Migrant Labour Exploitation and Harm in UK Food Supply Chains

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Jonathan S Davies

School of Law
Centre for Criminology and Criminal Justice
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Abstract

The research conducted for this thesis is an exploratory study of migrant workers’ experiences in UK food supply chains. This thesis provides an original contribution to criminology by discussing how some food supply chain dynamics result in various exploitative and harmful labour practices against migrant workers. Data consisted of semi-structured interviews conducted with migrant workers in the UK, as well as individual and group interviews with food supply chain stakeholders, including representatives from industry, regulation, and labour movements. This research conceptualises labour exploitation as a continuum, with severe practices including modern slavery on one extreme and ‘decent work’ on the other. There are a range of practices in-between these two extremes that risk being overlooked, whereby ‘routine’, banal exploitation is embedded and normalised within legitimate supply chain processes. The argument developed in this thesis is that a stronger emphasis is needed on the harmful consequences of routine, mundane, everyday labour exploitation in order to understand how they can result from legitimate supply chain dynamics.

The key contributions of this thesis can be summarised under four themes: developing a more rigorous analysis of ‘routine’ labour exploitation and harm against migrant workers; understanding how legitimate food supply chain dynamics can facilitate exploitation and harm; explaining how the regulatory framework may unwittingly result in further exploitation and harm to migrant workers; and recognising the complexity of the relationship between migration and labour exploitation. The thesis findings contribute to predominant discussions of labour exploitation that typically focus on severe exploitation such as modern slavery and emphasise rogue individuals or criminal networks as the main perpetrators. The research findings demonstrate that a significant amount of routine labour exploitation and harm remains ‘under the radar’ in the context of legitimate supply chain practices. Police action and supply chain regulation typically focuses on the most severe labour exploitation, which results in routine exploitation being largely unaddressed. Therefore, labour exploitation has implications for the nature, organisation, and control of harms facilitated by businesses and supply chains. It is important for criminology and society to not disregard routine labour exploitation, as these practices can result in numerous harmful consequences for workers. Since the public profile of labour exploitation continues to grow, a stronger focus is needed on the routine and banal aspects, not just the most severe practices.
Declaration

No portion of the work referred to in the thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning.

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This research was possible because the participants gave up their time to talk to me – I have endeavoured to represent their views and experiences as accurately as possible.

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Chapter 1: Introduction

1.1 Research Overview

The aim of this research was to explore the experiences of migrant workers who were employed in low-skilled occupations in the UK food industry. For many migrants, the experience of work is one of labour exploitation, and there has been increasing discussion on this subject over the last decade (Allain et al. 2013; Equality and Human Rights Commission (EHRC) 2010; Gangmasters Licensing Authority (GLA) 2015a; Malloch and Rigby 2016; Potter and Hamilton 2014; Scott 2017; Trades Union Congress (TUC) 2008). However, there remain significant gaps in understanding the features, processes and consequences of labour exploitation. These gaps are particularly apparent in relation to existing knowledge on forms of labour exploitation and harm that are banal, subtle, and mundane, which occur in legitimate supply chain processes. Existing research tends to neglect this ‘routine’ labour exploitation and those affected by it, particularly when contrasted with more severe exploitation such as modern slavery. A failure to understand the routine, everyday forms of labour exploitation and harm has resulted in a somewhat imbalanced depiction of exploitation, and in a significant number of problems remaining unresolved.

This research is a qualitative study on the routine exploitative and harmful employment practices that migrant workers experience in the UK food industry. The primary research question that guides this project is as follows:

- How do the dynamics of some food supply chains result in exploitative and harmful employment practices for migrant workers in the UK food industry?
Levels of global migration have increased rapidly during the last 15 years, with recent figures estimating that there are 244 million migrants worldwide (UN 2016: 5). The UK net migration\(^1\) figure for year ending March 2017 was +246,000, with the majority of migrants entering the UK in order to work (Office for National Statistics (ONS) 2017; Vargas-Silva and Markaki 2017). Labour migration generates a number of benefits as well as risks. For example, businesses in destination countries like the UK frequently point out the economic advantages associated with migrant labour (Boubtane et al. 2015; Wadsworth et al. 2016), whereas policy makers in source countries argue that large scale emigration risks a ‘brain drain’ of local workers (Ruhs and Martin 2008; Williams and Baláž 2012). A key challenge for policy makers is to develop strategies that maximise the advantages and minimise the risks of migration – which can be a complex process.

In destination countries, segments of the political establishment, media and the public perceive migrants as ‘a risk’ to destination countries, which has contributed to a climate of anti-migrant sentiment and tightening of immigration policies (Blinder 2014; Aliverti 2012). Some media depictions portray migrants as ‘benefit scroungers’, taking the jobs of local workers, and even as having links to crime rate increases or organised criminal and terrorist activity (Melossi 2015; Young 2007). Migration is generally unpopular in the UK, with approximately 75% of the public believing that immigration levels should be reduced (Blinder 2014: 2). These public depictions have been accompanied by a trend towards limiting the social protection of migrants in many destination countries, such as restricting access to residency and welfare rights (O’Connell Davidson 2016: 69). Such exclusionary policies contribute to the absence of a ‘migrant voice’ in public discussion, and downplays that migrants are ‘at risk’ while travelling to or residing in destination countries. These risks include dangerous migration journeys for undocumented migrants, the treatment of detained asylum seekers, non-equal treatment when compared to citizens, as well as racism within destination countries.

\(^1\) The difference between immigration and emigration (ONS 2017).
The aim of this research is to focus on an aspect of risk that migrants may experience – labour exploitation and harm in the workplace, relating to low-skilled occupations in the UK food industry, which contains a large proportion of migrant workers (EHRC 2012). Migrants may be more vulnerable to labour exploitation than British workers, especially if they do not understand English, if they are undocumented, or lack social networks and are unaware of their employment rights (Anderson 2015; GLA 2015a; Potter and Hamilton 2014). However, it may be simplistic to treat all vulnerable migrants as passive ‘victims’ of labour exploitation without trying to understand their motivations, circumstances, and longer-term goals. By placing them at the forefront of this research, migrants can discuss how they manage circumstances within and outside the workplace that may be beyond their control.

Exploitation and harm occurring in the workplace has the potential to cause significant injury to workers, their families, and wider society. The UK’s Health and Safety Executive (HSE) estimates that 620,000 workers are injured each year in the workplace, with over 1.3 million workers suffering from work-related illnesses (HSE 2016). For severe incidents of exploitation, the International Labour Organization (ILO 2017) estimates that 40 million people are subject to modern slavery worldwide. Figures from the UK’s National Crime Agency (NCA 2017) show that authorities identified over 3,800 potential victims of severe exploitation in the UK during 2016. Such official figures must be treated with caution, since they do not provide a complete picture of exploitation and harm that occurs (Tombs and Whyte 2015; Scott 2017). Similarly, exploitation and harm that affects migrants may not be as prominent in some economic sectors as others. The finance industry, for example, is less reliant on migrant workers in low-skilled occupations than other industries, due to the high standards of communication skills needed, which many migrants lack (Jones 2010). Not only do industries such as food and agriculture contain large numbers of migrant workers, but they are associated with low paid, insecure, dangerous workplace occupations (EHRC 2012), which expose workers to poor treatment, higher risk of injuries, and long-term health problems.
If labour exploitation is viewed as a continuum (see: Andrees 2008; Scott 2017; Skrivankova 2010), severe practices such as modern slavery occur on one extreme, with the notion of ‘decent work’\(^2\) on the other. In between decent work and severe exploitation, there are numerous exploitative practices that can be harmful, but which research within and beyond criminology tends to overlook (Scott 2017). Based on the European Union Agency for Fundamental Rights (FRA 2015), ‘severe’ exploitation in this project is understood as practices that theoretically fall under the scope of criminal codes, including deaths in the workplace, modern slavery, human trafficking, and forced labour – each of which have different features and processes (Scott 2017). Routine exploitation may refer to practices that fall under the scope of civil, regulatory, and labour law – or even beyond legal frameworks entirely (FRA 2015), which most research overlooks. A key aim of this research is to address this gap by examining ‘less severe’, routine incidents of exploitation that may fall beyond the scope of criminal-legal frameworks, and which are embedded in legitimate food supply chain practices. By examining routine forms of work-based exploitation and harm, it will be possible to work towards full “labour justice” (Skrivankova 2010: 9) that includes both criminal and ‘non-criminal’ responses to exploitation.

Therefore, this project’s focus will be on exploitative labour practices that are not necessarily included in official figures. These practices occur ‘under the radar’ and are normalised through commonly accepted business and supply chain processes such as labour subcontracting. The dark figure of crime to some extent relates to these unreported harms; however, it is likely that many exploitative and harmful labour practices would not be classed as crimes even if they were reported (Tombs and Whyte 2007). Instead, these practices may be considered as regulatory or civil breaches, or may even be legal supply chain practices. This does not mean

\(^2\) The ILO (2006) defines key characteristics of ‘decent work’ as: productive and secure work; respect of labour rights; adequate income; social protection; social dialogue, union freedom, collective bargaining and participation. Many of these concepts are broad, which underpins the complexity of what ‘counts’ as decent work from worker, regulatory, business and government perspectives.
that unreported, routine abuses are less worthy of analysis and discussion than the more severe and ‘newsworthy’ cases typically associated with severe exploitation. In order to help facilitate a more inclusive discussion on exploitation, this research discusses labour exploitation through a criminological lens of harm.

A criminological harm based approach towards understanding labour exploitation is important, because it allows researchers and policy makers to consider a range of practices that are unlikely to be reported, investigated, and criminally prosecuted. While a significant body of literature in disciplines such as political economy, labour relations, and migration has examined migrant workers’ experiences in the UK food industry (Allain et al. 2013; EHRC 2012, 2010; Geddes et al. 2013; Potter and Hamilton 2014; Scott et al. 2012), routine labour exploitation lacks attention from criminological and harm based perspectives (but see: Ollus 2016; Scott 2017). In criminology, the importance of harm, including less severe harms or “low hanging fruit” (Paoli and Greenfield 2015: 94) has been highlighted in theoretical terms (Tombs and Whyte 2015), but such assertions tend to lack empirical support, especially in relation to labour exploitation. Hence, there appears to be a collective absence of empirical and theoretical discussion in relation to harm and labour exploitation, which this thesis aims to address.

1.1.1 Migration and Labour Exploitation

As part of examining routine labour exploitation affecting migrants, three key areas are introduced here: the dynamics of migrant labour in low-skilled occupations; how food supply chain processes can facilitate exploitation; and how regulatory protections function in this context. Many migrant workers appear to tolerate exploitative practices in the context of long-term ambitions, fear of losing work, and limited alternative options in the destination or home country (Gelatt 2013; Maldonado 2009; Waldinger and Lichter 2003). These decision-making processes may contribute to harsh work conditions becoming normalised and even deteriorating further. This normalisation can be problematic from a law enforcement
perspective, because workers may appear to tolerate exploitative conditions (Alvesalo et al. 2014), rather than reporting their employers or leaving their job when they appear free to do so. Such discussions are typically framed through notions of irregular migration, whereby migrants fear to report exploitative employers for fear of being deported (Anderson 2010; Clibborn 2015). An aim of this thesis is to move beyond generalisations of irregular migration by recognising that migrants who have legal immigration status and the legal right to work in the UK can be vulnerable to exploitation and harm. Even if migrants have some language skills and understanding of their workplace rights, they can still be subject to exploitation, largely due to an underlying fear of losing their jobs, which may discourage workers from challenging exploitative employers and questionable labour practices.

Although the emphasis of this research is on migrant workers’ experiences, British workers may face similar workplace pressures in the context of low paid, vulnerable employment. However, migrants tend to face additional challenges in the workplace, such as lack of support with language barriers and poor understanding of employment documentation (EHRC 2010: 17-18). The thesis focuses on low-skilled rather than skilled and highly-skilled occupations, because the former are typically associated with lower levels of social protection and job security (MacKinnon et al. 2011; Potter and Hamilton 2014), and in the case of non-EU migrants, less options for permanent residence. Terms such as ‘low-skilled’ can be problematic, because the migrants who occupy low-skilled work may be highly skilled if they have advanced educational and/or professional qualifications (Parutis 2014). For instance, Wills et al. (2010) found that qualified doctors and physiotherapists from the EU were working in unskilled cleaning jobs in the UK, since they regarded their pay and long-term prospects as greater in the UK compared to home.

1.1.2 Supply Chain Processes
Despite the potential for unscrupulous employers to take advantage of their workers, a significant amount of discussion oversimplifies this issue, and suggests that the main
perpetrators of labour exploitation are a small number of isolated criminal employers or ‘human traffickers’ (Scott 2017). By arguing that the problem is part of a ‘criminal sector’ that is distinct from otherwise legitimate business and supply chain practices, this ‘neo-slavery’ camp misses the opportunity to evaluate the role of supply chains, regulation, and immigration policy. For instance, the latest UK Conservative Party (2017: 40) manifesto highlights the importance of “fighting the evil trade in human beings” and the need to “co-ordinate our response to criminal gangs”. These factors are important and deserve policy attention. However, the emphasis on disrupting criminal networks in order to address labour exploitation is somewhat limited.

Food supply chain dynamics are placed at the forefront of this project’s discussion, by considering how legitimate processes and features of supply chains, including the demand for products, subcontracted labour, and flexible employment contracts can have exploitative dynamics and harmful consequences for migrant workers. Previous work has documented that numerous forms of work-based exploitation are not necessarily illegal; unfair and indecent treatment can remain lawful (EHRC 2010; TUC 2008). Such practices may therefore be “lawful but awful” (Passas 2005), yet this does not make them any less worthy of empirical attention given the harmful consequences that can emerge. Slapper and Tombs (1999) assert that illegal or dubious acts committed by businesses are typically portrayed as mere side effects of business activities, whereas they argue that criminality is endemic to many business activities. This research aims to demonstrate the complexity of these processes, by recognising that the food industry may encourage the facilitation of criminal and harmful activities due to its structure and regulatory oversight. Such industry dynamics relate to the underpinning political-economic context of post-Fordism, which emphasises a shift from direct state regulation towards ‘governance’ and self-regulation (Braithwaite 2008). This depiction begins to move away from the present overemphasis on individual domination and rogue employers.
There is a significant literature on global supply chains, value chains, and networks in relation to labour exploitation (Barrientos 2013; ILO 2016; LeBaron et al. 2017; Visser and Ferrer 2015). This project remains focused on food production and processing within the UK context, even though many of these chains are likely to have international links. Such focus provides a more rigorous discussion on a particular industry, whereas comparing work conditions across countries and sectors, which each have their own political-cultural contexts, would have limited the analysis and potentially been more tenuous.

1.1.3 Regulatory Context

The UK regulatory context is fragmented and contains no single national authority that is responsible for overseeing labour conditions and workplace practices. The criminal justice system is likely to intervene only in severe cases of labour exploitation (Haynes 2009; Scott 2017; Shamir 2012), yet even in these cases intervention is not assured due to the high standards of evidence needed for criminal prosecutions. UK state regulatory bodies such as the Gangmasters and Labour Abuse Authority (GLAA)\(^3\) can apply non-criminal sanctions with the aim of influencing future business activity. This sanctioning may appear to be a more proactive way to get companies to change their behaviour, but the lack of a criminal label implies less severity, and such regulatory bodies typically lack the resources to fully enforce their remit.

The self-regulation of companies and trade union movements are possible alternatives to formal state regulation – although limitations with these approaches are well documented, as will be discussed in Chapters 3 and 8. These different forms of accountability suggest a fragmented regulatory context, whereby regulatory actors have different priorities, which can result in them unwittingly encouraging the normalisation of routine labour exploitation by

\(^3\) The GLAA evolved from the Gangmasters Licensing Authority (GLA) during 2016/17. The former GLA had a remit to regulate labour providers in the UK agricultural and food industries. This remit was extended to the entire UK labour market following reform into the GLAA. For the sake of brevity, this thesis uses GLAA unless otherwise signposted.
prioritising severe exploitation. The key issues introduced in this section – routine labour exploitation, migration status, supply chain processes, and regulatory protections, provide central pillars of the research question in terms of discussing how exploitative and harmful practices can result from food supply chain dynamics. In order to establish the direction of this thesis, its structure is outlined below.

1.2 Chapter Outlines

Following this introduction chapter, the literature review of the thesis consists of Chapters 2 and 3. Chapter 2 establishes the criminological relevance and theoretical context of this research. It focuses on labour exploitation through a criminological lens of harm. The chapter discusses the importance that not all harm officially ‘counts’ as crime, while advocating a stronger emphasis on exploitation as a continuum. Chapter 3 discusses existing research in relation to migrant labour exploitation in food supply chains, and introduces critical issues on the regulatory context. Issues specific to migrant labour are discussed, as well as the broader economic and socio-cultural backdrops that fuel contemporary discussions on labour migration and exploitation. The chapter ends by summarising key themes that emerge from gaps highlighted in existing literature, as a means to provide context for migrant labour exploitation and the subsequent analysis chapters.

Chapter 4 outlines the methodology for this research. It examines central challenges in researching migrant labour exploitation, before discussing issues associated with the data collection process. Most prominently, recruiting migrant participants and supply chain stakeholder representatives involved a range of considerations, including interpretation and the challenges of accessing expert groups. The chapter ends by outlining the data analysis process for this project.
The data analysis chapters are presented through Chapters 5 to 8. Chapter 5 briefly establishes some context on the process that the migrant participants went through in deciding to come to the UK, how they travelled here, and associated issues with the migration decision making process. Chapter 6 is the first substantial data chapter, which discusses the individual experiences of exploitation and harm that occurred between employers and workers, including verbal abuse, underpayment, and poor safety training. Arguably, endemic issues to food production facilitate these practices to some extent, rather than being based just on ‘bad employers’. However, this chapter establishes the migrant participants’ views and experiences ‘on the ground’ as they understood them.

Building on these individual experiences, Chapter 7 considers how individual cases of exploitation and harm can be understood within the context of supply chain practices. Various pressures associated with food production, the demand for products and labour, as well as socio-economic factors are discussed as a means to explain how these dynamics underpin individual experiences. Having examined supply chain dynamics, Chapter 8 discusses the main forms of regulatory protection in the UK food industry, and suggests that regulatory protections (or a lack of them) can unwittingly facilitate further harmful labour practices, especially in the context of legitimate supply chain dynamics.

Chapter 9 relates the research findings back to the theoretical notion of harm, while considering the merits and drawbacks of different options to address labour exploitation. Given recent developments with the UK’s decision to leave the EU, this chapter ends with some thoughts on potential future directions in relation to labour migration policy, regulation and exploitation in the food industry. Chapter 10 serves as the conclusion for the thesis and refers back to the primary contributions as discussed in the data analysis chapters.
Chapter 2: Crime, Harm, and Labour Exploitation

2.1 Introduction

Portrayals of exploitative labour practices against migrant workers have been well-established in previous research, across a range of academic disciplines and policy literature (Allain et al. 2013; Anderson 2015; EHRC 2014, 2012; GLA 2015a; Lever and Milbourne 2015; Potter and Hamilton 2014; Scott 2017; Scott et al. 2012; Skrivankova 2014; TUC 2008). Migrants’ particular vulnerability to exploitation due to potential language barriers, lack of social networks, and irregular immigration status is well-documented in this previous work. However, existing research on labour exploitation tends to focus on severe cases, and lacks input from a criminological harm perspective. A harm perspective is useful in order to consider the full range of exploitation that occurs beyond criminal-legal frameworks. By demonstrating an awareness of how and why routine labour exploitation occurs in legitimate markets, it will be possible to help develop a more complex and nuanced portrayal of exploitative practices beyond modern slavery.

