, the question of how the person has arrived at the situation s/he finds herself in, in other words the migration (movement), should be considered at a later stage and should not distract from the issue at hand. Such an approach is especially important for law enforcement agencies investigating trafficking for forced labour.

5.1 Industries/sectors where forced labour occurs

Respondents mentioned a broad range of industries and sectors where exploitation and possible trafficking for forced labour occur. The ILO states that agriculture and construction are industries most likely to use forced labour. Those were also the most frequently mentioned industries in this research. Apart from agriculture (and other related industries, such as food processing, packaging and shellfish picking) and construction, cleaning and domestic work were also mentioned frequently, as were care (including nursing), the restaurant trade and the hospitality industry generally. Other types of work mentioned included washing cars, security work, 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. There is also anecdotal evidence of cases of forced labour in bakeries, laundry services, beauty parlours and motorway services.

Exploitation and forced labour mostly occur in industries that depend on casual and temporary labour, offer low-wages, predominantly subcontract, and where it is often hard to track supply chains. Labour shortage and a very competitive and demanding market play their part. The prevalence of sub-contracting as a means of cutting costs impacts on the situation of workers and provides ample opportunity for exploitative employment practices. Using sub-contracted labour and services is also very common in the public sector. Some respondents expressed concern about cases of exploited construction workers working on projects sub-contracted by the public sector. Similarly, in one case, payments were made from the NHS to an agency that supplied care workers whom it exploited. There was also anecdotal evidence of

cleaners and agency workers providing catering services.

In several cases we received information indicating that people had been trafficked for illicit activities such as shoplifting, pick-pocketing, committing fraud or selling pirate CDs and DVDs in the streets. Other countries have recorded similar trends. In the Netherlands, for example, the Bureau of the Dutch National Rapporteur on Trafficking in Human Beings documented a case of a minor migrant being repeatedly caught pickpocketing in markets in the Netherlands. The circumstances of the case suggested that the girl might have been forced to commit these crimes.

Similar cases were recorded in the UK. However, they were not documented as trafficking cases in this report, even though external indicators pointed to circumstances that corresponded to those of trafficking situations:

A group of women from one of the Baltic States was repeatedly recorded on CCTV shoplifting in supermarkets in the South of England. The recordings showed a man who seemed to be supervising the group. The police raided the flat where the women were staying. They were all sleeping in one room, some of them on the floor, and the flat was of sub-standard quality. There were no signs of profits made from shoplifting, nor were any of the stolen goods found on the premises. The women all denied knowing the man who appeared to be the supervisor, and they appeared very anxious, afraid and intimidated. In an informal talk with an interpreter, they seemed to feel ashamed of what they had done and said that they had come here to work and that the work they were promised was not available when they arrived.³⁴

³⁴ In the course of the research we came across a number of cases where people in the countries of origin were promised some work in the UK and arrived there to find out that there was no such work available or that they were abandoned by their contact. These cases might be only cases of financial fraud with the aim of gaining a profit from a "mediation fee" paid in the country of origin. However, such a situation puts the people into an extremely vulnerable position when left without any means to support themselves and knowledge of the local situation. They are then very easy target for traffickers and other criminals who exploit them.

Another case suggesting possible trafficking for illicit activities is a more complex one and demonstrates the restrictions and obstacles migrant workers tend to face:

A man was recruited in Poland for full-time agricultural work in England. When he arrived, he was told that there were various temporary jobs for him but no permanent ones. He was also advised to open a bank account into which his wages could be paid. Opening a bank account is a complicated procedure and for temporary workers who do not have a permanent address in the UK, it is almost impossible. A fellow Polish national, who also arranged the jobs for him, offered to arrange a bank account for him through his contacts. After his bank account had been opened, he was approached by his fellow national and asked for a favour. The favour was to temporarily put some money into the account for a friend who had problems with opening a bank account himself. Being grateful as well as dependent on the man for work, he agreed. Thousands of pounds were put into his account – much more than he had expected. Then he was asked for another favour – to withdraw some money from the account by using his card – later on he was driven from cash machine to cash machine in several towns and asked to withdraw money for several days. Finally, his card was blocked when the bank became suspicious of these unusual transactions.

This case illustrates two important aspects. The first is the deceptive way of recruitment – deceit about the work or the work conditions and thereby hiding the real purpose of exploitation. Secondly, the case highlights the subtle means of coercion which are often the least explored elements of trafficking – abuse of power or of a position of vulnerability.³⁵ Sophisticated methods of manipulation and creating dependency by providing so-called favours put the person into a situation “...in which the person involved has no real and acceptable alternative but to submit to the abuse involved.”³⁶ Asking for ‘favours’ (such as money or doing something) for services, advice and arrangements is a clever way of abusing a common practice and reality in many societies outside of Europe and in the post-communist European countries – the common belief that certain things can only be arranged through a ‘knowledgeable’ person who has contacts at their disposal, knows the environment and language.

It is normal to pay a fee or to give gifts, and to owe the person a favour for arranging all these services and giving all this information. The trafficker/intermediary convinces the migrant worker that this is also how it works in the destination country; s/he therefore is unlikely to consider the way they are treated as abuse or exploitation but as being in debt. Such practice is often deeply anchored in the social behaviour and culture of the exploited people and makes it even more complicated to identify them as being exploited.

5.2 Means of coercion and force

Migrant workers are kept in exploitative situations that amount to forced labour through the use of coercion. Various methods are used to keep them there or to make them submit to such circumstances. There seem to be both similarities and differences with regards to cases of trafficking for forced labour and trafficking for sexual exploitation. During the recruitment, deception might be applied. Contrary to trafficking for sexual exploitation, physical violence and constraint are usually not applied in the first instance. Indeed, incidences of actual physical violence are rather rare. The research and information available show that the forms of coercion are more subtle. Particular methods being used are manipulation, psychological pressure and threats. These are used to make people work in an exploitative situation, which is often combined with debt bondage and live-in accommodation. As a result of this, people find themselves in a vicious circle of multiple dependencies which leave them no other feasible option but to further submit to accept work that amounts to slavery. Structural factors, long sub-contracting chains, labour intensive, non-unionised sectors, casual arrangements and indebtedness to employers who are

³⁵ Art. 3 of the Palermo Protocol

³⁶ Weissbrodt, D. & Anti-Slavery International, “Abolishing slavery and its Contemporary Forms,” HR/PUB/02/4, 2002 in *Trafficking for Forced Labour*, Methodology package.

involved in recruiting labour, play a major role in the exploitative employment relationship.³⁷

Research for this report identified three main means of coercion:

Retention/withholding of identification documents

Retaining or withholding identity documents is a powerful means of restricting a person's freedom of movement without having to actually physically detain them. Some workers (in particular those who come from outside Europe) have their passports taken away immediately after arrival to the UK, often for alleged security reasons. Others have lost their documents through more sophisticated methods applied by the agents/gangmasters/employer. The retaining or withholding of documents is also often connected to arranging formalities, such as obtaining a national insurance number, extending a visa extension or a work permit.³⁸ In such cases, the identity documents were handed over by the workers who wanted to comply with the requirements, but who were deceived when the agent (gangmaster or employer) failed to arrange these and instead kept the documents, thus making the workers stay illegally in the country and increasing their dependence on them and the employment. In some cases, their documents might be replaced with false ones, making the worker liable for prosecution if discovered by the authorities.

Debt bondage

A person is in debt bondage if s/he works to pay off a debt or loan and is not paid for the work carried out. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt. Many migrant workers borrow money for travel and to finance getting settled in the UK. Some receive advance loans from agencies to arrange tickets, work and

other formalities. The money to repay the loan should be deducted from their wages after the worker starts working. However, the interest rate on such a loan is often so excessive that, given the fact that there are probably further deductions made from the worker's wages for accommodation, transport etc, s/he does not have any real chance to repay the debt and survive at the same time. With regards to the debt previously incurred in the country of origin, it could either be a loan from a family member or relative or from a private moneylender.³⁹ If the worker's wages are withheld or lower than agreed, s/he will also be trapped, either fearing to leave the exploitative employment or in fact hoping that s/he will eventually earn more and so be able to pay the debt.

