

BRIEFING

PREVENTING EXPLOITATION IN THE SHADOW OF BREXIT:

The risks of temporary migration programmes

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Focus on Labour Exploitation (FLEX) works to end human trafficking for labour exploitation. To achieve this, FLEX works to prevent labour abuses, protect the rights of trafficked persons, and promote best practice responses to human trafficking for labour exploitation through research, advocacy and awareness raising. FLEX is a registered charity based in the UK.

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Summary: A new temporary migration programme after Brexit

This policy briefing highlights the risks of the government's proposed new temporary migration programme for the agricultural and horticultural sectors and future schemes like it, and outlines steps required to prevent labour abuse and exploitation after Brexit.

The UK Government recently announced a new two-year pilot scheme to bring temporary migrant workers from outside the EU to work in the UK agricultural sector. How the pilot scheme is structured will have significant implications for the level of risk faced by migrant workers, ranging from labour abuses like unpaid overtime to the severe exploitation found in cases of forced labour and human trafficking.

The stated aim of the pilot is to alleviate labour shortages in the agriculture sector during peak production periods and “keep the horticulture industry productive and profitable”.¹ Few details about the pilot have been made available, other than that workers under the scheme will be allowed to stay in the UK for a maximum of six months and that the number of participants will be capped at 2,500 per year.² Importantly, whilst the interests and concerns of businesses affected by future labour shortages have been acknowledged and cited as reason for the scheme, the welfare of workers has not been considered. Vital information, such as whether workers will be allowed to change employer, bring family members and other dependents with them, or live outside of employer-provided accommodation, is yet to be confirmed.

Lessons from the UK's previous Seasonal Agricultural Workers Scheme (SAWS), operational until 2013, and similar temporary migration programmes in other countries show how poor policy design can restrict workers' ability to leave or report abusive employment situations, creating conditions in which modern slavery and labour exploitation can thrive. If the UK Government is going to introduce migration policies that will increase risks to workers, then it must also take the necessary steps to mitigate and prevent such risks in order to ensure modern slavery does not flourish in Brexit Britain.

¹ UK Government. 2018. 'New pilot scheme to bring 2,500 seasonal workers to UK farms'. <https://bit.ly/2QfkN27>

² *Ibid.*

To mitigate risks faced by workers on temporary migration programmes the government should, at a minimum, take the following steps:

- 1. Wages and working conditions for temporary migration programmes should be set jointly by the government, worker and employer representatives:**
 - ◆ Conditions set should consider the particular circumstances of the sector, the impact of the restrictions placed on participants and factors relevant to workers' migrant status.
- 2. Labour inspectorates should have their resources and remit increased to ensure the enforcement of labour law:**
 - ◆ All employers and labour providers should be inspected and have their licensed status reviewed before being allowed to participate in temporary migration programmes;
 - ◆ Regular compliance checks should be carried out on all those participating in the scheme.
- 3. The activities of overseas labour providers should be regulated and monitored:**
 - ◆ Only licensed overseas labour providers that do not charge recruitment fees should be used;
 - ◆ Overseas labour providers should have a representative and a registered branch in the UK.
- 4. Workers should be able to change employers:**
 - ◆ Legal and practical barriers to changing employers should be removed;
 - ◆ Workers should be allowed to stay in the UK for a set period while they look for new work.
- 5. Workers should be provided with information on their labour rights and given support to raise cases of abuse:**
 - ◆ Pre-departure information should be provided on rights at work, UK law and support channels;
 - ◆ Post-arrival information sessions should be given to share in-country information, advice and support;
 - ◆ A new 24-hour helpline should be established specifically for temporary migrant workers;
 - ◆ NGOs and trade unions should have access to worksites to provide in-person support and advice.

What is the problem?