This literature review has three central aims:

1) To examine the theoretical relevance of harm in relation to migrant labour exploitation.

2) To evaluate how the demand for migrant labour may facilitate exploitation and harm in the context of legitimate food supply chain practices.

3) To review the existing UK labour regulatory framework that oversees the food industry.

The literature review consists of Chapters 2 and 3. The purpose of Chapter 2 is firstly to establish the context and rationale for using a harm based approach towards understanding labour exploitation. Secondly, it examines the notion of an exploitation continuum, which serves as a useful tool to begin distinguishing between severe labour exploitation and other forms of abuse.
2.2 The Value of a Harm Perspective

The notion of ‘harm’ is problematic, and has only started to receive serious attention from criminologists within the last decade or so (Greenfield and Paoli 2013; Hillyard et al. 2004; Paoli and Greenfield 2015; Pemberton 2015). Even though harm has a stronger grounding in areas such as law and philosophy, the concept remains ambiguous across disciplines. Hall (2007: 697) asserts that this ambiguity is largely due to the subjectivity of harm, whereby one person or socio-economic system may regard an event as harmful, whereas others may regard the same event as beneficial. The following sections establish the complexity and relevance of harm in relation to this thesis.

Researchers have attempted to interpret what ‘counts’ as harm since at least the work of Aristotle (Lasslett 2010: 15), but in more recent history, John Stuart Mill (1859) outlined what subsequently became known as the ‘Harm Principle’ (Feinberg 1984). According to the Harm Principle, “the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others” (Mill 1859: 13). Mill did not specify a definition of harm, possibly because this Harm Principle was part of a wider discussion on balancing the power of the state over the individual. Some researchers have interpreted definitions of harm since Mill’s work (see: Brink 2008: 42; Dyzenhaus 1992: 546; Gray 1996: 57; Riley 1998: 99), although the concept remains open to dispute. However, there is some consensus that not every negative consequence necessarily counts as “harm to others” (Feinberg 1984: 51; Turner 2014), and should not be confused with inconveniences or minor grievances.

In criminological terms, not all harms are criminalised or labelled as crimes by the criminal justice system. Some harms are remedied through civil or regulatory bodies, which means that labelling such activities as ‘crimes’ is problematic. This issue relates to the work of Sutherland (1983, 1945, 1941, 1940), who argued that the criminal label could be applied to
white-collar offenders even in the absence of criminal convictions. Sutherland (1945) stated that many business crimes are treated differently to street crimes, so are less likely to be prosecuted – albeit the absence of criminal convictions does not mean that the nature of the behaviour is not criminal. Tappan (1947) critiqued Sutherland’s perspective, by arguing that such a loose application of the criminal label and moving beyond the confines of the criminal law would result in criminological research becoming overly subjective and open to accusations of ‘moralising’. As argued by Hillyard and Tombs (2007), the tension between Sutherland’s and Tappan’s work has somewhat hindered contemporary discussions on the interactions between corporate harm and crime. This hindrance has implications for how researchers examine the issue of harm, as discussed in section 2.3.

The value of a harm-based approach towards understanding illegal or dubious behaviour in food supply chains relates partially to the dark figure of crime. Broadly understood as criminal activity that is not reported or recorded, criminologists have long acknowledged that the dark figure hinders the ability of researchers to identify the scale and severity of crimes (Wilson 2009: 71). For example, employers suspected of exploitative practices are not always reported, criminally prosecuted or convicted (Skrivankova 2014). In consequence of this underreporting, researchers and policy makers may have little choice but to rely on numbers of criminal convictions or other official figures as a basis for analysing ‘crime’ problems.

A problem with relying on criminal convictions or official figures as a focal point of analysis for labour exploitation is that it ignores numerous harms that occur but remain unreported. This limitation is a factor with many forms of criminal activity, especially crimes committed by companies or those working for companies (Box 1983; Tombs and Whyte 2015). Indeed, Sutherland (1941) noted that while the criminal justice system does not always label harmful corporate actions as crimes, many of these would be branded criminal if they were reported and investigated. To illustrate, the former Gangmasters Licensing Authority (GLA) stated that approximately 15% of regulatory breaches would have been eligible for criminal prosecution
if they had the remit to do so (Department for Business, Innovation and Skills (BIS) 2015: 35). Similarly, Tombs and Whyte (2007) assert that a large number of unfair labour practices, including workplace injuries are unreported, some of which would likely be criminally prosecuted if recorded. Therefore, the criminal justice system does not intervene in many cases of labour exploitation, even though such exploitation may be harmful.

Understanding the dark figure of crime may be problematic against the backdrop of legitimate markets and legitimate processes such as food supply chains, since the enforcement framework consists of more than criminal justice responses. Scott (2017) asserts that only severe cases of exploitation are likely to be criminally investigated, which neglects a wider range of exploitative practices. Therefore, not only are illegal or dubious practices unlikely to be reported in food chains, but regulatory bodies such as the GLAA may adopt a central role when investigating such cases, rather than the criminal justice system. This issue is reflected by the fact that regulatory punishments tend to consist of gangmaster licences being revoked or remedial orders being imposed on employers (GLA 2015b). Therefore, the task of detecting labour exploitation becomes more complex, especially beyond notions of ‘crime’.

Research that illustrates the mistreatment of migrant workers tends to conclude with recommendations for future policy directions, such as providing further health and safety training to workers and encouraging greater trade union involvement (EHRC 2012, 2010; Potter and Hamilton 2014; Sykes et al. 2014). Thus, existing work implicitly acknowledges the need for harm reduction, especially in terms of policy responses. Despite the potential value of a harm based approach in understanding labour exploitation, few researchers have discussed these concepts in conjunction with each other (but see: Scott 2017). There is, however, a growing body of work on different harm perspectives within and beyond criminology.
2.3 A Complex Relationship of Harm and Criminology

Recent developments in criminology have included calls to “start at the end” (Paoli and Greenfield 2015: 88) by empirically assessing the consequences and harms of crime. Placing a stronger emphasis on the harms of crime would allow criminology to respond to disciplinary priorities from the left and right of the political spectrum, as well as to provide evidence for policy prioritisation (Paoli and Greenfield 2015: 88). On the left, symbolic interactionist and labelling theories emphasise the importance of the criminalisation process in understanding deviance (Becker 1966; Lea and Young 1993). An emphasis on harm may help to establish whether civil or regulatory breaches justify criminalisation, and whether existing criminalised actions warrant decriminalisation. On the right, neo-classicist and situational crime prevention perspectives argue that the causes of crime are irrelevant in comparison to crime control measures (Clarke and Felson 2004; Newman 1973). A harm approach here may help to evaluate existing and alternative crime control policy measures.

As part of their focus on harms, Greenfield and Paoli (2013) have developed a harm assessment framework, which is intended to systematically identify, assess, and compare the harms of crimes based on empirical evidence. Measuring harm and associated costs is not easy to quantify, so conceptualising harm as broadly as possible with numerous interests would be helpful (Vander Beken 2004: 485), which is what this harm framework aims to achieve. A series of publications provide detailed discussions of the framework (Greenfield and Paoli 2013), its conceptual and technical challenges (Greenfield and Paoli 2012; Paoli and Greenfield 2015, 2013) and its initial implementation (Greenfield et al. 2016; Paoli et al. 2013). The framework is designed to provide policy makers with a tool to prioritise harmful activities based on their severity and frequency. While an aim of this research is not to adopt the harm assessment framework as an analytic tool, it recognises the value of such a process in discussing harm.
The first stage of the framework involves developing a ‘business model’ or crime script, which is loosely defined as the typical processes and features of the criminal activity under consideration (Greenfield and Paoli 2013). Second, based on the business model, a taxonomy identifies possible harms and the bearers of those harms. Here, the framework sets out four broad categories of harm. ‘Functional integrity’ refers to any physical or psychological transgression, with death at one extreme and momentary pain or anxiety at the other. ‘Material interest’ covers a loss of items ranging from basic necessities to luxury products. ‘Reputation’ involves other peoples’ perceptions of the bearer, and ‘privacy’ refers to the confiscation of documents or unwanted entry into property. In addition to classifying individuals as recipients of harm, other bearers include private and public-sector entities, as well as the environment. Paoli and Greenfield (2015: 94) highlight the importance of prioritising severe harms while not excluding less severe harms, or “low hanging fruit”, which implies that less severe harms may be easier to detect and resolve.

However, this notion of ‘low hanging fruit’ is problematic when applied to labour exploitation, because it is arguably the less severe, routine exploitation that is the most difficult to detect, address, and prevent. For instance, an argument explored in Chapters 3 and 7 is that routine harms are embedded and normalised within legitimate supply chain processes. Therefore, routine exploitation is significantly less likely to receive attention from researchers, policy makers and the media, which means that current understanding of this ‘low hanging fruit’ is limited, even though it is likely to be more widespread than severe exploitation (France 2016; Shamir 2012). Related to this gap in understanding routine harm and exploitation, a harm does not necessarily have to be severe and occurring frequently in order to justify prioritisation. Feinberg (1984: 190) argues that “the greater the probability of harm, the less grave the harm needs to be … the greater the severity of harm, the less likely it needs to be” in order to justify intervention. Therefore, not only may this ‘low hanging fruit’ be more difficult to grasp than implied, but it may be premature to downplay its importance in the context of labour exploitation.
In separate developments, some critical criminologists advocate establishing a new discipline of ‘social harm’ or zemiology, which would result in abandoning criminology in the long-term (Hillyard and Tombs 2007; Lasslett 2010; Pemberton 2015, 2007). Proponents argue that a social harm approach analyses forms of harm that people experience during the life cycle, “from cradle to grave” (Hillyard and Tombs 2007: 16). Therefore, a range of harms beyond the criminal justice system could all be focal points of analysis, such as air pollution, unemployment, and inadequate housing. Scott (2017) discusses labour exploitation from a social harm perspective, where he identifies a range of exploitative practices that are typically not covered by existing criminal-legal frameworks. Pemberton (2015: 24) notes that social harm is concerned with addressing preventable harm as a goal of broader social policy, rather than being limited to individualistic notions of intent and interpersonal violence that he argues dominate the criminal justice system and criminological research.

In relation to Greenfield and Paoli’s (2013) harm assessment framework, Pemberton (2015: 14) argues from a social harm perspective that their work on criminal harm represents a “distinct criminological enterprise to remedy the neglect of harm within discussions of ‘crime’”. It is true that initial applications of the framework incorporated harms labelled as crimes through the criminal justice system. However, Greenfield and Paoli (2013: 882) signpost potential future applications of their approach to harm, in which researchers can consider existing legal activities or regulatory breaches that may justify criminalisation. These applications are possible because harms occurring as part of legal processes may be suspected of facilitating harm in addition to their intended economic benefits.

Similar to Greenfield and Paoli’s (2013) harm framework taxonomy, advocates of social harm have developed key indicators and types of harm. In relation to labour exploitation, Scott (2017: 8) identifies harm occurring at three levels: individual, social-communal, and environmental. A key difference between criminological and social harm approaches is that
‘zemiologists’ claim to move beyond individual harm and emphasise the role of societal structures, including corporations and states in facilitating harmful practices. A social harm perspective argues that criminology is incapable of addressing harmful practices that occur beyond the scope of criminal-legal frameworks, since its focus remains primarily on state defined crime (Pemberton 2015). However, this criticism seems overly simplistic given the amount of ongoing research ‘within criminology’ in the areas of corporate and organisational crime (see: Lord 2014; Paoli 2014), which are critical of corporate and state structures.

In any event, the emerging discipline of social harm faces a range of conceptual challenges. Reiman (2006: 362) posits that social harm has a “special relationship” with criminology, since it emerged as a critical perspective on criminology. Therefore, the extent to which social harm could be independent from criminology is questionable. Additionally, Muncie (2005: 200) asserts that redefining crime as social harm risks serious injury being addressed through negotiation and mediation, rather than as criminal events deserving guilt and punishment. Advocates of a social harm discipline are right to point out the limits of criminal-legal frameworks in understanding and preventing harm, especially in relation to labour exploitation, most of which falls outside the criminal law’s scope (Scott 2017). In many respects, there has been an important body of research that recognises the limits of state defined crime and the criminal justice system (Hillyard and Tombs 2007; Lasslett 2010; Pemberton 2015; Scott 2017). However, as noted by Reiman (2006) and Muncie (2005), the necessity and plausibility of a new social harm discipline remains questionable.

It is beyond the scope of this thesis to resolve the tensions between criminological and social harm perspectives. While this project recognises the value of a social harm approach, especially in understanding labour exploitation, it does not advocate ‘abandoning’ criminology in favour of zemiology. Greenfield and Paoli’s (2013) work on harm provides the means for ‘non-criminal’ harms to be considered without the need for an alternative discipline. However,
their work on harm has not yet incorporated ‘non-criminal’ harms and this would arguably be helpful, especially in relation to harms that emerge from legal processes and markets.

As noted above, the aim of this thesis is not to apply Greenfield and Paoli’s (2013) harm assessment framework to the context of UK food supply chains; albeit their broader approach to harm is acknowledged (Paoli and Greenfield 2015). This project refers to the framework – namely the earlier stages of developing a ‘business model’ and identifying ‘types of harm’, as a loose analytic guide, rather than a specific tool to be utilised. This different approach does not claim to be superior to the original harm framework, nor has it emerged from perceived limitations with the conceptual or technical dynamics of the framework. Instead, the intention in this thesis is to complement Paoli and Greenfield’s (2015) work, by examining harms beyond the scope of criminal-legal systems in the under-researched area of labour exploitation.

Therefore, this project loosely adopts Greenfield and Paoli’s (2013: 864) definition of harm as “violations of stakeholders’ legitimate interests”. Stakeholders may frequently refer to individuals, but based on their work, can include private and public-sector entities, as well as the physical and social environment (Greenfield and Paoli 2013). Interests can be defined as matters in which someone has a stake, and where it is in that person’s interests that those stakes flourish (Feinberg 1984: 34). Interests may consist of long-term aspirations, or everyday interests which provide a generalised means to achieve numerous possible goals (Feinberg 1984: 37). Greenfield and Paoli (2013: 870) acknowledge that what counts as ‘legitimate’ can be subjective, and varies depending on the dominant political morality, cultural and socio-economic influences of a system (see: MacCormick 1982: 30). For this reason, they speak of ‘possible harms’ and exclude losses of illegally obtained property such as guns, and damages to wholly illegal enterprises as outside the scope of “legitimate interests” (Greenfield et al. 2016: 155). Despite the frequent interplay between harm and labour exploitation, it is
important to distinguish between the two concepts and consider that not all exploitation necessarily results in harm, and that not all harm is exploitative.

2.4 Labour Exploitation as Harmful

Exploitation is a complex concept, but principally involves unfairly using a person’s vulnerability for one’s own benefit (Zwolinski and Wertheimer 2017). Exploitation tends to be seen as ‘wrong’ because it is coercive, degrading, or represents a failure to protect vulnerable people (Allain et al. 2013; Potter and Hamilton 2014). However, Mayer (2007a: 142) argues that the consistent injustice of exploitation is “a failure to benefit others as some norm of fairness requires”. Mayer’s argument largely relies on what is meant by ‘fairness’, so on this basis there are a range of theories for exploitation. For instance, neoclassical theory emphasises the “equilibrium price” as the standard of fairness, and measures losses from this standard (Mayer 2007a). In contrast, neo-Marxists maintain that capitalism is intrinsically exploitative due to workers not having equal access to the means of production, so would detect exploitation even when competition seems balanced (Scott 2017: 7). Therefore, while the notion of ‘fairness’ is contested, the consistent point is that victims of exploitation lose in some way while perpetrators wrongfully gain at their expense.

Within social science research, exploitation has traditionally been framed from a Marxist perspective, whereby labour provides employers and capitalists with surplus value, which allows for further accumulation and control of resources, resulting in the exploitation of workers (Wolff 1999). Yet in practice, exploitation is narrowly defined through criminal-legal frameworks based on what is illegal, which require high burdens of proof – Scott (2017: 7) refers to this as “judicial maximalism”. However, as will be discussed in section 2.5, it is helpful to view exploitation as a continuum in order to identify a wider range of exploitative labour practices beyond the most severe criminal forms (Skrivankova 2014). This project adopts the approach taken by Scott (2017), who among others, argues for a labour exploitation continuum.
that ranges from severe exploitation to ‘decent work’ (Andrees 2008; Skrivankova 2010). Such a continuum moves beyond the Marxist “omnipresence” of exploitation on the one hand, and the “judicial maximalism” or strict legal definitions on the other (Scott 2017: 7), which typically defines the problem as extreme and residual.

Exploitation can have individual and structural features. It is individual when the unfairness emerges from discrete transactions between two or more individuals, for instance between an employer and a worker. However, individual perpetrators do not usually create the conditions for exploitation, but instead take unfair advantage of these conditions by trying to gain at the expense of others (Zwolinski 2012) – they may even be adhering to established “rules of the game” (Mayer 2007a: 148). Similarly, Sutherland (1941) asserted that standard business practices may conflict with legal principles, which drives business people to commit crime through pressures such as competition. In these cases, businesses are in strong competition with each other in the context of narrow profit margins and ever-changing targets, which means that they may have little choice but to exploit workers if they want to remain competitive (Zwolinski 2012). In other words, the structure of the market may require businesses to exploit workers in order to remain competitive, which makes this exploitation structural or endemic. Therefore, individual exploitation can occur as part of broader structural conditions.

A key factor of labour exploitation is that victims are usually better off in relative terms when compared to before the exploitation occurred. Yet even if interactions are mutually beneficial, what makes them exploitative and harmful is that they are, by some measure, unfair. Unlike many street crimes such as burglary, where victims suffer absolute losses, labour exploitation is mutually advantageous to victims and perpetrators in most cases (Mayer 2007b). The victim’s labour is not fairly compensated, for example because of underpayment or poor safety training, but they are likely to have gained in some way compared to before they were employed (Mayer 2007a: 146). For instance, migrants may tolerate exploitation on the premise that they will benefit financially when compared to work in their home country, or having no
work at all (Waldinger and Lichter 2003); or perhaps they regard exploitative work as a temporary ‘stepping stone’ that will allow them to progress to better work in future.

Therefore, an important consideration is whether exploitation is harmful if workers are better off in relative terms. Scott (2017) acknowledges that harm in the workplace can be highly subjective, since workers’ interpretation of harm may differ depending on personal circumstances, prior benchmark experiences of poor treatment, and psychological factors. Paoli and Greenfield (2013: 370) recognise that this subjectivity makes systematic and longitudinal studies of harm difficult, since tracking victims over time may not be possible. This question of harm is especially problematic where exploitation appears to benefit employers and workers.

However, even if exploitation is mutually advantageous, it is still possible for victims’ interests to be harmed (Feinberg 1988: 178), which means that exploitation can ultimately be harmful. One prominent example from existing research on labour exploitation is the issue of underpayment (EHRC 2014; Scott et al. 2012). Workers may not be paid the correct wages for labour already provided, including overtime payments. In such cases, employers are taking unfair advantage of workers by underpaying them, based on the labour provided or number of hours worked in accordance with payment rates. The workers’ ‘interest’ being harmed here is primarily material, since they are not receiving the correct amount of payment. In these cases, employers are better off because they retain the money that they should have given to their workers.

