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Increased risks of labor exploitation in the UK following Brexit and the Covid-19 pandemic: Perspectives of the agri-food and construction sectors

Abstract

On leaving the EU, changes to the UK's immigration system meant that low-skilled workers from overseas were largely prohibited from entering the UK. Since industries such as Agri-food and construction have been dependent on low-skilled migrant labor, the present study examined whether there would be increased risks of labor exploitation. Interviews conducted with 43 senior industry representatives revealed problems already being experienced recruiting labor, that were expected to worsen. Participants believed that the labor exploitation would increase, especially further down the supply chain, only compounded by impact of Covid-19, which some participants stated had prompted neglect of due diligence.

In searching for practicable solutions, participants saw the new immigration rules as opportunities to re-examine business practices to appeal more to British workers through, say, providing better pay. Such aspirations are thought unlikely, when considering the various factors that create downward cost pressures upon consumers. Similarly, industry responses in developing new technologies to overcome labor shortfalls seem still some years away from realisation. These conditions, together, suggest there is a continuing and pressing demand for cheap labor, particularly from overseas, which is only being partially addressed by the current seasonal visa schemes. Accordingly, risks of increased labor exploitation remain very real.

Keywords: Modern slavery, labor exploitation, immigration, Brexit, supply chain management

Introduction

In January 2021, new rules came into force concerning the rights of entry to work in the UK following its withdrawal from the European Union (so-called 'Brexit'). In brief, a points-based immigration system (PBS) was introduced, where admission to the country to work was granted under the Skilled Worker route only if criteria were fully met relating to a job offer from a licensed employer, language proficiency, educational qualifications and at least a threshold salary. The introduction of the PBS followed the COVID-19 pandemic which led to annual migration to the UK dropping by approximately a million people in 2020. Industries such as construction, hospitality, food processing, packing and distribution, and agriculture were expected to be most severely impacted with up to 90% of the migrant workers in these sectors believed unable to meet the new criteria (Walsh, 2021).

During 2020, the Association of Labour Providers published a survey which reflected, ahead of the introduction of the new PBS system, concerns held by labor providers and food growers as to the twin effects of the point-based system and the global pandemic. It claimed that these had contributed to significant shortages in the recruitment of the traditional workforce, particularly among what the government classify as 'low-skilled workers' (i.e., those failing to meet the conditions of the PBS Skilled Worker route).[1] Since, for many years, certain business sectors within the UK have been heavily reliant on the recruitment of seasonal and/or temporary labor to ensure supply of goods and services, the possibility of business failure was reported as a genuine concern (Association of Labour Providers, 2020).

Moreover, 76% of those migrants from Central and Eastern Europe were working in low-skilled jobs in the UK, having come to that country only for the purposes of employment (Migration Advisory Committee, 2014). This report stated that the scale of reliance in the UK

[1]Whether some or all these jobs are actually low-skilled continues to be a matter of conjecture that is outside of the scope of the present study, and thus we will follow common parlance and term them as 'low skilled' here.

upon such low-skilled workers from overseas had more than doubled to 2.1 million between the period 1997-2014. In 2019, it was estimated that in the agricultural industry alone there were over 40,000 casual workers in England, with 99% of them coming from the EU (Department of Environment, Food & Rural Affairs, 2020a; 2020b).

From 2021, however, only limited legal routes for entry to work in the UK exist for low skilled migrants under the PBS. In the agricultural sector, the only legal route for low skilled migrants to enter the UK to work is the Temporary Seasonal Workers Visa- (SWV). However, the numbers allowed under the SWV have been capped by the government to 30,000, despite the sector requiring around 70,000 workers (NFU, 2020). Furthermore, under Section 34 of the Immigration Act 2016, individuals who are not qualified to work here (because of their immigration status) commit a criminal offence of 'illegal working'. These workers also lack many basic employment rights (such as payment of the UK's national minimum wage, paid holidays and protection against unfair dismissal etc.), due the English law 'doctrine of illegality' (Wu, 2021). The ILO (2021) acknowledges that migrant workers are at a greater risk of all forms of labor exploitation than non-migrant workers, often as a result of their geographic and linguistic isolation (Byrne & Smith, forthcoming). The UK's Independent Anti-Slavery Commissioner asserted, in her 2020-21 annual report, that the PBS increased risks of exploitation that would be concentrated among low-skilled occupations, especially in those sectors of industry that have become accustomed to being highly reliant on this group of people (Independent Anti-Slavery Commissioner, 2021). The present study sought to assess the validity of such concerns, by examining the views senior personnel from those industries believed most affected by the PBS.

