

Parliamentary Briefing, Modern Slavery Bill, February 2015

Labour Inspection as the First Line of Defence to Prevent Modern Slavery

“I would like people to talk to my employer about how much they pay, how much holiday they’re giving, how much time we’re working for them [...] Because otherwise we don’t tell anyone, we are scared because we are foreign [...] I wish someone talks to them who has a responsibility”

Trafficked person’s testimony

Summary

Human traffickers use vague employment arrangements as well as hidden costs, fees and debts owed by workers to trap people in precarious situations, preying on the vulnerability that pervades high-risk employment sectors. As a result workers are exploited for their labour in the restaurants we visit, hotels we stay in, care homes we rely on and on the construction sites all around us.

The Modern Slavery Bill is a rare opportunity to prevent acts of trafficking for labour exploitation and forced labour from taking place in modern Britain through effective labour inspection and enforcement. Without strong protection of workers and prevention of exploitation through UK labour inspectorates the Government’s stated aim of combating modern slavery will not be met and the UK will continue to provide fertile ground for traffickers and would-be exploiters.

Recommendations for the Modern Slavery Bill

The Gangmasters’ Licensing Authority (GLA) and Employment Agency Standards Inspectorate (EAS) should have their resources increased in order that they might conduct pro-active labour inspection to prevent trafficking for labour exploitation. The GLA should have its remit extended to all ‘high-risk’ labour sectors in order to ensure its licensing standards cover all vulnerable workers. This is key to ensuring the Modern Slavery Bill seeks to prevent rather than purely respond to incidences of trafficking and slavery.

The Lord Bishop of Derby, Lord Alton of Liverpool and Baroness Kennedy of Cradley have proposed new Clause 92 (Enforcement agencies) to be considered at Lords Report Stage. This clause both seeks to find a means of funding the GLA and EAS through the proceeds of crime and to enable the Secretary of State to expand the remit of the GLA where required through secondary legislation.

Traffickers take advantage of gaps in oversight and enforcement of labour standards to abuse and exploit, the Modern Slavery Bill should include measures to ensure labour standards are upheld to protect vulnerable workers in all sectors.

Focus on Labour Exploitation (FLEX) urges members of the House of Lords to support new Clause 92 to the Modern slavery Bill to ensure that labour inspection and enforcement authorities have sufficient resources and remit to prevent trafficking and slavery in the UK.

FOCUS ON LABOUR EXPLOITATION

Background

Prevention is only addressed in the Modern Slavery Bill in the limited context of general criminal deterrence (through Slavery and Trafficking Prevention and Risk Orders). The GLA is the UK's only pro-active labour inspectorate working to prevent and identify incidences of trafficking for labour exploitation however its mandate extends to only a small number of labour sectors.

The GLA has proved itself effective in identifying trafficking for labour exploitation in high-risk sectors currently within its remit - in 2013, the highest number of potential victims of trafficking for labour exploitation were identified in the agriculture sector¹ – the main industry in which the GLA operates. However, many high-risk sectors where exploitation is rife in the UK are not regulated by the GLA. The recent Migration Advisory Committee report notes:

‘There is a strong case for extending the work of the GLA into other sectors such as construction, cleaning, care and hospitality’²

In its 2012 report on the UK, The Council of Europe's Group of Experts on Action against Trafficking in Human Beings also advised that the GLA's 'scope of competence could be further extended'.³ Sectors such as construction, cleaning, care and hospitality are rendered 'high-risk' for trafficking for labour exploitation due to the prevalence of key risk elements, including: Subcontracting / agency labour; migrant labour; isolated working conditions; accommodation on site; flexible or insecure arrangements; seasonal work; low wages; limited power because of ease of replacement; lack of unionisation; formal and informal economies.

The EAS works to ensure compliance with employment rights across the labour market. However the majority of staff from the EAS were seconded to the National Minimum Wage Inspectorate in 2013 leaving a skeleton EAS team in the Department for Business Innovation and Skills. The government now plans to increase EAS staffing however it has already suffered cuts from its 16 staff in 2012 to 12 in 2013 which is now down to three after nine staff were seconded to HMRC in November 2013.⁴ For EAS to take a meaningful role in labour regulation it must be adequately resourced.

About Focus on Labour Exploitation (FLEX)

FLEX supports government and civil society to take effective responses to human trafficking for labour exploitation that are not only effective in ending exploitation, but also prioritise the needs and voice of trafficked persons and their human rights.

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¹ National Crime Agency, 2014, NCA Strategic Assessment The Nature and Scale of Human Trafficking in 2013.

² Migration Advisory Committee, 2014, *Migrants in Low Skilled Work*, p.4

³ GRETA, 2012, *UK Country Report*, p.31.

⁴ Parliamentary Answer, 20 November 2014, Official Record C214639

ANNEX

Key high-risk labour sectors

Construction

There are many small operators in the construction sector making it difficult to regulate. Because production is time bound there is often a fluctuating workload and a labour-only, sub-contracting market. Work is often multi-sited and can involve living on site. The Construction Industry Scheme has been misused, resulting in a fragmentation of the industry in to short-term contracts with independent self-employed workers - this 'false' self-employment is often forced with workers deceived in to registering as self-employed - allowing companies to deduct tax at source and to avoid employing workers directly. Whilst the construction workforce has been falling, the construction union UCATT reports the numbers of self-employed workers rose by 37,000 between 2009/10 and 2011/12 – it estimates around half of these are 'falsely self-employed'. This precarious employment status leaves construction workers extremely vulnerable to abuse as employers are absolved of responsibility for their employment rights and entitlements.

Cleaning

Despite cleaners being in a low pay sector they are commonly underpaid. Commercial cleaning is agency-dominated, highly feminised with a large presence of ethnic minorities. Workers report being treated inhumanely, with differing terms and conditions applying to employees on the same site. Employers often pay workers significantly fewer hours than worked. Many employers refuse to provide cleaners with employment contracts or pay-slips, making it harder for trafficked persons to make claims against them or to even identify their employer. Employment tribunals do not offer much recourse to justice, as the sums of money involved do not justify the expense and time involved in bringing a claim.

Care

Care work is also agency-dominated, greatly undervalued and highly feminised. Workers often live on site, leaving them isolated and with few avenues for access to information on their employment rights. Incidences of debt-bondage are reported in the care sector particularly as migrant workers pay high recruitment fees to be placed in jobs in the UK. Staff turnover is high and workers are often on zero hours contracts with long periods of limited working hours followed by excessive hours. Workers report long journeys between jobs for the same agency without remuneration for travel. Similar to cleaning, workers are often paid for significantly fewer hours than worked.

Hospitality (restaurants, bars, hotels etc)

Jobs in hospitality are often minimum wage and it is a low-paying sector. Work is often temporary, seasonal and retention rates are low. There is extensive use of outsourcing of jobs to agencies and low rates of unionisation. Staff considered 'invisible' to management who abdicate responsibility for terms and conditions to agencies – who in turn are placed under increasing pressure to cut costs. There is heavy dependence on migrant labour and often accommodation is provided on site.