

FORCED LABOUR IN NORTHERN IRELAND: AN UPDATE

Neil Jarman

Despite progress reported since 2011, forced labour remains a neglected area of policy development in Northern Ireland. It is especially pervasive in the fruit-picking, mushroom-cultivation, fishing and domestic servitude sectors. Experts interviewed for the report describe forced labour, modern slavery and human trafficking as a continuum of exploitation of vulnerable members of society: foreign nationals, asylum-seekers, those with poor English skills or with uncertain legal status.

The report's recommendations to the Department for Justice, Department for Employment and Learning and Public Prosecution Service, include:

- recognise forced labour as separate but overlapping with trafficking;
- develop a legal framework to tackle modern forms of slavery;
- use employment regulation and employer/employee awareness to safeguard people at risk;
- consider how bodies such as the NI Strategic Migration Partnership can foster a co-ordinated approach to information-gathering and the publication of annual figures;
- address barriers related to cross-border trafficking and movement.

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EXECUTIVE SUMMARY

There is growing awareness of the problem of forced labour and other forms of exploitation that have been collectively described as ‘modern slavery’. In 2011, an ICR research report Forced Labour in Northern Ireland found limited cases distributed across a wide range of employment sectors. This report updates the evidence on forced labour in Northern Ireland.

- Since 2011, there have been positive developments such as recognition of forced labour in policy documents from the Department of Justice, Police Service of Northern Ireland and Organised Crime Task Force, and the inclusion of forced labour in a Private Member’s Bill on human trafficking and exploitation.
- Despite this, forced labour is still not receiving due attention in Northern Ireland. Forced labour should be given a higher profile, and named as such, in all responses to modern slavery that are developed through legislation and policy.
- Experts interviewed for the report noted some improvement in working conditions in some sectors, linked to the work of the Gangmasters Licensing Authority, actions of some larger employers, influence of supermarket customers, direct employment of migrants, and actions by a minority of migrant workers in challenging exploitative employers.
- Interviewees also cited recent cases of potential forced labour including in fruit-picking, shellfish-gathering, fishing, recycling and domestic servitude. Particular vulnerabilities of asylum-seekers and Roma were noted, as were continuing cross-border issues (i.e. moving people across the border for labour exploitation).
- There is restricted capacity to investigate potential cases of forced labour in Northern Ireland, with responsibilities spread across many agencies with limited co-ordination of responses or information-sharing.
- In the absence of an expanded or new body to co-ordinate employment regulation across employment sectors, the work of bodies such as the Northern Ireland Strategic Migration Partnership may provide a platform for a more co-ordinated response that:
 - o supports victims in making complaints against their exploiters
 - o uses employment law and regulation alongside criminal justice
 - o recognises forced labour as separate from but sometimes overlapping with human trafficking.

1 INTRODUCTION

The Institute for Conflict Research (ICR) report *Forced Labour in Northern Ireland*, published in June 2011¹, was one of the first reports in the Joseph Rowntree Foundation's four-year programme of research on forced labour in the UK. In recent years there has been a growing awareness of the problem of forced labour and other forms of exploitation that have been collectively described a 'modern form of slavery'. The International Labour Organisation (ILO) has defined forced labour as an extreme form of exploitation that involves:

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- threats or physical harm to the worker
 - restrictions on movement, or confinement to a workplace
 - debt bondage, where someone works to pay off a debt or loan incurred securing the employment
 - withholding wages or excessive wage reductions
 - retaining the worker's passport
 - threat of denunciation to the authorities.

Anti-Slavery International argues that if any one of these factors is present then the case should be investigated, while the presence of two or more indicators would be evidence of forced labour.

The 2011 ICR report highlighted that there was a limited if widespread problem of serious labour exploitation of migrant workers in Northern Ireland. It identified cases of poor working conditions, excessively low pay, restrictions on movement and verbal and physical abuse among migrants working in the fishing, mushroom cultivation and catering industries and among Filipino and Romanian Roma migrants. Exploitation was associated with the vulnerability of the workers, including a lack of English language skills, limited access to social networks and a lack of local knowledge. The research found that people put up with working in very poor conditions and extreme levels of exploitation because it was better than the options available at home, while an individual's immigration status limited their options for escaping an exploitative working

environment: some may be forced into working without valid visas, while others may simply swap one exploitative employer for another.

The problem was considered to be *limited* in so far as the research identified a small number of case studies of serious exploitation that could be considered to cross the boundaries of legally recognised forced labour, although a wide range of forms of exploitation were identified that sat at various locations on a continuum between forced labour and lesser forms of exploitation.

The problem was considered to be widespread in that examples of serious labour exploitation were identified in a variety of employment sectors, including the fishing industry, mushroom cultivation, the restaurant and catering trade and in domestic work, as well as within diverse minority ethnic communities including the Chinese, Filipino, Roma and various Eastern European nationalities.

The report made a number of recommendations for the devolved government, trade unions and the business community in relation to improving existing responses and developing new responses to ensure that the problems of forced labour were addressed and did not grow into a more serious problem.

Since the report was published there have been some positive movements in relation to the issue of forced labour:

- Forced labour and modern forms of slavery have been acknowledged in policy documents and Action Plans produced by the Department of Justice (DoJ), the Police Service of Northern Ireland (PSNI) and the Organised Crime Task Force (OCTF).
- Figures on the number of potential victims of human trafficking who have been subjected to forced labour are published annually.
- The issue of forced labour has been included in a Private Member's Bill on human trafficking and exploitation, introduced by Lord Morrow of the Democratic Unionist Party (DUP) in June 2013.
- In January 2014, the DoJ issued a consultation document on strengthening responses to human trafficking and slavery with a view to having new legislation in place by the end of 2014.

However, while there has been some positive acknowledgment of the problem of forced labour and modern forms of slavery in Northern Ireland, it is still largely being addressed as a sub-category of human trafficking rather than as a stand-alone issue. As such, forced labour and slavery issues are being considered largely through the lens of criminal justice, with less consideration being given to addressing the issue from the perspective of exploitative employment practices.