This depiction of exploitation is different from notions of coercion often associated with exploitation, even though coercion can involve workers accepting offers that appear to make them relatively better off. In the context of coercion, Zwolinski and Wertheimer (2017) depict a ‘mugger’ who threatens their victim with “your money or your life”. While the victim is better off giving his money away than losing his life, he would be even better off if the mugger had
never shown up and threatened him. However, in the worker example provided in the last paragraph, the worker would be worse off if their employer had never hired them and provided some payment. Therefore, unlike coercion that relies on threats, exploitation usually involves ‘offers’, or factors that make the victim relatively better off if they accept the exploiter’s offer.

What counts as ‘relative’ becomes important in terms of considering whether exploitation is harmful. When assessed from a baseline of no work at all, exploitation typically makes workers better off. However, when assessed from a baseline of a ‘fair transaction’, exploitation makes its victims worse off. Underpaid workers gain less than they should, due to some absence of ‘fairness’ that they are entitled to being taken away by the exploiter. Therefore, as Zwolinski and Wertheimer (2017) conclude, “exploitation … does not necessarily harm its victim in the sense of making her worse off than she would have been, had the exploiter never interacted with her at all. Rather, it makes its victim worse off than she should have been, had she been treated fairly”.

Perhaps less controversially, not all forms of harm are necessarily exploitative – although different individual harms may cumulatively feed into an employment relationship that is exploitative. Feinberg (1990: 4) argues that coercion can occur without exploitation, just as exploitation may occur without coercion. Workplace bullying and verbal abuse as isolated incidents may form part of a wider exploitative employment relationship, but not all individual harms within such a relationship necessarily count as exploitation in their own right. For example, Scott (2017) refers to the notion of excessive workplace controls as facilitating labour exploitation (see also: Potter and Hamilton 2014). Some controls, such as the monitoring of toilet breaks may not be exploitative, but when this control becomes excessive and workers are denied toilet breaks, this can develop into exploitative and harmful work relationships. Therefore, harm and exploitation are frequently associated with each other, but the terms are not interchangeable, which is recognised in this thesis.
Bearers or claimants of harm may have conflicting perspectives on the outcomes of harmful activities, even in the same ‘value system’. Paoli and Greenfield (2013: 369-370) highlight the problem of whether all claimants of harm, irrespective of their status as offenders or victims, should be given equal weighting or treated as legitimate at all. However, the boundaries between victims and offenders are not necessarily distinct, especially in the context of migrant labour exploitation. To illustrate, some migrant workers knowingly breach the working restrictions which are attached to their immigration status (Ruhs and Anderson 2010), whereas others appear to tolerate exploitation (Scott 2017; Waldinger and Lichter 2003; Wills et al. 2009). Therefore, it is debatable whether subsequent claims of harm by those workers should be given equal weighting in comparison to those who did not breach their visa conditions or tolerate exploitative practices. Mayer (2007a) argues that exploitation which appears to be mutually advantageous and non-coercive can be the most difficult to recognise from a policy perspective, since victims may tolerate mistreatment. This problem is merely signposted here, but will be addressed further in Chapter 6. The complexity between harm and exploitation discussed here brings into question what types of exploitation tend to dominate research or policy agendas, and why.

2.5 Examining a Continuum of Exploitation

There is a significant body of existing research that focuses on severe forms of labour exploitation across a range of economic sectors, in the UK and internationally (Allain et al. 2013; FRA 2015; Malloch and Rigby 2016; Waite et al. 2015). As noted in the thesis introduction, severe exploitation here refers to practices that fall under the remit of criminal codes, including modern slavery, human trafficking, and forced labour (FRA 2015: 3). For example, the research of Allain et al. (2013) establishes the business models and supply chain practices associated with forced labour. ‘Routine’ exploitation can be understood as ‘less severe’ exploitation that typically falls within the remit of regulatory bodies, as well as civil and labour law (FRA 2015: 34). From a harm perspective, routine exploitation is not necessarily
included within these criminal-legal frameworks; ‘lawful but awful’ practices (Passas 2005) or ‘dirty, difficult, and dangerous’ (3D) work (Schenker 2008) imply that some practices can be legal but still exploitative, whereby the consequences are harmful.

A key problem with some portrayals of severe labour exploitation is that they are overly simplistic and do not necessarily engage with key catalysts of exploitative practices such as the demand for labour. In many respects, an emphasis on severe exploitation has helped to ignite public awareness and generate some political support for exploited migrants (Balch 2012: 6; O’Brien 2016). In addition, this ‘neo-slavery’ framework has progressed beyond female sexual exploitation and ‘sex trafficking’ in order to expose other forms of exploitative practices (Chuang 2015), including labour exploitation.

However, the main weakness with this neo-slavery perspective is that it tends to emphasise individual ‘bad apple’ employers, ‘human traffickers’, and criminal organisations, who deceive or coerce innocent victims in travelling to destination countries (Chuang 2015; Cunningham and DeMarni-Cromer 2016). Depicting the problem as individual criminal behaviour, or as a distinct ‘criminal sector’ problem generates a simple discourse which is likely to have popular appeal and sympathy. For example, O’Connell Davidson (2005: 420) argues that the archetypal victim of ‘trafficking’ is depicted as a woman or (girl) child who is being sexually exploited, needing protection from a barbaric foreign national who has associations with organised crime groups. As part of this need for protection, states can be represented as neutral or benign actors (LeBaron 2015), which encourages a narrow focus on punishing ‘enslavers’ and rescuing innocent victims (Chuang 2015).

Yet this depiction of ‘victims’, ‘villains’ and ‘rescuers’ results in more complex influencing factors of exploitation being neglected (LeBaron and Ayers 2013; McKay et al. 2006; Rogaly 2008: 1444). Bales and Soodalter (2010: 3) assert “we know that slavery is a bad thing, perpetrated by bad people”, which suggests that the problem is primarily caused by individuals
rather than societal structures. Far from being neutral, however, states play an active role in fostering exploitative work conditions through the poor regulation of labour markets and restrictive immigration policies (Ceobanu 2011; Wickramasekara 2008), which the neo-slavery camp tends to overlook. As Vander Beken and Van Daele (2008: 739) argue, the legal environment of society unintentionally provides opportunities for ‘undesired activities’, rather than being an exclusive problem of criminal behaviours and environments. The demand for labour in legitimate markets and business processes forms a key part of understanding how exploitative practices occur, as will be discussed in Chapters 3 and 7. Re-orienting the emphasis away from individual exploiters towards socio-economic factors such as subcontracting, regulatory frameworks, and political-legal contexts, will help to develop a richer understanding of migrant labour exploitation and the harm that results from this.

In terms of the victim label, not everyone who is exploited regard themselves as victims, even if they feel poorly treated (Lalani and Metcalf 2012) – albeit workers do not need to ‘feel’ exploited in order for state authorities to intervene. Similarly, not all victims are passive in exploitative employment relationships. There is evidence to suggest that migrants can exercise some degree of complicity in their own exploitation, despite them having the apparent freedom to walk away (Rogaly 2008; Scott et al. 2012). Migrants may view their current employment experiences favourably compared to employment prospects in their home country, even if they are exposed to poor labour practices (Alvesalo et al. 2014; Waldinger and Lichter 2003). Alternatively, some migrants are aware that they are easily replaceable due to large numbers of applicants for similar jobs; this may lead migrants to believe that they will be unable to find employment elsewhere if they complain to their employers about working conditions (Scott et al. 2012). Therefore, by moving beyond the simplistic notions of victims, villains and rescuers, it will be possible to develop a more nuanced understanding of why exploitation occurs, especially within the scope of legitimate markets.
However, the neo-slavery framework seems to be gradually acknowledging the important roles that businesses, supply chains, and the wider socio-economic context has in fostering exploitation (Malloch and Rigby 2016). Recent work begins to situate severe exploitation within broader socio-economic processes, rather than the actions of individuals or ‘bad apple’ employers (Allain et al. 2013; Malloch and Rigby 2016; Scott 2017; Waite et al. 2015). For example, immigration policies, supply chain dynamics, and business models have all been at the forefront of contemporary research (Geddes et al. 2013; LeBaron 2015; Malloch and Rigby 2016). This shift from individual to structural explanations for labour exploitation demonstrates a more nuanced depiction of how harmful consequences can emerge from socio-economic factors.

Nevertheless, the focus of most research remains on severe labour exploitation and “super-exploited” victims associated with these activities (Coghlan and Whylile 2011: 1522). Scott (2017: 189) asserts that states are keen to actively pursue an agenda against modern slavery, since they can punish a small group of offenders, and so send a ‘moral’ message that slavery will not be tolerated. In contrast, states simultaneously champion limited regulation in order to appear pro-business, which means that structural labour market conditions such as the buying power of large companies remains largely unchanged, and may permit wider labour conditions to deteriorate (Scott 2017: 187-188). A focus only on severe exploitation allows states to pursue other agendas such as border security and immigration control under the rhetoric of tackling modern slavery and disrupting organised crime groups. Addressing severe exploitation is important due to the malicious practices associated with these cases, which arguably merit immediate policy attention. Yet the emphasis on severe exploitation means that less ‘newsworthy’ and more routine exploitative practices risk becoming tolerated, accepted or normalised within day to day business conduct.

In order to demonstrate this focus on severe exploitation, few states have ratified the 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Their
Families (CMW) (UN Treaty Collection 2015). The CMW invokes a principle of equal treatment between permanent residents of countries and migrants, especially regarding pay, working hours, and safety provisions (Yau 2005), in order to reduce the likelihood of exploitation. Ruhs (2013: 1) referred to the CMW as "a cornerstone of the human rights-based approach to regulating labor immigration". However, the CMW has received a low number of ratifications, both in absolute and relative terms (Ruhs 2013: 16). In absolute terms, only 48 states, excluding any major destination countries, have ratified the CMW (Desmond 2015). In relative terms, the CMW has the lowest number of ratifications when compared to the UN’s other human rights conventions, which typically have higher ratification levels despite being introduced more recently than the CMW in many cases (Ruhs 2013).

There are numerous assertions that explain this low number of ratifications, which others discuss elsewhere (Desmond 2015; Ruhs 2013: 17-18). However, most states seem unwilling to enhance social protections for migrants through the CMW based on economic and political concerns (Ruhs 2013). Economically, destination countries have little incentive to enhance migrant workers’ rights, since they can access a large pool of foreign labour which is willing to do the ‘3D’ work (Wills et al. 2010). Politically, immigration is unpopular among national electorates (Blinder 2014), who are unlikely to pressure national governments to enhance migrants’ rights, particularly in the context of the global economic/financial crisis. The failure of most states to ratify or even discuss the CMW suggests an indifference towards migrant workers, despite most developed countries relying on migrants in key economic sectors.

In contrast, 117 states have ratified the more recent Protocol on trafficking in persons (UN Treaty Collection 2016), which is part of the UN Convention against Transnational Organized Crime (UNTOC). Most states have integrated some elements of UNTOC into their national legislation in order to underpin their focus on severe exploitation, which seems to have enhanced awareness of victims and perpetrators (Chisolm-Straker and Stoklosa 2016; O’Brien 2015). While states appear willing to accept the victim-offender nexus of severe
exploitation through UNTOC, they seem less willing to address the systemic labour market and workplace conditions that encourage routine exploitation to flourish, which CMW addresses. For instance, the emphasis on tackling organised crime groups and rescuing victims neglects the poor regulation of labour markets and restrictive immigration policies (LeBaron 2015). Treating the problem as modern slavery rather than a systemic labour market issue serves as a superficial remedy for severe exploitation, while limiting the response to more routine and common forms of exploitation.

To understand a wider range of harmful employment practices, some researchers refer to a ‘continuum of exploitation’ (Andrees 2008; BIS 2015; Scott 2017; Skrivankova 2010), which is shown below in Figure 1. This range of employment practices extends from the ILOs (2006) concept of ‘decent work’ on one extreme, to severe exploitation on the other. In between these two extremes, the continuum incorporates a range of more common and subtle exploitative practices, as well as different forms of intervention (Lalani and Metcalf 2012: 6). For example, Balch (2012: 8) asserts that in the UK, employment or regulatory law tends to address labour exploitation, whereas the criminal justice system theoretically should process severe exploitation such as forced labour.

Figure 1: The continuum of exploitation. Published in Skrivankova (2010)
However, addressing only severe exploitation risks normalising more routine, banal, and subtle exploitation (Strauss 2015: 66), which tend to be treated as regulatory breaches or health and safety mishaps – if they are reported at all. For example, long working hours, insufficient breaks, and a lack of training or safety equipment are not by themselves going to constitute modern slavery. These work conditions tend to be synonymous with precarious, ‘bottom-end’ jobs in the labour market, otherwise known as secondary sector jobs and atypical employment, which are all associated with insecure, labour intensive, low paid employment (Dekker and van der Veen 2017; Mustchin 2012). Others refer to ‘3D’ jobs that migrants tend to fill, especially when they are new to destination countries (Kosny and Allen 2016; Pajnik 2016). These precarious jobs usually have a significant amount of surveillance and employer control associated with them, which Scott (2017) argues can result in exploitation and harm if excessive.

Nevertheless, focusing on a wider range of labour exploitation is problematic, since workers’ employment experiences may improve or deteriorate over time (Potter and Hamilton 2014: 393). When considering an exploitation continuum, it is not necessarily clear when unacceptable practices become acceptable, and vice-versa (Coghlan and Wylie 2011: 1522). There is a need to focus on more subtle labour violations rather than just the severe and ‘newsworthy’ instances of exploitation, since routine practices not only risk becoming normalised, but permit the existence of more severe exploitative practices (Skrivankova 2010: 29). It is not suggested here that the state could and should criminalise all labour abuses. However, punishing severe labour exploitation while allowing more subtle exploitation to occur is inconsistent with broader claims (Conservative Party 2017) of wanting to address the problem and excludes most workers, aside from a small group of the ‘super-exploited’.

In criminology, some researchers seem to favour a stronger involvement of the criminal law in cases of labour violations or health and safety incidents, rather than regulatory responses
(Box 1984; Reiman 1998; Tombs and Whyte 2007). However, this criminalisation approach alone may be limited, since systemic labour market issues such as poor regulatory oversight and employment standards remain low on the political agenda (Alvesalo and Whyte 2007). In addition, police or criminal justice system involvement may attract increased attention from immigration control agencies, especially where migrants have irregular immigration status. Nevertheless, an emphasis on ‘exploitation’ as a continuum allows for a more inclusive approach that comprises all migrant workers who face challenges, rather than focusing on a group of the “super-exploited” (Coghlan and Whylie 2011: 1522) as the only ones deserving of support. A more inclusive approach reduces the risk of creating a “hierarchy of suffering” or deserving and undeserving victims (Skrivankova 2010: 4). By recognising exploitation as a continuum, it is possible to consider a range of practices beyond severe cases, which is a core aim of this thesis. A continuum provides opportunities to examine the consistency between criminal law and other regulatory systems, since applying criminal law to severe exploitation while limiting state regulation and non-criminal forms of intervention is limited.

2.6 Recognition of Other Food Supply Chain Harms

While the focus of this research is on labour exploitation and harm affecting migrant workers in food supply chains, there are other harms which can develop in this context. Labour exploitation affecting British workers, food fraud (Lord et al. 2017; Spink and Moyer 2011), as well as animal welfare and the environment (Beirne and South 2007; Nurse 2015) are all important areas of research. However, telescoping a wider range of harms in this thesis would inevitably have narrowed the analysis for each group of bearers. The focus here on migrant labour exploitation is not to suggest that other supply chain challenges are less socially important or worthy of attention. Yet this focus means that it has been possible to engage more meaningfully with the dynamics of migrant labour and the harmful consequences of supply chain practices.
2.7 Conclusion

This chapter has suggested that while the concept of harm is problematic, it can serve as a useful lens through which to examine labour exploitation, especially if exploitation is treated as a continuum ranging from decent work to modern slavery. The recent emphasis on harm within and beyond criminology has led to some tension between criminological and social harm perspectives, both of which offer valuable insights into the study of harm. Although labour exploitation can be mutually advantageous to employers and workers, this can still result in harm to workers, because workers are worse off than they should have been, had they been treated with some notion of ‘fairness’ (Zwolinski and Wertheimer 2017). Having discussed the theoretical context of harm and its application to this thesis on migrant labour exploitation, Chapter 3 will link harmful practices to the demand for migrant labour in developed countries, where this demand remains prominent despite potential scapegoating of migrants (Melossi 2015; Young 2007). Harm will be linked to the demand for products and migrant labour in the context of food supply chains (EHRC 2012; Potter and Hamilton 2014; Thompson et al. 2013), including the existing regulatory framework in the UK.
Chapter 3: Existing Research

3.1 Introduction

There are numerous factors that can make migrant workers vulnerable to labour exploitation. These factors include societal issues such as the organisation of labour markets; sector-specific pressures including the type of work undertaken; and personal circumstances concerning to what extent individuals accept precarious work and why. In Northern or developed countries⁴, particularly Western European and North American states, there is a tension between the reliance on and demand for migrant labour on the one hand, and the unpopularity of immigration on the other. This tension can result in migrants being blamed for increasing pressure on job markets, and even for criminal activity, which contributes to a “climate of indifference” towards the welfare of migrant workers (FRA 2015: 54). However, when examining the market dynamics of the food industry and its supply chains, legitimate business practices can result in exploitative and harmful consequences for migrant workers. The UK regulatory framework in the food industry is more focused on severe exploitation, which means that it is not necessarily effective in preventing routine exploitation. These issues are discussed in this chapter, which concludes by identifying key themes in order to guide the subsequent analysis chapters.

3.2 Post-Fordism and Migrant Labour

Through public discourse, migrants tend to be portrayed as posing a number of economic and socio-cultural ‘risks’ to destination countries, for example by increasing competition in the labour market for local workers and by not integrating with local cultures (Fitzgerald et al. 2011). These ‘risks’ neglect the fact that migrants are also ‘at risk’ of labour exploitation and harm. Migrants in low-skilled occupations typically do not have the same rights afforded to

⁴ In this thesis, use of ‘Northern countries’ refers to the global North-South divide between wealthy developed countries of the North, and poor developing countries of the South (Therien 1999).
citizens, such as full access to the welfare system and voting rights, especially if they are new to destination countries (Foster et al. 2015; Haynes 2009; Ruhs 2013). This non-equal treatment culminates in a lack of social protection for migrants, and serves as a backdrop from where exploitative and harmful labour practices can develop. Yet some migrants appear to tolerate these exploitative practices when faced with limited alternative options (Ollus 2016). This section develops these key arguments.

3.2.1 The Social Protection of Migrant Workers

The 1970s was a pivotal point for Northern states and their economic systems, which began to transition from a ‘Fordist’ to a ‘post-Fordist’ model. Fordism was characterised by an economic model which developed in the aftermath of the Second World War, and was associated with low unemployment, low levels of labour flexibility, and welfare systems that protected individuals throughout the life course (De Giorgi 2007). The rise of neoliberalism in many Western European countries during the 1970s and 1980s began to increasingly emphasise ‘free market’ economic principles, which contributed to the deregulation and privatisation of various industries (Amin 1994; Findlay et al. 2013). The ‘post-Fordist’ economic conditions that emerge from this neoliberal trend consist of higher unemployment (or underemployment), increasing levels of labour flexibility, and work insecurity (Findlay et al. 2013). These conditions arguably benefit the ‘free market’ by allowing businesses to be flexible and respond to fluctuating demand more effectively. However, this flexibility is not necessarily beneficial to workers, who may experience greater levels of job insecurity.