Threats

Threats are also very effective means of coercion. There are many ways in which threats are used to assert control over workers. They range from threats of violence⁴⁰, threats of reporting them to the authorities (for staying illegally or failing to register), intimidation by threatening to punish the worker if they complain about working conditions or pay, or for demanding access to their rights. Sexual harassment, abuse and threats of sexual violence is a means of coercion specifically used for women. In several cases, women were threatened to be sold to pimps into forced prostitution to force them to accept exploitative working conditions or different work.⁴¹

Very subtle forms of coercion, especially threats and intimidation, make the exploited person feel extremely insecure. Thus they are easily manipulated and put under constant stress. Their dependence on the exploiter, actual or perceived, makes it easier to control them. Other forms of coercion used overlap with the ones mentioned above and are often specifically used for certain

³⁷ Institute of Employment Rights, *Labour Migration and Employment Rights*, London, 2005, p. 57

³⁸ The Workers Registration Scheme is a system developed for the workers from the new EU countries. Workers need to register, which apart from other documents and a fee of £70 requires them to send their identity document to the Home Office. This requirement is abused as a way of getting hold of workers' passports under the pretence of registering the worker with the Home Office. If workers ask about the documents in a couple of months' time, their answer will be that the Home Office has not returned the documents and probably lost them. To get in touch with the Home Office and to investigate this is often logistically impossible for a worker who has to work the whole day without access to any forms of communication and who will not be allowed to take time off to do so.

³⁹ This practice is common in some communities and among some ethnic minorities, such as the Roma in Slovakia.

⁴⁰ Stories about people being beaten up circulate among migrant workers. They claim it is hard for them to distinguish the seriousness of such threats.

Sometimes they judge the level of the threat of violence by external signs such as the number of tattoos and type of dog.

⁴¹ Possibility of combined experience of sexual and labour exploitation is examined further below.

groups of people, depending on their nationality or gender. Non-payment of wages, accommodation tied to the employment and threats of eviction in case of complaints, isolation both in terms of restriction of freedom of movement and by preventing social contacts (e.g. by keeping workers “behind their language barrier”⁴²) are examples of other forms of coercion used to control workers in forced labour situations as a result of trafficking.

5.3 Profile of trafficked people: Nationality and gender breakdown by industries/sectors of forced labour

This chapter includes information about the 27 people identified as being trafficked in the research as well as information collected about migrant workers who potentially could have been trafficked. The information below is qualitative information on forced labour cases and needs to be read within the context of the rest of the research while taking into account of the fact that there is little factual information available about this phenomenon.

The nationalities of migrants trafficked for forced labour can be divided into three groups:

- a) Europeans from new EU countries
- b) Europeans from non-EU countries
- c) Non-Europeans from Asia, Africa and South America

It is difficult to put together a complete list of the nationalities of migrant workers and potentially trafficked people. For example, a worker from the Scottish CAB came into contact with migrants from more than 20 different nationalities over a short period of time.

Certain industries seem to be predominantly occupied by some nationalities, whereas in others, people from all sorts of different backgrounds can be found. In 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 (e.g. Indian, Pakistani or Chinese restaurants). The fact that some of the migrant workers come from EU countries and therefore have access to many of the same rights as indigenous workers does not prevent them from being exploited. They may, for example, not be aware how to access information about their

rights and entitlements. The Workers Registration Scheme also means that the rights of workers from the new EU countries are limited during the first year of their employment. In general, migrant workers from the new EU countries seem to be in a slightly better position with regards to possibilities of seeking help as some interviewees noted. It is also highlighted by the fact that the number of migrant workers from the new EU countries who contacted the CAB was higher than the number from other countries.

At least one case of trafficking for forced labour and or allegations of it happening were recorded in the industries listed on the facing page. The table also contains information about the background and gender of the trafficked people seen in all of the research.

The nationality of a worker usually also determines his/her immigration status and therefore their options. The majority of workers entered the UK legally. Some of them were entitled to work, while others had legal immigration status but were not entitled to work. They all had very different types of immigration status and work entitlements. The status generally changes during the course of their stay in the UK, often as a result of coercion (such as the retention of documents). In many cases, even EU nationals were made to believe that they were in breach of immigration law.

Actual or perceived irregular immigration status creates a situation of vulnerability and dependence (especially if the visa is tied to a specific employment) and makes migrant workers an easy target for traffickers and exploiters. Undocumented workers, for example were not all

⁴² Several Polish workers reported that once they started to pick up a little English and tried to learn the language, they were immediately sacked. One of the professionals reported on practices of labour agencies that hire a group of workers only if not more than one is competent in English and could serve as a communication point. The reason given for this is that workers who do not speak the language are easily manageable – they do not ask questions, do not complain and simply do what they are told.

Industry	Sector	Region/Countries of origin	Gender
Agriculture	Mushroom farms	Central and Eastern Europe	F/M
	Fruit and vegetable picking	Central and Eastern Europe	
Food processing and packaging	Meat processing /packaging	Central and Eastern Europe	F/M
Other food industries	Bakery Shellfish gathering	Central and Eastern Europe, Asia	F/M
Construction		Central and Eastern Europe	M
Services	Restaurants	Central and Eastern Europe, Asia, Africa	F/M
	Hotels	Central and Eastern Europe, Asia	F/M
	Cleaning	Central and Eastern Europe, South America, Africa	F
Nursing and care	Care workers	Central and Eastern Europe	F
	Nurses	Central and Eastern Europe, Asia, Africa	F
Domestic work		Asia	F
Illicit activities	Shoplifting	Central and Eastern Europe	F/M
	Pick pocketing		
	Financial fraud		
	Sale of pirate CDs/DVDs	Asia	

Most frequent countries of origin:

Central and Eastern Europe (most common countries of origin): Poland, Latvia, Lithuania, the Czech Republic, Slovakia,⁴³ Bulgaria, Romania, Ukraine, and Kazakhstan

Asia: India, Bangladesh, Sri Lanka, China, Vietnam, Pakistan, Nepal, Philippines

South America: Brazil, Columbia, Caribbean Islands, Paraguay

Africa: Uganda, Morocco, Nigeria, Somalia

⁴³ New EU countries

trafficked, but many professionals argue that the majority of them were subjected to labour exploitation by virtue of their vulnerable position.

With regards to the regions affected by trafficking into forced labour, it is very hard to draw a precise picture. Areas with agriculture, horticulture and fishing industries are affected. However, in general, forced labour was found in areas with a high concentration of migrant workers and industries that use migrant labour. Those who responded to the survey mentioned the following areas: Birmingham, Southampton, Bristol, London, Cornwall, Peterborough, Coventry, Kent, Hull, East Anglia, Lincolnshire, the Vale of Evesham, Sussex, Central Scotland, North of Scotland, Ross and Cromarty, Scottish Highlands.⁴⁴

An important aspect to mention is the specific situation in Northern Ireland, which is often the transit point for Ireland and the rest of the UK. Although there is little concrete information available on the situation with regards to trafficking for forced labour, agencies working on the ground have recorded many cases of migrant workers being exploited and possibly trafficked.

The border areas between the North and the South have been previously exploited by rogue gangmasters who take advantage of the legal differences and move workers across the border. The south of Northern Ireland seems to have the biggest number of migrant workers. Many of them are exploited and possibly trafficked. STEP NI, an NGO providing advice to migrant workers reported that their centre sometimes received more than 20 individuals a day who were subjected to exploitation.

The needs of Northern Ireland in tackling the issue of trafficking for forced labour are different from those in England and Scotland and need to be addressed as such.

The involvement of paramilitary groups in trying to use their influence to control the supply of migrant workers and the lack of cross-border co-operation are examples of the specific issues that need to be

tackled with respect to combating trafficking for forced labour in Northern Ireland. A survey on the situation in Ireland might be a helpful tool for designing a regional response to the issue.

5.4 Promise of work versus actual working and living conditions

Recruitment plays a significant role in determining working and living conditions of migrant workers. As is the case with trafficking for sexual exploitation, there is a formal way of recruiting (through an agency, agency-related intermediary or gangmaster) and an informal way of recruiting labour (through family members, friends, acquaintances or community members). For trafficking for forced labour, recruitment is carried out in both the countries of origin and in countries of destination, which is different from the most common trafficking cases for sexual exploitation.

In some cases, the ‘classical trafficking scenario’ takes place. This involves an initial promise of work, but then the person recruited finds the work or the working conditions in the destination country to turn out to be completely different but has no choice but to accept it. In other cases, the exploitation happens gradually and working conditions deteriorate bit by bit, making the worker believe that the exploitation is just temporary.

