

**Submission for Universal Period Review of the
United Kingdom
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On Behalf of the Joseph Rowntree Foundation

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1. Information on submitting organisation:

1.1 The Joseph Rowntree Foundation (JRF) is an endowed charity that funds a large, UK-wide research and development programme. We seek to understand the root causes of social problems, to identify ways of overcoming them and to show how social needs can be met in practice. Please see www.jrf.org.uk for more details of the work we carry out.

2. Executive summary:

2.1 This submission is based on published and upcoming research funded by the Joseph Rowntree Foundation on the subject of **forced labour** in the UK. Our evidence shows that:

- There is clear evidence of forced labour in the UK, concentrated in industries with high numbers of low paid, insecure jobs.
- Forced labour is at the extreme of a spectrum of exploitation - a continuum from decent work to forced labour.
- Forced labour and labour exploitation exists in the UK despite the existence of a civil and criminal legal framework designed to prevent it.
- Migrant workers are particularly vulnerable to labour exploitation and forced labour. The UK's immigration system can leave migrant workers vulnerable to abuse.
- Much more could be done by the UK government to properly enforce existing laws and regulations on forced labour and extreme exploitation.

Please note that some of this submission includes evidence from research which is due to be published in the first half of 2012, however, this can be made available on request to the Foundation.

3. UNHDR and other relevant instruments

3.1 The prohibition against slavery is enshrined at Article 4 of the Universal Declaration, which states that '*No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms*'. An elaborated version of the Article 4 right is found at Article 4 of the European Convention, incorporated into UK law by the Human Rights Act 1998. Article 4 of the ECHR states that '*no one shall be held in slavery or servitude*' and that '*no one shall be required to perform forced or compulsory labour*'. In addition to this, a minority of forced labourers in the UK have been trafficked, in contravention of the Palermo Protocols.

4. A continuum between decent work and forced labour

4.1 Our research has mainly drawn on the definitions used by International Labour Organization, particularly the six indicators in the list below:

- Threats of actual physical or sexual violence.

- Restriction of movement of the worker or confinement to a very limited area.
- Debt bondage, where the worker works to pay off debt. The employer may provide food and accommodation at such inflated prices that it is extremely difficult for the worker to escape the debt.
- Withholding wages or refusing to pay the worker.
- Retention of passports and identity documents.
- Threat of denunciation to the authorities (ILO, 2005).

4.2 If two or more of these indicators are present then there is a considerable risk that the worker is in forced labour. Our researchers have shown that in some cases we can say that workers clearly fall into the category of forced labour. However, the situation for vulnerable migrant workers is often much more complex, with workers in our research experiencing some elements of forced labour or 'forced labour practices' some of the time. It is very helpful to look at this issue as a continuum from decent work to forced labour via a sliding scale of increased exploitation.

Skrivankova (2010) sets out this useful conceptual framework in detail and shows how it can be used to suggest when civil and criminal remedies can be applied.

Kagan et al (2011) uses it to help interpret experiences of forced labour and suggests that there are sets of protective and vulnerability factors which move workers away from or towards forced labour.

5. Evidence of forced labour in the UK

5.1 Two JRF reports published in 2011 (Kagan et al and Allamby et al) provide new evidence of forced labour in the UK. The fieldwork was mostly carried out during 2010.

5.2 In '*Forced labour in Northern Ireland*', Allamby et al explore the extent of forced labour among new migrants to Northern Ireland. They found evidence of severe exploitation (sometimes involving forced labour) among migrants working in fishing, mushroom and catering industries and among Romanian Roma migrants. In the mushroom industry they spoke to Eastern European workers who had been isolated in rural areas; were not paid the minimum wage – due to additional unpaid tasks or in some instances, charged large fees for travel, accommodation or to access jobs. The researchers talked to a group of Roma people who had found it very difficult to access employment in the mainstream labour market. As a consequence, they worked in newspaper selling or car-washing businesses in Belfast where wages were sometimes as low as eighty pence and hour. Some of the Roma the team talked to had also experienced violence and racial discrimination. Overall, the research found that workers put up with working in very poor conditions and extreme levels of exploitation because it was better than the options available at home. The researchers found that there were few options available for people who exited highly exploitative employment - some nationalities were reluctant to report their experience to the police (due to negative experiences in their home country), some migrants

chose to go home without the money they came while others stayed on and looked for more work – with those with undocumented status particularly vulnerable to further exploitation.

5.3 In *'Experiences of forced labour among Chinese migrant workers'* Kagan et al investigate the experiences of forced labour among Chinese migrant workers in the UK. Although the researchers conclude that their interviewees were not in forced labour per se, exploitation was widespread. Many of the workers worked very long hours for pay less than the UK minimum wage with no sick or holiday pay. They formed a cheap, flexible labour force. The evidence showed that debt owed to families – who had paid off the snakehead gangs that facilitated the workers entry to the UK – was a big factor in workers having no choice but to work in these conditions. Traveller facilitators' fees ranged between £9,500 to £28,700. Pressure to send money home to provide for their families and irregular status mean this group are vulnerable and have few rights. The focus of the UK authorities is on addressing employment of irregular migrants rather than addressing their working conditions. Irregular status meant that the workers had no means of accessing employment tribunals or being able to report their exploitation for fear of deportation.

5.4 A forthcoming publication from Scott et al, *'Experiences of forced labour in the UK food industry'* documents a wide range of abuse of migrant workers in the UK food industry (including agriculture, food processing and some of the catering sector). Interviews with 60 migrant workers were carried out. The evidence shows a culture of fear amongst interviewees which prevents them complaining; harsh supervisory regimes for workers on production lines; overcharging for poor quality tied housing; deliberate over-recruiting of workers to make profits from fees and accommodation charges; and breaking of employment laws in regard to breaks, maternity leave and pay. Many of these workers are experiencing conditions which clearly meet the definition of forced labour in UK law.