Background

Labor exploitation involves a continuum of malpractices and legal infractions, many of which fall between its two extremes of 'decent' work and 'severe' exploitation, though even minor transgressions are reckoned to lead to more serious ones (Lalani & Metcalf, 2012; Skrivankova, 2010). The extent of such exploitation in the UK has been claimed to be as high as 136,000 workers (Walk Free, 2018). However, the actual numbers still remain elusive, due to the diversity of its definitions and the concealed nature of the crime, compounded (particularly in the case of workers in the agri-food and construction industries), by the itinerant and seasonally transient nature of the work. Unregulated conditions of employment in the shadow economy have been argued to increase their vulnerability to exploiters' control, for example either through their being paid less than the minimum wage (if paid at all), and through a constant threat by their exploiters of reporting their illegal status to the authorities if they complain (Camp, 2020).

Indeed, Burcu et al. (2021) found that workers from Bulgaria and Romania (who at the time that their research was being conducted had a legitimate right to be employed in the UK) reported that they had already been threatened with being reported to the immigration authorities - and were working either without any employment contracts or receiving neither appropriate pay nor pay documentation for the work that they had undertaken. These researchers found that the reasons why people did not complain in the face of such abuse related to matters such as language barriers, being unaware to whom to complain (or believing that complaining would be futile), or fear of losing their job (see also Robinson & Granada, 2021). Furthermore, as migrant workers are highly unlikely to be members of a trade union, such exploitative practices can be conducted largely with impunity (Turner et al., 2014).

The Agri-food Industry

The agri-food industry faces particular challenges in recruiting seasonal low-skilled labor (Association of Labour Providers, 2020). The impact of an under-strength workforce not only presents risks to both rural and national economies, but also to the industry, as well as that of food production and provision for the UK more generally (Nye & Lobley, 2021). This is exacerbated by the seasonal nature of the work and the various segments of the 'field to fork' supply chain being sub-contracted several times over, therefore creating opacity in supply chains when trying to identify exploitation (France, 2016). Income differentials and the availability of regular work (in contrast to the home country where unemployment rates for such low-skilled labor is higher) had made the UK one of the attractive destinations for EU low-skilled workers prior to Brexit (Rogaly, 2020).

The UK Government has accepted that the PBS will mean fewer EU workers – as was the policy's intent - but expects the industry to respond by both recruiting more British workers and expanding automation, to encourage less reliance on manual labor. Nye and Lobley (2021) report, however, that work in the agri-food industry has been found to be generally unattractive to the domestic workforce due to its precarity and the demanding nature of the work (Davies, 2019). More, the seasonal workforce is paid substantially lower than their permanent counterparts (see also Potter & Hamilton, 2014). At the same time, employers have been found to hold a preference for migrant workers, declaring them to have a better work ethic (Dawson et al., 2018; Rogaly, 2008). Regardless of the credibility of such perceptions, migrant workers might be seen as more attractive to certain employers than British workers for reasons other than their reckoned attitudes towards work. For example, Trevena, McGhee, and Heath (2013) found migrant workers were also more willing to tolerate the need for locational mobility. In addition, migrants may appeal to employers as a pliant workforce willing to put up with poor labor conditions, due to their lack of familiarity with the UK's work practices (Anderson & Rogaly, 2005), argued to be associated with their

temporary residence and their not speaking English (Consterdine & Samuk, 2015). Robinson and Granada (2021) have argued that employers preferred migrant workers since it means that those on a SWV are tied to them for the season, providing a stable workforce for that crucial period of land work. As noted earlier, Burcu et al. (2021) found employer abuse a frequent feature amongst migrant workers (see also Robinson & Granada, 2021; Scott et al., 2012). Such malpractices thrive through worker dependency upon employers for work and earned income (McCollum & Findlay, 2012, McCollum et al., 2013; Scott, 2017).

A recent study of the UK's Seasonal Agricultural Workers Visa (SWV) Pilot scheme, found that the majority of overseas workers had entered into debt to cover the costs of the visa and travel to UK, and were living in accommodation provided by their employer; factors believed to increase the risks of human trafficking for forced labor (FLEX, 2021). The government's own review of the SWV Pilot found that only 84% of workers were paid in full and 15% reported that their accommodation was either unsafe, unhygienic or not warm. Furthermore, employees (who have been abused) found that such ties mean that they are restricted in either avoiding or acting on such abuses, because they create a situation of 'ultra-dependency' and 'ultra-precarity' (Freedland & Costello, 2014) and the common practice of provision of onsite accommodation for workers means that leaving their job would render them homeless. As the Independent Anti-Slavery Commissioner (IASC) notes "*Agriculture has consistently been identified as a high risk sector for labour exploitation*" (IASC, 2022, p.3).