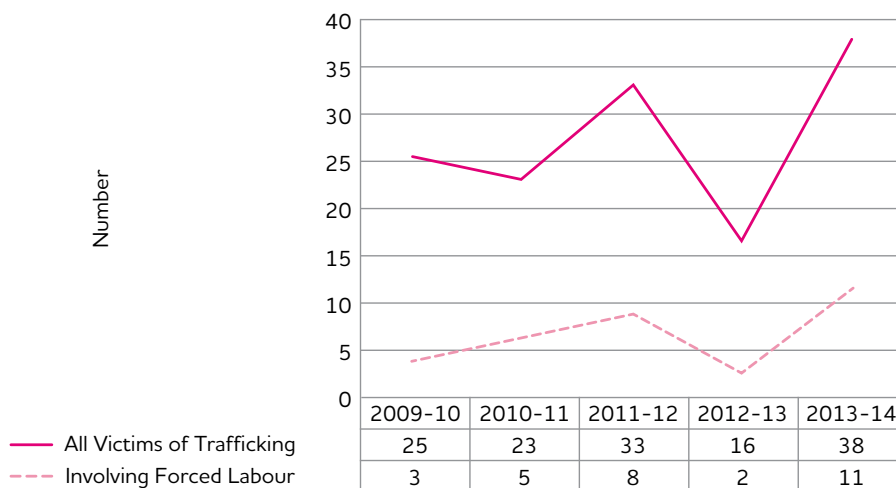
In September 2013, JRF commissioned ICR to undertake an update of the 2011 report on forced labour in Northern Ireland. In particular, the review aimed to consider current understanding of the issue by documenting potential examples of forced labour that have been identified since the research was completed in 2010, and reviewing policy responses that have been initiated since the report was published.

The research for this update report involved two main forms of activity: a review of policy documents, research and other written materials, and contact with key informants in a range of government departments, statutory bodies and voluntary organisations to gather a broad range of perspectives on the nature of the problem and existing responses to it. Some information was gathered through face-to-face interviews, some through telephone interviews and some through email exchanges. A list of those organisations contacted is included in Appendix 1. The interviews took place between November 2013 and February 2014.

2 DATA ON VICTIMS OF TRAFFICKING AND FORCED LABOUR

Figures for the number of people who have been identified as potential victims of human trafficking are published each year in the Annual Report of the Organised Crime Task Force (OCTF)². The figures are broken down by the nature of the exploitation of the victim (sexual, forced labour, domestic servitude or unknown). Figure 1 sets out the annual recorded figures between April 2009 and March 2014³. The figures show that victims of forced labour (including domestic servitude) account for 21 per cent (29 out of 135 cases in total) of potential victims of human trafficking.

Figure 1: Potential victims of human trafficking recovered in Northern Ireland



In addition to the 29 identified cases of forced labour, there were a further 15 cases where the nature of the exploitation is recorded as 'unknown' (five cases in 2012-13, ten cases in 2013-14 and 11% in total). It is likely that this is because the victim was recovered at a port of entry or because the victim was a child and unaware of the form of exploitation they might be subjected to (eight of the ten cases in 2013-14 where the nature of the exploitation was unknown involved minors).

The report also provides information on the nationality of all potential victims of human trafficking since 2010-11. The information shows that the largest number of victims were Chinese (25 persons), followed by UK nationals (14 persons), Romanians (10 persons), Ghanaians (6 persons); Nigerians (6 persons) and Irish nationals resident in Northern Ireland (six persons). Fourteen nationalities were recorded among potential victims of human trafficking; these include 13 people from six EU countries, one person from a non-EU European country, nine people from four African countries, three people from two Asian countries and one person from a country in South America.

Table 1 gives the breakdown of nationalities by UK, EU and other nationalities. It is not possible to link nationality to form of exploitation from the available data; however, none of the examples or cases of forced labour or potential forced labour that was cited by interviewees involved victims who were UK nationals.

Table 1: Potential victims of human trafficking by background

	UK nationals	EU nationals	Other nationals	Unrecorded	Total
2010-11	4	3	16		23
2011-12	8	8	17		33
2012-13	1	4	11		16
2013-14	1	14	2	13	38
Total	14	29	54	13	110

Since 2011-12, the potential victims of human trafficking have also been broken down by adults and minors – 28 of the 87 recovered victims (32%) were under 18. Information on the trafficking of minors is covered in Section 4.

It should be noted that this data relates only to the potential victims of human trafficking who had been referred to the National Referral Mechanism (NRM). It was noted by interviewees that some potential victims are not willing to be referred to the NRM, while potential victims of forced labour who have not been subject to human trafficking will not be included in these figures either.

Prosecutions related to forced labour

The OCTF Annual Report 2013⁴ noted that a number of cases have been and or were still being pursued through the Northern Irish criminal justice system that were related to trafficking for purposes of prostitution. The Public Prosecution Service (PPS) noted that, as of 21 January 2014, there have been no cases in Northern Ireland taken forward under Section 71 of the Coroners and Justice Act, which deals with slavery, servitude and forced or compulsory labour, since the Act was introduced in 2009.

It was noted by a number of interviewees that there is a small number of cases currently under investigation that involve elements of forced labour and human trafficking and that may be pursued through the criminal justice system. However, the PPS noted that, as of 15 April 2014, no files had been received from the PSNI under Section 71 of the Coroners and Justice Act 2009.

3 EXPLOITATION AND FORCED LABOUR

The 2011 ICR report identified a number of areas where there were indications of serious forms of exploitation that might involve elements of forced labour. These included work within the mushroom cultivation and fishing industries, in the hospitality sector and among the Chinese and Roma communities resident in Northern Ireland. There were also cases cited of poor employment practices in the meat-processing industry. As part of this update, ICR sought examples of continuing problems of exploitation involving forms of deception, coercion and control and also of any new areas where labour exploitation had been identified.

Interviewees noted that there had been some improvement in working conditions in some sectors, notably within the meat-processing industry and among larger mushroom producers. It was felt that the work of the Gangmasters Licensing Authority (GLA), the influence of supermarket customers further up the supply chain, the direct employment of migrants rather than the use of agencies, and an increasing confidence among migrant workers willing and able to challenge employers, were all factors that had made a positive impact on employment conditions, particularly among larger employers.

Nevertheless, it was believed that there were still some serious forms of exploitation among smaller mushroom cultivation businesses. One interviewee noted that their organisation had recently provided support for a woman to return to her home country after she had been working in a mushroom factory under poor conditions similar to those identified in the 2011 report. Continuing problems were also identified as present in parts of the restaurant and take-away food sectors and involving Chinese and South Asian nationals.