5.5 In 2012 JRF will be publishing a major report on the *'Scope of forced labour in the UK'* (Scott et al forthcoming). This piece of work includes a legal case review; a review of the data available on forced labour from different agencies and interviews with key stakeholders.

6. Migrant workers are particularly vulnerable to exploitation and forced labour

6.1 Our research mainly draws on the experiences of migrant workers in the UK labour market. Migrant workers were felt to be particularly vulnerable to exploitation which is why the research has focussed on this group; however, this should not be taken to mean that extremely vulnerable British citizens will be immune to this problem. Indeed, a series of recent police raids (Operation Netwing) have uncovered allegations of forced labour involving the exploitation of homeless UK nationals.

6.2 Our research (Allamby, Kagan, Scott) shows that migrant workers are vulnerable to exploitation and abuse due to a range of factors. These include lack of English language; lack of knowledge of their labour rights; lack of advice; no legitimate access to the labour market due to their status; no or restricted access to welfare support; and factors linked to their recruitment and travel to the UK such as debt and fees to agents. However, the relationship is complex due to the nature of the UK immigration system. In a paper for JRF, Dwyer et al (2011) set out for the first time how immigration status and vulnerability are related. In their paper they consider the situation of migrant workers with different immigration status e.g A8 and A2 accession state nationals; spouses with no recourse to public funds; asylum seekers. In particular, they found that visa regimes linking right to residence to a particular job, leave migrants more vulnerable to exploitation and forced labour.

6.3 The UK Home Office have recently consulted on changing the arrangements for migrant domestic workers entering the UK via an Overseas Domestic Worker Visa. These proposed changes are very concerning as they could lead to making an already vulnerable group more vulnerable to forced labour – via being tied to a particular employer or being trafficked into the UK. It would mean a step backwards for human rights for this group of mainly female domestic workers if the Government were to make these changes to the visa rules.

6.4 Our research shows that some migrant workers from other EU nations are vulnerable to exploitation in the workplace and potentially forced labour. The UK's new Anti-trafficking Strategy relies heavily on border-control/immigration measures as tools for reducing trafficking (including for labour exploitation). However, this means there is little in the strategy to tackle trafficking of EU or UK nationals and this is a major policy gap which the Government needs to address.

7. Failures of regulation and enforcement

7.1 The UK has a wide range of laws and regulations which should address and prevent forced labour and exploitation occurring in the labour market. However, JRF evidence shows that some workers are still being severely exploited. One of the reasons for this is a failure in the enforcement of existing laws and a failure to regulate workplaces sufficiently. A new paper from Balch (2012, forthcoming), sets out the problems and gaps that exist in enforcement and regulation. He highlights a number of issues:

7.2 Differential enforcement – some areas of the low wage labour market are better regulated than others. These tend to be those where labour providers are involved such as employment agencies and gangmasters. For areas where there is direct employment there is in fact very little inspection or regulation by government. There has been a positive response in our research to the work of the Gangmasters Licensing Authority (GLA) in preventing rogue and exploitative gangmasters operating in the sectors it regulates. However, the GLA has limited resources

available and covers a relatively narrow range of sectors. There is less thorough regulation of labour providers outside the GLA remit and evidence that gangmasters move sector to avoid inspection by the GLA. The government has so far failed to respond to calls to expand the remit of the GLA or to use the GLA model to better regulate all labour providers and therefore to improve the protection of human rights for the most vulnerable workers.

7.2 The regulatory environment is extremely complex and hard to navigate. A number of agencies are involved such as Her Majesty's Revenue and Customs (minimum wage); the Health and Safety Inspectorate; GLA; Employment Agency Standard Inspectorate. There is no overarching labour inspectorate in the UK.

7.3 The UK does not take an overview of forced labour – there is no system for routinely monitoring, recording and reporting on cases. There is a need for independent system of monitoring and for the government to be more accountable.

7.4 There is a lack of knowledge of forced labour among agencies including the police. Greater awareness of the new offence of forced labour and the law of trafficking for labour exploitation is needed by police officers. The role of UK Borders Agency in enforcement shifts the focus on to illegal employment of migrant workers without the right to work rather than addressing the exploitation of the worker.

7.5 The new forced labour offence in Section 71 of the Coroners and Justice Act (2009), has been welcomed by many stakeholders as step forward in tackling forced labour as it decouples workplace abuse from trafficking. The police have a clear duty to investigate in this area, but it is up to the government to ensure that there is some priority given to this crime as well as the resources available to run the expensive multi-agency operations that can be required to bring perpetrators to justice. A recent precedent was set by *PA v Commissioner of the Police of Metropolis* (2009). This was a judicial review case over the failure of the police to investigate and prosecute a trafficker for offences including forced labour. In this case the police accepted they had acted in breach of the investigative duty imposed on them under Article 4 of the European Convention on Human Rights.

7.6 In addition it is important to recognise that employment law is generally enforceable via the employment tribunal system where responsibility is placed on the individual employee to prove their case against the employer. This makes it extremely difficult (impossible for irregular migrants) for vulnerable migrant workers to be able to access justice and to seek compensation for unpaid wages or other offences under employment law. The UK government have also announced a reduction in legal aid for employment cases and propose changing the rules on unfair dismissal.

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References (published works only)

[Experiences of forced labour among Chinese migrant workers](#)

Carolyn Kagan et al.

01 November 2011

JRF, York

[Forced labour in Northern Ireland](#)

Neil Jarman et al.

08 June 2011

JRF, York