Figure 1 illustrates a generic representation of agri-food industry supply chain having multiple tiers (six tiers in this depiction). The information flows and cash flows are shown via two-way communication link. Whereas, the product flow is indicated from up-stream or higher tier (the agri-farmer) to down-stream or lowest tier (consumer). There may be variations of this depiction depending on the complexity of the supply chain operations (for

example, for food growers, food processors or food production) where multiple contractors and suppliers may be servicing at each tier. Furthermore, some food growers can have a simpler supply chain operation where they can directly deliver to the retailers (for example, in the local farmers' market) and/or at the consumer door steps. However, the width of the solid arrows indicates the relative usage of part-time/seasonal laborers in a particular tier of the supply chain. As Figure 1 indicates, there is higher use of seasonal workers in the up-stream (farming) tier, mainly through the use of sub-contracting. Therefore, theoretically, in relative terms, there is a higher risk of modern slavery and labor exploitation at the top Tier 1 (up-stream or source level) of the supply chain.

Insert Figure 1 around here

However, in actuality the agri-food sector generally will operate with a "primary" supplier and many subsidiaries feeding into that one supplier. Usually, top tier (Tier 1 in the Figure) or primary suppliers hold the main contract with major retailers to supply products, subject to regular scrutiny of both direct and agency personnel, conducted either by independent certified bodies (on behalf of the suppliers themselves or through internal audits, or inspections undertaken (in the case of agri-food) by the retailers. There are cost and resource implications involved in such an auditing regime. However, particularly among those smaller companies supplying seasonal or casual labour to the assist with supply chain operations, it is suspected that these neither have the resources nor the skilled personnel to undertake such inspections effectively (as will be seen, this is also confirmed as one of the findings of this research as well). Organised criminals are known to target these lower tiers where the likelihood of intervention and oversight is thus lower.

The Construction Industry

This representation of the agri-food industry supply chain, depicted in Figure 1, is not unlike that of the construction Industry with suppliers to (for example) housebuilders. The main difference between the agri-food and the construction industries' supply chains, is that most construction work is usually undertaken at the Tier 3 level or below – indicating that there are two higher tiers of management activity, for example, design & planning (Tier 1) and procurement (Tier 2) sitting above the construction activities (UK Department for Business, Information and Skills, 2013). Therefore, Tier 3 is where most of the part-time and seasonal labor is utilised in the construction industry supply chain. This industry though faces similar challenges as the agri-food sector pertaining to the employment within it of migrant labor after Brexit, with around 12-13% of those employed in the industry thought to be overseas workers (Crates, 2018). It has also been reported that labor exploitation in the construction industry is an area for concern (GLAA, 2020). One reason for this is the growth in the use of agency labor, and the use of 'bogus self-employment' and umbrella organisations (Crates, 2018). This allows employers to avoid the legal obligations owed to workers (Collins at al., 2019), such as the right to be paid the UK's national minimum wage or not suffer unlawful deductions from wages. Undocumented migrants (who do not have the legal right to work in the UK) face additional barriers, preventing them from being able to enforce their employment rights before a court or tribunal (Collins, 2020). Besides these issues, the construction industry is notorious for its highly fragmented and complex supply chains, use of a low-skilled and low paid workforce, and the often-ephemeral nature of many of its contracts with suppliers. These contracts are often won solely on a price basis (thus reducing margins to a bare minimum), aggravated by deeply-rooted cultural practices of

stringent time constraints with significant financial penalties when contracts are not delivered within prescribed timeframes.

Such a culture has also been found to cultivate the lowering of (say, health and safety) standards, and of both risk taking and of unethical company behaviour towards those employed in the industry (Crates, 2018). This situation is exacerbated by the routine disseminated nature of the sites of work that makes tracking workers highly problematical (with workers moving frequently and quickly from one site of work to another). Furthermore, effective auditing of supply chains, often involving multi-levels of sub-contracting that appear impenetrable, make this task extremely challenging (particularly where there is also fake documentation). In such demanding circumstances, identified suspicions of modern slavery typically led to removing and replacing the individuals concerned (but rarely reporting the matter to the authorities). Compounding such sectoral characteristics, Crates (2018) also found that only a quarter of construction companies undertook policies for procurement of the workforce (including sub-contractors) that followed government advice. Trautrims et al. (2021) have recently reported an apparently improved industry position, though they acknowledged that their sample involved companies more likely to be compliant.