Fruit-picking: A number of cases were cited by interviewees of possible forced labour in the agricultural sector and in particular of Eastern European nationals working as seasonal fruit-pickers, particularly in the Armagh area. Anecdotal evidence was backed up by information from the Department of Justice, which noted that seven of the nine victims of forced labour identified in 2013-14 were involved in fruit- or vegetable-picking. At least two cases are also being investigated where an individual has complained of being trafficked into Ireland before ending up working picking fruit and living in very poor conditions. One interviewee cited an example of a group of around 15 people who were seen standing at the side of the road in rural Armagh apparently waiting for a vehicle to take them to work and who were still in the same place 10 hours later. This behaviour raised questions as to why they would wait so long without doing something and perhaps

also highlights the need for people to be aware of potential signs of unusual behaviour that may be linked to forms of coercion and control.

Fishing: The 2011 report cited concerns about working conditions in the fishing industry, particularly in the Kilkeel area, and some interviewees said that they believed there were still some problems in this sector. ICR was informed that there had been issues in relation to a small number of prawn-fishing vessels, with West African and Filipino nationals being identified as the main victims. Another interviewee noted that he had come across a small number of African fishermen who had arrived with a promise of work but when little or none was available, they ended up living on boats and relying on charity. Yet another interviewee cited two cases involving three Filipino nationals who had been rescued from Scottish fishing boats when they were in Irish or Northern Irish waters. Two of the men have been recognised as victims of trafficking by the Home Office and it is expected that the third individual will have similar recognition granted soon.

Shellfish-gathering: Another case that was investigated by the GLA related to the exploitation of workers employed to gather periwinkles at various sites along the coast of Northern Ireland. The workers, who were all Latvians, complained that at one stage they had been left overnight on a small island with only drinking water and polythene sheeting for shelter. The conditions the people worked in were said to be very poor and comparable to those experienced by the Chinese cockle-pickers in Morecombe Bay in England⁵. The GLA prosecuted one Latvian national for 'acting as a gangmaster without a licence' but a decision was taken not to prosecute for any forced labour or trafficking offences as none of the workers was prepared to make a formal complaint. The individual was eventually found not guilty of the gangmaster offence but was convicted of having a prohibited firearm and ammunition.

Recycling: One worker in a Belfast-based charity cited a case of a mixed group of eight Romanian nationals who approached the organisation complaining that they had been collecting recycled goods and had been given food and accommodation but had not been paid. They said that they had been based in England where they had been given new (false) names and identities before they began working. A meeting was arranged with the PSNI, but the Romanians left Northern Ireland before the meeting took place. Another community support worker also cited the recycling industry as a sector that employed relatively large numbers of Eastern Europeans, who were often required to work long hours, although no specific complaints had been made.

Domestic servitude: A small number of people have been identified as being subjected to domestic servitude in Northern Ireland. Women's Aid has provided support for three such women over the past four years from China, India and the Philippines. In each of these cases, the women had been enslaved for between two and four years before being rescued.

Cannabis cultivation: There was some evidence of Chinese and Vietnamese nationals being employed to grow cannabis plants⁶. It was noted that such people may not be included in the numbers of recovered victims as some may deny that they have been trafficked and will be treated as criminally liable for prosecution for the illegal cultivation of plants. An example recounted by one interviewee revealed something of the complexity between trafficking and different forms of labour exploitation. A number of people were arrested for cannabis cultivation following a police raid, but subsequent interviews revealed that three of the women among those arrested had initially been trafficked into the UK to work in the sex industry at an early age. They had subsequently met partners and had

children, and then moved to Northern Ireland where they ended up growing cannabis plants. Although it is not suggested that they had been trafficked to Northern Ireland, the fact that they were initially trafficked into the UK may have had an impact on their options for working legally. One of the three women had since been deported, one had been imprisoned but later moved to England, while the third settled in Northern Ireland.

Roma: One case that has been identified as involving trafficking for forced labour related to apple-picking. Six of the seven identified victims were Romanian Roma who had been trafficked into Ireland and who were being exploited by Romanian Roma gangmasters. Each of the six men gave interviews to the police but would not sign complaint forms due to fear of the consequences. All were provided with assisted repatriation to Romania. It was also noted that many Roma in Belfast were working under poor conditions washing cars and in construction. However, it was also noted that there were some indications that those Roma who had lived in Belfast for a longer period were becoming better integrated and were more willing and able to enter the wider labour market.

Asylum-seekers: There were some concerns raised about the vulnerability of sections of the Somali community, which has been established in Belfast over the past few years. In particular, it was noted that some young men had had their requests for refugee status turned down but were not being removed from the UK due to the situation in Somalia. This left them in a position where they could not work legally, and nor could they access any benefits, forcing them to rely on other members of the community for support or to work informally. While Somalis were the main nationality cited in this case, it was also claimed that there were people from other African countries, such as Sudan and Zimbabwe, in a similar situation. The potential for refugees and asylum-seekers to be subject to forced labour and other modern forms of slavery has also been noted in England⁷, and it remains an area where the vulnerability of individuals may make them particularly susceptible to serious exploitation.

Sex work and other work: Although the JRF project has not included the sex industry within its remit, the ICR was made aware of several cases indicating how the boundaries between sex work and other forms of forced labour may be porous. One case relating to cannabis cultivation (outlined above) involved women who had originally been trafficked to work in the sex industry; one of the cases of domestic servitude involved a woman who was given the option of being a sex worker or of working as a housekeeper in a brothel (she chose the latter); while a third case involved a woman who had been involved in sex work but was deemed to be too old to continue and was subsequently forced to manage and run the brothel she had previously worked in. These examples illustrate how women may be moved from one form of enforced labour to another; how the sex industry is not separate from other areas that utilise forced labour; and that the sex industry itself may involve different forms of forced labour.

Cross-border: A further factor that was considered to complicate the investigation into the shellfish-gathering case above was that the workers were based in Dundalk in the Republic of Ireland, but were working in Northern Ireland. The issue of any cross-border dimension to forced labour was raised in the 2011 report and a small number of examples were cited where workers had been moved between jurisdictions in Ireland. This current review found a number of other examples where people complained of being trafficked and moved between jurisdictions or, as in the periwinkle case, where there was clearly a cross-border dimension. These included cases of people being trafficked across the border from South to North to pick fruit and also some indication of people being moved in the other direction to work in cannabis cultivation.