Deceptive recruitment creates vulnerability. Some recruiters are well aware of the exploitation that the worker will be exposed to, while others are just a link in the chain and have nothing to do with the final situation the worker will end up in. The following actions constitute coercive recruitment and are indicators of trafficking or at the very least place the worker at risk of being trafficked and put into forced labour:

- Providing misinformation
- Putting people in debt
- Withholding essential information
- Deliberately recruiting particularly vulnerable people (socially excluded groups, ethnic groups or people with no

⁴⁴ The fact that agencies in those particular areas were more active in detecting exploitation does not imply, however, that the situation is not similar in other regions.

knowledge of the language in the destination country)

- Deceit
- Providing unlawful contracts or contacts in a foreign language

The reality of **work** and the working conditions can differ significantly from what the recruiter/ agent/ intermediary/ gangmaster originally promised. *A woman, who was a qualified nurse, was promised work in a care home, but she was made to work at a farm picking vegetables.* Apart from having to accept a different type of work, people are subjected to various other forms of exploitation. The three most common areas in which they are exploited are with regards to their hours and pay, and their health and safety.

While working hours exceeding the limits set out in the law do not have to be a sign of forced labour *per se*, working hours are known to be extremely excessive for trafficked workers.

One of the domestic workers interviewed had to work seven days a week, from 6.00 in the morning until all the family members went to bed (sometimes well after midnight). In two years, she was not allowed to take a single day off and was expected to be available virtually 24 hours.

Several of the carers had to work 95 to 97 hours per week and even four to five nights a week without being entitled to any days off. The workers were contracted by an agency to provide care in the home of the clients and often had to travel an hour between different clients. But travel time was not considered part of their working hours, nor was it included in their pay, although the clients were paying the agency for the workers' travel time.

Fees for services and deductions from pay were mentioned by most of the respondents. Agencies demanding fees for arranging work is a common practice, which often puts people already into debt in the country of origin. The respondents said that both foreign and UK agencies were charging money for arranging jobs. The fees charged ranged from several hundred to thousands of pounds.

A Polish woman was told that according to the law in the UK, she would have to pay £300 for her job as an au-pair to be arranged. Carers from Bulgaria paid £2,000 for the arrangement of their jobs, which was then deducted from their wages and excessive interest rates charged, leaving them in debt bondage and tied to their employer.

Deductions from wages are often claimed to be a requirement by UK law (such as for taxes or insurance) or are made for additional services that are non-negotiable, such as transportation to the workplace, accommodation, food, or permits. Further deductions are also made for debts or as fines for alleged poor performance. Workers often think that they have paid taxes and insurance, but when they try to claim the benefits they have paid for, they were told that there is no record of their payments in the system.

The deductions are often so extreme that they leave workers with hardly anything to live on. *A construction worker was left with £3 a week to survive on after deductions from his salary.*

In several cases, wages were never paid or were withheld for a longer period of time. Some of the explanations given to the workers were that the agents had not been paid by the contractor or that the workers were not entitled to pay during the probation period. This is a clear violation of UK law, which obliges the agency to pay the contracted workers regardless of whether it has received payment from the contractor or not.

Health and safety issues are important elements of exploitation at the workplace. *In a meat-processing factory, the health and safety regulations were presented to workers in English, even though the majority of them did not speak any English.* Lack of protective clothing and other forms of protection against accidents and injuries were also mentioned. *In one case, workers felt threatened when they saw a fellow colleague on a construction site being injured and subsequently fired without pay because he was not able to work any further.* The sub-contracting chains are often very long. As a result, there is great lack of clarity as to who is responsible for health and safety issues and informing the workers about health and safety regulations.

Control is exercised frequently not only over workers' movements and places of work, but also over their private sphere, particularly when accommodation is provided. Physical control, such as domestic workers and care and hotel workers being confined to the house of their employer, leaves them completely isolated from the outside world. *Some of the construction workers were provided accommodation in remote areas. They were picked up from their accommodation early in the morning and brought back late at night, and advised not to mix with local people claiming that they were very hostile towards foreigners.*

Keeping people deliberately from learning the native language is another means of social control. *A Polish supervisor, the only person who spoke some English in a group of agricultural workers, was told to stop the other workers from trying to learn English. He was threatened that if any of them tried to pick up the language, they would all be fired.* Limited or no knowledge of English is one of the criteria for selecting workers as it makes them, using the words of an agent, "easily manageable" and they will do whatever they are told to do.

Moving workers from one place to another, including constantly changing their accommodation is another way of preventing them from getting to know their surroundings or the local population. Mixing workers of different nationalities who have no knowledge of English, is yet another method of social control and ensuring isolation of workers at their workplace.

Further ways of control are connected to **living conditions**. Accommodation is often tied to employment and workers constantly worry that losing their job will leave them homeless. There are cases of intrusion of privacy by an employer/landlord and checking on workers outside working hours. Overall living conditions are often very poor and mainly marked by overcrowding, a lack of sanitation, hygiene and safety, and being overpriced. Some workers were accommodated in sheds or warehouses. Others were made to stay in caravans or tents (especially when working on agricultural farms) even though

they were promised double rooms. Workers also had to put up with sleeping on the floor, sharing a double bed with a stranger or sleeping in unheated premises in winter.

A reoccurring theme emerged where workers were suffering from a gradual worsening of their situation and their immigration status was used against them. People found themselves in a forced labour situation because the employer/agent abused the fact that their work permit was tied to a specific employment/employer. *An Asian hotel worker who came to the UK on a work permit scheme experienced an extreme deterioration of his situation. His pay was repeatedly cut and after three months, he did not get paid any more and had to move from a small room to a storage facility without sanitation. The employer threatened him with deportation.*

In some instances, workers were prevented from extending their visa and were subsequently threatened with being reported to the authorities. Situations where exploitative conditions amounted to slavery-like practices around the visa expiration were pointed out. Workers were threatened that their visa would not be extended unless they accepted the living/working conditions they were presented with. Once their visa did expire, their situation remained the same and they were even threatened with deportation. Similarly, workers from the new EU countries, who failed to register with the Home Office, were threatened with immigration sanctions, but were unaware of the fact that they would not be illegal even if they did not register. The fewer options a worker has to change employer, the easier it is for an employer to put undue pressure on him as regards performance, conditions of work or terms of employment.⁴⁵ The power of employers to dictate terms to workers because their visa is tied to a specific employer/employment, makes them vulnerable to forced labour. Immigration rules and policies put migrants into a weak position in relation to the employer/intermediary. Abuse of power and exploiting workers' vulnerability are elements of trafficking. Even though they clearly play a significant role in the trafficking issue, they are hardly ever the subject of investigation or scrutiny.

⁴⁵ Institute of Employment Rights, *Labour Migration and Employment Rights*, London, 2005, p. 40

5.5 Possibilities of exit from the situation of exploitation

Exit from an exploitative situation is very difficult for anyone trafficked for forced labour. The majority of people trafficked for forced labour are physically free to leave. Situations of confinement occur rather rarely and are specific to certain sectors, such as domestic work or in-house care work. However, in practice, workers tend to be unable to leave due to many factors: manipulation, coercion which leaves them with no alternative but to submit to the abuse (see chapter 5.2), threat of destitution and homelessness, a lack of knowledge on where to turn to for help, and being afraid of the authorities. There are documented cases and stories known to the migrant worker community of people who have been beaten up and their families threatened as a result of trying to escape their situation.

Migrant workers come into contact with a wide range of official, including those who monitor the workplace and social services. It became clear from the interviews and questionnaires that these officials did encounter situations which they found appalling, but they often did not know what to do as it did not necessarily fall under their area of responsibility. *A social services employee who informed workers in a factory about national insurance numbers, saw that the supervisor had many passports locked away in a drawer of his desk. The supervisor claimed that this was a safety precaution because there were cases of theft at the workplace. The social worker was very worried about the workers, but did not know what to do and was advised by her supervisor not to get involved in such issues.*

Police and immigration services carry out enforcement actions in these areas, but those are focused on illegal workers or on the employment of illegal workers, and are not associated with investigating possible trafficking for forced labour. In October 2005, the local press in the North East reported on police and immigration raids in a fish-processing firm where a number of illegal workers were arrested. However, there was no inquiry into whether these workers might have been trafficked for forced labour.