The agriculture and horticulture sectors are heavily reliant on workers from across the EU. Estimates from the UK Labour Force Survey suggest that in 2016, 27,000 EU nationals worked directly in agriculture and around 116,000 in the food processing sector.³ The sector is dependent on a further approx. 75,000 temporary/seasonal workers during peak seasons, 98% of whom are EU nationals from outside the UK.⁴ However, the number of EU nationals coming to the UK to fill these jobs has been declining. This trend has been attributed to uncertainty and anti-immigrant incidents linked to Brexit, the weakening of the pound, and improved work prospects in migrants' home countries, which has made the UK a less attractive destination for European workers. Trade unions suggest that the abolition of the Agricultural Wages Board in England and Wales in 2013, and the subsequent stagnation in wages and working conditions⁵ in the sector, may also have had an impact on recruitment levels.⁶

In response to the growing concerns about current and future labour shortages, the agriculture and horticulture sectors have been lobbying the government to introduce a new SAWS. The proposed pilot scheme announced in September 2018 is the government's initial response to these concerns. Whilst few details have been made available, it is clear the pilot scheme, like most temporary migration programmes (see box 1), will be significantly more restrictive than free movement, which grants all EU nationals the same employment rights as British citizens, pathways to settlement and family reunification, and the possibility of switching jobs and moving freely within the labour market. Under free movement EU nationals have access to tax credits and welfare benefits, and the option of taking up or combining part-time and short-term work, which can be used to supplement income in low-wage or precarious jobs⁷, or balance paid work with unpaid care responsibilities.

³ Byrne, R. 2018. 'The migrant labour shortage is already here, and agri-tech can't yet fill the gap'. <https://bit.ly/2xnkz03>

⁴ McGuinness, T. and Garton Grimwood, G. 2017. 'Migrant workers in agriculture'. *Commons Briefing papers CBP-7987*. <https://bit.ly/2MxiDTy>

⁵ Blagg, H. 2016. 'Work with the board: Unite condemns attacks on Scottish AWB'. <https://bit.ly/2NPuF3Y>

⁶ FLEX interview with trade union representative, 2018.

⁷ Kyambi, S. *et al.* 2018. 'Choices ahead: Approaches to lower skilled labour migration after Brexit'. <https://bit.ly/2K2kAyR> p.7

BOX 1. What are temporary migration programmes?

Temporary migration programmes are typically used by countries in the global north to recruit migrant workers into lower-skilled, lower-paid work for limited stays with restricted access to rights. Temporary migration programmes are often sectoral and are especially common in agriculture and food processing, although they have also been used in care, hospitality and other low-wage work⁸. Visas are granted for a fixed period of time, ranging from several months to a few years, after which workers must return to their country of origin or apply for a new visa. Tied visas, whereby a person's right to work and stay in a country is dependent on a specific employer or labour provider, are a key feature of temporary migration programmes. Other common characteristics include the requirement to stay in employer-provided accommodation; no or limited family reunification rights; no or limited access to benefits and public services; and no path to permanent residence.

Due to their more restrictive nature, temporary migration programmes have been criticised as inherently exploitative or, at a minimum, creating conditions in which forced labour and human trafficking for labour exploitation can thrive. Analyses of previous and existing temporary migration programmes in the UK and elsewhere show how they often lead to worker exploitation.⁹ Box 2 summarises common features of temporary migration programmes and how they can increase the risk of worker exploitation.

It is important for the government to acknowledge the often-problematic nature of temporary migration programmes and the role migration policy has in creating vulnerabilities that enable worker exploitation. Any post-Brexit temporary migration programmes, including the proposed pilot scheme for the agriculture/horticulture sector, must be designed in a way that acknowledges and addresses the risks caused to workers. This is particularly true if the UK seeks to become a world leader in tackling modern slavery as the Prime Minister has proposed.

BOX 2. Features of temporary migration programmes that increase the risk of exploitation

Tied visas – Tying residency status to a particular employer or even to a particular sector or type of work has been shown to significantly increase vulnerability to abuse and exploitation.¹⁰ Workers on tied visas are more likely to accept poor working conditions and are less likely to make complaints about abusive employers, as loss of employment can result in deportation or irregular status. Unscrupulous employers may use the power-imbalance created by tied visas to exploit workers, for example by threatening to fire workers if they complain.

Short visa time frames – Workers on short-term visas will find it difficult to change employers and may stay in exploitative situations, especially if the only alternative is to leave the country before their visa has run out.¹¹

No paths to permanent residency – Because their stay in country is time limited, temporary migrant workers are less likely to know their rights and understand the immigration and employment systems, making them more vulnerable to exploitation. They are also less likely to develop the language skills and support networks that would increase resilience to exploitation. Having limited or no right to remain increases the likelihood of people overstaying their visas and ending up undocumented, without access to labour rights.