Victims: Many people noted that it continued to prove difficult to persuade potential victims to make a formal complaint about the exploitation they may be experiencing. Some interviewees noted that some of those working under forms of exploitation did not consider themselves to be 'victims', while others acknowledged the poor conditions, but argued that it was still better than conditions back home. Some were simply too frightened about the implications to themselves or their families to make a complaint.

Summary

Those who were interviewed for this review noted that it remained difficult to identify many clear cases of forced labour in Northern Ireland. However, they noted a diverse range of examples of exploitation that raised concerns among people working in statutory agencies and the voluntary sector, and these appear to have occurred in a wider range of employment sectors than had been identified in the 2011 ICR report.

The general consensus was that forced labour remained a problem in Northern Ireland, and that it was not confined to discrete work sectors; nor to specific geographical areas; nor to specific groups of people. It was perceived as a problem that remained in the shadows and on the geographical and social margins of Northern Irish society. Many people also believed that as long as few cases of forced labour were identified or recorded, it would remain unacknowledged; and as long as it remained unacknowledged, limited resources would be devoted to it and thus few cases identified. A number of people said that they feared it would take a case like the Morecambe Bay cockle-pickers in England (see above) to raise the profile of forced labour among the wider public in Northern Ireland.

4 TRAFFICKING OF CHILDREN FOR FORCED LABOUR

The figures for the number of recovered potential victims of human trafficking have been broken down since 2011-12 to identify the number of both adults and minors. In that year, eight of the 33 victims were minors, in 2012-13 two of the 16 victims were minors, while figures provided by the Department of Justice for 1 April 2013 to 31 March 2014 reveal that 18 of the 38 victims were minors⁸.

The UK figures for potential child victims of trafficking indicate that nearly 40% were trafficked for forms of labour exploitation rather than for sexual exploitation. For example, in 2011-12, 98 of 371 children referred to the National Referral Mechanism were identified as victims of labour exploitation, while a further 44 had been trafficked for domestic servitude, compared with 101 who had been trafficked for sexual exploitation. In a further 127 cases, the form of exploitation had not been identified⁹. However, there is no evidence of trafficking for labour exploitation among those minors trafficked into Northern Ireland.

In 2011, Barnardo's and NSPCC Northern Ireland published a policy and practice paper related to separated children and trafficking in Northern Ireland to raise awareness of the issue. The paper noted that only one child had 'been conclusively identified as a victim of trafficking' between April 2009 and 2011¹⁰, but also noted that this was a 'hidden problem and difficult to identify' and recommended a number of actions designed to raise awareness of the issue including better collation of accurate information.

In April 2012, the Health and Social Care Board (HSCB) Northern Ireland began the formal collection of statistics on separated children. Data was made available for the 18-month period between 1 April 2012 and 30 September 2013. The HSCB identified four cases during this period where the trafficking of children was either suspected or confirmed. All were Chinese; three were female, one male; two were aged 17 years old and two aged 16. In all cases the form of exploitation was unknown or unconfirmed. Figures from the Department of Justice for 1 April to 8 January 2014 indicated that 10 of the potential victims of trafficking who were minors were identified as being subjected to sexual exploitation while in the case of the other eight, the form of exploitation was recorded as unknown. In previous years, the form of exploitation had not been recorded.

In a follow up telephone interview in January 2014 Barnardo's noted that it had some evidence of a very small number of children, who were UK nationals from Northern Ireland, being trafficked and that all were being trafficked for sexual exploitation in Northern Ireland.

Summary

There is little evidence to date that children are being exploited for forced labour in Northern Ireland. However, a growing number of children are being identified as potential victims of human trafficking and in a number of these cases, the type of exploitation that they might be subjected to has not been identified and therefore there is a possibility that these young people could have been potential victims of forced labour.

5 RESPONDING TO FORCED LABOUR

The 2011 ICR report noted a limited awareness of the problems of the exploitation of vulnerable workers involving forced labour among policymakers and, although there was some recognition of the problem of human trafficking, policy responses had largely focused on trafficking for sexual exploitation rather than other forms of labour exploitation. Since that time, there have been several policy developments and initiatives related to forced labour, but most have been primarily framed as a response to human trafficking in which the issue of forced labour has been included as one form of exploitation that victims of trafficking may experience. This seems to be in part at least because most developments have been initiated by the Department of Justice (DoJ) or from a criminal justice perspective, rather than from the perspective of employment regulation.

The 2011 report made a number of recommendations to the Department for Employment and Learning (DEL) and the Office of the First Minister and Deputy First Minister, as well as bodies such as Belfast City Council and the trade union movement, and while the DoJ has taken a lead on matters relating to human trafficking in general, limited progress has been made in responding to the recommendations made in the 2011 report that relate specifically to the issue of forced labour.

The initiatives that have been taken forward include:

- publication of a *Human Trafficking and Exploitation Action Plan for 2014-15* by the DoJ¹¹
- human trafficking identified by the OCTF as a key priority
- a Private Member's Bill to combat human trafficking and exploitation introduced into Stormont in June 2013
- DoJ consultation launched in January 2014 on strengthening the legal response to human trafficking and slavery to bring the legal regime in Northern Ireland into line with that proposed by the Home Office for England and Wales.

Legislation

A Private Member's Bill on human trafficking and exploitation was published by Lord Morrow in 2013, and at the time of writing (April 2014) the bill was being considered by the Northern Ireland Assembly. The initial draft of the bill made no reference to forced labour but consultation responses, including that by JRF, led to the bill being expanded to include 'measures to prevent

and combat human trafficking and slavery'. However, as noted by JRF in its response to the Committee for Justice, it was felt that the bill could go still further in extending the rights of victims of forced labour, in improving capacity and ability for investigation and prosecution, and in engaging with the private sector to prevent and respond to forced labour.