This job insecurity appears to be a growing problem across Northern countries, including the UK. There are well grounded terms that describe insecurity, such as ‘underemployment’, the ‘gig economy’, and ‘precarious work’ – all of which fall under the umbrella notion of non-standard work or atypical employment. However, Hipp et al. (2015) argue that non-standard employment is becoming increasingly standard and normalised alongside the minimal regulation of labour markets and more restrictive welfare systems. Recent UK figures suggest
that 4.5 million people in England and Wales do not have regular work hours or planned shifts, which makes budgeting and future planning difficult (Citizens Advice 2016). The GMB Union (2017) goes further, and asserts that up to 10 million people, or approximately one-third of the workforce, are in precarious employment. According to their research (GMB Union 2017), over 60% of respondents suffered from anxiety due to flexible conditions associated with precarious work, and a similar number claimed that they worked while feeling unwell for fear of losing their jobs. Women seem to face additional obstacles when gaining a foothold in the labour market, tend to be more concentrated in low paid sectors, and may be paid less than men for the same work (Stuart et al. 2016: 4). Therefore, the potential for labour exploitation and harm to develop from precarious employment seems strong, and affects numerous cross-sections of society.

Precarious work associated with the neoliberal and post-Fordist conditions signposted above do not usually appeal to British workers, many of whom wish to advance their careers and are reluctant to accept flexible, low paid, low status work (Cangiano and Walsh 2013; MacKenzie and Forde 2009; Potter and Hamilton 2014). Many migrants want to advance their careers as well, but their short-term priority may be to get any job and develop their skill sets from there. There is a well-grounded assertion that migrants are needed and more willing to fill the ‘3D’ and flexible jobs that British workers are unwilling to do (De Giorgi 2007; MacKinnon et al. 2011; Piore 1986; Schenker 2008; Sykes et al. 2014) – at least in the short term. These jobs usually offer better pay and more positive long-term prospects compared to jobs that migrants would otherwise be doing in their home countries (Migration Advisory Committee (MAC) 2014; Maldonado 2009).

However, many employers target and recruit migrants because they feel that migrants have a superior work ethic when compared to local workers (Dawson et al. 2017; MacKenzie and Forde 2009; Maldonado 2009). These perceptions may even develop into stereotyping and forms of racism, whereby employers act on the basis of attributes linked to groups of workers
For example, McDowell et al. (2007: 16) found in their research on hotels that some managers stereotyped Polish workers as being “more aggressive” when compared to “compliant” Vietnamese workers, and allocated them different roles accordingly. Therefore, employers may discriminate against migrant workers based on socio-demographic factors such as nationality, gender and ethnicity.

From a similar perspective, McCollum and Findlay (2015) conceptualise this ‘nexus’ of migrant labour and flexible market conditions, whereby the structure of modern markets in developed countries is oriented towards a permanent need for migrant labour. Rather than the simplistic ‘local vs migrant’ segmentation, there are hierarchies within migrant groups, whereby some employers favour EU workers for ‘front-house’ work compared to migrants from Middle Eastern, Asian and African countries (McCollum and Findlay 2015). Some refer to this ‘whiteness’ as important regarding the visibility of workers (MacKinnon et al. 2011: 33; McDowell et al. 2007: 14). These stereotypes interact with notions of age, sex and class in order to develop employer perceptions of the ‘good worker’ (MacKenzie and Forde 2009). According to Anderson and Ruhs (2010), the combination of migrants having qualities (supply) that employers want (demand), means that labour supply and demand can be ‘mutually conditioning’. Regardless of the reasoning, Northern countries rely on migrant labour across economic sectors. In the UK, Rienzo (2016: 5) states that over 40% of food manufacturing employees are migrants.

Despite this reliance on migrant labour, or perhaps because of it, migrants can be scapegoated for problems in the labour market, such as a downwards pressure on wages and a “race to the bottom” on working conditions (Krings 2009). Migrants tend to be portrayed as ‘taking’ the jobs of local workers, ‘scrounging’ from the welfare system, and being linked to criminal practices (De Giorgi 2007; Melossi 2005). However, these concerns arguably have roots in the post-Fordist economic conditions outlined above, rather than particular inflows of migrant labour (De Giorgi 2010; Melossi 2005). In other words, the problems associated with
precarious work may result from business actions and state oversight of labour markets, rather than migration and criminal networks. Nevertheless, these insecurities associated with migration cross-cut political allegiances. Far-right groups exploit public concerns on migration as part of their xenophobic agendas; elements of the far-left, including some trade unions, argue that excessive migration undercuts the work conditions of other low paid workers (Luedtke 2005: 94). Yet moderate governments in need of political support may exploit public sentiments through a ‘soft’ xenophobic approach by expanding immigration controls, border security, and restrictive immigration policies (Hardy 2015; Melossi 2015).

Part of contemporary discussions on migration include how public perceptions link migration with labour market insecurities or criminal actions (Bell and Machin 2013; Jaitman and Machin 2013). In UK and other European contexts, attitudinal research on migration demonstrates strong public concerns over migrant numbers (Alonso and da Fonseca 2011; Blinder 2014; Fitzgerald et al. 2011; Green 2009; Park et al. 2012). Migration has been cited as one of the most important UK public concerns during at least the last 15 years, and is generally unpopular (Green 2009; Lesińska 2014; Park et al. 2012). Recent figures suggest that 75% of the UK public believe that the number of migrants is too high, and favour at least some reduction or legal restriction on movement (Blinder 2014). The potential for widespread anti-migrant sentiment is therefore strong.

The nature of public anxieties over migration can stem from a range of economic and socio-cultural concerns. Economic concerns may include perceived threats to jobs, wage levels, and competition in the labour market, as well as expenditure on welfare provisions (Fitzgerald et al. 2011). Perceived cultural threats include concerns that migrants will not integrate or speak the primary language of the destination country, or will somehow undermine the lives of the local population by committing crimes (Card et al. 2005). Marino (2015) asserts that if migrants are increasingly regarded as a problem rather than a resource in destination countries, then policy makers may believe that this perception justifies more violations of migrants’ basic
rights. A recent example in the UK can be seen with restrictions placed on use of the welfare system for new migrants (HM Government 2014b). These restrictions may force migrants to remain in exploitative work due to a perceived lack of alternatives, regardless of the hazards (Skrivankova 2014; Tombs and Whyte 2007: xviii). Therefore, migrants may become marginalised through a combination of punitive state policies and critical public perceptions, which can be understood as forming part of a trend towards criminalising migrants.

This ‘criminalisation of migration’ can be associated with restrictive immigration and border controls, detention, and deportation. De Giorgi (2010: 147) refers to these processes as the “hyper-criminalisation of immigrants”, whereby migrants from the Global South in particular are subject to restrictions, either in terms of movement or in accessing public funds. On the one hand, Northern countries have gone through a ‘de-bordering’ process regarding the liberalisation of economic markets. On the other hand, the desire to regulate labour migration has simultaneously led to a ‘re-bordering’ as a means to deter those regarded as trespassers (De Giorgi 2010). This criminalisation can result in migrants becoming socio-economically and politically marginalised, since they are portrayed as dangerous ‘others’ who represent a threat to citizens (Young 2007). Melossi (2003: 376) argues that this “otherness of the stranger” forms a key part of the migrant criminalisation process, since it serves a dual purpose of defining and securing one’s own identity by stigmatising and distancing another, thereby establishing points of normality and deviance.

Immigration policies that restrict the options available to migrants have resulted in the fusion of criminal law and immigration law (Ortega and Lasch 2014). Aliverti (2012) states that recent decades have seen an increase in legislation directed at tackling ‘immigration crimes’ such as illegal entry and overstaying. However, in the UK context at least, this increase in legislation has only recently been accompanied by academic discussion on the criminalisation of migration (Aliverti 2012). This criminalisation has some historical precedent, since during the late Middle Ages, internal migrants moving from agricultural areas to urban areas were
labelled as thieves and bandits upon arrival (Melossi 2003: 371). Therefore, this political coupling of migration and crime helps to create a dynamic of social exclusion (Franko Aas 2011), and erodes protection for migrants (Ortega and Lasch 2014). For example, ongoing Mediterranean migrant crossings that gained significant public attention in 2015 have reignited debates over whether migrants should be forcibly returned to their home countries (see: Malloch and Rigby 2016; Perraudin 2015; Wright 2015), even if they seek to claim asylum in EU countries.

This suspicion and subsequent criminalisation of migration relates to the post-Fordist model, whereby migrants make up a significant proportion of surplus labour to be controlled, or what Marx (1867: 439) called a ‘reserve army of labour’. As part of this concept, employers should ideally have a ready supply of labour in the event that demand for their services increases (Wills et al. 2010: 6). Employers can easily hire and dismiss workers in order to meet fluctuating levels of demand, without the associated time and costs associated with permanent employment (Wills et al. 2010: 7). Some unemployed persons within the reserve army of labour are ‘drawn in’ to work by employers, not so much to increase production, but for employers to use as a weapon in ongoing labour or employment struggles (Brass 2009). For example, if a company outsources its labour costs through subcontracting, the workforce is more likely to be fragmented and not speak with one collective ‘voice’ than if the same company directly employed all its workers. While these factors may not be a direct cause of harm to migrants, they serve as a backdrop whereby migrants make decisions on their circumstances against the backdrop of limited opportunities in the labour market.

3.2.2 Migrant Labour and Victimisation

Chapter 2 signposted the idea that many migrant workers appear to tolerate labour exploitation, which in some circumstances may encourage victim blaming. In addition, the chapter cautioned against overly simplistic notions of modern slavery that tend to treat workers as passive victims. These two extremes of victim blaming and classifying all exploited migrants
as ‘victims’ is problematic. The TUC (2008) asserts that in practice it is difficult to determine whether an employment relationship is consensual or coerced. Some workers are not aware of their status as victims, due to a lack of language skills or awareness of their employment rights (Slapper and Tombs 1999; Wilkinson 2012). Other workers fear reprisals from their employers, such as dismissal if they complain about poor labour standards (Robinson 2010: 570). Yet there may be some degree of consent to exploitation, especially if there is no evidence of coercion (Ruhs and Anderson 2010). Employers may carefully manipulate workers’ pay or conditions, so that exploitation becomes normalised and acceptable (Scott et al. 2012). State authorities can therefore delegitimise victims if they are seen as consenting to forms of mistreatment, even though ‘consent’ is irrelevant in legal terms if coercion or deception is present (Alvesalo et al. 2014). However, to categorise all exploited persons as passive victims neglects any ‘consent’ that migrants may have exercised in the employment relationship.

Perspectives in the migration literature help to illustrate the complex notion of victim status. Migrants may adopt a ‘dual frame of reference’ in order to compare their work conditions in the destination country with their home country (Binford 2009; Gelatt 2013; Waldinger and Lichter 2003: 40). While migrants tend to recognise that the jobs they accept in destination countries are poorly paid and hazardous (Maldonado 2009; Potter and Hamilton 2014), many of them consciously, if reluctantly, make “trade-offs” (Anderson et al. 2006: 113). These trade-offs may be economic, whereby jobs are low paid by standards of the destination country, but are relatively well paid when compared to their home country (Alvesalo et al. 2014).

However, even where migrants adopt this dual frame of reference, they may still be vulnerable to exploitation due to the type of work undertaken. Some migrants are willing to tolerate poor working conditions in the belief that they are temporary ‘stepping-stones’ that will lead on to better employment in future (Potter and Hamilton 2014). In other words, the work that migrants undertake in destination countries is not necessarily the best possible option for them, but is
chosen within the context of limited alternatives (Anderson et al. 2006). Related to this dual frame perspective, Ruhs and Anderson (2010) found that some migrants who are legally resident in the UK collude with employers to breach employment restrictions associated with their immigration status – a process they term “semi-compliance”. Migrant workers may engage in illegal actions if this process allows them to make economic gains and integrate more effectively, which improves their quality of life nearer to that of citizens. These perspectives suggest that migrants are not necessarily passive in exploitative employment relationships.

The purpose here is not to argue that migrant workers should be blamed or delegitimised if they have demonstrated some form of ‘consent’ in their own mistreatment. However, it is important to understand why law enforcement and regulatory bodies should not necessarily expect active engagement from migrants if they uncover dubious or illegal activity. There are various contributing factors to migrants’ unwillingness or inability to report harmful workplace incidents, as outlined through the dual frame of reference and semi-compliance perspectives. In consequence, migrant workers may not be seen as ‘deserving’ victims if they are portrayed as breaching immigration or labour regulations, or if they exercise some form of consent in exploitative labour practices. While many of these migrant decision-making processes are generic, they can be understood in the context of industries such as food production.

3.3 The UK Food Industry and Supply Chain Dynamics

The societal and individual vulnerabilities to labour exploitation discussed in section 3.2 provide a backdrop in understanding how the lack of social protection afforded to many migrant workers in low-skilled occupations can expose them to labour exploitation. This exposure may interact with industry-specific dynamics which enhance the likelihood of exploitation. The UK food industry is heavily dependent on migrant workers, and supply chain
dynamics such as the demand for products help to explain how exploitation is endemic (TUC 2008: 11), not occurring just due to the actions of ‘rogue’ employers.

3.3.1 Migrant Labour in the UK Food Industry

The UK food industry is an umbrella term which consists of numerous sub-sectors, including farming, food processing, retail and hospitality (Scott et al. 2012). Based on figures from the Department for Environment, Food, and Rural Affairs (DEFRA 2017), the food industry contributes over 13% of national employment, and consumers spend £203bn on food and catering each year. The food and drink manufacturing industry alone employs more than 400,000 workers (Food and Drink Federation (FDF) 2017a), and over 40% of the workforce are foreign-born, which makes food manufacturing the industry with the highest number of migrant workers (Rienzo 2016: 5). Of the two million EU citizens working in the UK, approximately 20% of these work in food and drink supply chains (FDF 2017b: 2). These figures demonstrate the size and importance of the food industry to the UK economy, as well as its reliance on migrant labour. The food industry is unique due to the seasonal nature of food production, as well as daily, weekly, monthly and seasonal fluctuations in consumer demand (TUC 2008: 151), which can be expected or unexpected. For example, an unexpected hot summer’s day may trigger a sudden increase in demand for soft fruits, whereas demand for Christmas puddings will predictably increase towards the end of the calendar year.

A small number of multi-national retailers and suppliers dominate the food industry, with approximately 80% of processed meat being supplied to supermarkets (EHRC 2010: 32). Smaller growers, processors and labour providers are required to be flexible with their processes in order to remain competitive (Roth et al. 2008). This need for flexibility means that temporary work has become a permanent feature of the food industry, since supply chain firms are required to hire temporary labour at short notice in order to meet fluctuating levels of demand (Geddes and Scott 2010: 193). Aside from retailers, there are a number of other buyers such as takeaways, hotels, independent market sellers, smaller co-operatives and
catering companies. Smaller firms are exposed to precarious negotiations, since buyers, especially large retailers, know how vulnerable their suppliers can be to other competitors, and so negotiate accordingly (Geddes and Scott 2010: 200). The profit margins of suppliers tend to be relatively small\(^5\), or are easily threatened by cost or delivery pressures (Barrientos et al. 2010; Walters and James 2009). These tight margins increase pressure in a market that is already highly competitive.

Supply chain businesses typically struggle to recruit and retain workers, since low-skilled food industry occupations tend to be ‘3D’, flexible, low paid, and offer few opportunities for career progression (Wills et al. 2009). Classifying migrants as ‘low-skilled’ in many food industry occupations is problematic, because many migrants are highly skilled but end up working in and tolerating low-skilled occupations – largely due to the expectation of eventual career progression (Parutis 2014). Piore (1986, 1979) developed the notion of a dual labour market that distinguishes between ‘primary sector’ and ‘secondary sector’ work. The primary sector is characterised by a core group of essential staff in an organisation. These staff are directly employed on permanent and full-time contracts, along with a range of employment benefits such as paid sick leave.

In contrast, the ‘secondary sector’ consists of subcontracted, temporary and zero-hours contracts jobs where workers are hired and dismissed based on fluctuating levels of demand. Secondary sector jobs are known for being low paid, low status, insecure, and potentially hazardous (EHRC 2012), which increases the likelihood of personal injuries or poor treatment by employers (Piore 1979). Migrants who are new to labour intensive roles are more likely to have an accident within the first two months of employment (Lloyd and James 2008; McKay et al. 2006: 128). The food industry contains a high number of low-skilled secondary sector

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\(^5\) For example, Walters and James (2008: 719) found that some large and smaller food industry firms operate with long-term profit margins ranging from less than 3% to losses.
jobs (Lever and Milbourne 2015; MAC 2013a, 2013b), which helps to explain why employers struggle to attract workers.

Researchers have long been aware of harmful and illegal activities occurring in the food industry, albeit earlier work did not focus on labour exploitation (Hartung 1950; Sutherland 1983). Lloyd and James (2008) assert that the food industry has one of the worst health and safety records relative to other industries, due to the type of ‘3D’ work typically undertaken. Tombs and Whyte (2007: 5) argue that if harmful actions in the workplace are preventable, and legally need to be prevented, then this falls within the remit of criminology. A series of research outputs document migrant workers’ experiences of labour exploitation in the UK food industry (see: Allain et al. 2013; Geddes et al. 2013; Scott et al. 2012; Skrivankova 2014). Many of these experiences focus on severe exploitation where employers and businesses have committed illegal acts, which demonstrates the potential for labour exploitation. For instance, Scott et al. (2012) discuss how EU and Chinese migrants were subject to forced labour, including debt bondage, restriction of movement, and confiscation of identity documents. However, in order to develop a more comprehensive analysis of labour exploitation and harm in the food industry, it is necessary to consider routine practices within supply chains that may not meet strict thresholds of illegal activity.

3.3.2 Food Supply Chain Dynamics and Tensions

The notion of modern food supply chains has developed only in recent decades, although they have roots going back thousands of years in some form (Mena and Stevens 2010: 1-2). A supply chain can be loosely defined as a system of suppliers, manufacturers, distributors, retailers, and customers where materials flow downstream from suppliers to customers, and information flows in both directions (Lamming 1996; Stevens 1989). Along the supply chain are various logistical issues relating to the product, including transportation, packaging, and use of labour. It may be more accurate to suggest the notion of supply ‘networks’ rather than linear chains, since business competition dictates constantly changing environments and
business interactions. However, this project retains the more commonly understood notion of ‘supply chains’. Depending on the length and complexity of supply chains, numerous ‘gaps’ may emerge which facilitate labour exploitation. In order to understand these gaps, it is necessary to first review the key processes and tensions inherent to food supply chains.

While supply chain processes may extend over local, national, and global areas, Robinson (2010: 570) summarises the consistent tension that is inherent to chains, by stating that consumer demand serves as a catalyst for fierce price competition between buyers. In turn, buyers demand high quality, low-cost, ‘just-in-time’ products from their suppliers, which creates a downwards pressure on costs. Suppliers may reduce these cost pressures by informalising and intensifying work (Barrientos and Smith 2006), and transferring costs to workers in the form of poor labour conditions. Tombs and Whyte (2015: 31) argue that supply chains become a “technique for contracting out crime”, since organisations further down the chain may need to commit illegal acts in order to meet their contractual obligations and make profits. From a supply chain management perspective, Mena and Stevens (2010: 6) acknowledge that longer and complex supply chains are more difficult to oversee, due to the increased likelihood of disruption, time and transportation costs. These difficulties of overseeing supply chains increase the opportunities for labour exploitation due to the increased number of actors involved. Just as Beer (2001: 26) states that between the farm gate and the consumer there is a long chain where profits can be made, the same applies for labour exploitation occurring.