Not all people trafficked for forced labour are illegal and those workers are not likely to be identified through operations focusing on illegal workers. The perception of trafficking as an organised immigration crime is a major shortcoming in the current approach. It is very likely that cases of trafficking where people are legal in the UK or where there is no organised crime element, will not be noticed or investigated. Furthermore, there is confusion between clamping down on illegal working (enforcing immigration control) and working on behalf of illegal workers (enforcing labour standards and protecting fundamental human rights).

The fact that different agencies deal with different aspects of working conditions and possible exploitation makes the system complicated for people who are not part of it, let alone for migrants who do not understand it. The National Minimum Wage Helpline, the Health and Safety Executive, the Employment Agency Standards Inspectorate are some of the agencies listed as useful organisations for migrants to turn to for help in *Working in the UK: Your rights*, a leaflet aimed at workers from the new EU member countries. Unfortunately, this information does not reach many of the workers who actually need it because only those workers who register their employment receive the brochure and if they do not speak English, they need to request it in their own language. The agencies listed deal with certain migrant issues, but our research has shown that they rarely identify migrant workers as having been trafficked – this is essential if their needs are to be met.

Furthermore, because of a lack of a joined-up approach, there is no integrated system of support. As a result, exploitative situations are not dealt with, since it is not necessarily the remit of a particular agency. Agencies are new to the issue of trafficking for forced labour and therefore lack the necessary awareness and knowledge. There is also little incentive for people to blow the whistle as there is no real system in place to guarantee their anonymity and protection. Thus, workers do not come forward with their complaints because they would be punished for stirring up trouble. Added to that, workers in irregular situations are likely

to be deported if they blow the whistle. This prevents them from coming forward.

Anonymous hotlines like Crimestoppers have proved to be a useful tool, but this service needs to be linked up with other agencies which can provide assistance. While such a hotline is useful for reporting a crime and providing the police with intelligence, it is not seen to be a helpline for trafficked people. At the same time, migrant workers rely heavily on informal networks for work and other information, and they are also more likely to trust their networks rather than go through official channels for help.

The complexity of the labour inspection and migration system and the fact that such a wide range of departments and agencies are involved in different administrative procedures, makes it very difficult for migrant workers to understand what their entitlements, obligations and possibilities of help are. There is also the language barrier. Migrant workers have no choice but to believe what dubious agents and intermediaries tell them the rules of this country are.

Of the 27 cases of forced labour found in this research, none of them had been identified as being trafficked for forced labour by the agencies which initially recorded them. In the majority of cases, we do not know what happened to the people trafficked. This implies that the 27 cases represent only the very tip of the iceberg. The vast majority of people trafficked for forced labour are not identified because the attention is not focused on detecting indicators of trafficking and forced labour in exploitative labour situations.

5.6 Future plans and opportunities for trafficked persons

How migrant workers see their opportunities and future very much determines their (un)willingness to come forward. Economic hardship and sometimes even a question of survival, were the reasons to come to work in the UK for all the interviewed workers. As described before, many of them found themselves trapped in debt bondage.

Money is the most urgent need for all migrant workers, to be able to repay their debts and then to support themselves and their family. The majority of them want to return to their home country, but not without any money, let alone burdened with debts, which would put them in an insecure or even dangerous situation.⁴⁶ Workers are keen to be able to leave their abusive employer for another one without their becoming illegal. If they could do that, they would not only be able to leave a forced labour situation, but would also have an incentive to report the abuse they suffered.

At present, there is no incentive for workers to come forward and report their situation to the authorities. Not only is there no system of protection and assistance in place, but there is also no compensation or legal redress available to them. Many of them would have been deported before they could have even started to get information about these issues. Similarly, the immigration authorities offer no protection to whistle blowers who complain about breaches of employment law. In addition, if a worker is not legally in the UK, the illegality of their employment contract prevents them from being able to bring a claim to the Employment Tribunal.

Lessons have been learned from dealing with cases of people trafficked for sexual exploitation. One is that the protection of the rights of trafficked people goes hand in hand with successful prosecutions of the perpetrators, and this needs to be reflected in policy, which should start by looking at the real position of migrant workers and also focus on the enforcement of labour standards.

⁴⁶ Many trafficked people, especially men, may be physically and emotionally battered by their experience and they do not want to return unless they can prove it was worthwhile financially.

6. Case studies

Case studies are included in the report for two reasons. Firstly, they provide examples of what being trafficking for forced labour means for the individuals involved. This can help us understand the mechanisms and the underlying forms of coercion – from the most extreme to the most subtle ones. Furthermore, it illustrates the different perceptions of the situation by the very people who experience it and by the outside world. The case studies are also analysed from a legal perspective with regards to the UK's obligations under international law. But the case studies also reveal gaps in the system which are abused by some to profit from exploiting others.

The following three case studies describe the experience of several people from different parts of the world, who found themselves in forced labour as a result of being trafficked. The three case studies represent different sectors of forced labour as a result of trafficking: food packaging, hospitality and domestic work. A very significant fact present in all three examples is that they all entered the UK legally but became illegal or violated some of their immigration obligations after entry as a direct result of the coercion inflicted on them. While these cases clearly illustrate the situation people face when they are trafficked into forced labour, they are not necessarily typical cases. There are many unique experiences for each individual in situations of forced labour. Nevertheless, the case studies are invaluable in helping us understand the violations of rights, the level of coercion and what can actually happen to the individuals involved. The case studies highlight the need for a system of protection and assistance which is accessible for all trafficked people whatever their individual circumstances. Such a system must be flexible enough in practice to reflect the specific needs of each individual affected.

Any references to personal details have been removed in the case studies in order to protect each individual's anonymity.

The case studies have been analysed from the perspective of the human rights violations which the people involved suffered while in the UK and also prior to their departure. Our analysis also examines the failure of the state to protect the

individuals' rights in line with its obligations under international law. The analysis is not exhaustive and takes into account only the most evident aspects of human rights violations. A list of violations found in the case studies is set out in Annex II.

Case 1. Sri Lankan migrant domestic worker (interviewed at Kalayaan's offices).

C is from Sri Lanka. She came to the UK when she was 29 with a family she was working for in Jordan. She had already been taken to another country by the family before and London was their next temporary destination. Her experience is still very traumatising for her. She said that only in London was she able to get her freedom back. At home she was not able to find a job because she did not have any formal education. A friend arranged the job with the Jordanian family. She had to pay the friend for organising the job.

The lady of the house treated her very badly. Other members of the house would not respect her either. She had to sleep on a sofa-bed in the sitting room, where she was disturbed by anyone who would come in late. Friday nights were especially difficult for her since the teenage children would come home late at night and bring their friends, which would prevent her from sleeping. She had to work 16 to 18 hours per day, for which she was paid £200 per month. She was not allowed to eat with the family and had to wait for leftovers. If there were none, she was advised to eat onions and potatoes. If any food was missing, she was automatically blamed for it, insulted or even punished.

In the first two years, she was not given one day off. She was also employed without a visa so she could not run away. She kept asking for a letter from her employer to get her a visa but this was refused. The only time she was allowed out of the house was to go shopping at the supermarket. A fellow domestic worker whom she met regularly there told her about Kalayaan and their services. Eventually, she managed to get in touch with the organisation and press the family to organise her a visa. She remained with the family long enough to be able to apply for indefinite leave to remain, which granted her residency in the UK. As soon as she became a UK resident, she left the family and

was finally able to choose whatever work she wanted to do.

C's case reveals a number of rights violations, some of which are very obvious. Her personal freedom and freedom of movement were restricted as she was confined to her employer's house. Her right to be treated in a fair and just manner as well as her rights to be free from abuse and to have her privacy respected were also infringed. Although the UK has set a legal national minimum wage as well as a limit on working hours, these were not respected by her employer.⁴⁷

Case 2. Vietnamese hospitality workers (cases recorded by the CAB)

Two Vietnamese men in their 20s were recruited for work in the UK in Vietnam. They were promised a job at a hotel in the UK. They had to pay their agent in Vietnam £18,000 for arranging the job. The men came to the UK under the work permit scheme and were promised £4.95 per hour for their work.

After their arrival in the UK, an agent representing an agency that supplied workers to major hotel chains, met them at the airport and took their passports away from them. They were sent to work at a Holiday Inn hotel. The men worked at the hotel for two months without receiving any pay. All that they were provided with was food. To protest against this, they tried to go on strike at the hotel. However, almost immediately after that, their families in Vietnam received threats. They approached the CAB with the help of a Vietnamese speaker they met in the street. They were too frightened to approach the Vietnamese Embassy or the police.

