

## Briefing

# Vulnerable migrant workers: their protection, and enforcement of their rights

October 2009

2 million people in the UK are in vulnerable employment<sup>1</sup>. Vulnerable work is insecure and low-paid and places workers at high risk of employment rights abuses. It does not always involve illegal treatment: for many the unfair treatment they receive remains legal.

Migrant workers are some of those particularly likely to be found in vulnerable work. Whilst many migrant workers are employed in sectors with good employment terms and conditions, research suggests a 'migrant division of labour', with some of the lowest paid jobs increasingly being undertaken by migrant workers.

Migrant workers are often vulnerable because they are poorly paid and work long hours; they are concentrated in agency and temporary work and as a result enjoy only limited employment rights; and they often lack the knowledge and English language skills needed to understand their rights and means to claim them.

*Below follows a summary of some of what organisations in the UK are advocating for to decrease vulnerable working and increase the protection of migrant workers' rights.*

### 1. Extension of the remit of the Gangmasters Licensing Authority (GLA) and increased resourcing

The extension of the remit of the GLA is being called for by Oxfam GB, Unite the Union, UCATT (the Union of Construction, Allied Trades and Technicians), the TUC and others. Jim Sheridan MP has moved an amendment to the Gangmasters Licensing Act 2004 proposing that the GLA remit be extended to cover the construction sector.

The GLA currently licenses and regulates gangmasters in five areas of the economy: agriculture, forestry, horticulture, shellfish gathering, and food processing and packaging. Oxfam's 2009 report, *Turning the Tide*<sup>2</sup>, finds that the GLA has had significant impact on the industries that are covered by it, and that exploitation within these has been reduced. However, gangmasters are increasingly operating in sectors beyond the remit of the GLA – in particular, construction, hospitality and social care, where abuse and exploitation can be the 'norm'. Unite the Union has also called for an extension of the GLA to all sectors characterised by vulnerable employment, particularly construction.

Other calls with regards to the GLA include increasing resourcing of the GLA (advocated by the Arthur Rank Centre, for example) and removing the role of the GLA in checking immigration documents (see below).

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<sup>1</sup> TUC, Hard Work, Hidden Lives: The Full Report of the Commission on Vulnerable Employment, 2008, [www.vulnerableworkers.org.uk](http://www.vulnerableworkers.org.uk)

<sup>2</sup> <http://www.oxfam.org.uk/resources/policy/trade/turning-the-tide.html>

Patron: Lord Harries of Pentregarth (former Bishop of Oxford)

## 2. Changes to immigration enforcement

Called for by the Migrants Rights Network, amongst others.

In February 2008, the responsibility of UK employers for the immigration status of their workers was significantly increased, with high penalties introduced for those that fail to do so effectively.

The MRN argues that the regulations have increased the vulnerability of migrant workers, forcing those without regular status into clandestine employment. Their report, *Papers Please*<sup>3</sup>, found that by erring on the side of caution employers have dismissed, or declined to engage, migrant workers who are unable to provide clear and unambiguous evidence of regular immigration status; that document checks may be implemented in a discriminatory way; that undocumented workers have been severely affected by the impact of immigration checks; and that the presence of immigration enforcement in the workplace is having a negative impact on vulnerable workers' ability to campaign for better conditions. The MRN is concerned that the requirement of the GLA for employers to check immigration documents may challenge the GLA's ability to protect the rights and interests of vulnerable and undocumented workers - a concern also highlighted in Oxfam's *Turning The Tide* report.

MRN therefore recommends;

- Improved efforts by the Home Office to inform and educate employers about the practical means of remaining within the law without resorting to discrimination.
- Efforts made by employment standards agencies to ensure that employment rights are protected irrespective of immigration status. In particular reference to the GLA, the concern of this agency with the immigration status of migrant workers should be removed.

## 3. Adoption of Forced Labour Amendment to the Coroners and Justice Bill

Called for by Antislavery International and Liberty<sup>4</sup>.

Many of those who are forced into performing compulsory labour are migrant workers. In their Joint Briefing on the Coroners and Justice Bill for the Committee Stage of the House of Lords Antislavery and Liberty state that there is currently no clear and stand alone offence under UK law of holding a person in servitude or subjecting a person to forced or compulsory labour. They propose that the Coroners and Justice Bill provides an opportunity to criminalize this practice and to bring the UK in line with its international obligations. The Bill is due to be voted on in the House of Lords at the end of October.

## 4. Improved access to remedies through employment tribunals

ECCR's report<sup>5</sup> noted that vulnerable workers find it difficult to access employment tribunals. There are calls by a number of organizations, including Antislavery International, for improving access to employment tribunals, including by allowing legal aid funding to law centers representing vulnerable workers before employment tribunals.

## 5. One off regularisation

ECCR's report found that having irregular status may increase the likelihood of migrants being in vulnerable work. Strangers into Citizens<sup>6</sup> is calling for a one-off regularisation of long-term irregular migrants in the UK.

**Note:** The Equalities and Human Rights Commission (EHRC) is currently conducting a formal inquiry using its powers under section 16 of the Equality Act 2006 into recruitment and employment in the meat and poultry processing industry. Their findings will be launched in January 2010.

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ECCR is grateful for advice from the organisations mentioned.**

<sup>3</sup> [http://migrantsrights.org.uk/downloads/policy\\_reports/papersplease.pdf](http://migrantsrights.org.uk/downloads/policy_reports/papersplease.pdf)

<sup>4</sup> <http://www.liberty-human-rights.org.uk/pdfs/policy-09/joint-cte-stage-briefing-on-forced-labour-lords.pdf>

<sup>5</sup> *Vulnerable Migrant Workers: The Responsibility of Business*, <http://www.eccr.org.uk/module-htmlpages-display-pid-20.html>

<sup>6</sup> [www.strangersintocitizens.org.uk](http://www.strangersintocitizens.org.uk)