Unlike individualised notions of ‘human traffickers’ and rogue ‘bad apple’ employers being the main drivers of labour exploitation, supply chain firms arguably respond in a rational manner to legitimate business pressures associated with the demand for products, rather than being criminally inclined (Scott 2017). These responses may unintentionally result in exploitative and harmful labour practices, especially for migrant workers, who do not necessarily have the language skills needed to understand their terms of employment or health and safety
standards (Dench et al. 2006). For example, suppliers may respond to business pressure by passing costs down to workers in the form of inadequate safety training or flexible labour practices (Geddes et al. 2013; HSE 2015). These pressures on suppliers emerge from buyers and market dynamics, especially where market conditions are uncertain and there may be limits to legal means of achievement (Box 1983). Yet when discussing the notion of corporate harm and crime, Reiman (1998: 68-69) asserts that just because someone is pursuing a legitimate business goal, this does not mean that any resulting harm is less serious. This emphasis on standard business processes contrasts with neo-slavery accounts that overemphasise individual ‘traffickers’ and employers as the drivers of exploitation.

Although the dynamics of food supply chain pressures can result in harmful employment practices, Allain et al. (2013) refer to the concept of labour supply chains, and how they interlink with product supply chains. While product supply chains refer to how food is transformed from raw materials or livestock into their final products, labour supply chains involve the employment relationships that workers experience in order to be deployed in a productive capacity (Allain et al. 2013: 42). Labour supply chains may be short if suppliers directly employ their workers, or if workers find employment independently.

However, some labour chains are extended due to the presence of gangmasters or work agencies, referred to in this thesis as labour intermediaries, who find employment for workers, or may employ workers directly in order to supply them to other firms. According to the TUC (2008: 5), approximately 80% of employers outsource parts of their business, suggesting that this process is far from a recent development. Skrivankova (2014: 8) argues that the presence of labour intermediaries generates a triangular relationship between worker, employer and intermediary, which contrasts with more traditional employment arrangements where employers hire workers directly (ILO 2016). As noted in section 3.2.1, such ‘non-standard’ employment is becoming increasingly standard, particularly in low-skilled occupations that dominate the food industry.
Subcontracting parts of the workforce and business activities to labour intermediaries allows businesses to reduce their labour expenditure, especially since labour is one of the easiest and quickest costs to cut (Geddes and Scott 2010: 199). Walters and James (2009) assert that suppliers favour subcontracting due to the cost savings and greater workforce flexibility associated with this practice. Colling (2005) identifies various motivations that result in firms subcontracting parts of their business activities. These motivations include a genuine belief by management that outsourcing demonstrates good practice in line with industry trends, and short-term peaks in demand can be covered without incurring the additional costs associated with permanent employment (Colling 2005). The flexible nature of demand for products in the food industry means that processing firms must adapt in order to maintain their business relationships with buyers.

Subcontracting is not inevitably a cause of subsequent harmful activities, since it allows many businesses to secure their profit margins and respond efficiently to fluctuating levels of demand (Lalani and Metcalf 2012). Indeed, subcontracting may serve as a means for businesses to use external expertise that is otherwise unavailable (Alvesalo et al. 2014; Colling 2005). Smaller businesses may not have the internal knowledge or workforce to fulfil their orders, yet are less likely than larger firms to have formal labour ethics or safety policies (Walters and James 2009), which may create a gap for exploitative practices to develop. With subcontracting, the employment relationship between workers and employers can be unclear, since workers may be unsure about which firm they are working for or who they should report concerns to (James et al. 2007; Wickramasekara 2008). These factors have been associated with poor labour practices and adverse safety outcomes (Walters and James 2009). For example, the EHRC’s (2012) research found that migrant agency workers in the food industry were physically and verbally abused by managers to work faster and meet orders on time, which can result in repetitive strain disorders and exhaustion (Sykes et al. 2014).
There may be numerous levels to labour supply chains, which increase opportunities for labour exploitation to occur. Shorter supply chains reduce the opportunities for labour exploitation in comparison to longer, complex chains, largely due to the difficulty of overseeing multiple layers of subcontracting, which buyers may not even be aware of (Mena and Stevens 2010). Allain et al. (2013: 39) assert that informal practices allow firms to avoid regulatory oversight and legislation, and refer to informal labour practices as the “gateway to forced labour”. Many of these processes regarding labour chains are legal, but the consequences can still be exploitative and harmful – Passas (2005) refers to such corporate practices as “lawful but awful”, since they largely occur within the scope of legitimate markets.

Although these practices can occur within local or national areas, the harmful dynamics of supply chains may be seen in a global context. This emphasis on global chains has been important in highlighting Northern countries’ outsourcing to developing countries, where various forms of exploitation have occurred (Barrientos 2013; ILO 2016; LeBaron et al. 2017). Global supply chains are necessary in order to import food that cannot be produced in the UK. In some cases, it may even be less expensive for UK firms to import food, rather than purchasing local produce (Wade 2001: 120). As noted by Allain et al. (2013), there are more opportunities for exploitation in global supply chains, due to the larger number of actors involved in the production process. Global chains are more difficult to manage due to extra transportation costs, time factors, and the potential for disruption (Trienekens et al. 2012), not to mention the difficulties complying with various national legislation. It is recognised in this thesis that supply chains can extend over numerous countries, and that labour exploitation generates an important range of concerns in global supply chains. However, the focus here remains on food production and the demand for labour affecting the UK. An important part of UK food supply chains is the regulatory framework, which does important work to prevent or manage labour exploitation, but simultaneously underpins labour exploitation due to various limitations associated with it.
3.4 Regulatory Frameworks in UK Food Supply Chains

While supply chain businesses may respond rationally to legitimate business problems, they operate in the context of oversight that tends to prioritise the ‘free market’ and economic growth over workplace protection and labour regulation (Binford 2009; Castles 2011; Cavadino and Dignan 2006; LeBaron 2015). Braithwaite (2008) is somewhat critical of the supposed expansion of neoliberalism in developed countries. He argues that increased business activity since the 1980s, rather than being linked with deregulation, has led to a significant expansion of regulation – albeit the state may not directly oversee all forms of regulatory activity due to the prominence of non-state actors such as NGOs (Braithwaite 2008). Nevertheless, businesses tend to view regulation as excessive and even harmful to growth, which means that they engage in a “regulatory dance” in order to manage different types of regulatory oversight (Snider 1991). Food supply chain actors, including buyers, are not necessarily aware of all the activities that occur in their supply chains, such as subcontracting. This lack of awareness makes oversight and regulation of supply chains more problematic, and reinforces the point made in section 3.3 that labour exploitation does not occur just because of rogue actors. The following sections introduce the complex regulatory context in UK food supply chains, including formal state regulation, as well as more informal regulation such as self-regulation and trade union movements.

3.4.1 Formal Regulation

In the context of harms and crimes committed by corporations, the criminal law is arguably the most effective option to establish accountability, since this involves applying the criminal label to individuals or companies, which in turn enables more punitive sanctions (Gobert and Punch 2003). In theory, the criminal label itself can be a punishment for businesses due to associated reputational damage (Gobert 2014: 238), and portrays a clear signal to society that the perpetrator’s actions are not acceptable. In addition, a successful criminal prosecution
establishes the severity of the perpetrator’s actions (Davies 2016), which in the long-term may facilitate policy changes.

However, there are a number of limitations associated with criminal law responses to corporate harms. High standards of evidence are needed for criminal trials, which means that successful prosecutions are not assured, even in apparently ‘clear cut’ cases. For example, the DJ Houghton case involved a group of Lithuanian migrants being severely mistreated by their employers; the workers were subject to violence, threats, substandard accommodation, and underpayment of wages (Lawrence 2016, 2015). Despite initial police involvement in the case, this did not materialise into a criminal prosecution, seemingly due to a lack of evidence. The workers later initiated civil proceedings against the company for financial compensation, whereby Galdikas vs DJ Houghton (2016) was the first civil court case of claims related to human trafficking against a British company. The court found in favour of the claimants, and awarded financial redress for underpayment and abusive treatment, totalling over £1m.

The DJ Houghton case suggests that even instances of severe labour exploitation do not necessarily result in criminal accountability. More widely, there are a number of critical issues emerging from the DJ Houghton case. First, the workers did not receive sufficient support after the National Referral Mechanism (NRM) identified them as victims of human trafficking; they faced homelessness, cuts to their welfare payments, and difficulties finding jobs – factors that may drive people back into exploitative work (MAC 2014: 4; Skrivankova 2014: 6). Second, the absence of a criminal conviction is indicative of a well-grounded point in corporate criminology that harmful corporate actions or omissions are unlikely to be criminally prosecuted (Gobert and Punch 2003; Slapper and Tombs 1999). Third, this absence of a criminal justice process results in no opportunity for criminal sanctions, which arguably does not serve as a deterrent to other companies.
Related to criminal accountability, Gobert and Punch (2003) argue that while criminal labels represent the strongest form of severity, the process of a criminal trial is reactive and does not guarantee organisational changes that may prevent similar actions occurring in future. Governments may be reluctant to legislate against businesses for misconduct through criminal trials, due to a desire to portray themselves as business friendly, and for fear of losing investment (Balch 2015: 94; Snider and Bittle 2014: 54). Snider (2000: 172) distinguishes between financial crimes such as corporate bribery, and ‘social crimes’, including safety regulations. Financial crimes are more likely to receive state attention because they threaten existing capitalist processes that rely on financial systems (Levi 1993: 79; Punch 1996: 39). In contrast, prosecuting ‘social crimes’ would disrupt the means of production by holding senior managers and directors accountable (Snider 2000: 172). Therefore, the notion of criminal prosecutions may sound appealing as a way of holding deviant companies accountable, but in practice this is more complex to deliver.

Even if criminal trials appear to be possible where corporate harm has occurred, there is disagreement over whether criminal prosecutions and labels should apply to individual business people or companies, since the legal concepts of mens rea and actus reus can be problematic to establish in corporate contexts (Gobert 1994). Since organisations are ‘people’ in a legal sense, applying the mens rea principle is complex due to the necessity of establishing who the ‘controlling mind’ of the organisation is, and whether those individuals were aware of any wrongdoing. In any event, there is a well-established argument in corporate criminology that the criminal law is heavily focused on addressing street crimes rather than business crimes, where mens rea and actus reus are easier to establish due to the intentional and interpersonal nature of most street offences (Box 1984; Reiman 1998; Slapper and Tombs 1999; Sutherland 1945).

Not only is the criminal justice system most likely to target street crimes rather than corporate crimes, but it focuses only on severe cases in the context of labour exploitation (Tombs and
Whyte 2015; Scott 2017). For example, the Modern Slavery Act 2015 includes a provision for supply chain transparency, but this is targeted at severe exploitation and large businesses\(^6\) (HM Government 2015a). This focus means that many routine exploitative and harmful labour practices are excluded from the criminal law’s scope, and if reported, are instead addressed by regulatory, labour or civil law. Scott (2017) asserts that states prefer to focus on severe exploitation so that they can blame individual ‘criminal’ perpetrators who are on the fringes of legitimate business activities, so that they do not have to initiate more regulatory oversight or appear unfriendly towards business.

In contrast, addressing routine exploitation would involve a more rigorous analysis of how legitimate businesses and supply chains facilitate these practices, which may demand greater regulatory oversight (Scott 2017). Skrivankova (2010: 17) argues that the “binary logic” between victims and offenders of criminal prosecutions does not reflect the complex reality of labour exploitation, since there is a wider range of practices that regulatory or civil law covers. In cases of migrants with irregular immigration status, the ‘hard treatment’ associated with criminal law may become entangled with immigration enforcement. The Immigration Act 2016 includes provisions to confiscate the earnings of irregular migrants (Davies 2016), which suggests a conflation of immigration and labour market offences.

Given the unlikely occurrence of criminal prosecutions for corporate wrongdoing, state regulatory bodies emerge as an alternative means of enforcement. Regulatory bodies have the specialist focus and knowledge that the police and criminal justice system may lack (Gobert 2014). As Alvesalo and Whyte (2007: 58) suggest, police may consider workplace harms such as safety violations to be accidents rather than ‘real crimes’, especially when compared to ‘traditional’ crimes such as murder. Unlike criminal investigations and trials, which are typically reactive, regulatory bodies can take a more pro-active approach by conducting

\(^6\) Defined as businesses with annual turnover of £36m or more (HM Government 2015a: 5).
inspections and investigations, as well as applying non-criminal sanctions without the high standards of evidence needed for criminal trials (Gobert and Punch 2003). In the long-term, this pro-active approach means that regulatory bodies may be able to change the behaviour of companies by encouraging compliance (Alvesalo et al. 2006: 6; Dahlsrud 2008), because in theory they are able to engage with businesses and monitor changes. Since companies or individuals working for companies are unlikely to be criminally convicted for harmful practices (Nurse 2015: 113), regulatory bodies can ensure some form of accountability in the absence of criminal trials.

However, regulation is a constant source of tension for businesses, the state, and those who advocate workers’ rights. While regulatory bodies have the specialist focus that the criminal justice system may lack, they tend to be poorly resourced in order to implement their remit effectively (Geddes et al. 2013; Strauss 2013). For example, the number of GLA labour inspectors stood at 25 in 2009, despite them having to cover the entire UK food industry (Scott 2017: 191). The absence of a criminal label may give the impression that corporate harms are less serious than the street crimes typically processed by the criminal justice system (Almond 2009). In other words, criminal trials and regulation have different aims, which means that the former is likely to be adversarial, whereas the latter is likely to be based on compromise and co-operation (Gobert 1994; Tombs and Whyte 2007: 153).

However, this co-operative approach risks some actions that deserve criminal trials and penalties being addressed through negotiation and mediation. Businesses tend to perceive regulation as a barrier to economic growth, since from their perspective, ensuring compliance with ‘excessive’ legal and regulatory commitments, or ‘red tape’, diverts attention from growth and profit maximisation (TUC 2008: 1). As Howell (2015: 14) asserts, the priority of the state is arguably to be seen as business friendly to the national and international business community. Therefore, calls for more effective regulation do not always materialise into policy,
or if they do, are likely to be weakened through under-enforcement or under-resourcing (Alvesalo et al. 2014).

Police forces across the UK have traditionally not focused on labour exploitation in comparison to street crimes, which means that regulatory bodies have a prominent enforcement role in the food industry. The approach towards tackling labour exploitation is highly fragmented in the UK food industry. Most prominently, the GLAA oversees the licensing of labour providers in the farming, food processing and shellfish gathering industries\(^7\), and can conduct joint investigations with the police where necessary (GLA 2015a). The HSE has responsibility for safety practices in the workplace but not general labour conditions, and HMRCs National Minimum Wage (NMW) team monitors compliance with salary and tax payments (Wilkinson 2010). Therefore, the UK does not have a unitary authority or national labour inspectorate, which arguably generates a lack of consistency, and may even fuel competition for resources between agencies (Davies 2016). The wider climate of UK public-sector austerity in the coming years may fuel these tensions over already limited resources.

A notable type of regulatory enforcement, aside from negotiating minimum industry standards and practices, comes in the form of audits or inspections, which can provide snapshots of workplace conditions, either on farms, processing factories, or other food outlets. Proponents of audits claim that inspections successfully place pressure on suppliers to improve their standards, while simultaneously maintaining good reputations with buyers (Ethical Trading Initiative (ETI) 2014). In the context of food supply chains, inspections may appear to be an effective form of accountability for businesses, yet there are well-known limitations with this approach. The priority of most inspections seems to be on food quality and hygiene standards, rather than labour standards (Inwald 2015; James et al. 2007; Trienekens et al. 2012). Where labour inspections do occur, the emphasis can be on management rather than workers, or

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\(^7\) Although the GLAA’s remit is now being expanded to the entire UK labour market from 2017.
managers may handpick workers to speak to inspectors, which does not necessarily provide an accurate reflection of workers’ views (EHRC 2012, 2010). Since regulatory bodies frequently report concerns with underfunding, the likelihood of them conducting inspections is low. The MAC (2014: 4) suggests that an organisation will receive a HMRC inspection once every 250 years, and a criminal prosecution once in a million years. Partly due to under-resourced regulatory bodies, less formal means of regulation emerge as an alternative to centralised state intervention.

3.4.2 Informal Regulation

Since many businesses perceive state regulation as excessive and a hindrance to business growth, they usually prefer to self-regulate (Pollard 2006). Self-regulation appeals to businesses as an alternative to formal state regulation, since they can develop their own approaches free from state interference (Snider and Bittle 2014: 61). States may even prefer companies to self-regulate, because they can appear business friendly by adopting a ‘hands-off’ approach while still requiring them to regulate themselves. In a wider context, Braithwaite (2008) and others (see: Drahos and Krygier 2017; Grabosky 2017) assert that non-state regulation is increasingly expanding, whereby NGOs and companies have taken on an increasingly important role in overseeing corporate activities. Regulation is traditionally associated with notions of deterrence and coercion, but persuasion and dialogue arguably form part of regulatory activity (Braithwaite 2017a). Companies may self-regulate as individual businesses or as part of industry-wide bodies, such as the Association of Labour Providers (ALP) in the UK. A key factor associated with self-regulation is the notion of ‘corporate social responsibility’ (CSR). While CSR can refer to numerous practices, McBarnet (2006: 1106) loosely defines it as the “voluntary adoption by business of ‘responsible’ practices, beyond the demands of law”.

A perceived advantage of CSR is that since the state may be reluctant or unable to regulate business practices, companies should be required to regulate themselves (Gobert and Punch
Large businesses in particular are likely to have the internal expertise and resources to comply with legal and regulatory requirements, as well as to enhance their practices beyond minimum standards. Most large companies, including the ‘Big Four’ UK supermarkets have formal labour ethics policies (see: ASDA-Walmart 2015; Morrisons 2016; Sainsburys 2013; Tesco 2014). The business case for CSR emphasises benefits to companies’ reputations, employee and consumer loyalty, as well as public goodwill (Lake et al. 2015; Faucet 2006). Claiming to take a pro-active approach by moving beyond minimum legal standards may allow businesses to maintain some degree of favour from the state and consumers if exploitative labour practices are uncovered. Therefore, it is possible that many businesses regard CSR as some form of insurance policy to highlight their efforts at ‘good practice’ in the event of a public scandal.

A central criticism of CSR is that its rhetoric is vague and poorly defined, which means that companies can decide where and how to apply it (Gobert and Punch 2003: 315), despite the carefully constructed allure of CSR mission statements. CSR has been described as “the tribute that capitalism everywhere pays to virtue” (The Economist 2005); similarly, Tombs and Whyte (2007: xvi) refer to CSR as a “boardroom buzzword” and a form of public relations (PR) without the inconvenience of external policing. The language of these mission statements tends to be upbeat and encourages a feel-good rhetoric (Conley and Williams 2005: 15), using positive terms such as “transparency”, “trust”, and “learning” (Livesey and Kearins 2002: 234). However, this vague rhetoric allows companies to easily avoid being held to these values in unfavourable economic circumstances.

CSR may serve as an obstacle to pursuing criminal or regulatory accountability, because it deflects attention from root problems by appearing to demonstrate concern for social and environmental issues (Nurse 2015; Pemberton et al. 2012). Businesses may appear to demonstrate a commitment to social responsibility, while continuing to act unethically or illegally (Nurse 2015: 99). Therefore, if behaving responsibly conflicts with wealth creation,
then the former can easily be side-lined, whereas the latter is always the overriding priority, since businesses have a legal obligation to maximise profits for shareholders (Tombs and Whyte 2007: xvi). This tension suggests that ethical labour practices can be a secondary consideration to profit maximisation.