In December 2013, the Home Secretary published a draft Modern Slavery Bill¹², which proposes a range of measures designed to consolidate slavery and trafficking offences; increase maximum sentences; introduce a range of civil orders; improve reporting and recording of cases involving victims of trafficking; and create the post of anti-slavery commissioner. As the proposed legislation would only extend to England and Wales, the DoJ published its own consultation document on how best to respond to the UK government's proposals at a time when the Morrow bill is still being considered by the Assembly¹³. The current proposals from the DoJ aspire to include some of the proposals from the UK Government's draft bill into the Private Member's Bill and so have a single statute regulating all aspects of human trafficking and modern slavery and that the revised and amended Private Member's Bill will be enacted by December 2014.

One limiting factor with both the current Private Member's Bill and the proposals being consulted on by the DoJ is that they separate the process of human trafficking and the practice of holding people in modern forms of slavery. The two issues are treated as linked but separate, but the experience of being trafficked is considered to be more serious than the experience of being subjected to forced labour and other forms of modern slavery. This is illustrated by the fact that the victims of human trafficking are provided with greater support and assistance than individuals who have been subjected to forms of forced labour but who have not been trafficked. The UK Government's draft Modern Slavery Bill takes a somewhat different approach. It begins by stating that 'modern slavery encompasses human trafficking, slavery, forced labour and domestic servitude'¹⁴. This approach shifts the primary focus onto the experiences of those who are subjected to various forms of enslavement, and trafficking becomes one of the processes by which people are moved into or between forms of slavery.

The Department of Justice should follow the lead of the Home Office and develop a legal and policy framework that is designed to tackle all modern forms of slavery. Such an approach would ensure that the focus of law, policy and practice is more closely orientated to the victims of modern forms of slavery, rather than the process of trafficking, and that victims of all types of modern slavery (forced labour, work in the sex industry, domestic servitude) would be treated in a similar manner.

Policy developments

The DoJ produced its first *Human Trafficking Action Plan 2013-14* in May 2013 while the second action plan, published on 2 June 2014 had its scope extended to cover both human trafficking and wider forms of exploitation¹⁵. The first action plan had limited reference to forced labour, but did list one outcome as an undertaking: 'a review of measures for trafficked victims of labour exploitation in Employment Tribunals'¹⁶, which was one of the recommendations in the 2011 ICR report. This work is part of the wider review of the rules governing employment tribunals currently being carried out by DEL. The intention is to create a set of tribunal rules that are appropriate to Northern Ireland, and that take into account learning from developments elsewhere in the UK to facilitate more efficient and effective

management of cases. DEL intends to publish revised rules for employment tribunals which would be for consultation with the aim of having the new rules operational by 2015.

The second action plan is more inclusive and wide-ranging insofar as there are numerous references to initiatives to challenge forced labour and modern slavery. These include a commitment to work with Lord Morrow to extend the remit of his Private Member's Bill to create a single, consolidated offence of human trafficking for any kind of exploitation and to increase the penalties for human trafficking and slavery offences by December 2014. It also includes provision for additional training for police officers, prosecutors and GLA officers, as well as awareness-raising training for civil society groups and GP surgeries, educational work in schools and work with employers. Finally the action plan includes provisions designed to improve cross-border co-operation to tackle human trafficking and modern slavery.

The 2014-15 action plan thus takes a significant step in committing the DoJ and criminal justice agencies to a more holistic approach to human trafficking and modern forms of slavery. However, it remains to be seen how this translates into effective practice. There remain some inconsistencies in its use of the terms 'slavery', 'modern slavery', 'forced labour' and 'exploitation', which are used seemingly interchangeably. It is also worth noting that the section outlining proposed actions to protect and support victims only refers to the victims of human trafficking and thus potentially differentiates between those victims of forced labour and other modern slavery offences who have been subject to trafficking and those who may not. This was a concern raised by JRF when giving evidence to the Justice Committee in relation to Lord Morrow's Private Member's Bill.

The Department of Justice's 2014-15 action plan is a significant step forward in criminal justice responses to forced labour. However, ICR believes that future action plans should be more consistent in ensuring that all initiatives are framed as an inclusive response to all aspects of all modern forms of slavery.

The OCTF's Annual Report and Threat Assessment provides an annual update on numbers of people identified as being trafficked. It includes a section on 'organised immigration crime and human exploitation', although the (limited) references to labour exploitation are to be found in a section entitled 'Human exploitation – human trafficking and vice'. In this section of the 2012 Annual Report, it was noted that 'there are an increasing number of cases of human trafficking for labour exploitation being discovered'¹⁷. The 2013 Annual Report merely noted that 'cases of human trafficking for labour exploitation have also been noted'¹⁸. Although this may well reflect the small numbers of people identified as being trafficked for forced labour, it also suggests that forced labour is an area of limited interest for the OCTF. This largely reflects the views of a high proportion of interviewees, who felt that forced labour was still considered a relatively minor issue and therefore was given little attention or resourcing and thus would remain a minor issue. However, as noted above, there was an increase in the number of people identified as being trafficked for forced labour in 2013 and the small number of cases may be a reflection more of the lack of investigative focus than the true situation on the ground.

The publication by the Public Prosecution Service (PPS), *Policy for Prosecuting Cases of Human Trafficking*¹⁹ outlines the PPS's approach to responding to cases of trafficking and to victims of trafficking. This document explicitly includes forced labour as one of the core forms of exploitation that might be linked to human trafficking and provides a clear overview of the constituent elements of forced labour²⁰. However, it is worth noting that the specific legislation outlawing forced labour in the UK,

the 2009 Coroners and Justice Act, is not cited as a main piece of relevant legislation, although it is referred to in an appendix. Thus the policy implicitly distinguishes between cases of forced labour that involve human trafficking and those that may not.

Increasingly, policy developments in the UK are moving towards a single integrated approach to issues related to all modern forms of slavery, including human trafficking. It would be useful for the PPS to review its policy on trafficking so that it more clearly extends to cover all modern forms of slavery, including forced labour.

DEL had prepared a Migrant Workers' Strategy and Action Plan that was updated in March 2009. This covered a range of issues including information-gathering, identifying best practice and addressing issues relating to employment inspection and enforcement. Since 2011, the work on migration issues has been carried out through the Northern Ireland Strategic Migration Partnership (NISMP); however, there does not appear to have been any formal update of the Migrant Workers' Strategy since 2009. Recent research by NISMP has highlighted continuing challenges for the effective enforcement of employment rights²¹ and which suggests the continuing need for a strategic framework that focuses on all issues related to migrant workers.