Multiple dependencies – Being reliant on an employer (or third parties, such as gangmasters or labour providers) not only for work, but also accommodation, transportation, food, information, and/or other necessities, makes leaving or making a complaint much more difficult. Workers who leave or lose their job may find themselves unemployed and homeless. Risks increase if migrants do not have access to benefits such as housing assistance or unemployment insurance.¹² Temporary migration programmes, including the previous SAWS, often require workers to stay in employer-provided accommodation.

⁸ See for instance the Live-in Caregiver Program in Canada, the Sector Based Scheme in the UK, and the Foreign Temporary Worker Program in Canada.

⁹ López-Sala, A. *et al.* 2016. Temper Working Paper Series. 'Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy'. <https://bit.ly/2MKwrPA>; Mayer, R. 2005. 'Guestworkers and exploitation'. *The Review of Politics*. 67(2). pp.311-334.; Shamir, H. 2017. 'The Paradox of "legality": Temporary migrant worker programs and vulnerability to trafficking'. In P. Kotiswaran (Ed.), *Revisiting the law and governance of trafficking, forced labour and modern slavery*. Cambridge: Cambridge University Press.

¹⁰ Wright, C.F., Groutsis, D. and van den Broek, D. 2016. 'Employer-sponsored temporary labour migration schemes in Australia, Canada and Sweden: enhancing efficiency, compromising fairness?'

¹¹ *Ibid.*

¹² Dwyer, P. *et al.* 2011. 'Forced labour and UK immigration policy: Status matters?'. <https://bit.ly/2MBzf1l>

No or restricted recourse to public funds – Restricting access to essential services such as homelessness assistance and welfare benefits can create extreme vulnerability among migrant workers, leaving them with no real choice to leave abusive or exploitative situations, as the alternative is often deportation or destitution.¹³

Recruitment fees – Migrant workers may end up taking loans or using up savings in order to pay for recruitment fees in their countries of origin. Debt is one of the key drivers of labour exploitation, as workers become dependent on their employer to pay back loans. “Debts accrued by migrants owed to agents for arranging travel, entry, access to work or accommodation may further compound their poverty and increase the hold an employer has over them.”¹⁴ Having to pay for flights or other transportation can also lead to recruitment debt even without the involvement of labour intermediaries.

Lack of integration programmes – There is often a reluctance to provide integration support such as language training due to fears that they may encourage workers to stay longer and become permanent.¹⁵ However, migrant workers in the UK are known to be at greater risk of exploitation if they do not speak English.¹⁶ Language skills are crucial for workers to access information about their rights and to seek assistance when needed.

In addition to creating risks for workers, temporary migration programmes have been criticised as “a way of gaining workers while keeping down social costs” by keeping people in situations of disadvantage through the denial of citizenship rights.¹⁷ Employing migrant workers through restrictive and temporary migration schemes means there is no need for employers to cover social costs like family commitments (pregnancy, child care, care of the elderly), skills training or other normal staff retention contributions. Temporary migrants do not enjoy the same social or political rights associated with citizenship: they cannot vote, stand for election or access social benefits.¹⁸ This has significant implications, as migrant workers are often unable to change the structural conditions under which they are employed.

What needs to be done?

Despite the documented problems with temporary migration programmes, they are often a popular policy choice because they make it possible to meet industry’s demand for migrant labour whilst also appearing to retain tight controls over net migration.¹⁹ Given that temporary migration programmes pose the range of risks outlined to workers, it is essential that necessary protections are put in place during the scheme development stage to prevent worker exploitation. This means improving existing protections as well as introducing new ones.

To mitigate risks faced by workers on temporary migration programmes the government should, at a minimum, take the following steps:

I. Wages and working conditions should be set jointly by the government, worker and employer representatives.

Wages and working conditions for temporary migration programmes should be set by relevant stakeholders, including government, worker representatives and employer representatives (labour users and providers). The conditions set should consider the particular circumstances of the sector, the impact of the restrictions placed on participants and factors relevant to workers’ migrant status. For example, migrant workers under the previous SAWS reported being misled about the amount of work available and being left with no money to travel home.²⁰ This is something that could be addressed through collectively agreed standards, such as requirements to offer minimum weekly working hours or a guaranteed period of work.

The Gangmasters and Labour Abuse Authority (GLAA) has a set of licensing standards for labour providers in the agriculture and food processing sectors. However, they are not tailored to workers on temporary migration programmes, and so far the GLAA has largely worked with EEA nationals.