Impacts of the Covid-19 Pandemic on Labor Exploitation

Implementation of the PBS took place in the UK at the time of the Covid-19 pandemic, to which the government ordered a number of lockdowns to prevent transmission of the virus. At an unprecedented level, the effects of the pandemic were experienced throughout the supply chain (Gunessee & Subramanian, 2020; Paul & Chowdhury, 2021). It is also understood to have increased the risks of labor exploitation around the world, aggravated by a growth in unemployment and poverty, known to be amongst the main causes of such exploitation (Hansen, et al., 2021; Hesketh & Johnstone, 2021). Niezna et al. (2021)

found that the restricted movement and 'stay at home' instructions resulted in both agricultural and construction workers in Israel living at their place of work in unsuitable accommodation, and unable to move to other jobs or attempt to negotiate alternate working conditions. Hesketh and Johnstone (2021, p.4) cite several academic and studies and NGO reports all underlining common themes of "*deteriorating working conditions; reduced work and income loss; greater debt; higher frequency of many forced labor indicators directly linked to the pandemic, especially lockdown situations*". To compound matters further, reduced frontline services at the time of lockdowns inhibited opportunities for enforcement and other agencies to identify exploitation (Hanley & Gauci, 2021; McGauchey, 2021; (Pinnington et al., 2021; Voss, 2020).

The Present Study

The present study set out to understand whether the PBS would potentially expose individuals to increased threats of labor exploitation in industry sectors where there is a high demand for low skilled personnel that would be unlikely to be met by UK workers, and whether this had been compounded by the pandemic. Thus, we set out to answer three research questions;

(i) Do businesses consider risks of labor exploitation to have increased (or are likely to increase) following Brexit and the implementation of the PBS?

(ii) What are the impacts (if any) of the pandemic on either recruiting labor or on increased labor exploitation?

(iii) What are the suggested solutions to any predicted post-Brexit labor shortages and the challenges created by the PBS, as they apply to addressing any fears of labor exploitation, and are the suggested solutions effective in addressing those challenges?

Methods

Participants

Having received research ethics clearance from the authors' home University research ethics committee, a purposive sampling method was initially employed through contacting established industry contacts of the researchers. Such initial communications led to a smaller snowballed sample also being recruited. Interviews were conducted either by telephone or by video-conferencing capabilities (i.e., MS Teams or Zoom). The interviewees were senior members of companies/organisations comprising of those at Director level or managers, and two farmers (being owners of large-scale food growing operations), all of whom each possessed at least 10 years' relevant industrial experience. In all, a sample of 43 semi-structured interviews were conducted during Spring 2021, with those from the agri-food sector (n = 36), and from the construction industry (n = 7). Of the sample, 20 (46.5%) were those who provided labor to industries to meet fluctuating demands, such as seasonal ones, with the remainder of the sample being direct labor users. The recruitment strategy yielded participants from companies situated in various tiers of the supply chain, being of various sizes (and possessing either local, regional, or national profiles), across the breadth of the UK, sited in both rural and urban locations. Thirty-six participants (84%) reported that at least half of their workforce prior to Brexit was sourced from the EU outside of the UK. The duration of the interviews was between 30-60 minutes per participant. As well as asking demographic details, interviews were framed around the research questions.

Analytical Framework of the Interview Data

First, inductive thematic analysis was used to code the interviews and identify emerging patterns (i.e., themes) without any theoretical framework that would either guide

(or limit) the identification and coding of themes. The researchers followed Braun and Clarke's (2006) guide for thematic analysis. After a thorough familiarization with the data (i.e., revisiting the interviews several times), the second author identified 232 first-order categories by systematically identifying central features of the data. The identified first-order categories were discussed and revised among the members of the team. Next, the second author combined the first-order categories into 44 themes that were subsequently grouped into six main topic areas (relating to the main research questions of the study). The reliability and validity of the themes were tested by the third author, who independently analysed 18% of the sample (i.e., seven interviews). Inter-rater reliability was assessed using Cohen's Kappa between the second and third authors; finding a good level of concordance, Kappa = .81 ($p < .001$) (Cohen, 1988). Next, the research team jointly discussed and agreed to the nomenclature of the themes to best represent their meaning. Following the thematic analysis, descriptive analysis of the data was conducted identifying the number and percentage of participants that referred to a particular theme throughout the interview.

Findings

The 44 themes were grouped into these overarching ones: (i) risks of labor exploitation resulting from Brexit and the PBS; (ii) impacts of the pandemic on labor exploitation (iii) suggested challenges and suggested solutions to post-Brexit labor shortages. Each of these will now be discussed in turn.

Research Question 1: Do Businesses Consider Risks of Labor Exploitation to have Increased (or are Likely to Increase) Following the Implementation of the PBS?