The NI Strategic Migration Partnership should review the impact and application of the 2009 Migrant Workers' Strategy with a view to preparing an updated version relevant to the current socio-economic environment and which includes actions designed to respond to forced labour and all modern forms of slavery.

Networking

The 2011 ICR report made a number of recommendations that highlighted the need for joined-up responses to forced labour and for the involvement of the community and voluntary sector in developing responses to forced labour. There are now a variety of initiatives in this regard. Governmental responses are co-ordinated through the Inter-Departmental Ministerial Group on Human Trafficking, while criminal justice responses to human trafficking and labour exploitation have been co-ordinated through the Organised Crime Task Force, which was set up in 2000.

The DoJ also formed a Non-governmental Organisations (NGOs) Engagement Group on Human Trafficking in 2012²², which includes a wide range of NGOs with a range of interests and areas of focus. However, interviewees believed that this body was too focused on trafficking for sexual exploitation and had given little consideration to issues of forced labour.

The Department for Employment and Learning had been acting as the policy lead on issues relating to migrant workers but since 2011 has worked through the NISMP on all work related to migration issues²³. DEL decided to work through the NISMP because it had broad political, institutional and departmental support and engagement and was thus considered to be the most effective vehicle for issues relating to migrant workers. The NISMP includes political, statutory and voluntary sector representation and has looked at a number of areas related to employment regulation. Several interviewees stated that the NISMP was becoming more effective in responding to its remit, but also noted that it had given little consideration to issues of forced labour and other forms of serious labour exploitation to date.

Thus while various networks have been established in which issues related to forced labour could be raised and addressed, the issue does not appear to have been given much consideration to date.

It is also worth noting that interviewees cited a small number of examples of exploitation that straddled the border between Northern Ireland and the Republic, and also noted limitations and restrictions that impede the development of effective cross-border responses. It is significant therefore that the 2014-15 DoJ Action Plan on Human Trafficking and Exploitation includes a commitment to convene a cross-border forum on forced labour in Autumn 2014, which will help to build Ireland-wide networks on this issue.

Awareness-raising and training

The 2011 ICR report recommended that the Office of the First Minister and Deputy First Minister and DEL should organise an awareness campaign that built on the Blue Blindfold campaign²⁴. In fact, the DoJ launched a new campaign to raise awareness of human trafficking in January 2013²⁵, which included a Crimestoppers video on YouTube, radio advertising, and the use of social media and posters and flyers throughout Northern Ireland. The DoJ was also involved in the production and distribution of an educational resource pack on human trafficking for teachers of Year 10 pupils²⁶, and the 2014-15 Action Plan on Human Trafficking and Exploitation includes a commitment to further promote educational work on human trafficking and modern slavery within secondary schools²⁷.

The PSNI has responded to the issue of trafficking and forced labour via a number of initiatives. The lead police response to cases of forced labour in Northern Ireland is through the work of the Organised Crime Unit and through that unit's participation in the OCTF. The PSNI also works on a UK-wide basis through the Association of Chief Police Officers and on an Ireland-wide basis with An Garda Síochána on issues related to human trafficking and forced labour. The PSNI has also developed a mandatory online training package on human trafficking for all officers and second-level training on the subject for CID officers. Furthermore, the PSNI has produced an Operational Field Guide to human trafficking and labour exploitation, which has been distributed to 4,000 front-line staff.

Summary

There are a wide range of ongoing initiatives that are designed to respond to human trafficking and labour exploitation, including forced labour, in Northern Ireland. These include policy documents and action plans, networks, training and awareness programmes and a commitment to review and extend legislative provision. Some of these initiatives build on some of the recommendations made in the 2011 ICR report on forced labour.

However, it should be emphasised that the driver for these initiatives remains the process of human trafficking rather than the experiences of forced labour. Many of those who were interviewed noted that there was still limited awareness of, or interest in, issues related to forced labour and modern forms of slavery and that concerns about the exploitation of people through the sex industry was felt to be the driving force behind much of this work. Indeed, the debate on the second reading of the Private Member's Bill on human trafficking and exploitation was almost entirely focused on the clauses related to the regulation of prostitution and only two members of the Legislative Assembly raised the issue of forced labour during the debate.

The next section of this report focuses more specifically on the views of interviewees on steps taken to address issues of forced labour, and steps that need to be taken in addition to those currently under way.

6 TACKLING LABOUR EXPLOITATION

Identifying cases of forced labour can occur either through formal investigation by a statutory agency or by a complaint being made by a victim of exploitation. A number of interviewees noted that there was a strong reliance on people deciding to make an individual complaint of exploitative employment practices in Northern Ireland and a limited and insufficient response to this issue from the perspective of employment regulation and investigation. It was felt that further initiatives should be developed.

A number of interviewees cited the positive work of the Gangmasters Licensing Authority (GLA) in reducing the exploitative practices of gangmasters and poor employment practices in those areas within their remit (agriculture, horticulture, forestry, shellfish-gathering and food and drink processing and packaging). However, all those interviewees who commented on this also argued that the remit of the GLA was too narrow and should be extended to cover other areas of employment, such as construction, catering and cleaning. They also noted that there did not appear to be any political will within the government to extend the remit of the GLA at this time; the UK Government had actually cut back on the resources available to the GLA.

DEL's Employment Agency Inspectorate (EAI) has responsibility for the regulation of agencies that are operating in non-GLA sectors. Such agencies do not have to be licensed, and nor are the EAI's enforcement powers as extensive as the GLA's. The EAI has a risk-based approach to enforcement, and migrant and vulnerable workers are prioritised in the inspection programme.

Two key limiting factors for investigating cases of forced labour were the limited capacity for investigation and for the sharing of information. The potential for identifying cases was further limited by the fact that no agency had specific responsibility for investigating potential cases of forced labour, but rather potential cases might be uncovered through investigation of the activities of gangmasters and employment agencies, forms of tax abuse, immigration matters, or through investigation of potential cases of trafficking. However, lack of training and awareness of issues associated with forced labour, plus limitations on information-sharing mean that potential knowledge may not be passed to a relevant agency or acted upon.