Despite the limited information available on this case, a number of violations emerge. The freedom of movement of the Vietnamese men was restricted as their documents were confiscated. They were not paid the legal minimum wage – in fact they weren't paid at all. Furthermore, their right to be free from psychological abuse and threats was violated.⁴⁸

Case 3. Polish workers in food packaging (from a press release by a recruitment agency⁴⁹)

A group of Polish people came to work in the UK. A gangmaster's minivan brought them to a house in Exeter in the middle of the night and they had no idea where they were. They were made to wait on a patch of grass outside while the dozen or so Afghans inside were told to throw their things into black dustbin bags. The Afghans looked frightened. They were bundled into the van and driven off. And that was the last the Poles heard of them. The driver was Asian-looking and spoke no English; the Poles spoke no English either so they could not ask what was going on.

The Poles said they had been told when they were recruited back home that they would be working somewhere near Southampton. They said that there had been no mention of packing chicken for Sainsbury's⁵⁰ in Devon. But with no money and no knowledge of the language, not even the full name of the boss of the company, they felt helpless as they were handed over on arrival in England. They were not employed directly by the factory which supplied Sainsbury's but by a subcontractor which was part of a complex chain of subcontractors.

The house to where the Poles were taken was unremarkable from the outside. Inside there was no furniture, just heaps of rubbish, piles of syringes, soiled mattresses on the floor and a terrible smell. They slept on the bare mattresses and were taken by a minivan to their 2am to 10pm shift.

They were threatened with eviction and loss of two weeks' wages by their gangmasters if they dared to tell anyone about their conditions. They were also told to be very quiet and not to go out in groups otherwise the police would come. They said they felt intimidated.

They had been recruited in Poland to come to England after 1 May 2004, when they were legally entitled to work in the UK. Two men from an

⁴⁷ Full list of violations and relevant international instruments can be found in Annex II

⁴⁸ Full list of violations and relevant international instruments can be found in Annex II

⁴⁹ "Polish workers lost in a strange land find work in UK does not pay", Press Release of Encore Recruitment Agency, 10 August 2005;

http://www.encorepersonnel.co.uk/constants/presss_release.php?id=57

⁵⁰ According to further information in the press release, Sainsbury's said it was very concerned by the allegations and had arranged an independent audit.

English recruitment agency came to a central Polish city and interviewed workers in batches of 10 non-stop for two days. They had promised the minimum wage of £4.50 an hour, good accommodation for £25 per person per week and lots of overtime. But the Poles said that it went wrong almost as soon as it started. There had been no work and no wages in their first week in Southampton. They were told they would have to pay £40 rent each, although they were sleeping on the floor in the kitchen and in the sitting room. Then they were suddenly taken to Exeter in the night and left there.

Their payslips showed that they were each deducted £40 from their pay packet each week for rent although the legal maximum for rent for people on a minimum wage is just under £25. Several of them were given the same national insurance number. They had huge deductions made for tax, but the tax office confirmed that it had not received payments for them. The contracts they signed were not translated. After deductions their payslips showed that they were getting just £115 a week for 40 hours' work. But this was not what the runners who brought their cash were actually giving them, they said. Another £15 was deducted without explanation. Most of them had not registered with the Home Office because the £50 required to do so seemed an impossible amount as they were trying to survive and support their families at home on so little money. By failing to do so, they had put themselves on the wrong side of law.

Among the group was also a couple in their early 40s. The woman was one of two women in the group sleeping on the floor of what should have been the sitting room. They had left their four children with the man's mother after he was made redundant from his job in financial services in an area of Poland where the unemployment rate is 23 per cent. In the corner of the downstairs room, which served as a kitchen, there was an electric cooker that had no plug, so the main cable had its wires stripped bare and pushed straight into the socket.

There was also great confusion about their pay. A man said to be Afghan had been coming late at night on Saturdays with their cash, but five of them had not received any money the week before. They did not know who to complain to as their payslips carried the name of a different company, but it had no address. The companies involved in this case stopped their operations and some of the debts to the Inland Revenues have been repaid. The workers managed to escape their conditions thanks to the involvement of a union.

This case study illustrates a myriad of violations. Employment laws were violated in a number of ways, such as non-payment of the national minimum wage and making illegal deductions from their wages. The workers were not treated in a just and fair manner; their freedom of movement was infringed and they faced psychological abuse and threats.

7. Media monitoring

The aim of the media monitoring exercise was to obtain a better understanding of how migrant workers are portrayed in the press in relation to three topics: immigration (are they referred to as legal or illegal?), the labour market (are they seen as beneficial or as a potential danger to the labour market?) and crime (are they seen as victims or perpetrators or is there a connection to possible trafficking mentioned?). The purpose of this part of the report is to provide an insight into how public opinion is shaped by the media.

Three daily, three weekly and three monthly⁵¹ newspapers and magazines were examined over a six-month period from July to December 2005. The titles monitored were: *The Evening Standard*, *The Guardian*, *The Times*, *News of the World*, *The Observer*, *The Economist*, *Cosmopolitan*, *For Him Magazine (FHM)* and *Reader's Digest*.

⁵¹ Monthly magazines were chosen with regards to the target audience.

In general, trafficking for forced labour is not frequently reported in the press. Migrant workers were mentioned in the monitored titles several times, mainly in connection with the labour market demand driven by the supermarket price policies. However, there is no systematic coverage of the issue of exploitation of migrant workers in the press, and it is limited to ad-hoc reporting, especially if an accident is involved.

The only exception was the reporting on the deaths of the Chinese cockle pickers in Morecombe Bay. The press reported on the Chinese gangmaster being charged with manslaughter. Nevertheless, there was no mention of the possibility that the Chinese may have been trafficked. This clearly reflects the fact that the whole case has not been examined from the perspective of trafficking for forced labour.

Where reports covered gangmaster licensing, reference was made to migrant workers being exploited. This, however, was often brief as this quote from The Guardian shows: “Thousands of migrant workers in Britain are suffering from abuse from gangmasters who get them casual work at large food processing plants, a pressure group claimed. Trade unions, MPs, supermarkets and food manufacturers want laws that protect seasonal farm workers to be extended to migrants.”

Press reports about trafficking almost exclusively talk about trafficking for sexual exploitation, and these are usually about police raids in massage parlours and saunas. In several instances, the concepts of prostitution and trafficking were confused.

There was also significant confusion on the difference between smuggling and trafficking. Smugglers were often being referred to as traffickers and people who were actually trafficked were labelled as illegal migrants smuggled into the country.

Given the short period which the media monitoring exercise covers, it is difficult to draw conclusions. Nonetheless, it was possible to observe that migrant workers were portrayed in contradictory ways. Sometimes they are referred to as a necessary labour force which meets the

demand of the labour market. At other times they are labelled as illegal migrants who take advantage of the flexible immigration system in the UK. Only if migrant workers are involved in an accident or a disaster are they seen as passive and deserving of sympathy from the public.

8. Conclusion

The report offers an insight into the individual experiences of those trafficked and exploited for forced labour in the UK. It does not attempt to ultimately quantify the scale of the problem and provide figures. However, the 27 cases of people trafficked for forced labour recorded during the course of the research provide invaluable qualitative information about coercion in the workplace and the control over workers, which can help us to understand the social problem. The vulnerability and the multiple dependencies of migrant workers on agents and intermediaries are important underlying elements of exploitation.

The UK has made a start in trying to combat trafficking for forced labour and labour exploitation. It has extended the legal definition of trafficking in its domestic legislation to cover all forms of trafficking. Requiring gangmasters to register for a licence should help to prevent recruitment agencies and employers from exploiting workers. The UK has also ratified the Palermo Protocol. A new police-led UK Human Trafficking Centre has been established to combat all forms of trafficking in people.

However, more remains to be done. The challenge is to shift the focus from a purely criminal and immigration perspective and to try to tackle the forced labour outcomes of trafficking within the context of labour rights and migrants' rights. Protecting human rights and prosecuting those responsible for violating these rights also needs to be addressed as a matter of priority. The Government needs to be tough on combating the causes of forced labour instead of being tough on illegal workers.