All but one of our 43 participants believed that the PBS would adversely impact their labor supply (although they all acknowledged there would be a shortage of workers – see

Table 1). They claimed that EU workers would leave the UK and reported that some had already (as one participant advised) "*voted with their feet*" and done so during 2020. They also advised that these shortfalls would not be met by British workers, who view such jobs as unattractive.

Insert Table 1 around here

Participants expressed concerns that Brexit provided a 'hostile' environment in the UK towards migrant laborers. Seventeen of them reported that EU citizens were less willing to come to the UK now to work, also due the UK becoming less economically attractive for these workers, following the depreciation in the value of British sterling after Brexit. One commented that following Brexit "*We lost our competitive advantage in relation to workers*". Businesses reported that Brexit and the PBS brought unprecedented uncertainties, cited by them as providing many challenges to business planning, since they were unclear as to the pressures this would put on their business to meet demands, or whether they would be able to meet these demands, product specifications or deadlines and fulfil their existing contractual obligations with their customers, (e.g., the major supermarkets or housebuilders in the UK). They continued that such detriments to their business would risk them losing either contracts or competitive advantage over rival suppliers. As Table 1 illustrates, 17 participants expressed concerns that Brexit would increase business overheads, such as bureaucracy and imported materials (or through increased difficulties in obtaining those materials), squeezing profit margins yet further. For many (see Table 2), this would increase pressures, prompting some businesses to look for cheaper labor (e.g., through sub-contracting or employing 'illegal' labor), particular in those smaller businesses further down the supply chain.

Insert Table 2 around here

The impacts of the PBS, according to 15 participants (see Table 2), would be felt most keenly in those companies reliant on seasonal, temporary, or casual labor or, (for the agri-food industry) among the first two tiers of the supply chain (see Figure 1). Almost two-thirds of participants (n = 26) reported that these environmental conditions would foment exploitation, with some businesses being forced to go 'underground' to secure sufficient labor. The pressures on businesses, as one participant put it, to "*get the job done*", would lead to businesses having to make *"hard and difficult choices"*. This situation was compounded by the government neither listening to business concerns nor providing advice on possible solutions to these expected impacts of the PBS. One typical comment from a participant said that the PBS *"….will create the opportunities for exploitation, put farmers and growers into a difficult position and at risk of immigration enforcement action."* Such increased risks of worker abuse would, according to our participants, increase risk-taking by some businesses who would feel as if they were compelled to obtain cheap labor with few questions asked, in order for their businesses to survive. The likely increased risks of labor exploitation that would be created by the PBS was summed up by one participant as "*A perfect storm is on the way*".

Participants also stated that under-resourced law enforcement agencies, with insufficient capability of ensuring that exploitation did not occur, made it more likely that labor abuse would happen. Advising that exploited victims then were therefore less likely to be discovered by such agencies through their routine inspections, thirteen participants also stated an increased level of vulnerability of those working illegally in the UK meant that they would be less likely to seek help. Moreover, it was said that even workers who had entered the UK legally would be at risk of increased exploitation since it was thought that visa costs

under the PBS would be passed onto them by exploiters (along with other expenses, such as travel and living costs, typical in trafficking offence cases), thereby increasing both their debts to their exploiter and opportunities for debt bondage. This view as to the increased risk of labor exploitation was summed up aptly by one of our participants: "*'it will be a good environment for bad things to happen.",* while another (referring to an expected greater involvement by organized crime groups in labor exploitation) said that *"the new immigration rules are becoming an easy breeding ground for bad behaviour".* Finally, six of our participants voiced that they expected further sub-contracting to occur, often short term, throughout the supply chain as a response to the pressures on businesses (as have been discussed) following the introduction of the PBS. In commenting on the effects of the PBS system may have on increased labor exploitation, one participant said that the government *"….. have not thought about modern slavery within the points-based system."* We were also told by 28 participants that the PBS threatened the survival of business, with smaller companies most at risk. As one participant put it "*farmers and growers could be faced with a stark choice of not picking their crop or using workers who do not have the right to work to pick it.*"

Research Question 2: What are the Impacts (if any) of the Pandemic on either Recruiting Labor or on Increased Labor Exploitation?