Buyers who have a stronger tradition of social ethics and have no shareholders, such as co-operatives, are more likely to demonstrate a genuine commitment towards CSR. For example, the UK’s Co-operative Group has a stronger culture of demonstrating social ethics, which means that they can approach CSR from a different perspective to other businesses (Barrientos and Dolan 2006). In contrast, most supply chain businesses have essentially been coerced into CSR due to increased exposure of labour exploitation in their supply chains (Croft 2006). The latest development concerning CSR in the food industry can be seen under the provisions of the Modern Slavery Act 2015. Under this legislation, large companies are required to publish an annual statement on what measures they are taking to tackle slavery in their supply chains (HM Government 2015a). As noted in section 3.4.1, the primary emphasis of this legislation is on severe exploitation, which means that routine exploitation is overlooked; although the legislation at least draws attention to the need for companies to take further action regarding exploitation. As a means to keep companies’ influence in check, trade unions emerge as an alternative to safeguard workers’ labour conditions.

Trade union involvement in the UK food industry is a key pillar of the regulatory framework, due to unions’ ability to negotiate better employment conditions and labour practices on behalf of the collective employee ‘voice’ (Gollan and Patmore 2013). Trade union negotiations represent another source of tension in the fast-paced context of food supply chains, since these goals do not complement business aims of maximising profits. Theoretically, trade unions serve as a form of regulation over employer-employee relations in the workplace and act as a bulwark against exploitative or unsafe working conditions (Hardy 2015). Unions can help to improve employment conditions, as Turner et al. (2014) note that unionised migrants
are twice as likely to earn above-average wages and have better pension coverage than those who are not unionised. While union membership may be useful for achieving material goals and improved workplace standards, membership is critical in order to ensure worker protection against unfair treatment and questionable management practices.

However, UK trade union membership has been declining since the late 1970s, from approximately 14 million in 1979 to 6 million in 2016 (BIS 2017: 5), which has arguably weakened trade union influence (James and Karmowska 2012; Turner et al. 2014). The involvement of unions in workplace settings does not necessarily guarantee a greater degree of social protection. During their research in the UK mushroom picking industry, Potter and Hamilton (2014) observed concerns from workers that despite well-meaning intentions, trade union representatives were not particularly effective in organising migrants. Some workers reported that union representatives feared employers, or even colluded with them by distributing disciplinary letters. Union representatives highlighted problems around organising transient workers, addressing workers’ fear of employers, and workers’ distrust of unions due to negative experiences with them in their home countries (Potter and Hamilton 2014). Migrants are more likely to be employed in precarious work, and are less likely to be unionised in comparison to local workers (Turner et al. 2014), especially if they work through an agency, with some migrants remaining unaware of unions (EHRC 2010: 35). Hence, there are complexities associated with organising what is predominantly a fragmented and transient workforce.

The interplay between migrant workers and their involvement with trade unions is complex. Kahmann (2006: 186) posits that across unions, there is a continuum of attitudes towards migrant labour, ranging from inclusion to exclusion, on the basis that some unions fear that migrant labour undercuts the workplace conditions of existing union members. However, by involving more migrants in collective organisation, unions may be able to reverse declining membership, as Holgate (2005) found when recruiting and organising migrant workers in
London sandwich factories. Regardless of how unions approach migrant worker representation, migrants are unlikely to proactively seek support from unions, due to a lack of trust, fear of employers, or poor experiences of unions in their home countries (Foster et al. 2015). The opportunities to engage with unions are limited in the food industry, because many jobs are flexible, and irregular work patterns may make it difficult for workers to access support. In consequence, trade unions serve an important role in the regulation of labour markets, but their engagement with migrant workers can be limited.

3.5 Conclusion

This review of existing research suggests that migrant workers face a distinct lack of social protection in developed countries and labour markets, which generates insecurity and opportunities for exploitation. In spite of migrants’ vulnerability to labour exploitation, they are likely to consider themselves better off working in destination countries than in their home countries, which leads some to tolerate exploitation, even if they do not have irregular immigration status. In the food industry, the downwards pressure that buyers apply on food prices causes many suppliers to outsource their labour costs, which generates gaps in supply chain processes, where opportunities for labour exploitation emerge. These supply chain dynamics suggest that routine labour exploitation develops from legitimate business processes rather than a ‘criminal sector’ consisting of rogue employers or ‘human traffickers’. Since migrant labour exploitation can be subtle and is not necessarily interpersonal or intentional, Scott et al. (2012) argue that exploitation can become accepted and normalised in the context of business practices. There is a lack of corporate accountability in food supply chains due to a fragmented regulatory context that is geared towards addressing severe exploitation while neglecting routine exploitation.

Four key themes have been identified from the issues discussed in Chapters 2 and 3: (i) exploitative and harmful labour practices against migrants being conceptualised on a
continuum of exploitation; (ii) how exploitative and harmful labour practices are understood in the context of food supply chain processes; (iii) how the regulatory framework overseeing the UK food industry addresses labour exploitation; and (iv) the complex relationships between migration and labour. These four themes serve as a loose analytic guide in the data analysis chapters, which cover Chapters 5 to 8 inclusively. First however, Chapter 4 as the methodology identifies key challenges associated with researching migrant labour exploitation and food supply chain practices, while discussing the process adopted in order to address the primary research question.
Chapter 4: Research Methods

4.1 Introduction

The research design of this thesis is qualitative, and consists of semi-structured interviews with 14 migrant workers, as well as 13 food supply chain stakeholders\(^8\). Field observations from a civil court case relating to labour exploitation were also recorded. While previous research on migrant labour exploitation in other disciplines has incorporated various supply chain stakeholders and workers (EHRC 2012; Maldonado 2009; McKay et al. 2006; Potter and Hamilton 2014; Lever and Milbourne 2015), this has rarely been the case in the scope of criminological research. In addition, some of this existing data was provided in written form only (EHRC 2012), or consisted of closed question surveys which limited the depth of information and reasoning behind answers provided (McKay et al. 2006). This chapter revisits the primary research question, outlines epistemological issues in relation to the research, and addresses the challenges of conducting research on migrant labour exploitation. Practical concerns in relation to data collection are outlined, as well as data analysis methods. While the research methods and obstacles discussed here are not new, they had an impact on the type of data collected, which in turn has implications for the theoretical framework of this thesis, as discussed at the end of this chapter.

4.2 Returning to the Research Question

As signposted in Chapter 1, the primary research question for this thesis is ‘how do the dynamics of some food supply chains result in exploitative and harmful employment practices for migrant workers in the UK food industry?’. The end of Chapter 3 signposted a number of issues as a means to unpack this question and identify further discussion points: (i) exploitative and harmful labour practices against migrants being conceptualised on a continuum of

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\(^8\) ‘Stakeholders’ is loosely defined in this thesis as representatives who have some professional connection with workers and food supply chains, including businesses, regulators, and workers’ rights advocates. Refer to Tables 1 and 2 in section 4.5 for a breakdown of participant groups.
exploitation; (ii) how exploitative and harmful labour practices are understood in the context of food supply chain processes; (iii) how the regulatory framework overseeing the UK food industry addresses labour exploitation; and (iv) the complex relationships between migration and labour.

Issues (i) and (iv) are concerned primarily with migrant workers’ experiences, whereby Chapters 2 and 3 suggested that migrants may be more vulnerable to labour exploitation and harm when compared to British workers. While the post-Fordist economic conditions discussed in Chapter 3 expose all workers in low-skilled occupations to exploitation, migrants can face additional challenges such as language barriers and non-equal treatment to citizens. Chapters 2 and 3 argued that emphasising ‘harm’ as well as crime is important in the context of labour exploitation, because not all harms are labelled as criminal. While it is not argued here that all harms could and should be criminalised, a broader conceptualisation of exploitation would allow researchers to assess which harms may justify criminalisation or decriminalisation (Greenfield and Paoli 2013). On this basis, when labour exploitation is conceptualised as a continuum ranging from ‘decent work’ to severe exploitation (Andrees 2008; Skrivankova 2010), there are a range of routine labour abuses that occur ‘in between’ these extremes that are important focal points of analysis.

Issues (ii) and (iii) imply that input from food supply chain stakeholders is required, since they concern questions on market dynamics and regulation that migrant workers are not necessarily familiar with. Chapter 3 suggested that labour exploitation occurs not just due to a series of discrete ‘transactions’ between individual employers and workers, but is embedded in legitimate market dynamics and systems, where enforcement against exploitation mostly neglects routine exploitation. Perspectives from supply chain stakeholders are important here in order to draw out the subtleties associated with supply chain dynamics: of which regulatory oversight forms a part. Therefore, the primary research question contains a number of elements that require unpacking, which the subsequent analysis chapters will do.
4.3 Researching Migrant Labour Exploitation

Conducting research with migrants in low-skilled occupations is problematic, especially if there are language barriers and/or exploitation, which is a personal and sensitive topic (McKay et al. 2006; MacKenzie and Forde 2007). Accessing supply chain stakeholders such as businesses can be difficult, since they may not engage in research due to reputational concerns or time pressures (Allain et al. 2013). This section discusses key difficulties with undertaking research on exploitative business practices.

While the number of foreign-born migrants in the UK has been steadily increasing over time (Rienzo 2016), migrants in low-skilled work can remain a ‘hidden population’ for researchers across various disciplines who are interested in engaging with them. Some refer to migrants in low-skilled employment as an “invisible workforce” (Binford 2009; EHRC 2014; Swider 2015) since they typically occupy jobs in hard to reach areas such as isolated fields or factories (Potter and Hamilton 2014), and in many cases, work unsocial hours (Wills et al. 2010, 2009). Language barriers may reduce the likelihood of migrants being willing or able to engage with researchers.

There can be significant social and cultural differences between migrants and researchers, which may have an impact on data collection (Harvey 2011; Murray and Wynne 2001). For instance, as a white, Western European male researcher, I was aware that interviewing female participants from Eastern Europe may have resulted in a different focus than a female researcher. A female interviewer could have been better able to associate with discrimination from male employers than a male interviewer. Some feminists propose that only women should study other women in order to portray a solid reflection of women’s experiences (Finch 1993; Hurtado and Stewart 2004). Similarly, academics have been critical of white researchers traditionally dominating research on ethnic minorities, arguing that white researchers are
unable to fully appreciate issues such as racism or inequality amongst ethnic minority groups (Phillips and Bowling 2003). However, matching participants with researchers from the same background does not guarantee a “mutually beneficial experience” (Archer 2002: 109-110). While some participants may feel more comfortable discussing their experiences with someone from a similar background, such an approach risks conflating the researcher’s experience with those of participants (Reay 1996: 62). This conflation may have implications for the subsequent data interpretation and analysis.

In any event, many exploitative practices are neither reported nor investigated (TUC 2008), which makes accessing samples of affected workers difficult. Migrants may not want to discuss their employment experiences, potentially due to fear of their employers, not trusting researchers, or not realising that they are being mistreated (EHRC 2010; Thompson et al. 2013). This lack of willingness to engage in research tends to result in small sample sizes and localised case studies (Green 2015; Pemberton 2008), as with this thesis. However, Slapper and Tombs (1999: 50-51) assert that findings from small samples can still be applied to theoretical propositions and inform further discussion.

Regarding future research of labour exploitation, MacKenzie and Forde (2009) argue that researchers should incorporate a range of perspectives beyond (migrant) workers’ experiences. For example, their research sample included business managers and employers as a means to understand typical business practices and the rationale behind employers’ decisions (MacKenzie and Forde 2009). There is a growing body of literature that recognises the importance of supply chain management and oversight as a fulcrum between ‘decent work’ and the continuum of exploitative practices that occur (see: Allain et al. 2013; Potter and Hamilton 2014; Scott 2017; Waite et al. 2015). Since exploitative practices can occur due to legitimate, routine business processes, not just individual actors, the demand for labour and the regulatory context is important. As discussed by LeBaron (2015), the neo-slavery perspective tends to neglect these important contextual factors, which limits data findings.
Therefore, it may be helpful for researchers in future to incorporate business interests into their analyses in order to interpret why harmful employment practices develop within legitimate markets. During this research, I obtained perspectives from business and supply chain stakeholders, albeit migrant workers’ experiences remained central to the project.

4.4 A Critical Realist Framework

Differences between positivist, interpretivist and constructivist standpoints have been well-rehearsed in the social sciences (Bryman 2008; Lincoln et al. 2011). The positivist tradition, grounded in the ontological perspective of objectivism, asserts that a single apprehendable reality exists, which is driven by natural laws and mechanisms (Lincoln et al. 2011). Interpretivists accept that the natural sciences are governed by positivist principles, but claim that meanings of social life are derived from interactions, or verstehen (Ferrell 1997; Weber 1949); therefore, the aims and methods of social science differ substantially from those of natural science. Constructivists go further, and in extreme cases deny that any reality exists apart from social constructions (Gorski 2013), which are based on differences in factors such as time, place and culture.

Limitations associated with positivist and interpretivist stances have resulted in the increasing prominence of alternative perspectives within the scope of qualitative research, such as critical realism, which is adopted in this thesis. Phillips (1987: 205) defines critical realism as a way to view objects that exist “independently of being perceived, or independently of our theories about them”. Rather than being a unified concept, critical realism is an umbrella term for numerous perspectives (Gorski 2013), and qualitative researchers have given less attention to this as an alternative perspective to positivism and constructivism (Lincoln et al. 2011). Yet qualitative research within and beyond criminology often adopts a realist perspective, even if this is only implicit in researchers’ work (Matthews 2009; Maxwell 2012). Critical realism is
associated with the work of Bhaskar (1994, 1975), and claims to represent a ‘third stance’ as distinct from the traditional positivist and constructivist perspectives.

Critical realism differs from these traditional perspectives, because it recognises that although an objective reality exists independent from peoples’ observations and interpretations, there can be more than one perspective of that reality which people construct (McWherter 2015). In other words, critical realism rejects the notion that people can attain any certain knowledge of the world as positivists claim, but dismisses assertions that multiple realities exist based on constructivist views (Maxwell 2012). Instead, critical realism allows that that there are different perspectives of an objective reality, but that this reality is imperfectly apprehendable due to flawed human intellectual mechanisms (Lincoln et al. 2011). Therefore, in practice critical realism is less narrow in terms of which research methods are appropriate, based on the object of the research and the research aims (Bryman 2008: 14-15). In contrast, the “cookbook” approaches of positivism and constructivism inform which methods researchers adopt for data collection, for example structured questionnaires or unstructured interviews (Matthews 2009: 354).

Mirroring the positions of positivism and constructivism, in criminology Matthews (2009) suggests that some positivists may treat ‘crime’ as an unproblematic concept and a taken for granted issue; whereas constructivists tend to suggest that crime has no ontological reality and is a fictional construct. However, crime arguably assumes a reality that is independent of researchers; otherwise, concepts such as exploitation and abuse would be inexplicable, because the damage involved would only exist in the mind of the beholder (Matthews 2009). Greenfield and Paoli’s (2013) work on harm hints at an implicit realist grounding, since their harm assessment framework allows for a combination of quantitative and qualitative data depending on the object(s) of analysis.
In adopting a critical realist approach, this research recognises the contribution that quantitative data can make, although it adopted a qualitative approach. The suggestion here is not that critical realism represents a single ‘correct’ perspective for qualitative research. Indeed, researchers are increasingly recognising the advantages of triangulating different forms of data, rather than associating themselves with a particular epistemology (Flick 2009; Maruna 2010; Noaks and Wincup 2004). However, critical realism demonstrates an alternative approach to the traditional positivist and constructivist stances, and provides a valuable perspective about the claims and understandings that qualitative research can develop.

4.5 Participant Groups and Sampling

Migrant workers were the main participant group for this research. I conducted semi-structured, qualitative interviews with 14 migrants who were living and working in the UK at the time of interview. Each participant had current or previous experience of working in the UK food industry. As defined in Chapter 3, the food industry is an umbrella term that covers numerous sub-sectors, including farming, food processing, catering, hospitality, and retail (Scott et al. 2012). In this project, I drew most of my sample from those with experience working in the farming and food processing sub-sectors. Some participants had experience working in buyer warehouses, restaurants, and fast food outlets. Aside from migrant workers, I conducted a combination of individual and group interviews with 13 food supply chain stakeholder participants. A court case observation of *Galdikas vs DJ Houghton* (2016) was also part of the data collection, which took place over two full days. Participant groups and socio-demographic data of migrants are summarised in Tables 1 and 2 respectively at the end of this section.

The approach used for each participant group was non-probability purposive sampling. Flick (2007: 27) posits that purposive sampling requires researchers to be flexible and open with their approach, which was important for my research in the context of accessing numerous
participant groups. Since I was relying primarily on migrant support organisations and personal research networks to access participants, using quantitative approaches such as random sampling would have been less realistic, partly due to the notion of ‘hidden populations’ discussed in section 4.3. In any event, distributing questionnaires among a larger number of migrant participants may have provided less detail about migrants’ individual experiences, which was important for this project due to the subtle ways in which labour exploitation and harm was embedded in business practices.

Given the relatively small sample sizes and my sampling strategy, I recognise that the participants in each group are not representative of their sectors or the UK food industry as a whole. Indeed, most interviewees were working in different parts of the industry, during different time periods, with different backgrounds and varying levels of experience. A significant amount of exploitation remains hidden (TUC 2008), and it was not possible to conduct a completely inclusive study. Additionally, individual professionals working for the same organisation may hold different views on the same issue. Therefore, the findings of this project are intended to be illustrative and suggestive of migrants' working conditions in supply chains, rather than statistically representative.