A number of interviewees noted that the current employment regulatory system is very fragmented, with different agencies responsible for different areas of employment regulation, and while some are based in Northern Ireland, others are not. Some, such as the GLA and EAI, have an investigatory role; others do not. This fragmentation was further exacerbated by a lack of information or intelligence-sharing between agencies. For example, the

GLA has legal authority to share information with other agencies, but not all relevant bodies that deal with issues of employment exploitation have the same powers.

Some interviewees argued that the current system of regulatory bodies worked well for those who were working legally, but acknowledged that there may be gaps in the regulatory system that make it less effective for those who working informally or those subjected to serious exploitation. This may be particularly the case with migrants who have limited English, few local contacts and who may be living and working in more isolated conditions.

It was noted that those agencies with responsibility for investigating employment practices often had a narrowly prescribed remit, which meant that there may be areas of employment that are not effectively investigated or regulated. This may be particularly the case in sectors that are attractive to migrant workers.

There was also limited scope and agreement on sharing intelligence between agencies, and this limits the ability of all agencies to respond and react to forms of employment regulation, although it may be more significant in relation to the employment of migrant workers in general. It also means that there is less likelihood of the various agencies uncovering instances of more serious forms of exploitation.

It was argued that there was a need to review protocols and procedures to enable better joint investigation of potential cases of forced labour that straddle the border between Ireland and Northern Ireland. At present, it can be difficult to investigate cases that involve cross-border labour exploitation, and while agencies are trying to make the system work through informal agreements, the arrangements really need to be addressed from a formal and legal perspective.

The current system of employment regulation is largely focused on individuals making complaints about employment conditions and practices, but in practice few people have come forward. It is assumed that this may in part be due to fear and in part due to a willingness to endure poor conditions because other options may be considered to be worse.

Some attempts have been made to highlight employment rights among migrants. For example, the EAI had, together with the Labour Relations Agency, GLA and Equality Commission for Northern Ireland, organised migrant worker forums to raise awareness of employment rights amongst migrant communities. However, it has proved difficult to reach the people that most need the information. Furthermore, the trade union movement has limited capacity and resources, and these tend to be focused on meeting the needs of their members; thus while the unions may respond to the needs of migrant workers in general, they are not currently engaged on issues related to forced labour.

One current initiative to increase awareness of forms of labour exploitation and how to identify the signs of possible exploitation is the Stronger Together project²⁸ run by the Association of Labour Providers, GLA and Migrant Help, and which is funded by a number of the large supermarkets. This is a training programme and toolkit that targets employers and labour providers to make them aware of the potential for forms of labour exploitation and control within otherwise compliant and regulated workplaces. The programme is currently being rolled out in the food and agriculture sectors across the UK.

The ongoing review of rules governing employment tribunals may have some impact on the ability of exploited workers to take a case against their employers, but it is questionable how much it will affect those who have been subjected to more serious forms of labour exploitation or forced labour

and in particular where threat, coercion and intimidation of the victim or their families are involved.

Some of the challenges in addressing exploitative employment practices were summed up in a review of enforcement mechanisms for upholding the employment rights of migrant workers that was carried out by NISMP in 2013²⁹. This noted that:

Legislation identifies and targets the consequences of exploitation such as inadequate salary or excessive working hours. However, attention must also be paid to minimizing the factors which exacerbate vulnerability to exploitation ... [including] institutional structures and processes which indirectly facilitate labour exploitation. These institutional concerns relate principally to the organisation of the labour market which has allowed for the supply of a cheaper and ever more flexible workforce in certain sectors, to the fragmented approach of enforcing employment rights, and to the processes of the legal system which discourage migrant workers from pursuing legal redress.

Enforcement agencies are intelligence-led and so depend on individuals to report incidences of suspected exploitation. There was evident frustration on the part of interviewees from both the enforcement agencies and support organisations regarding the difficulty in acquiring the intelligence which will allow them to pursue cases of exploitation. However, in order for individuals to feel able to come forward, they must feel supported in this process. This requires a coordinated approach to enforcement which comprises victim support as well as enforcement of legislation and an understanding on the part of the legal system that breaches of employment law may be part of a narrative of exploitation rather than a mere technical violation.

Current institutional arrangements mean that there is little counterweight to the commercial incentives for employers which can result in compromised employment rights for employees. In order to provide ballast to support existing employment rights legislation, government agencies, support agencies and community organisations must work in tandem to identify and pursue incidences of exploitation in the workplace. This requires intelligence from the affected individuals who must in turn be supported in their efforts to access justice. More significantly, it requires the political will to challenge powerful commercial interests and look beyond short term economic gain.

The NISMP review recommended that the Northern Ireland Executive should consider the viability of a Northern Ireland Employment Rights Authority as an overarching body that would provide some greater level of co-ordination in such matters. However, some interviewees believed that there was no political appetite for further employment regulation and that instead the best option would be to explore ways to make the current system more user friendly to those subject to forms of labour exploitation and to increase awareness of the signs of possible cases involving forced labour.

Summary

There remains a limited capacity to investigate potential cases of forced labour in Northern Ireland, with responsibilities spread across a variety of employment regulation and criminal justice agencies, and with limited co-ordination of responses or information-sharing. While there appears to be little possibility of any expansion of the remit of the GLA or the creation of a new body to formally co-ordinate employment regulation, the work of bodies such as the NISMP may provide a platform for consideration of a more co-ordinated response to labour exploitation and forms of forced labour.

7 CONCLUSIONS AND RECOMMENDATIONS

The research identified a range of examples of cases of forced labour that have been uncovered in Northern Ireland over the past four years, which includes exploitation in a wider range of employment sectors than had been evidenced in the 2011 report³⁰. Potential cases of forced labour have been identified in fruit-picking, shellfish-gathering and recycling sectors, in cannabis cultivation as well as in the mushroom cultivation industry and through domestic servitude. Although only a small number of cases have been recorded in Northern Ireland, the figure appears to be growing, and across the UK people who have been trafficked for forced labour are now on par with those who have been trafficked for exploitation for sexual purposes.

Some progress has been made in developing responses to forced labour, but mostly this has occurred as a result of initiatives designed to tackle trafficking for sexual exploitation and there is still limited awareness of the scale or potential for labour exploitation through forms of deception, coercion and control. In particular, the focus has been on prioritising responses through the criminal justice system rather than through employment regulation, and most respondents with relevant knowledge cited the lack of co-ordination, information-sharing and investigatory resources as a major weakness in countering the specific problems of forced labour.