Thirteen participants (see Table 3) advised they were struggling to find sufficient workers, typified by the comment of one of our participants: "*…I have no idea where we are going to get our workforce from…".* However, others said that they had responded by attracting employees of rival companies by increasing pay rates, and others said that they had increasingly turned to agency labor or online recruitment processes. We were also told that the recruitment of workers on the UK furlough scheme, paid to those whose usual jobs had

temporarily ceased during the lockdown, had probably helped conceal the true extent of the problem of staff shortages, summed up by one participant as *"Covid has made us blind to the problem."* Finally, when discussing whether the pandemic had any effects on the risk of labor exploitation, eight participants admitted not thoroughly conducting the required diligence checks upon recruitment sub-contractors, conceding that cash payments in their supply chains were more likely being provided for work done, and purporting to know of an underground market, where false negative Covid-19 tests could be obtained that would allow workers to undertake employment. The combined impact of Brexit, the PBS and Covid-19 were described by one participant as a "*nightmare and frightening"* prospect for business survival.

Insert Table 3 around here

In detailing these impacts, around two-thirds (n = 29) of our participants (see Table 3) stated that business costs had increased, along with administrative challenges relating to quarantines for those traveling between countries. Further, participants also advised that due diligence checks on the workforce had become more problematic, as well as there being difficulties in workers moving around the UK to follow the work due to the national lockdown. Uncertainties were said to emerge in the constant and unforeseen changes they were experiencing (see Table 3).

Research Question 3: What are the suggested solutions to any predicted post-Brexit labor shortages and the challenges created by the PBS, as they apply to addressing any fears of labor exploitation, and are the suggested solutions effective in addressing those challenges?

Two-thirds of participants (n = 28) recognized that there would be a need to improve work conditions (see Table 4), arguing that such things as increased pay-rates, working conditions and industry reputations would need to be addressed to attract British workers. However, several participants commented that there were practical obstacles to recruiting British workers who mostly live in urban areas, citing them as poor transport links to rural work locations often far from their home, alongside the itinerant and unattractive nature of outdoor physical work in all weathers.

Insert Table 4 around here

Table 4 also shows that almost 80% of participants (n = 34) responded that their main solution to dealing with post Brexit labor shortages is to ensure retention of workers, such as encouraging current EU workers to obtain Settled or Pre–Settled Status before 30th June 2021, which would allow them to continue working legally in the UK thereafter. However, some participants complained that messaging about the scheme was not reaching EU workers, making it difficult for businesses to predict how many would then be legally available to work. One labor provider had, at their own expense, brought over EU workers to the UK in order for them to qualify for Settled or Pre-Settled status, providing them with accommodation, even though "*it cost thousands but it was the only thing we could do to make sure we had some workers to supply*".

Our participants feared that potential worker shortages could pave the way for an influx of undocumented migrants (whether from the EU or elsewhere), with attendant increased risks of labor exploitation. However, at the time we conducted the research in Spring 2021, we found participants unaware of refugees or undocumented migrants having already entered labor supply chains (with most overseas labor thought to be from the EU, though they recognised that this view may not accurately reflect the situation due to the

concealed nature of human trafficking). As other potential solutions, participants mentioned extending recruitment windows, or enabling better utilization of work permits or other visa schemes (that would legitimately allow those from overseas to work in the UK) were also stated as options to be considered.

Just under half of participants advised that the dilemma over worker shortages and the repercussions on business would need to be resolved, at least in part, by investment in new technologies to compensate for the shortfall in numbers they were already experiencing. This would enable them to move away from present levels of reliance on manual work and towards increased automation (although these were recognised as mid to long-term solutions which would not immediately alleviate their current predicament). Participants also refused to rule out their moving operations (or sourcing materials or products from) overseas, recognizing that doing nothing was not a viable option. Other options included business diversification, introducing different (or longer) shift patterns, increasing their reliance on recruitment agencies for labor supply, increased sub-contracting, and attempting to attract workers from rival businesses. Such a range of challenges prompted six participants to express that they were at a loss as to how to respond to the dilemmas presented by the PBS, particularly as its introduction coincided with the pandemic with one commenting that "*It has been the hardest year ever for recruitment*".

Discussion

The present study set out to understand whether the business sector viewed the introduction of the PBS as risking an increase in labor exploitation, and whether the pandemic had created extra challenges in this particular regard, in those sectors of industry that have come to be reliant on migrant labor as the mainstay of their workforce. It is very difficult to know so soon after Brexit whether any increases in illegal labor will be

attributable to those workers from the EU, now unable to work in the UK without proper documentation. It is also too early to assess the numbers of undocumented workers from elsewhere in the world, who are, prohibited from working in the UK without official authorisation. However, it has been argued that one consequence of Brexit and the PBS could be increased recruitment of workers from outside the EU. Such 'global' routes of recruitment over longer distances may well increase the risk of labor exploitation because it is reckoned more difficult to check recruitment agencies in those countries (IASC, 24.1.2022). Furthermore, it is also feared that labour shortages in the UK will act as a pull for unscrupulous recruitment agencies to target this country (IASC, 2022) Regardless, migrant workers, whether dependent on 'permission' to work in the UK through the operation of a post Brexit visa system or are undocumented migrant workers with no legal right to work in the UK, are thought particularly vulnerable due to the precarious nature of their situation (Collins, 2020). These workers may increasingly be recruited underground, working in the shadow economy, and in such circumstances be more likely to be exploited, being less able to complain about their labor conditions (Scott et al., 2012).