¹³ TUC Commission on Vulnerable Employment. 2008. ‘Hard Work, Hidden Lives: The Full Report of the Commission on Vulnerable Employment’. <https://bit.ly/1NFikl0>

¹⁴ Dwyer, P. *et al.* 2011. ‘Forced labour and UK immigration policy: Status matters?’. <https://bit.ly/2MBzf1j>

¹⁵ Consterdine, E. and Samuk, S. 2015. ‘Closing the Seasonal Agricultural Workers Scheme: A triple loss’. <https://bit.ly/2IRzgmw>

¹⁶ Ibid.

¹⁷ Castles and Davidson. 2000. p.119 in Hennebray, J. L. and Preibisch, K. 2010. ‘A model for managed migration? Re-examining best practices in Canada’s Seasonal Agricultural Worker Program’. *International Migration*. Vol 50.

¹⁸ Preibisch, K. 2010. ‘Pick-your-own labour: Migrant workers and flexibility in Canadian agriculture’ *International Migration Review*. 44(2). p.413.

¹⁹ Professor Richard Black, Director, Development Research Centre on Migration, Sussex University, Written evidence submitted to the UK Parliament. <https://bit.ly/2MCj2sp>

²⁰ ALP. 2009. ‘Seasonal Agricultural Workers Scheme 2009’. <https://bit.ly/2NLL9dp>

In recognition of the inherent risk factors associated with work in the agricultural sector²¹, wages and conditions in the agricultural sector were set by worker-represented Agricultural Wages Boards (AWBs) throughout the UK from 1948 to 2013. In addition to setting minimum wage rates generally well above the adult national minimum wage²², the wages boards also set standards on accommodation, overtime, sick pay, rest breaks and bad weather payments to ensure workers were not penalised if the weather stopped them from working.²³ However, in 2013, the same year as the SAWS ended, the AWB for England and Wales was abolished, leaving only those in Scotland and Northern Ireland in operation.²⁴ The England and Wales AWB was the largest of the UK's three AWBs and covered 140,000 workers compared to 26,000 covered by the Scottish board and 10,700 covered by the Northern Ireland board.²⁵ Research by Unite the Union showed that less than a year after the AWB was abolished, the majority of agricultural workers surveyed had not received the pay rise they would have been entitled to had it not been abolished and many reported that entitlements such as sick pay had been withdrawn.²⁶

Now that the largest AWB in the UK is no longer operational, it is particularly important that wages and working conditions for the proposed pilot temporary migration scheme are set in cooperation with worker and employer representatives. As the recent Migration Observatory report notes, temporary migration schemes can provide an opportunity to set higher standards than have previously existed. Doing so would also help prevent the use of temporary migration to undercut existing wages and conditions.

Case study: Collective agreement to protect seasonal berry pickers in Sweden

In Sweden, wages and working conditions for seasonal berry pickers employed through overseas labour providers are regulated through a specially designed collective agreement between the trade union *Kommunal* and the Federation of Swedish Forest and Agricultural Employers.²⁷ The agreement was set up in 2014, when it became apparent that the general collective agreement for 'temporary work agencies' was not effective and an agreement adapted to the specific circumstances of seasonally employed migrant berry pickers was needed. The new agreement clarifies for instance what wage deductions are permitted: employers must cover all costs related to transportation from accommodation to worksite, protective clothing, gloves and tools to facilitate picking, but may make deductions for food and accommodation of normal standard at cost price.²⁸

2. Labour inspectorates should have their resources and remit increased to ensure the enforcement of labour law

Due to the risks inherent in temporary migration programmes labour inspection and enforcement should be greatly increased in order to prevent exploitation. The UK's labour inspection capacity is currently too limited to act as a sufficient deterrent against labour abuses.²⁹ The ILO recommends a target of one inspector for every 10,000 workers.³⁰ In a survey of comparable countries in the European Economic Area, FLEX found that the UK's labour inspection capacity falls well below the ILO target and far behind others such as Ireland and Norway.³¹ This is concerning for all workers, regardless of migrant status, and more pro-active enforcement of labour rights has been called for by the UK Director of Labour Market Enforcement.³²

FLEX recommends that all employers and labour providers be inspected and approved before they are allowed to participate in temporary migration programmes and work permits are granted. At a minimum they should demonstrate that they are able to pay workers' wages even if the harvest is poor or the workers are not skilled enough to pick the required amounts, and provide accommodation and transportation that meets relevant health and safety standards.³³

²¹ For example: isolation, reliance on employer-provided accommodation and transportation, the physicality of the work, and the impact of weather on the availability of work.