A number of people believed that there was too much reliance on people making individual complaints about exploitation and there were insufficient resources to investigate abuse of employment regulations. However, it was also noted that there appeared to be limited enthusiasm for increasing the regulation of employers or for extending the powers of existing agencies to investigate potential cases of forced labour. Some interviewees were concerned that it would take a major incident, similar to the one involving cockle-pickers in Morecambe Bay in 2004, before there would be any real political will to respond.

Recommendations

There are a number of areas where resources associated with challenging forced labour and forms of serious labour exploitation might be focused.

1. Forced labour should be given a higher profile, and named as such, in all responses to modern forms of slavery that are developed through legislation and policy.

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2. The Department of Justice should ensure that all future legal and policy developments are designed to tackle all modern forms of slavery. Such an approach would ensure that the focus of law, policy and practice was more closely orientated to the victims of modern forms of slavery, rather than the process of trafficking, and that victims of all types of modern slavery (forced labour, work in the sex industry, domestic servitude) are treated in a similar manner.
 3. The Department of Justice's Action Plan should ensure that there is a consistency of language and approach to all modern forms of slavery.
 4. The Department of Justice should publish fully disaggregated figures for all cases of forced labour and modern forms of slavery in Northern Ireland on an annual basis.
 5. The Department of Justice should ensure that any future Anti-Slavery Commissioner, whether appointed on a UK-wide or Northern Ireland-wide basis, should also have a remit to consider the Ireland-wide dimensions of modern forms of slavery.
 6. The Department for Employment and Learning should review the current capacity for employment regulation and investigation to ensure that it can better address the issue of forced labour and modern forms of slavery.
 7. The Department for Employment and Learning should explore how to better raise awareness among employers as to how to identify and respond to potential signs of forced labour and coercion among their workforce.
 8. The Department of Justice and the Department for Employment and Learning should develop a more co-ordinated response to issues of forced labour and modern forms of slavery to maximise an effective response to the issue.
 9. The Department of Justice and the Department for Employment and Learning should explore, with their counterparts in the Republic, how to improve co-ordination of actions to address issues associated with modern forms of slavery and forced labour that have a cross-border dimension.
 10. The Public Prosecution Service should review its policy on trafficking so that it covers all modern forms of slavery, including forced labour.
 11. The Northern Ireland Strategic Migration Partnership should review and update the 2009 Migrant Workers' Strategy and Action Plan, and this should include references to the issue of forced labour and modern forms of slavery.
 12. The Northern Ireland Strategic Migration Partnership should consider how forced labour, as a specific form of exploitation that is likely to involve migrant workers, might be addressed in a more co-ordinated and effective manner.
 13. The Northern Ireland Strategic Migration Partnership should review the impact and application of the 2009 Migrant Workers' Strategy and Action Plan with a view to preparing an updated version relevant to the current socio-economic environment and which includes actions designed to respond to forced labour and all modern forms of slavery.

APPENDIX 1: INDIVIDUALS AND ORGANISATIONS CONTACTED FOR THE REVIEW

- Jean Allain, School of Law, Queens University
- Ballymena Inter-Ethnic Forum
- Barnardo's Northern Ireland
- Bryson Intercultural
- Confederation of British Industry
- Department of Agriculture and Rural Development
- Department for Employment and Learning
- Department of Justice
- Equality Commission for Northern Ireland
- Gangmasters Licensing Authority
- Horn of Africa People's Aid Northern Ireland
- Health and Social Care Board Northern Ireland
- Labour Relations Agency
- Law Centre Northern Ireland
- Migrant Help
- Minority Rights Centre Ireland
- Newry and Mourne Ethnic Minority Support Centre
- Northern Ireland Commissioner for Children and Young People
- Northern Ireland Committee – Irish Congress of Trade Unions
- Northern Ireland Council for Ethnic Minorities
- Northern Ireland Strategic Migration Partnership
- Office of the First Minister and Deputy First Minister
- Police Service of Northern Ireland
- South Tyrone Employment Programme
- Women's Aid Northern Ireland

APPENDIX 2: NORTHERN IRELAND: NRM STATISTICS 2013

In 2013, the UK National Referral Mechanism (NRM) received 41 referrals of potential victims of trafficking (PVoT) first encountered in Northern Ireland; this represents a 173% increase on 2012 referral totals and 2% of all UK referrals to the NRM. The 41 referrals comprised 25 females (61%) and 16 males (39%), with 21 (51%) referred for adult exploitation categories and 20 (49%) being referred for minor exploitation types.

Claimed exploitation type	Female	Male	Total	2012-2013 % change
Adult - labour exploitation	1	8	9	125%
Adult - sexual exploitation	10	1	11	57%
Adult - unknown exploitation	0	1	1	-67%
Minor - sexual exploitation (non-UK national)	1	0	1	N/A
Minor - sexual Exploitation (UK national)	9	1	10	N/A
Minor - unknown exploitation type	4	5	9	800%
Total	25	16	41	

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3. Data has been published for the financial years since 2009-10. Figures for the calendar year 2013 are included as Appendix 2.
4. op. cit.
5. In 2004, 23 cockle-pickers from Fujian province in China died while working in the Warton Sands area of Morecombe Bay after being swept out to sea by the incoming tide.
6. For research on the issues of forced labour and cannabis cultivation in Ireland, see Migrant Rights Centre Ireland (2014). Media Release 31 March, 'Ireland may be imprisoning victims of slavery, warns new report on trafficking for cannabis cultivation'. At www.mrci.ie/press-centre/ireland-may-be-imprisoning-victims-of-slavery-warns-new-report-on-trafficking-for-cannabis-cultivation/ [accessed 8.5.14].
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8. One interviewee expressed concern that the figures for 2013-14 had been inflated by the inclusion of cases where children had absconded from care and which in previous years had been addressed as a social care rather than a trafficking issue.
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ABOUT THE AUTHOR

Neil Jarman is the director of the Institute for Conflict Research, an independent not for profit centre in Belfast, and a Research Fellow at the Institute for the Study of Conflict Transformation and Social Justice at Queens University Belfast.

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