<table>
<thead>
<tr>
<th>Participant Group</th>
<th>Number of Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Migrant Workers</td>
<td>14</td>
</tr>
<tr>
<td>Buyers</td>
<td>4</td>
</tr>
<tr>
<td>Caseworkers (Migrant Support Organisations)</td>
<td>3</td>
</tr>
<tr>
<td>Labour Intermediaries</td>
<td>2</td>
</tr>
<tr>
<td>Gangmasters Licensing Authority (GLA)</td>
<td>2</td>
</tr>
<tr>
<td>Trade Union Representative</td>
<td>1</td>
</tr>
<tr>
<td>Solicitor</td>
<td>1</td>
</tr>
</tbody>
</table>

Table 1: Summary of participant groups
<table>
<thead>
<tr>
<th>Pseudonym</th>
<th>Sex</th>
<th>Age</th>
<th>Country of Birth</th>
<th>Arrival Date in UK</th>
<th>Site of Work</th>
<th>Education Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hakim</td>
<td>M</td>
<td>37</td>
<td>Iraq</td>
<td>2000</td>
<td>Farm; food factory</td>
<td>Secondary</td>
</tr>
<tr>
<td>Marwan</td>
<td>M</td>
<td>33</td>
<td>Syria</td>
<td>2005</td>
<td>Fast food takeaway</td>
<td>Further</td>
</tr>
<tr>
<td>Adriana</td>
<td>F</td>
<td>41</td>
<td>Romania</td>
<td>2014</td>
<td>Food retail warehouse</td>
<td>Postgraduate</td>
</tr>
<tr>
<td>Navdar</td>
<td>M</td>
<td>40</td>
<td>Syria</td>
<td>2013</td>
<td>Food factory</td>
<td>Further</td>
</tr>
<tr>
<td>Klaudia</td>
<td>F</td>
<td>34</td>
<td>Poland</td>
<td>2010</td>
<td>Food factory</td>
<td>Higher</td>
</tr>
<tr>
<td>Xiao</td>
<td>F</td>
<td>32</td>
<td>China</td>
<td>2006</td>
<td>Fast food takeaway; restaurant</td>
<td>Postgraduate</td>
</tr>
<tr>
<td>Ashkir</td>
<td>M</td>
<td>26</td>
<td>Somalia</td>
<td>2009</td>
<td>Farm; food factory</td>
<td>Secondary</td>
</tr>
<tr>
<td>Raluca</td>
<td>F</td>
<td>28</td>
<td>Romania</td>
<td>2015</td>
<td>Farm; food retail warehouse</td>
<td>Further</td>
</tr>
<tr>
<td>Marcelina</td>
<td>F</td>
<td>33</td>
<td>Poland</td>
<td>2015</td>
<td>Farm; food factory</td>
<td>Postgraduate</td>
</tr>
<tr>
<td>Behrouz</td>
<td>M</td>
<td>26</td>
<td>Iran</td>
<td>2006</td>
<td>Food factory</td>
<td>Higher</td>
</tr>
<tr>
<td>Monika (I)</td>
<td>F</td>
<td>46</td>
<td>Lithuania</td>
<td>2010</td>
<td>Farm; food factory</td>
<td>Secondary</td>
</tr>
<tr>
<td>Zaki</td>
<td>M</td>
<td>40</td>
<td>Nigeria</td>
<td>2013</td>
<td>Food factory; food retail warehouse</td>
<td>Further</td>
</tr>
<tr>
<td>Abroon (I)</td>
<td>M</td>
<td>36</td>
<td>Somalia</td>
<td>2009</td>
<td>Food factory</td>
<td>Secondary</td>
</tr>
<tr>
<td>Dalmar (I)</td>
<td>M</td>
<td>33</td>
<td>Somalia</td>
<td>2016</td>
<td>Food factory</td>
<td>Secondary</td>
</tr>
</tbody>
</table>

Table 2: Socio-demographics of migrant participants

I = Interpreter present at interview
4.6 The Research Process and Gaining Access

Accessing migrant participants was one of the most significant obstacles of this project. With these access challenges in mind, I started working as a caseworker for a migrant support organisation in the West Midlands region of the UK – hereafter referred to as ‘Migrant Central’. Migrant Central provides assistance to migrants and their families on a range of issues, including immigration, employment, and welfare benefits. I used the West Midlands as a starting point, since this region has amongst the largest number of migrants in the UK, standing at 7.6% of the regional population as of 2013 (Rienzo and Vargas-Silva 2015: 3). In addition, I was already aware of some food factories and fields in the region that employed a large number of migrants. While most migrant participants were living and working in the West Midlands region during data collection, they had collectively worked in farms and factories across the UK.

Since I was already working for Migrant Central, I was able to develop working relationships with gatekeepers and other similar organisations in the UK. In total, I accessed migrant participants through three support organisations: two in the West Midlands, and one in the South-East. Once I had established working relationships with staff in one organisation, it was possible to network and access other organisations. However, I recruited the majority of migrant participants through contacts with Migrant Central, so the focus here remains on this group. While I had achieved what Noaks and Wincup (2004: 63) call “physical access” in terms of Migrant Central’s office space, I still had to negotiate “social access” to individual participants. However, the working relationships I had developed allowed me to gain approval from the head of the organisation, and to discuss my aims with other members of staff who could assist. As I was contributing to Migrant Central by working for them, this seemed to make staff more willing to assist with the research. Nevertheless, in most organisations any time spent with researchers is time detracted from other productive activities or important
commitments (Noaks and Wincup 2004), which meant that recruiting participants was not always straightforward.

I developed key inclusion criteria when recruiting participants, including: participants should have current or previous experience of working in the UK food industry; be proficient in English; and be willing to share their experiences of this work, whether these experiences were positive or negative. Scott et al. (2012) identified participants based on key indicators of labour exploitation, which was an option in my research. However, this approach may have discouraged migrants who were content with their work conditions from participating in the research. As Holgate (2005) notes, workers sometimes appear to be content with exploitative work or do not regard themselves as exploited. Therefore, I did not want to impose overly-rigid criteria on the participants, and instead preferred to let them discuss their experiences and unpack potential mistreatment on that basis. Arguably, this was an appropriate method in order to draw out more subtle and routine forms of exploitation.

To some extent I relied on staff in Migrant Central when recruiting participants. The staff suggested that they identify service users whom they already knew. I agreed to this approach in order to maintain co-operation and facilitate the research. Yet allowing members of staff to select participants based on personal judgements had disadvantages and advantages. On the one hand, staff may have ‘cherry-picked’ some migrants over others, and the underlying reasons for this would have been unclear. On the other hand, some participants seemed more willing to engage with the research because they already knew and trusted the staff who approached them. Allowing the organisation to identify participants helped to maintain a sustainable data collection process, rather than disrupting the service delivery and other commitments that staff had.

However, this organisational influence was not absolute, since I adopted a snowball approach by asking the initial interviewees if they knew of anyone else that may be able to participate.
Snowballing is cited as a useful way of identifying a wider range of participants from an initial smaller sample (Noy 2008). While the snowballing approach was not always successful, it allowed me to combine the organisation-led approach with my own recruitment efforts, and reduced pressure on the support organisations to involve more participants. In some cases, the snowballing technique was an effective means to access other migrants, which reduced the organisational influence in the recruitment process.

I was aware during data collection that unless I took precautionary measures, my status as a caseworker risked conflating with that of researcher, which could have affected the data analysis. While my role as a caseworker was important in terms of gaining research approval from Migrant Central, this did not conflate with my role as a researcher, and I took a number of steps to ensure this. I was clear with research participants from the outset that my project was independent of Migrant Central, and that participation would have no impact on their access to its services. The snowballing method helped to mitigate any conflation between the roles of caseworker and researcher, since I did not access later participants directly through the organisation.

Regardless of the measures I took in order to distinguish my roles of caseworker and researcher, in practice this may not have always been clear cut. Since some participants were service users of Migrant Central, it is possible that they had seen me doing casework on other occasions, and as many interviews took place on site, these factors may have conflated my roles from their perspectives. Even though I was explicit with participants that their involvement in the research would not affect their support from Migrant Central, it is possible that some regarded me as a caseworker rather than a researcher. This perception may have affected the findings if participants felt that I was searching for ‘correct answers’ and had a hidden agenda, such as advocating migrants’ interests.
After I had completed the data collection process, I maintained contact with Migrant Central and continued to do casework for them. Noaks and Wincup (2004) highlight the importance of not leaving the field abruptly in order to address any unresolved concerns. I wanted to leave a strong impression that I had contributed to the organisation, rather than simply using it to conduct interviews – commonly referred to as the “research bargain” in terms of mutual advantage for researchers and participants (Noaks and Wincup 2004: 58). Having worked with the organisation before, during and after my data collection, the risk of misunderstanding was minimised, and this left the door open in case I needed to unexpectedly re-enter the field.

4.6.1 The Role of Interpreters

Interpretation and the status of interpreters in qualitative research are central considerations for the data collection process (Bjork Bramberg and Dahlberg 2013). Yet according to Temple and Young (2004), researchers seldom acknowledge the methodological implications of using interpreters. Studies tend to present participants as fluent in English and ignore the relevance of language (Temple and Young 2004). Where researchers signpost interpretation, they typically emphasise procedural issues, such as preparing interpreters for interviews, rather than their role, status or influence on the research (Williamson et al. 2011). Previous research involving migrant workers skims over the issues of interpreters and interpretation (Allain et al. 2013; EHRC 2014, 2012; Potter and Hamilton 2014; Scott et al. 2012). Yet interpreters are an important part of the data collection process, both in terms of their status and the way in which they engage with the data collection process.

As noted in section 4.3, there are difficulties associated with accessing migrants for research, especially those who are not proficient in the primary language of the destination country. Interpreters can provide a means to access “hidden voices” (Murray and Wynne 2001: 160) and so help to bridge linguistic and cultural divides between researchers and participants. In addition, discussing emotional or sensitive subjects in a non-native language can diminish the quality of the account, largely due to the additional thought and effort that is required for
speaking (Murray and Wynne 2001). These issues may have posed limitations for my research, since most interviews were conducted in English.

Interpretation was an issue I faced exclusively with the migrant participant group. I initially decided to not use interpreters, and instead planned to only recruit migrants who were proficient in English. My decision on whether potential participants were proficient in English was subjective, based on an initial conversation in which I explained the research to each of them. If the participants were able to communicate with me and summarise what I had told them without any significant communication barriers, then I judged this as sufficient for the research. Two factors influenced my initial decision not to use interpreters. First, there were limited financial resources available for my project. Williamson et al. (2011) note that using interpreters can be expensive and depends on available budgets. Hourly rates for interpreters range from £10 to £40 (National Careers Service 2015a), and for translators working on written documents, between £75 and £210 per document transcribed (National Careers Service 2015b). Based on these figures and 14 migrant participants, using interpreters for all interviews would have presented a financial obstacle to the research. As a side note, it would have been necessary to spend time finding appropriate interpreters for multiple languages.

Second, using interpreters raises concerns around the quality of data collected, since the presence of interpreters does not inherently increase the validity of data (Bjork Bramberg and Dahlberg 2013). Researchers can use interpreters in different ways, some of which may be more beneficial or appropriate to particular research contexts. For example, interpreters may take an active role in the data collection and ask their own follow-up questions, whereas in other cases, they take a more ‘hands-off’ approach, leaving the questions for the researcher to ask (Adamson and Donovan 2002; Kapborg and Berterö 2002). Hence, there is no single correct way to use interpreters, since their role may differ depending on the nature of the research setting, the researcher, and participants.
Interpreters may hold a position of influence or high social status within the participant’s community and social network (Williamson et al. 2011). This potential connection between the interpreter and participant may mean that participants feel less able to provide a full account of their thoughts or experiences, which would have consequences for the quality of data collected. For example, if the interpreter is a friend or family member, they may feel uncomfortable translating sensitive issues, and the participant may feel the same way when divulging sensitive information (Murray and Wynne 2001). Using independent interpreters has been cited as a means to address this obstacle (Murray and Wynne 2001), although it presents similar challenges because participants may feel less able to discuss sensitive issues with strangers. While discussing subjects in participants’ non-native language may diminish the quality of data to some extent, interpretation can filter the meaning of language, and could even affect the process of data collection. The presence of interpreters means that the interview becomes a “three-way production of data” (Murray and Wynne 2001: 165) between the participant, interpreter and researcher. Interpreters have traditionally been viewed as unbiased elements of data collection, however they are arguably key informants and take an active role in the generation of data (Temple and Young 2004).

Despite these limitations, during data collection it became evident that using a small amount of interpretation was both possible and desirable, which led me to use interpreters in a total of three interviews. My decision to use interpreters occurred part way through data collection. The staff in Migrant Central influenced my decision, who repeatedly told me that they knew migrants who had been mistreated at work in some way, but that they spoke little or no English. This lack of English is commonly cited in UK research as a contributing factor to migrants’ vulnerability in the labour market (EHRC 2012; Lever and Milbourne 2015; Potter and Hamilton 2014). In addition, members of staff were willing to interpret for free, which at least eased the financial burden that using interpreters would usually present.
Therefore, I adapted my approach and conducted three interpreter-facilitated interviews. To prepare the interpreters, I emphasised that participants may discuss sensitive issues around their employment experiences, and as with participants, was prepared to signpost them to support. The risk of harm to interpreters was low, since they were already aware of the participants’ circumstances. For the sake of consistency, I requested that the interpreters adhere to the questions I asked, and provide direct feedback to me without probing on their own initiative.

However, I acknowledge that interpreters still have an active role during interviews, because they choose one form of interpretation over others. The active role that interpreters have during interviews is linked to a consensus that providing precise, word for word translations is not possible (Adamson and Donovan 2002; Kapborg and Berterō 2002). Temple and Edwards (2002: 2) posit that there is no single correct way of translating either verbal or written forms of communication, referring to interpreters as “Aladdin in the enchanted vaults: spoiled for choice”. Just as the meaning of interactions derives from the subjective view of researchers, translators interpret text from their own perspectives (Temple 2002). In other words, interpreters bring their own assumptions and concerns to the research setting, just as researchers do.

There is disagreement over whether interpreters should adopt a limited role and base their questions on prompts from researchers, or whether they should use their own judgement and engage further in the discussion. According to Williamson et al. (2011) many researchers do not acknowledge these concerns around validity and influence of interpreters, yet interpreter-facilitated interviews can provide valid results if enough preparations and precautions are taken. I accept that using interpreters only in a small number of my interviews presents some limitations for the research sample, since I was unable to access many “hidden voices” (Murray and Wynne 2001: 160) of migrants who were not proficient in English. Therefore, the data would have been affected whether interpreters were used or not. Due to limited financial
resources and the problems of using interpreters, I largely maintained my original approach of conducting interviews in English.

4.6.2 Interviewing Experts

Accessing supply chain stakeholders sometimes proved to be time consuming and challenging. Before contacting businesses, I researched their organisation to see if they had a publicly accessible labour ethics policy, in order to facilitate an initial discussion. I approached the businesses by emphasising that I was interested in discussing their approach to labour ethics, and what problems they encountered in maintaining these standards. By emphasising that I was not out to ‘name and shame’ businesses, that I recognised their efforts at tackling labour exploitation, and that their participation would be confidential, most of those who responded were willing to participate. Despite my efforts at reaching out to supply chain businesses, initial response rates were poor. Many did not respond to initial emails or phone messages, even after follow-up contact. Previous work has highlighted the difficulties of accessing supply chain businesses (EHRC 2012; Holgate 2005; Lever and Milbourne 2015), even for experienced and well-resourced researchers. As Lilleker (2003) notes, building up trust and rapport with participants can be an essential if time consuming activity.

Qualitative research in the social sciences tends to consist of participants from marginalised groups, rather than those with strategic influence in organisations (Harvey 2010). While increasing numbers of researchers are conducting interviews with ‘expert’ or ‘elite’ groups (see: Goldstein 2002; Harvey 2011, 2010; Lilleker 2003; Mikecz 2012), this has traditionally been rare in social science research. Harvey (2010: 196) defines experts as those “who at the time the research was carried out predominantly occupied senior management positions and were influential decision makers” for their organisations. Experts may include those who occupy the top of the employment and income “pyramid” in their organisation (Woods 1998: 2104), but refers more to the person’s ability to shape strategy and policy within their own or other organisations.
Researchers’ eagerness to involve experts in their work has not always been matched by a critical consideration of methodological issues associated with interviewing them (Mikecz 2012), such as gaining access and interview conduct. Based on MacKenzie and Forde’s (2009) argument that research on migrant labour exploitation should involve a wider range of stakeholders besides migrants, I engaged with stakeholders who had some work-related interest in the food industry. A key advantage of interviewing experts is that they are able to provide insights on events and issues which may otherwise be publicly unavailable (Richards 1996: 200).

Developing trust with participants is important for any researcher, and is cited as a key consideration for accessing expert groups (Lilleker 2003). Yet this access can be particularly difficult to achieve with expert groups. Researchers may have to negotiate access with numerous gatekeepers before they can speak to an expert (Mikecz 2012). Experts are almost certainly time-bound by busy schedules, numerous commitments, and are highly sought after for their time (Aberbach and Rockman 2002). In my research, The GLAA, trade union and buyer participants all occupied strategic positions in their organisations where limited time was an issue, yet in most cases it was possible to access participants directly.

By using the research networks within the School of Law and University, it was relatively straightforward to contact the GLAA regulators. Having obtained the contact details of a senior GLAA employee from my first supervisor, I was able to contact him directly and discuss my research aims. This GLAA member was willing to help, and signposted other senior employees who could contribute to the research. It was still necessary for me to contact the regulators over several months in order to negotiate access, but contacting them during the earlier stages of the research helped to establish rapport and a manageable network of contacts. Unfortunately, most GLAA contacts were later unable to commit to research interviews, since their organisation was undergoing significant structural changes in line with
new legislation, which placed increasing pressure on their already limited time and resources. Therefore, these developments imply that the research process can be an unpredictable process, despite advance planning and preparation.

During expert interviews, researchers tend to be in less ‘powerful’ positions than the participant, largely due to the status of the interviewee, and especially if the interview takes place in the interviewee’s office, which is familiar territory for them (Mikecz 2012). Based on the issues highlighted around negotiating access, the participant is likely to have more influence over the interview length and setting than the researcher. Therefore, Mikecz (2012) highlights the importance of researchers being pro-active with the direction and conduct of the interview, including the questions under discussion. At the start of the interviews, I summarised my background and reiterated the research aims as a means to establish credibility and set the direction of discussion. Harvey (2010) suggests that meeting in neutral or public settings could help to offset the ‘power imbalance’ between the researcher and expert participants. However, such locations may have negative impacts on data collection, including noise and other distractions (Ritchie et al. 2003). The time and effort invested into accessing expert groups was useful for the research, since it was possible to obtain supply chain and regulatory perspectives that would otherwise have been unavailable.

4.6.3 Interview Contexts

As signposted in section 4.5, the interviews for this project were semi-structured, which provide some organisation to interview questions while still being open and flexible in style (Gillham 2000: 7). However, since the migrant participants were discussing their migration and employment experiences, there was an element of ‘narrative’ interviewing during the data collection. The loose structure of most interviews began with the participant discussing life in their home country, as well as their reason(s) and decision to migrate. The migration journey, securing work in the UK, and employment experiences followed this initial backstory, which provided a temporal flow to the interviews. Although narrative interviews seem to have a
considerable amount of theoretical baggage associated with them (Clandinin 2007), my interviews adhered to a core narrative premise that interviewees are story-tellers rather than respondents (Hollway and Jefferson 2000: 31). Therefore, I did not impose a strict order of questions, but instead adapted to what each participant felt was important to them as a means to draw out their story.

During the interviews with all participants, I asked open questions wherever possible in order to allow participants to develop their thoughts without any constraints. Experts prefer to expand on and justify their answers, rather than feeling constrained by closed questions (Harvey 2011), which provides further justification for using open questions. However, during data collection some closed questions were necessary, especially where migrant participants were less confident with their English and needed clarification. Related to questioning techniques, I sometimes needed to encourage migrant participants to say what they thought. Gillham (2000: 14) asserts that with open questions, researchers may need to prompt or probe beyond initial answers in order to encourage participants to provide a full account of their views. Having done casework with migrants before I began my fieldwork, I already had some insight into likely pitfalls. For instance, in some Asian cultures, saying 'no' or providing negative answers is considered rude (Elashmawi 1991). Instead of saying 'no', people may not give an answer rather than being dishonest, or may provide a more positive answer in order to please the interviewer (Reisinger 2009: 169). Where participants seemed to avoid providing negative answers, I addressed this issue by opening up the questions or making them less personal, so that they did not feel confined to provide a negative answer.

As discussed so far in this chapter, researchers need to develop good working relationships with a variety of people, from those in difficult conditions to those who hold positions of influence and authority (Ritchie et al. 2003: 143). This assertion reflects the fact that my research involved numerous participant groups, who differed in terms of background and status. For example, when discussing my research with the GLA participants, I could proceed
on the basis that they had prior understanding of labour exploitation and associated enforcement practices. However, with many of the migrant participants, especially those new to the UK and those with a less advanced language skills, it was necessary for me to explain my research at a more introductory level. This is one example of where I needed to alter my conduct depending on which participant group I was interacting with.