²² Low Pay Commission. 2011. The implications for the national minimum wage of the abolition of the Agricultural Wages Board in England and Wales. <https://bit.ly/2xnpBJZ>

²³ Blagg, H. 2018. 'Bring back AWB call: Jeremy Corbyn makes firm commitment to farmworkers at Tolpuddle Martyrs' Festival'. <https://bit.ly/2xlqmmN>

²⁴ Scotland and Northern Ireland kept their boards, while Wales established an Agricultural Advisory Panel. The Panel has the same function as a wages board, but is less independent as it must submit its orders for approval by Welsh Ministers.

²⁵ Low Pay Commission. 2011. The implications for the national minimum wage of the abolition of the Agricultural Wages Board in England and Wales. <https://bit.ly/2xnpBJZ>

²⁶ Blagg, H. 2016. 'Work with the board: Unite condemns attacks on Scottish AWB. <https://bit.ly/2NPuF3Y>

²⁷ Herzfeld Olsson, P. 2018. 'Towards protection of vulnerable labour migrants in Sweden: The case of the Thai berry pickers' in Rijken, C. and de Lange, T. (eds.). 2018. *Towards a decent labour market for low-waged migrant workers*. Amsterdam University Press.

²⁸ *Ibid.*

²⁹ FLEX. 2015. 'Combating labour exploitation through labour inspection'. <http://bit.ly/2HgmYOQ>

³⁰ David Weil. 2008. 'A strategic approach to labour inspection'. *International Labour Review*. 147(4). p.372. <https://bit.ly/2Oq6CWA>

³¹ FLEX. 2017. 'Risky Business: Tackling exploitation in the UK labour market'. <https://bit.ly/2pdcho0>

³² Director of Labour Market Enforcement. 2018. 'UK Labour Market Enforcement Strategy 2018/19'. p.67

³³ Herzfeld Olsson, P. 2018. 'Towards protection of vulnerable labour migrants in Sweden: The case of the Thai berry pickers' in Rijken, C. and de Lange, T. (eds.). 2018. *Towards a decent labour market for low-waged migrant workers*. Amsterdam University Press.

Such pre-participation checks have been effective in Sweden where they have helped identify those employers who will struggle to meet the necessary standards.³⁴ It also offers an opportunity to inform employers and labour providers of their obligations and allow them to make any necessary improvements – a collaborative approach that should work better than simply finding and punishing those in breach. In addition to pre-participation checks, regular compliance inspections should also be carried out.

Case study: Enforcement of pay and conditions and the UK SAWS

The SAWS was managed by nine approved operators on behalf of the UK Border Agency. These operators were not only in charge of recruiting participants and allocating them to employers, but also of monitoring their pay and working conditions.³⁵ The Gangmasters Licencing Authority (GLA, now the Gangmasters and Labour Abuse Authority) registered multiple operators and had the power to conduct inspections and make referrals to other enforcement authorities. In addition, once a year, the UK Border Agency conducted inspections on farms and operators using SAWS workers. Despite these measures, different investigations reported cases of underpayment of wages, long working hours, no days off or rest, and poor living conditions. One study uncovered a strawberry picker earning £6 after working for three to four hours,³⁶ while another described migrants working in isolated environments, and living under poor conditions without the ability to change employers due to their tied-visa limitations.³⁷

3. The activities of overseas labour providers should be regulated and monitored.

Recruitment debt is a key driver of labour exploitation. Workers take on loans in order to cover recruitment and other costs including flights, visa fees and training. While it is illegal in the UK to charge recruitment fees, this does not prevent labour providers in other countries from doing so. Research by Kalayaan and Oxfam from 2009 shows how non-British EU workers in the care sector were being charged up to £2,000 for a job in the UK.³⁸ Workers coming from outside the EU are likely to face significant charges due to the high cost of flights. The same report found that labour providers were also deceiving workers about the nature and conditions of work. It is crucial to regulate overseas labour providers to prevent recruitment deception and debt. To mitigate this risk FLEX recommends that:

- a. UK employers (or scheme operators) should only be allowed to use licensed overseas labour providers that do not charge recruitment fees. An example of this in practice exists in Manitoba Canada, where employers using the Temporary Foreign Worker Program can only use licensed recruitment agencies with a reputable record of compliance and are prohibited from using agencies charging recruitment fees.³⁹
- b. Overseas labour providers participating in the UK's temporary migration programmes should sign up to the agreed joint standards of the scheme (see point 1 above) and have a representative and registered branch of their business present in the UK. This would ensure that they could be held to account for breaches of standards in UK courts and under UK law. In Sweden this system is in place and has served to prevent worker exploitation.⁴⁰ Whilst the GLAA licenses overseas labour providers its capacity to hold them to account is limited as they operate outside of the UK's jurisdiction.