Despite these shortfalls in our understanding at this time, in answering RQs 1 and 2, we have found that businesses in the agri-food and construction sectors were confronting a shortfall in numbers of workers required that would not be met by the indigenous workforce; and that these labor shortages and the operation of the PBS would coalesce to increase the risks of labor exploitation, reflecting similar concerns found in other studies (e.g., FLEX, 2021; Nye, 2021). We also learned that the pandemic had added to the risks of labor exploitation (see also Chowdhury et al., 2021; McGauchey, 2021; Voss, 2020 for similar findings either in other industries or parts of the world). Another consequence is that participants also expected that sub-contracting would increase as a response to the shortage of workers and the need to meet consumer and contractual demands. The risks of labor

exploitation are magnified in businesses sub-contracted in the supply chain because those companies are often less visible, which presents a challenge to government agencies or companies monitoring their supply chains for compliance with minimum labor standards. On the one hand, other studies have found businesses from a range of industrial sectors now paying greater attention to ensuring visibility in their supply chains as a response to the extra demands placed upon them by Covid-19 (Pinnington et al., 2021). In contrast, we found some participants admitting that the combined impacts of Covid-19 and the PBS had led to their undertaking less due diligence when procuring and monitoring their suppliers (also, McGaughey, 2021).

As our participants reported, it is unlikely that the current UK labor law enforcement regime will be able to effectively monitor, and identify (increased incidence of) labor exploitation given their limited resources, which have been reduced in recent years (Weatherburn & Toft, 2016; Barnard & Fraser-Butlin, 2020). For example, it has been claimed that the average employer can expect an inspection from the authorities on whether they are paying the national minimum wage about once every 500 years (IDS Employment Law Brief, 2018).

The vulnerability of migrant workers is compounded by the common law doctrine of illegality in the UK, where 'undocumented' or 'illegal' workers, whose employment is prohibited because of their immigration status, have very limited employment protection rights, and are mainly confined to victims of human trafficking and forced labor (*Patel v Mirza, 2016, Hounga v Allen, 2014).* This can lead to 'undocumented' or 'illegal' workers going 'underground', thereby becoming more vulnerable to labor exploitation (Shepherd & Wilkinson, 2021). In addition, 'undocumented' workers will be reluctant to report their labor exploitation to the authorities for fear of being deported (Fudge, 2018) and criminalized due to their illegal status (Wu, 2021). The UK government appears therefore to be set on a policy

that sees labor exploitation through an illegal immigration lens, rather than the economic crime committed by exploiters (Bradley, 2021). Such an emphasis plays to the 'crimmigration' status of those 'illegal' migrants, their being seen more through a prism of being offenders, and much less so as victims (Stumpf, 2013). This focus on worker's immigration status fails to deal with the 'structural determinants' of vulnerability (Bogg & Freedland, 2020) created by the government's own migration laws; the PBS and the current labor law regime. Such focus on immigration also ignores the fact that a significant number of victims of labor exploitation are British citizens (Home Office, 2021).

The agri-food industry in particular has historically held both a small core of permanent jobs alongside a casual, seasonal and flexible workforce (France, 2016; Walsh, 2021). Consumer demands for cheap goods, which are passed on by supermarkets to suppliers are likely to continue unabated, meaning that there will be an ongoing requirement for low-skilled labor. This situation is exacerbated by the market domination of a few large supermarkets in the UK, which reduces the bargaining power and profit margins of farmers (Nye, 2016).

Our third RQ asked participants for possible solutions to address the challenges of labor shortages, finding them stating that better pay was required to attract employees from their competitors or to make the job more appealing to those yet to work in the industry. These participants also recognized that such a strategy would not be successful without attending to matters such as offering more stability to British workers, in industries largely noted for their precarity and unpredictability (Davies, 2019). However, it is highly questionable how much this approach is likely to result in jobs becoming more favourable to British workers. Low pay, long hours, the often itinerant nature of the work, and the precarity which characterizes these jobs remain and underpin British workers' long held reluctance to take up these jobs, which led to employers turning to overseas labor in the first place.

