

# Forced Labour in the Mushroom Industry

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The definitional framework for trafficking and forced labour is provided by UN legal instruments and ILO Conventions Number 29 and 105 on forced labour (Craig et al. 2007: 15). Convention No. 29 (1930) states that forced or compulsory labour shall mean:

*All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily [Article 1 (1)].*

Belser (2005:2) outlined that forced labour represents a restriction in human freedom, a violation of human rights, and the exact opposite of 'decent work' or 'human development' as defined by the International Labour Organisation.

The International Labour Organisation (ILO) has six indicators of forced labour. Anti-Slavery International argue that if one of these six factors is present in a labour relationship the case should be investigated immediately, and if two or more of these indicators are present then the case should be unquestionably defined as being one of forced labour (Craig et al. 2007; ASI 2006). The ILO indicators are:

- i. Threats or actual physical harm to the worker;
- ii. Restriction of movement and confinement, to the workplace or to a limited area;
- iii. Debt bondage (where the worker works to pay off a debt or loan, and is not paid for his or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt);
- iv. Withholding of wages or excessive wage reductions that violate previously made agreements;

- v. Retention of passports and identity documents so that the worker cannot leave or prove his/her identity and status; and
- vi. Threat of denunciation to the authorities, where the worker is in an irregular immigration status.

Anderson and Rogaly outline forced labour as a process which leads from deception into more direct forms of coercion, and generally the utilisation of coercion and deception are generally believed to be useful indicators of whether or not an exploitative labour practice can be deemed to be that of forced labour (Craig et al. 2007: 17; Skřivánková 2006).

Skřivánková identifies three main means of coercion:

- Retention/withholding of identification documents;
- Debt bondage; and
- Threats.

Dowling et al. state that:

*Coercion and deception are used to control and exploit victims. Victims may experience debt-bondage, the withholding of identity documents, threats and abuse, reduced/no pay, excessive working hours, dangerous conditions, poor accommodation and discrimination* (Dowling et al. 2007: iii).

A common theme throughout much of the literature on forced labour is the inherently vulnerable position of migrant workers in the labour market with the restrictive and complex nature of migration regimes in Europe thought to contribute to their vulnerability and exploitation (Van den Anker 2009).

Anderson and Rogaly (2005) argue that many migrants succumb to exploitation because they believe that they have no viable alternative while Craig et al. (2007) note that migrant workers (working legally) in the UK may do so under such levels of exploitation that they meet the international legal definition of 'forced labour'. Dowling et al. (2007) further contend that migrant workers are vulnerable to exploitation and forced labour as they are often highly dependent on other people for information, language, work and accommodation, while they may also believe that if

they report the conditions they work under to the authorities this may leave them open to deportation from the country depending on their immigration status (Dowling et al. 2007: 10).

### ***International Policy***

In 1948 the UN General Assembly agreed the Universal Declaration of Human Rights which was subsequently ratified under the European Convention on Human Rights of 1950, Article 4 which stated:

*No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all its forms (ECHR. Art.4.).*

In addition, Article 8, of the International Covenant on Civil and Political Rights includes the provision that:

*3. (a) No one shall be required to perform forced or compulsory labour (International Covenant on Civil and Political Rights, Art. 8).*

The 1990 UN Convention on Migrant Workers is the most comprehensive international standard dealing with migrant workers (the convention also offers protection to irregular workers) (Anderson and Rogaly 2005: 15). The convention prohibits forced labour, and cruel or inhuman treatment, for 'all' migrant workers, irrespective of immigration status. However, the convention has yet to be ratified by the UK or other EU members.

The various conventions were reaffirmed and given universal application in 1998 under the ILO Declaration on Fundamental Principles and Rights at Work, which commits all members, even if they have not ratified specific forced labour conventions, to eliminate all forms of forced labour (Anderson and Rogaly 2005: 17).

### ***UK Policy***

The Asylum and Immigration (Treatment of Claimants etc.) Act of 2004 amended existing law to make it a criminal offence for an employer to employ a person who is illegally in the UK, or whose immigration status does not allow him or her to work (Anderson and Rogaly 2005: 21). It also created a new offence in trafficking people

for exploitation which carries a maximum sentence on conviction of 14 years in prison (Anderson and Rogaly 2005: 20).

The Gangmasters (Licensing) Act of 2004 also established a system for registering labour providers in the agricultural, shellfish gathering and associated packing and processing sectors (Skřivánková 2006: 2) by establishing the Gangmasters' Licensing Authority who have the authority to revoke licences if it judges a company to be breaching industry standards.

The UK government have also given effect to the European Convention on Human Rights in UK law through the 1998 Human Rights Act, and there have to date been some successful claims under Article 54 by women who have been trafficked and held in forced domestic labour (Anderson and Rogaly 2005: 21).

Section 71 of the Coroners and Justice Act 2009 (Slavery, Servitude and Forced or Compulsory Labour) introduces a new offence of holding someone in slavery or servitude, or requiring them to perform forced or compulsory labour. This applies in England, Wales and Northern Ireland and came into force on 6 April 2010.

In practice, forced labour in the UK includes various forms of coercion, including physical and sexual violence, threats of violence, debt bondage, threats of intimidation based on immigration status, blackmailing, and confiscation of identity documents or withholding payments (Anderson and Rogaly 2005: 36). Victims' experiences of forced labour therefore can include:

- Reduced/no pay;
- Long/Excessive hours;
- Lack of holiday/sick pay/breaks;
- Poor health and safety provision, dangerous working conditions;
- Poor accommodation;
- Discrimination; Abuse – physical and psychological; and
- Threats, intimidation and isolation (Dowling et al. 2007: 8).

The difference between exploitation and forced labour can be complex. Skřivánková (2010) refers to a 'continuum', which begins at one end with 'decent work', but consists of a sliding scale through exploitative labour and forced labour between which the lines can be difficult to perceive and individuals become trapped in situations over which they have no control.

### ***The Mushroom Industry***

The increasing reluctance of local labour to engage in agricultural work has led to the demand for migrant labour. Low wages coupled with the labour-intensive nature of the industry such as mushroom production has led to the high concentration of seasonal migrant labour in agriculture (Sumption and Somerville, 2009: 27; Chappell et al., 2009: 6; Anderson and Ruhs, 2008: 7, 29, 42).

In general the nature of the mushroom industry is labour-intensive. Scott et al. (2012: 47) discuss that within the food industry, including farming, there is a sense of "dehumanising" of workers by management and that supervisors are put under pressure by management to meet demand, who in turn put extreme pressure "on those who are most vulnerable".

Research was carried out with mushroom workers from EU states for which residency restrictions were in place as part of a wider research programme looking at forced labour in Northern Ireland. Workers described how they came to Northern Ireland, their circumstances of employment, work conditions and outlook.

In terms of the six main ILO indicators of forced labour, the evidence from this study shows at least borderline forced labour in the mushroom industry in Northern Ireland. Certainly, there were cases of deception or false promises about types and terms of work under the ILO's (2008) guidelines and a threat of denunciation to the authorities in order to keep one interviewee in undocumented status.

The continuum between exploitation and forced labour has not been widely documented in Northern Ireland. However, there is a need throughout the UK to understand this continuum and to begin to help victims who may not be fully seen as 'forced labour victims' (Scott et al., 2012).