Twenty-seven cases of people trafficked to the UK for forced labour were detected during the course

of the research. Yet none of them was initially identified as a trafficked case.

The research has shown that there is a need to respond to trafficking in a much broader context and not through policies which see trafficking exclusively as an organised immigration crime. Otherwise trafficked people will not be identified and assisted. The broader context will need to cover labour rights, migrants' rights and criminalisation. The anti-trafficking framework should focus on the forced labour and exploitative outcomes of trafficking, regardless of whether they arise as the result of organised immigration crime, internal trafficking or individual criminal activities. A worker's exploitative situation and the coercion used should be the leading factors in identifying the crime of trafficking and its victims.

Currently, migrant workers who are subjected to forced labour have little opportunity to escape their situation. They are in financial dire straights, intimidated and threatened, and therefore stay in the slavery-like conditions in the hope that the situation will eventually improve. Some may decide to leave, but risk destitution and illegality, which only increases their vulnerable situation. To prevent and stop exploitation and abuse, exploited workers, regardless of their immigration status, must be able to effectively exercise their rights.⁵²

Focusing on the forced labour aspects of trafficking can help overcome many of the current difficulties with counter-trafficking actions, and provide additional tools in the fight against trafficking. Labour standards and their implementation need to be taken into account in this respect. Implementing key labour standards as set out by the ILO and associated working standards require the involvement of a range of stakeholders, including employers, supply chains, unions, migrant workers organisations, labour inspectors and other key actors who have so far not been included in anti-trafficking efforts.

The fact that demand for cheap labour and cheap goods impacts on workers being exploited has to be acknowledged and addressed. Price policies of supermarkets, competition between retailers and customer behaviour must also be considered.

While there is some awareness of the issue of ethical trading, the new emerging issue is ethical production. Production in decent working conditions is a matter of concern for us here and not in countries far away. It should be unacceptable to have food on the table that could have been produced, picked, processed or packed by an exploited worker. What is the value of an organic product produced by slaves?

Based on the results of the research and discussions with professionals, below are some key recommendations for action to tackle trafficking in human beings for forced labour.

⁵² Platform on International Cooperation on Undocumented Migrants, *Ten Ways to Protect Undocumented Migrant Workers*, 2005, p. 7

9. Policy recommendations

1. UK should sign, ratify and incorporate into domestic law the following two key international instruments:
 - a) The Council of Europe Convention on Action Against Trafficking in Human Beings to guarantee minimum standards of protection to all trafficked people;
 - b) The UN Convention on the Protection of the Rights of All Migrant Workers and Their Families to guarantee all migrant workers protection from slavery and forced labour as well as to guarantee them basic labour rights regardless of their status.
2. The proposal for new immigration rules for domestic migrant workers should be dropped as this would put them into an extremely vulnerable situation and contribute to them being trafficked. The impact of trafficking in human beings needs to be assessed as an essential part of changes in migration policies. Legal channels to enable migrants to work which meet the needs and realities of the labour market for all skills levels should be created. This should also be seen as a tool to actually prevent trafficking.
3. The implementation of the Gangmasters (Licensing) Act should be closely monitored and evaluated with regards to its impact on preventing exploitation and detecting exploitative labour activities. An assessment should be made to see whether the licensing arrangements should be expanded to cover other industries.
4. A code of conduct and ethical guidelines should be introduced for the public sector. All public sector employers should sign this code of conduct and require sub-contractors to do the same. Such a code of conduct could safeguard decent working conditions and prevent exploitation and forced labour. Such regulations would need to be strictly monitored. In general, companies should sign codes of conduct (such as the code of conduct set up by the Ethical Trading Initiative) and take responsibility for the conduct of their sub-contractors.
5. An administrative body should be set up to monitor employment and work conditions and to join up all the agencies involved in carrying out various tasks of inspection. We support, for example, the idea of a “Fair Employment Commission” as articulated by the Citizens Advice Bureau,⁵³ which would establish a more co-ordinated system for investigations of complaints, inspections, advice, guidance and practical business support for small businesses, and thereby pursue a proactive approach to compliance and enforcement where necessary.
6. An independent National Rapporteur on Trafficking in Human Beings should be established in the UK, along the lines of the role of the Dutch National Rapporteur.
7. Further in-depth research into trafficking for forced labour in the UK is required in order to establish best possible responses to the problem. The research should take into account the variety of industries involved as well as the nationalities and different types of status of migrant workers.
8. Those who are likely to encounter trafficked people or migrant workers at risk should be trained in detecting possible indicators of forced labour and

⁵³ Citizens Advice Bureau, *Somewhere to Turn: The case for a fair employment commission*, 2004. p. 11

- trafficking. The groups to be trained should include law enforcement and immigration agencies, NGOs and other assistance workers, social services, unions, the Health and Safety Executive, minimum wage and labour inspectors and, labour providers.
9. Setting up a UK Human Trafficking Centre could harmonise law enforcement responses to all forms of trafficking in the UK. Guidelines on dealing with cases of trafficking for forced labour should be drawn up and implemented by the police and the immigration service. Numbers of people investigated, prosecuted and convicted for all trafficking offences should be published annually.
 10. A multi-agency referral system along the lines of the Organization for Security and Cooperation in Europe's (OSCE) National Referral Mechanisms should be set up. The Government should support relevant agencies working with migrants in order to help them extend and develop their services for people trafficked for forced labour as well as migrant workers who are vulnerable.
 11. Incentives should be provided for migrant workers to come forward and report their situation to the authorities. Incentives could include providing anonymity and protection. A confidential helpline could be an excellent way to facilitate assistance and support to migrant workers. This should be accompanied by an efficient complaints system for victims of forced labour, victims of labour exploitation abroad and for victims of abusive recruitment practices. They should all be able to present their case regardless of their immigration status in order to have their rights protected and to access compensation for the damage suffered.⁵⁴ They should also be allowed to have their status temporarily regularised so that they can meaningfully pursue their case in the courts.
 12. Migrant workers should be provided with accessible information at the earliest possible stage in a language they understand. Migrant workers should be encouraged to seek confidential advice and be provided with contact numbers and sources of help in countries of destination.
 13. Posts dedicated to helping all migrant workers should be created within the police, social and advice services, especially at local level. Postholders could be in charge of providing information and advice to prevent exploitation and trafficking, and could also help identify indicators of trafficking and forced labour.
 14. There should be increased co-operation with countries of origin on providing information about regulations, entitlement and obligations in the employment sector in the UK, as well as more support for relevant agencies and organisations to disseminate such information among would-be migrant workers.
 15. Deterrence is crucial in preventing forced labour. Employers must be made aware of existing relevant legislation. Awareness among employers should be raised to avoid discrimination and its effects which are currently being experienced by foreign work permit holders. Moreover, care should be taken not to close entry points to the labour market for migrants, as this can force them into more inappropriate work situations. Government authorities should work closely with employer organisations on these issues.⁵⁵
 16. Awareness among consumers should be raised on how goods and services could be affected by trafficking for forced labour. Consumers should be encouraged to ask for information on the conditions a particular product was manufactured in. Initiatives such as Ethical Trading Initiative, which focuses on extending the fair trade mark to the fair employment/condition mark, should be supported.

⁵⁴ Anderson, B. & Rogaly, B., *Forced Labour and Migration to the UK*, TUC, Compas, 2005. p. 61

⁵⁵ *Ibid*, p. 59

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Annex I

Sample questionnaire and interview topics

Questionnaire

1. Do you have any information about forced labour in your country?
2. Do you have any information about trafficking for forced labour into your country?

If your answer to at least one of the questions 1 and 2 is “YES”, please proceed to questions 3 to 10. If your answer is NO in both cases, please proceed to questions 8 to 10.

3. Is this information based on your own experience? If not, who shared the information with you?
4. In what capacity did you come across this information? (as a social worker, lawyer, law enforcement official, other)
5. What are the labour sectors in which forced labour took place? (for example, agriculture, garment industry, food production, or construction work?)
6. What were the working conditions? (working hours, payment of wages, freedom of movement, contract of employment, fees/deductions, notice period?)
7. What were the living conditions? (accommodation, rent, payment for food, heating etc., transport, payments of debts, privacy, freedom to leave, control over own belongings/documents)
8. Do you think that forced labour is a widespread problem in your country?
9. Who do you think is most likely to have contact with migrants trafficked for forced labour?
10. Who do you think should be the key stakeholders addressing the situation of

people trafficked for forced labour in your country? (please be as specific as possible)

If you have any materials that you would be willing to share with us to help us in our research, please enclose them.