Furthermore, higher wages are likely to lead to increased costs to consumers (House of Commons Environment, Food and Rural Affairs Committee, 2022). For the agri-food industry, for example, this could mean that the highly competitive nature that exists amongst supermarkets may become yet more fierce in an effort to keep prices as low as possible, pressuring suppliers to keep their prices equally minimal. The fact that food retailers and suppliers place pressure on food producers and thus force them to reduce labor costs has been already documented (Scott et al., 2012). Our participants argued that such increased pressures meant that in order to keep contracts and thus survive, business may have to make what our participants called 'hard choices' to keep their own costs down by passing on on-costs to other partners in the supply chain through competitive contracting process (Mahdiraji, et al., 2020). As a result of these circumstances there is the very real threat of recruitment of illicit and exploited labor with pay rates below the national minimum wage, occurring in the lower parts of increasingly complex and convoluted supply chains, that are notoriously difficult to audit, monitor and police (France, 2016). Moreover, it has long been understood that successive labor market and welfare policies in the UK have meant low-pay in particular industries and jobs becoming endemic to the UK (Lloyd et al., 2008). As such, we are highly sceptical of industries traditionally associated with low-pay being able to increase wages sufficiently to a level that would make any particular dent in labor shortages. Furthermore, higher pay might not address the underlying working conditions in agriculture, described by Davies (2019, p.298), as "dirty, difficult, dangerous/demanding", that may well continue to deter British workers from working in the industry.

As a response to the known shortfalls in numbers in industries historically reliant on low-skilled and migrant labor, in addition to the Government encouraging the employment of more British workers, they have also urged increasing automation. While participants acknowledged that there would need to be greater investment in automation, this technology

would take time to design, develop and be rolled out in the industry. It also might well be difficult to find appropriate and cost-effective technological solutions. Smaller businesses, particularly, may not be suitable for the use of such technology or able to afford related investment. Accordingly, our initial conclusion is that automation will not alleviate the challenges these industries face either in the short term, or ever. The Government therefore, should consider the expansion of the SWV scheme as advocated by our participants to allow the required unskilled laborers from overseas to work temporarily in the UK when they are most required.

Limitations and Future Directions

As with other research studies involving purposive samples, the generalizability of our findings is elusive, though our findings were common across the two sectors involved. Our sample included several businesses known to the researchers as those keen on eradicating labor exploitation. Such an existing standpoint may also have heightened their sensitivities when stating that labor exploitation would increase. At the same time, their previous diligence to this topic has meant that their insights may well have added credibility given the copious information we gathered. It is recommended that future research should employ random sample, including other industries and undertake quantitative or a mixed method approach for analysis.

Conclusion

The present study examined insider perspectives of the challenges facing businesses concerning labor exploitation, following Brexit and the pandemic with specific reference to agri-food and construction industry supply chains. We have found that the participants believe that there is an increased risk of labor exploitation following the introduction of the

PBS, which was said to have exacerbated labor shortages and, when coupled with the pandemic, has led to fewer (and less stringent) checks on suppliers. We found that UK business personnel, in industries traditionally reliant on migrant labor and accordingly more affected by the introduction of the PBS, believed that these shortfalls in labor would continue and would likely lead to increased sub-contracting to suppliers, where there is less due diligence in recruitment particularly lower down the supply chain. Labor law enforcement responses are thought unlikely to be able to effectively prevent exploitation due to their competing priorities, insufficient resources and limited powers.

Government policies appear to ignore the reality of the continued need for migrant labor to secure, for example, the UK's food supply. Furthermore, the UK Government's Nationality and Borders Bill, will make the plight of migrant victims of labor exploitation still worse with its proposal of time constraints on disclosure by victims of their exploitation (Independent Anti-Slavery Commissioner, 2021). As with the PBS, implementation of such legislation will serve to strengthen the hands of exploitative criminals.

The present study has found that those businesses close to the ground who are dependent on migrant low skilled workers believe that the introduction of the PBS will lead to an increase in labor exploitation as businesses struggle to recruit sufficient 'legal' labor to meet consumer demand. Such increases will go undetected in long and complex supply chains and by the UK's law enforcement agencies who are constrained by their limited resources. If anything, the pool of legal low skilled migrant labor is expected to shrink in coming years, following the full implementation of the PBS. As such, the risks of labor exploitation identified by our study are thought likely to increase.

Ethical Approval and Acknowledgement

The research received prior approval from the De Montfort University Leicester UK, Business and Law Faculty Research Ethics Committee (ref: BAL/013/2020) and was conducted within their stated guidelines, in regard to obtaining informed consent from all participants, and adhering to the University's data management policies.

The research team hereby declare no conflict of interest with this project.

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