4. Workers should be able to change employers.

Being tied to one employer has been highlighted as exacerbating the risk of exploitation for migrant workers⁴¹ and any post-Brexit temporary migration programme should enable workers to change employer not only technically, but also in practice. Under the previous SAWS, workers were technically allowed to change employers, but this was “almost impossible” in practice.⁴² Workers had to work for the farmer to whom they were allocated and could only switch to

³⁴ *Ibid.*

³⁵ Migration Advisory Committee. 2013. 'Migrant Seasonal Workers: The impact on the horticulture and food processing sectors of closing the Seasonal Agricultural Workers Scheme and the Sectors Based Scheme'. p.51-52. <https://bit.ly/2NhoiHt>

³⁶ Rogaly, B. 2008. 'Intensification of workplace regimes in British horticulture: the role of migrant workers'. *Population, Space and Place*. 14(6). p.14. <http://sro.sussex.ac.uk/11584/>

³⁷ López-Sala, A. *et al.* 2016. Temper Working Paper Series. 'Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy'. <https://bit.ly/2MKwrPA>

³⁸ Oxfam and Kalayaan. 2009. 'Who cares? How best to protect UK care workers employed through agencies and gangmasters from exploitation. <https://bit.ly/2NgQ6vf>

³⁹ Wright, C.F., Groutsis, D. and van den Broek, D. 2016. 'Employer-sponsored temporary labour migration schemes in Australia, Canada and Sweden: Enhancing efficiency, compromising fairness?' p.1864

⁴⁰ Herzfeld Olsson, P. 2018. 'Towards protection of vulnerable labour migrants in Sweden: The case of the Thai berry pickers' in Rijken, C. and de Lange, T. (eds.). 2018. *Towards a decent labour market for low-waged migrant workers*. Amsterdam University Press.

⁴¹ Demetriou, D. 2015. 'Tied visas' and inadequate labour protections: A formula for abuse and exploitation of migrant domestic workers in the United Kingdom'. *Anti-Trafficking Review*. <https://bit.ly/2pclv2r>

⁴² Consterdine, E. and Samuk, S. 2015. 'Closing the Seasonal Agricultural Workers Scheme: A triple loss'. <https://bit.ly/2IRzgmw>; Lopez-Sala, A. *et al.* 2016. Temper Working Paper Series. 'Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy'. <https://bit.ly/2MKwrPA>

another farm site ‘for exceptional reasons’ with permission from the scheme operator.⁴³ This aspect of SAWS has been criticised by numerous researchers and organisations⁴⁴, including the Association of Labour Providers (ALP), who referred to the previous SAWS as “basically bonded labour”⁴⁵. Aware of the power imbalance that comes with tied-visas, some employers have used the threat of deportation to implement decreases in pay.⁴⁶

To make changing employer possible in practice, workers should be given time to find new work while they are in the UK, as is the case for Tier-2 workers in the UK who have 60 days to find new work⁴⁷ and temporary migrant workers in Sweden who usually have 90 days⁴⁸.

Case study: Tied visas and the United States H-2 Guestworker Program

The H-2 Guestworker Program provides tens of thousands of temporary farmworkers and labourers to industries such as agriculture, forestry, and construction, for a maximum stay of three years.⁴⁹ Guestworkers may work only for the employer who sponsored their visa and must leave the country when their visa expires. Critics have reported that this restriction has led to workers being ‘systematically exploited and abused’, as they are forced to choose between remaining in exploitative working conditions or returning home.⁵⁰ According to the Southern Poverty Law Center (SPLC):

The most fundamental problem with guestworker programs, both historically and currently, is that the employer — not the worker — decides whether a worker can come to the United States and whether he [sic] can stay. Because of this arrangement, the balance of power between employer and worker is skewed so disproportionately in favor of the employer that, for all practical purposes, the worker’s rights are nullified. At any moment, the employer can fire the worker, call the government and declare the worker to be “illegal”⁵¹