Thank you for your input.

List of topics to ask workers

Initial questions:

1. What information do you have about trafficking into forced labour?
2. Is this based on your own experience? In what capacity did you find this information?

List of topics to cover:

3. Background of the person: ethnicity, gender, age, family ties, family status (wealthy/poor/in between).
4. Situation before leaving: nationality, country of residence, employment, education, living arrangements, migration history.
5. Transport and initiative for working abroad, immigration status.
6. Promise of work (which sector), conditions and life, including expectations.
7. Reality of work, conditions, including pay, working hours, freedom to leave place of employment, freedom to contact own community in the host country or in the country of origin, freedom to make complaints (union issues), legality of work, legality of immigration status, health and safety provisions on the job.
8. Living conditions: accommodation provided, rate, privacy, freedom to leave, control over belongings.
9. Pressure and deception: violence, (physical, sexual, threats (specific)), passport or ID card retention, incarceration, debt, forced deductions from wages,

- | | |
|---|--|
| <ul style="list-style-type: none"> 10. Exit from situation: police raid, contacted someone, etc. 11. Medium and long-term plans: how is future envisioned? What would help now and what would have helped then? 12. What is your view on the spread of nationalities and genders across sectors? What evidence do you have for this? 13. What sources and/or people would you recommend we include in our research? 14. Any other relevant comments/ questions/ materials, e.g. contracts (blacked out names) if willing to share. | <ul style="list-style-type: none"> 6. Living conditions: accommodation provided, rate, privacy, freedom to leave, control over belongings. 7. Pressure and deception: violence (physical, sexual, threats (specific)), passport or ID card retention, incarceration, debt, forced deductions from wages. 8. Exit from situation: police raid, contacted someone, etc. 9. What rights/help are you aware trafficked people could ask for/who else are actors in this field that are you aware of? Who else would you approach? 10. Medium and long-term plans: how is future envisioned? What would help now and what would have helped then? 11. Policy development in organisation: what works? What is being changed? Who else do you work with on this issue? 12. What is your view on the spread of nationalities and genders over sectors? What evidence do you have for this? 13. What sources and/or people would you recommend we include in our research? 14. Any other relevant comments/questions/materials, e.g. contracts (blacked out names) if willing to share. |
|---|--|

For a detailed list of questions, please see section III.5, paragraph on Narrative, p.35.

List of topics to ask professionals

Initial questions:

- 1. What information do you have about trafficking into forced labour?
- 2. Is this based on your own experience? In what capacity did you find this information?

List of topics to cover:

- 3. Transport and initiative for working abroad, immigration status.
- 4. Promise of work (which sector), conditions and life, including expectations.
- 5. Reality of work, conditions, including pay, working hours, freedom to leave place of employment, freedom to contact own community in the host country or in the country of origin, freedom to make complaints (union issues), legality of work, legality of immigration status, health and safety provisions on the job.

Annex 2 Case Study 1 - Polish workers

United Kingdom Case Study 1 Polish workers	Violation of rights- relevant instruments	Non-compliance in practice	Ratification/ signature status
PRE-DEPART			
Recruitment			
Information	PSM 15; MWC 33, 37, 38, 65; C97 2, 4, 7, (I) 5, (I) 7. (II) 6-8;		(R) - (R)
ON-SITE			
Contract violations			
Additional tasks	MWC 25; ESCR 7; CERD5; CEDAW 11;	Non-compliance with state obligations - failure to guarantee just and favourable conditions of work for workers who had to take on extra tasks for which they were not recruited and which were not explained to them.	- (R) (R) (R)
Wages	MWC 25; ESCR 7; CERD 5; CEDAW 11; C29 13,14 C81 1,3,24; C97 6;	Non-compliance of state obligation - failure to ensure workers were not paid below the minimum wage.	- (R) (R) (R) (R) (R) (R)
Deductions	MWC 25; ESCR 7; CERD 5; CEDAW 11; C29 14; C97 6;	Failure to stop illegal deductions being made from employees' wages.	- (R) (R) (R) (R) (R)
Benefits	MWC 25; ESRC 7,9; CERD 5; CEDAW 11; C29 15,17 C97 6	Non-compliance of state obligation - failure to ensure workers received the benefits to which they were entitled.	- (R) (R) (R) (R) (R)

Case Study 1 - Polish workers

United Kingdom Case Study 1 Polish workers	Violation of rights- relevant instruments (continued)	Non-compliance in practice (continued)	Ratificaton/ signature status (continued)
Other violations	MWC 20,54 ESCR 6,7; CERD 5; CEDAW 11; Slav Conv. 5; C29 19-21	Non-compliance with state obligation - failure to ensure workers were treated in a fair and just manner by their employer.	- (R) (R) (R) (S) (R)
Occupational health and safety			
Psychological abuse	2002/629/JHA 11; CETS 197 4; PPSPTP 3,6; PSM 6,16; MWC 10,16,17; CCPR 2,7,10; CERD 5;	Non-compliance with state obligations - failure to ensure that workers' right to be free from psychological abuse and threats were not violated.	N/A - (R) (R) - (R) (R)
Discrimination			
Employment	2004/81/EC 11; PPSPTP 6; MWC 1,7,25; ESCR 7; CERD 5; CEDAW 11;	Non-compliance with state obligations - failure to prevent discrimination at work.	N/A (R) - (R) (R) (R)
Benefits and services	2004/81/EC 7,9,12; CETS 197 12; PPSPTP 6; MWC 1,7,27,28,43; ESCR 9,11,13; CERD 5; CEDAW 11,12; C97 5,6;	Non-compliance of state obligation - failure to stop workers from being discriminated against when accessing social benefits and services.	N/A - (R) - (R) (R) (R) (R)
Application of national standards	MWC 18,25,27,43,45, 54,55,70; CERD 5; C97 6;	Although the national wage applies in the UK, these workers were paid below the national minimum wage.	- (R) (R)

Case Study 1 - Polish workers

United Kingdom Case Study 1 Polish workers	Violation of rights- relevant instruments (continued)	Non-compliance in practice (continued)	Ratification/ signature status (continued)
Other	2004/81/EC 11,12; CETS 197 3,12; MWC 1,7,12,13,17,18,25;32,3 3,37,42,54,55; CCPR 2,3,16,18,19,21; ESCR 7,12,13,15; CERD 2,5; CEDAW 7,9,10,12,13,15,16; C29 8;	Non-compliance with state obligation - failure to stop employees from suffering other forms of discrimination at work.	N/A - - (R) (R) (R) (R) (R)
Mobility rights			
Forcible confinement	MWC 16,39; CCPR 2,12; CERD 5; CEDAW 6; Slav. Conv. 5; C29 10;	Non-compliance with state obligations - failure to ensure workers' right of freedom of movement was respected - workers confined to workplace.	- (R) (R) (R) (S) (R)
Restricted mobility	MWC 8,38,39; CCPR 2,12; CEDAW 6,15; Slav Conv. 5;	Non-compliance with state obligations - failure to ensure workers' freedom of movement was respected.	- (R) (R) (S)
Choice of employment	MWC 51,52,53; ESCR 6; CERD 5; CEDAW 11; C29 1,2:	Non-compliance with state obligations - failure to ensure that workers could choose their employment.	- (R) (R) (R) (R)
Choice of accommodation	MWC 39; CCPR 2,12; CEDAW 15;	Non-compliance with state obligations - failure to ensure the workers' right to choose their accommodation was respected.	- (R) (R)