5. Workers should be provided with information on their labour rights and given support to raise cases of abuse

Workers must be informed of the kind of work they will be required to do before they are recruited, so as to set realistic expectations and prevent deception in recruitment. They should also be provided with information about their rights and where to get help upon receipt of their work permit in their country of origin. The International Labour Organization⁵² and the International Organization for Migration⁵³ both recommend that migrant workers be provided with pre-departure training on living and working abroad – including on rights at work; the destination country’s culture, laws and policies; and accessing support services and complaints mechanisms. This not only helps prevent exploitation, it is also a means of promoting integration.⁵⁴

On arrival in the UK, government-sponsored worker advice sessions should be provided free of cost and delivered by non-governmental organisations and/or worker representatives. This is in line with a key recommendation from an independent review of the UK’s only existing low-wage tied visa scheme, the Domestic Workers in Private Households Visa (previously the Overseas Domestic Workers Visa)⁵⁵, which says the Government should provide “mandatory group information meetings” for all overseas domestic workers.⁵⁶ The review held that without the opportunity to receive information, advice and support concerning their rights while at work in the UK, workers would struggle to avail themselves of their rights, including the right to change employers.

A new 24-hour helpline specifically for workers on temporary migration programmes should be established to provide advice and support in the languages of the workers recruited. While advice gateways exist for information on work-related issues, a one-stop shop service is essential for workers with limited time in country, high-risk of abuse and

⁴³ Sumption, M. and Fernandez Reino, M. 2018. ‘Exploiting the opportunity: Low-skilled migration after Brexit’. <https://bit.ly/2PKWPAV>

⁴⁴ López-Sala, A. *et al.* 2016. Temper Working Paper Series. ‘Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy’. <https://bit.ly/2MKwrPA>

⁴⁵ ALP. 2012. ‘Position paper: Seasonal Agricultural Workers Scheme (SAWS)’. <https://bit.ly/2xgFna9>; ALP. 2017. ‘Position paper: Building a model Seasonal Workers’ Scheme’. <https://bit.ly/2OubEBi>

⁴⁶ Donna Simpson. 2011. ‘Salads, Sweat and Status: Migrant Workers in UK Horticulture’. <https://bit.ly/2NSb2bs>

⁴⁷ Sumption, M. and Fernandez Reino, M. 2018. ‘Exploiting the Opportunity? Low-Skilled Work Migration After Brexit’. <https://bit.ly/2PKWPAV>

⁴⁸ Emilsson, Henrik. 2014. ‘Who Gets in and Why? The Swedish Experience with Demand Driven Labour Migration – Some Preliminary Results.’ *Nordic Journal of Migration Research*, 4(3):134-143.

⁴⁹ US Government. ‘H-2A Temporary Agricultural Workers’. <https://bit.ly/2kmmLgs>

⁵⁰ Southern Poverty Law Centre. 2013. ‘Close to Slavery: Guestworker Programs in the United States’. p.1. <https://bit.ly/2xt0sNU>

⁵¹ *Ibid*

⁵² ILO. 2014. ‘Need for pre-departure information and training for migrant workers stressed’. <https://bit.ly/2NgWitC>

⁵³ IOM. No date. ‘Best practices: IOM’s migrant training/Pre-departure orientation programs’ <https://bit.ly/2OvWknM>

⁵⁴ Consterdine, E. and Samuk, S. 2015. ‘Closing the Seasonal Agricultural Workers Scheme: A triple loss’. <https://bit.ly/2lRzgmw>

⁵⁵ As with the previous SAWS scheme, workers on this visa programme are technically allowed to change employer, but there are significant practical barriers to doing so. See for example: Kalayaan. 2017. ‘Still in the dark, still disempowered’. <https://bit.ly/2xpmLUM>

⁵⁶ Ewins, J. 2015. ‘Independent review of the Overseas Domestic Workers Visa’. <https://bit.ly/2MGkKZV>

exploitation and little access to information about their rights. The success of advice and reporting mechanisms will depend on these being accessible to and trusted by workers. Mechanisms should be established to ensure that workers may report all types of labour abuses anonymously. Non-governmental organisations and trade unions should be given access to worksites so that they can provide workers with in-person support to raise concerns, including cases of abuse, and monitor scheme standards.