Case Study 2 - Vietnamese men

United Kingdom Case Study 2 Vietnamese men	Violation of rights- relevant instruments	Non-compliance in practice	Ratification/ signature status
ON-SITE			
Contract violations			
Wages	MWC 25; ESCR 7; CERD 5; C29 13,14 C81 1,3,24; C97 6;	Non-compliance of state obligation - failure to prevent workers from being paid below the promised wage or minimum wage.	- (R) (R) (R) (R) (R)
Occupational health and safety			
Psychological abuse	2002/629/JHA 11; CETS 197 4; PPSPTP 3,6; PSM 6,16; MWC 10,16,17; CCPR 2,7,10; CERD 5;	Non-compliance with state obligations - failure to ensure that workers' right to be free from psychological abuse and threats were not violated	N/A - (R) (R) - (R)
Discrimination			
Employment	2004/81/EC 11; PPSPTP 6; MWC 1,7,25; ESCR 7; CERD 5;	Non-compliance with state obligations - failure to prevent discrimination at work.	N/A (R) - (R) (R)
Benefits and services	2004/81/EC 7,9,12; CETS 197 12; PPSPTP 6; MWC 1,7,27,28,43; ESCR 9,11,13; CERD 5; C97 5,6;	Non-compliance of state obligation - failure to prevent workers from being discriminated against in when accessing social benefits and services.	N/W - (R) - (R) (R) (R)
Application of national standards	MWC 18,25,27,43,45, 54,55,70; CERD 5; C97 6;	Failure to ensure workers received the minimum wage.	- (R) (R)

Case Study 2 - Vietnamese men

United Kingdom Case Study 2 Vietnamese men	Violation of rights- relevant instruments (continued)	Non-compliance in practice (continued)	Ratification/ signature status (continued)
Other	2004/81/EC 11,12; CETS 197 3,12; MWC 1,7,12,13,17,18,25;32,3 3,37,42,54,55; CCPR 2,3,16,18,19,21; ESCR 7,12,13,15; CERD 2,5; C29 8;	Non-compliance with state obligation - failure to prevent employees from suffering other forms of discrimination at work.	N/A - - (R) (R) (R) (R)
Mobility rights			
Forcible confinement	MWC 16,39; CCPR 2,12; CERD 5; Slav. Conv. 5; C29 10	Non-compliance with state obligations - failure to respect workers' rights of movement; they were confined to their workplace.	- (R) (R) (S) (R)
Confiscation of documents	CETS 197 20; MWC 14,21; CCPR 2,12;	Non-compliance with state obligations - failure to respect workers' rights of movement by not preventing their documents from being removed from them.	- - (R)
Choice of employment	MWC 51,52,53; ESCR 6; CERD 5; C29 1,2:	Non-compliance with state obligations - failure to guarantee respect of workers' right to choose their employment.	- (R) (R) (R)
Choice of accommodation	MWC 39; CCPR 2,12;	Non-compliance with state obligations - failure to ensure workers' right to choose their accommodation was respected.	- (R)

Case Study 3 - Sri Lankan migrant domestic worker

United Kingdom Case Study 3 Sri Lankan migrant domestic worker	Violation of rights- relevant instruments	Non-compliance in practice	Ratificaton/ signature status
ON-SITE			
Contract violations			
Hours	MWC 25; ESCR 7; CERD 5; CEDAW 11; C29 13,18; C81 1,3,24; C97 6;	Non-compliance of state obligation - failure by the UK to enforce that the national working-hour limit was respected.	- (R) (R) (R) (R) (R) (R)
Holiday	MWC 25; ESCR 7; CERD 5; CEDAW 11; SLAV CONV. 5; C29 13; C97 6;	Non-compliance of state obligation - failure by the UK to enforce provisions relating to holiday entitlements.	- (R) (R) (R) (S) (R) (R)
Wages	MWC 25; ESCR 7; CERD 5; CEDAW 11; C29 13,14 C81 1,3,24; C97 6;	Non-compliance of state obligation - failure to ensure worker was not paid below the minimum wage.	- (R) (R) (R) (R) (R) (R)
Benefits	MWC 25; ESRC 7,9; CERD 5; CEDAW 11; C29 15,17 C97 6	Non-compliance of state obligation - failure to ensure worker received the benefits to which she was entitled	- (R) (R) (R) (R) (R)
Other violations	MWC 20,54 ESCR 6,7; CERD 5; CEDAW 11; Slav Conv. 5; C29 19-21, 25 C97 6	Non-compliance with state obligation - failure to ensure worker was treated in a fair and just manner by her employer.	- (R) (R) (R) (S) (R) (R)

Case Study 3 - Sri Lankan migrant domestic worker

United Kingdom Case Study 3 Sri Lankan migrant domestic worker	Violation of rights- relevant instruments (continued)	Non-compliance in practice (continued)	Ratification/ signature status (continued)
Occupational health and safety			
Training and information	C29 16 C155 4,5,7,10-12,14,19	Weak obligations as state has only ratified C29, which offers only some protection in this case.	(R) -
Inspection	MRC 25 C81 all C155 9,11	Non-compliance of state obligation - failure to ensure that adequate workplace inspections were carried out.	- (R) -
Psychological abuse	2002/629/JHA 11; CETS 197 4; PPSPTP 3,6; PSM 6,16; MWC 10,16,17; CCPR 2,7,10; CERD 5;	Non-compliance with state obligations - failure to prevent the worker's rights to be free from abuse and the right to privacy from being violated.	N/A - (R) (R) - (R) (R)
Discrimination			
Employment	2004/81/EC 11; PPSPTP 6; MWC 1,7,25; ESCR 7; CERD 5; CEDAW 11;	Non-compliance with state obligations - failure to prevent discrimination at work.	N/A (R) - (R) (R) (R)
Benefits and services	2004/81/EC 7,9,12; CETS 197 12; PPSPTP 6; MWC 1,7,27,28,43; ESCR 9,11,13; CERD 5; CEDAW 11,12; C97 5,6;	Non-compliance with state obligations - Failure to ensure worker was aware of her rights in relation to benefits and services and that she could easily access them.	(R) - (R)
Application of national standards	MWC 18,25,27,43,45, 54,55,70; CERD 5; C97 6;	Failure to ensure worker received the minimum wage.	- (R) (R) (R) (R)

Case Study 3 - Sri Lankan migrant domestic worker

United Kingdom Case Study 3 Sri Lankan migrant domestic worker	Violation of rights- relevant instruments (continued)	Non-compliance in practice (continued)	Ratification/ signature status (continued)
Other	2004/81/EC 11,12; CETS 197 3,12; MWC 1,7,12,13,17,18,25;32,3 3,37,42,54,55; CCPR 2,3,16,18,19,21; ESCR 7,12,13,15; CERD 2,5; CEDAW 7,9,10,12,13,15,16; C29 8;	Non-compliance with state obligation - failure to prevent the employee from suffering other forms of discrimination at work.	N/A - - (R) (R) (R) (R) (R)
Mobility rights			
Confiscation of documents	CETS 197 20; MWC 14,21; CCPR 2,12;	Non-compliance with state obligation - failure to ensure worker could retain her documents thus indirectly violating her freedom of movement under the ICCPR.	- - (R)
Choice of employment	MWC 51,52,53; ESCR 6; CERD 5; CEDAW 11; C29 1,2:	Non-compliance with state obligations - failure to uphold worker's right to change employment	- (R) (R) (R) (R)
Choice of accommodation	MWC 39; CCPR 2,12; CEDAW 15;	Non-compliance with state obligations - failure to ensure the worker's right to choose accommodation.	- (R) (R)
Other			
Privacy	CETS 197 11; PPSPTP 6; MWC 14;	Non-compliance with state obligations - failure to ensure worker's right to privacy was respected.	- (R) (R)
EXERCISING LEGAL RIGHTS - Legal action			
Renewal of documents	2004/81/EC 8; CETS 14,16; PPSPTP 8;	Week obligations here as PPSPTP only mentions renewal of documents for repatriation purposes.	N/A - (R)

List of instruments used in the analysis:

- EU Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings: **2002/629/JHA**
- EU Council Directive 2004/81/EC on residence permits issued to third-country nationals: **2004/81/EC**
- CoE Convention 197 on Action Against Trafficking in Human Beings: **CETS 197**
- UN Convention Against Transnational Organised Crime: **CATOC**, and its two supplementary protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children: **PPSPTP** and the Protocol Against the Smuggling of Migrants by Land, Sea and Air: **PSM**
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: **MWC**
- International Covenant on Civil and Political Rights: **CCPR**
- International Covenant on Economic, Social and Cultural Rights: **ESCR**
- Convention on the Elimination of All Forms of Discrimination Against Women: **CEDAW**
- International Convention on the Elimination of All Forms of Racial Discrimination: **CERD**
- Slavery Convention of 1926 and its Supplementary Protocol of 1953
- **C 29** Forced Labour Convention, 1930
- **C 81** Labour Inspection Convention, 1947
- **C 97** Migration for Employment Convention (Revised), 1949
- **C 155** Occupational Safety and Health Convention, 1981

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