4.6.4 Ethical Considerations

I received ethical approval for this project from the University of Manchester in 2015. All participants were given pseudonyms so that they would not be identified or identifiable in the data analysis and subsequent dissemination. Having obtained permission to audio record the interviews from each participant, I kept these recordings until I had transcribed them. The audio recordings and transcripts were stored on a secure computer and remained in my office on university premises. I deleted the audio recordings following transcription in order to safeguard participants’ anonymity. During my data analysis, I printed the individual transcripts in order to help visualise key themes.

While I pursued an overt research approach with all participants, I had to use caution when approaching the supply chain businesses. I did not want the business participants to ‘shut down’ and refuse to engage with the research – an issue that Clark and Colling (2016: 9) term “dead-end interviews”. However, I did not disguise my status as a researcher, and informed each participant about the research process when gaining informed consent for interviews, which van Deventer (2009: 47) posits are key elements of overt research.

As a means to provide incentives for the migrant participants, I offered each of them a £10 gift voucher as a small acknowledgement for their time and contribution to the research. Noaks and Wincup (2004) assert that research is almost always exploitative, since the researcher is using other people’s views and experiences for their own purposes. Offering redress can be a way to avoid exploitation, although Ritter et al. (2003) urge caution, since the wrong amount
may be perceived as either an inducement, or a token gesture which devalues the respondents’ contributions. In most cases, the gift vouchers did not seem to be important to participants, since many of them were willing to participate regardless of incentives. Some participants did not accept the gift vouchers, which suggests that they were not significantly influenced by the prospect of receiving them.

### 4.7 Methods for Analysis

Qualitative researchers have traditionally neglected the data analysis process in comparison to data collection methods (Thomas and Harden 2007; Tuckett 2005). However, there have been efforts to demystify the processes that researchers could and should go through when conducting qualitative data analysis (Aronson 1995; Fereday and Muir-Cochrane 2006). I pursued a thematic analysis for this project, which represents one of the more common yet poorly discussed methods in qualitative research (Tuckett 2005). Thematic analysis has been linked to the position of critical realism (Attride-Stirling 2001; Braun and Clarke 2006), which was signposted in section 4.2. Like critical realism, thematic analysis can incorporate positivist and constructivist paradigms, since it is a flexible analysis method that allows inductive or data-driven analysis, as well as deductive or theory-driven approaches (Braun and Clarke 2006: 81). On its own merits, thematic analysis allows researchers to develop a ‘bottom up’ approach, whereby key issues or themes are identified from the data (Attride-Stirling 2001), in this case the interview material. This approach contrasts with more deductive means of analysis, whereby pre-determined hypotheses or analysis structures are imposed on the data.

However, it is possible for researchers to neglect the process of how they conduct analyses of their data. Braun and Clarke (2006) assert that thematic analyses are weakened if researchers do not establish how they conducted the analysis. While analytic processes are typically recursive rather than linear, the key stages of thematic networks involve coding material, identifying themes, then grouping these themes into a smaller number of “organising”
and “global” themes (Attride-Stirling 2001). This process allows researchers to summarise and interpret visual networks in order to develop their analysis. I used the qualitative analysis software NVivo as a tool to support me with coding data.

In terms of developing a thematic analysis, I first read through all transcripts and noted initial observations on key issues that the data seemed to contain. Using the aid of NVivo software, I then worked through each interview transcript, and began to code common and interesting features of the data. For example, a concern that almost all migrant participants referred to was a fear of losing their jobs. I initially coded all references to this under a node of ‘job loss’. Having worked through all transcripts and developed numerous codes, I began to organise these further. In some cases, this organisation involved unpacking initial nodes, but eventually led to several nodes being grouped together under a smaller number of broader themes. Referring again to the ‘fear of job loss’ example, upon further examination, this fear was sometimes based on personal experience of actual job dismissal, whereas in others, participants had been threatened with dismissal by their employers but retained their jobs. Distinguishing between these reasons allowed for a more rigorous analysis, and such nodes were eventually organised into an over-arching theme of migrants’ personal, day to day experiences of exploitation and harm in the workplace, which formed the basis of Chapter 6.

Regarding the reliability of the research data, it is possible that if researchers in future focused on migrants with legal immigration status and some English language skills, they would not encounter severe labour exploitation. Not only do these factors arguably help to reduce migrants’ vulnerability to labour exploitation, but any problems they discuss are more likely to fall in between the extremes of ‘decent work’ and modern slavery. In contrast, undocumented migrants may be more difficult to access due to fears over detention and deportation, with previous research suggesting that this group of workers are exposed to the most severe mistreatment (Potter and Hamilton 2014; Skrivankova 2014). Therefore, the methods used may consistently result in ‘routine’ or banal exploitation being uncovered.
4.8 Presentation of the Findings

When structuring the analysis, there were a number of options regarding presentation. One option would have been to work through each participant group in turn, such as migrant workers, labour intermediaries, and buyers. While this approach would have helped to distinguish between the views of participants, it would have resulted in some repetition and crossover of issues. Rather than working through every group of participants in turn, the subsequent analysis chapters were organised based on dominant themes from the data, which helped to draw out significant issues across a range of participant groups. In any event, given the different participant groups involved in the research, there were distinctions between the everyday experiences of migrants in the workplace, and how supply chain stakeholders explained the development of harmful and exploitative practices. A thematic approach helped to facilitate a more rigorous consideration of the issues, rather than a strict group by group account. I eventually organised the research data into four overarching themes: (i) migration-specific factors; (ii) individual experiences of exploitation and harm; (iii) structural explanations for exploitation and harm; and (iv) existing regulatory protections. These four overarching themes form the basis of Chapters 5 to 8 respectively.

While the subsequent data analysis chapters will elaborate on findings, this methodological approach has helped to challenge typical depictions of labour exploitation. Since most migrant participants were proficient in English and did not have irregular immigration status, they were arguably not as exposed to severe exploitative practices that are commonly depicted (Allain et al. 2013; Scott et al. 2012). However, the most severe exploitative practices should not be the sole focus of researchers and policy intervention, since routine exploitation also presents challenges, and is likely to occur more frequently (Skrivankova 2014). Therefore, the methodology used for this research has helped to reveal the routine, day to day practices of
exploitation. Most migrant participants discussed problems which could be harmful to them, but which fell short of the criminal-legal thresholds needed for modern slavery.

This routine exploitation is important and should not be dismissed as inconveniences or minor grievances, since many experiences may result in harm even if they are not reported to regulatory bodies or police. This issue of unreported incidents relates back to Greenfield and Paoli’s (2013) work on harm, since it is possible to consider incidents which have not been labelled as crimes, on the basis that ‘legitimate’ or non-criminalised activities may be suspected of generating harms (Greenfield and Paoli 2013). Since most of the data emerging from my methodological approach consists of unreported incidents, the concept of harm can be extended beyond ‘crimes’ to consider a wider range of labour abuses that may warrant further intervention.

4.9 Conclusion

This chapter has discussed key methodological challenges faced when accessing migrant and supply chain stakeholder participants. Previous research has demonstrated that accessing migrant workers and food supply chain stakeholders is problematic (Lever and Milbourne 2015), which was reflected during my own data collection. Although I encountered challenges when accessing ‘expert groups’ and using interpreters with some migrant participants, these were largely resolved by adopting a flexible approach and considering methodological issues which others have encountered elsewhere (Temple and Young 2004). In line with principles of thematic analysis, the coding process resulted in a number of over-arching themes used in order to structure the analysis chapters of the thesis, which are presented through Chapters 5 to 8.
Chapter 5: Migration Decisions and Challenges

5.1 Introduction

Before moving to destination countries, migrants may face challenges in their home countries, which vary depending on their geographic location and social background. The reasons for migration have been well established through discussions of push and pull factors, including natural disasters, conflict, and a desire for better living and working conditions (International Organization for Migration (IOM) 2014; Skeldon 2013). However, it is less clear in theoretical terms how migrants decide to move abroad when faced with the risks and uncertainties of push or pull factors (Williams and Baláž 2012). For example, there are risks associated with the migration process and what may happen later in destination countries, including harmful work practices. Yet migrants may accept these risks in the context of greater uncertainty; namely, the uncertainty of what could happen if they remain in their home countries, or if they do not accept low paid precarious work in destination countries.

The aim of this chapter is to illustrate the processes that migrant participants went through in deciding to come to the UK. Since the purpose of this research is not to analyse the harms associated with migration journeys, the chapter is relatively brief and does not cover all aspects relevant to migration decision making processes. The intention here is to establish some context about the migrant participants, thereby treating them as individuals with families, life stories and aspirations. Establishing this context will help to clarify in subsequent chapters how participants’ status as migrants may expose them to vulnerabilities within the labour market. The chapter begins by outlining challenges that participants encountered in their home countries, as well as what influenced their decisions to migrate. Factors associated with migration journeys, immigration status, and language barriers will be considered as providing a backdrop to subsequent harmful labour practices.
5.2 Conditions in Home Countries

Most migrant participants came from social backgrounds where material resources and work opportunities were limited, albeit no one reported living in absolute poverty. Nevertheless, many participants faced significant limitations in their home countries:

*I would say life there for people my age is quite hard, because we don’t have a benefits system, there’s no social support, social fund, nothing like that, if you don’t work you’ve got nothing. Even if you work so hard, if you don’t have a good job it’s hard for you to pay the rent, buy food, and it’s even harder to support a child and family. So I would say people still have a good life there, but we’ve got poor people.*

-Xiao-F-Chi-32

*My dad was a farmer, my mum was the owner of a small shop, and we all contributed to that in some way … we weren’t poor, we were in-between, just took life as it came. My parents offered anything they could to help me … they did their best, they wanted us to be happy, but circumstances stopped them sometimes.*

-Zaki-M-Nig-40

Xiao and Zaki highlight the importance of working as a means to obtain at least basic provisions for themselves and their families. Most participants had some form of working experience back home, usually in manual or low-skilled work such as agriculture, so were not new to the physical demands of food industry work when they arrived in the UK:

*Before I working for village, on a farm, working for farmer … with sheep, farm animals … At home I work on farm, I’m used to standing up and working.*

-Hakim-M-Irq-37

Since many participants had already worked in manual jobs such as farm work, some claimed that they did not mind working in other fields or factories in the UK because they were used to physically demanding work. It was not always clear whether participants were comparing their experiences in the UK with those of their home countries. Yet this possibility has wider implications for migrants' perceptions of work in destination countries. For instance, migrants
may tolerate some infringements if they perceive their work and working conditions to be better compared to home (Binford 2009). This comparison will be examined further in Chapter 6.

5.3 Migration Decisions

Migrant participants moved to the UK for various reasons, which is hardly surprising given that participants came from Eastern Europe, Africa, the Middle East, and the Far East. This section demonstrates a degree of complexity with migrants’ motivations, by suggesting that economic or financial reasons are multi-layered, and can contain other underlying factors such as family interests. In consequence, the distinction between ‘economic’ and ‘non-economic’ migration can be overly simplistic.

5.3.1 Better Opportunities

Most participants were motivated to come to the UK partially due to a lack of opportunities in their home countries. Part of this motivation was a desire for something better or ‘different’ with their lives, and that of their families. These desires were consistent across the participant group regardless of their age, sex, and country of birth:

*I chose to come in England because I think in Romania I not have all the conditions to show what I am, who I am, what I can do. And because I speak English I thought this country is proper for me and for my child.*

*Adriana-F-Rom-41*

*I guess there aren’t many opportunities in Nigeria, like you have to know somebody to get to that level that you want there. Unlike the UK, where you can just work hard, give it your best shot, nobody wants to know where you came from, your background, your college.*

*Zaki-M-Nig-40*

Despite this perception that the UK had better opportunities than their home countries, participants sometimes struggled over the decision to migrate, because this would mean leaving behind their families, and would generate future uncertainty. Therefore, more specific
push and pull factors besides ‘better opportunities’ helped participants decide whether to travel.

5.3.2 Unpacking Financial Goals

Financial or economic motivations were a large part of the reason why some migrant participants came to the UK. The Eastern European migrants in particular believed that they would be financially better off working in the UK when compared to home:

*If I’m in Romania the salary from one week here I have in one month. And from one month here I have maybe four or five months in Romania. It’s bigger … If I get the money here, and I convert to Romanian money, it’s a lot. But if I get the money in Romania, I can do nothing.*

*Adriana-F-Rom-41*

Adriana’s statement here is perhaps representative of the commonly cited reason that migrants have financial or economic goals in mind when they move to another country (Dench et al. 2006). Some migrants may think that financial benefits outweigh negative aspects such as exploitative work practices, because they remain financially better off compared to having no work at all (Mayer 2007a). Financial goals therefore seem to be a significant influencing factor for some migrants, which previous research supports (Dench et al. 2006; Pajnik 2016). However, when examined further, there is some complexity with migration decisions based on financial reasons, since the desire to earn money is often a means to an end, rather than an end in itself. When asked about their reasons for coming to the UK, many migrant participants prioritised family interests, whereby earning money was an obvious way to achieve those goals:

*… all this was better for my daughter here.*

*Adriana-F-Rom-41*
Therefore, it may be overly simplistic or misleading to conflate family interests with financial goals: albeit financial aspects should not be disregarded. It may be more accurate to assert that in some cases, financial goals are a means to an end, rather than an end in themselves. Clearly migrants having a job that is relatively well paid compared to home would be a key means of supporting their families. Similarly, remittance payments could be considered a family interest rather than a personal financial one, since the workers do not keep this money for themselves. Therefore, salaries provide a generalised means to achieve a range of goals. Only in a small number of cases did participants emphasise financial goals in order to become richer or to purchase better material goods, and this was in the context of wanting to establish their own businesses in future.

5.3.3 Conflict and Oppression

Aside from the ‘financial’ motivations for migration, non-European participants commonly cited unsafe conditions in their home countries as the primary reason for migration. Unsafe conditions were typically associated with participants fleeing from conflict zones or persecution. All participants citing these concerns came from African or Middle Eastern countries, which have a range of ‘push’ factors as demonstrated in the following extracts:

… they kill people on the streets, they shooting the people, the police, how the police are shooting people. But this situation made me leave my country. My uncle helped me with this, because he knew about this, he said it was not good, to live here. ‘You’re young, you’re going to be imprisoned for life, or you’re going to be … we can’t do anything for you.’ And they told me to leave the country.

Behrouz-M-Irn-26
My country, Somalia, is fighting for 22 years, where I live in my country, all the time there is fighting … Too many people are dead for no reason, because Somalia, I don’t know, there are people killed for no reason, I don’t know why. There are people living in great poverty because of this.

Abroon-M-Som-36

Almost all non-European participants came to the UK and claimed asylum, with or without their families. In terms of the migration decision, some participants like Behrouz felt that they were being forced out by family for their own safety, who influenced their decision to leave.

5.4 Migration Brokers and Journeys

5.4.1 Agency Involvement

Perhaps unsurprisingly, migrant participants travelled to the UK by different means, which was influenced by their geographic location as well as personal circumstances. For Eastern European participants, their journey was a relatively simple matter of obtaining flight or coach tickets in order to reach the UK. In some cases, they obtained means to travel through their own efforts or help from friends and family. In other cases, migrants paid work agencies, sometimes known as “migration brokers” (Renshaw 2016) a fee in their home countries, who assisted them with arranging travel, accommodation and work in the UK:

I pay a lot of money for this, maybe £1,200 … For Romanian agency to find me transport, a job and accommodation here.

Adriana-F-Rom-41

Few Eastern European participants highlighted problems with the migration journey arranged through agencies. However, one participant highlighted concerns associated with the journey, and felt that there was an element of deception in the way that some agencies facilitated migrants’ journeys:
There is this lady called Anastasia, and there were rumours that she gathers homeless people, lonely people, poor people in Lithuania that want to leave the country, she gathers all these people and helps them to get to England, for promises of work and accommodation. And once they’re here in the UK, they get into the hands of Romany people, gypsies, who then exploit these people for various work, like in the fields and taking money away.

Monika-F-Lit-46

Monika’s extract suggests that migrants may be just as easily recruited and exploited under the scope of legitimate agencies and legal means of travel as undocumented migrants or irregular travel. This extract may challenge common portrayals of migrants in exploitative work, whereby migrants enter destination countries through irregular means and are exploited by ‘criminal’ networks (Carrera and Guild 2016). There is an emerging theme from the data that unscrupulous employers may even prefer migrant workers to have legal immigration status and full working rights, because exploitative practices may be more difficult to detect under the cover of these legitimate provisions. This preference will be discussed further in Chapter 7.

Aside from agencies, a number of female participants travelled alone, which they felt was difficult, and indicated that other female migrants should not repeat the mistakes they made:

It’s difficult to be alone. It was difficult for me … or like a woman alone, is difficult … is not good, to stay alone here … it’s more good to stay if you have family. Example, if you have family with you, and children, it’s better to live here … I can give one advice for someone, other women now. I advise them to don’t make like me. I don’t know, someone, in the family here, a cousin, or friends, that can help them.

Raluca-F-Rom-28

Raluca was aware before she migrated that she would be travelling alone and that she did not know anyone in the UK. It is possible that she underestimated how difficult this journey would be. Alternatively, Raluca may have decided that the perceived gains of migration, which for her involved being able to save money, outweighed the risks of living alone with no established social network. Raluca’s circumstances serve as an example that although migrants do not
travel in a complete absence of information (Williams and Baláž 2012: 169), this prior knowledge is restricted due to uncertain future outcomes.

5.4.2 Irregular Means of Travel

Participants from African and Middle Eastern countries tended to face more complex and dangerous migration journeys. Since most non-European participants left their countries due to persecution or conflict, they often required assistance from brokers or smugglers who arranged false documentation and irregular means of travel. Family members of the participants typically had connections with these brokers, who provided their services in exchange for money. Participants reported paying between £5,000 to £10,000 to migration brokers in order to reach the UK, which suggests that those living in absolute poverty would not necessarily have the means to travel:

… my uncle contacted his friend, he’s not really a friend but he knows him a long time, he’s lived in Turkey, he knows many people who are smuggling people, so he passes migrants over to Greece.

Behrouz-M-Irn-26

The migration journeys varied, but the means of travel were usually some combination of walking, aeroplane, boat, train, and lorry. Some participants went through numerous countries in order to reach the UK, and reported dangerous travel conditions, as well as contact with state immigration or enforcement bodies. These points on the migration journey are perhaps best illustrated with a case study, since participants born outside the EU experienced similar journeys. An Iranian participant, Behrouz, unwittingly participated in the activities of an anti-government organisation, and his family strongly encouraged him to leave Iran. His uncle had arranged payment and means of travel with a group of smugglers known to the family.
Case Study: Behrouz

Behrouz began his journey on foot with his uncle’s contact, travelling to the Iran-Turkey border where they evaded police checkpoints by staying off the main roads. It was safer to travel at night, because there was less chance of being seen and shot at for trying to cross the border. Once at the border, Behrouz was passed over to contacts on the Turkish side. These contacts transported Behrouz to a Greek city in a lorry over a period of 2 weeks. Throughout this time the smugglers told Behrouz that he could not move around freely, in case he was arrested and deported. Behrouz found out several weeks later that the real reason for this restriction was due to payment problems back in Iran that his uncle later resolved.

After further travel on a small, overcrowded boat to Italy, Behrouz was supposed to travel by train from Rome to Paris. However, the trains were not running so he had to spend two nights sleeping in a park before he could get a train to Paris. Behrouz was later arrested in Paris, where the French authorities offered him residency, but he instead chose to proceed to the UK because he already had family there. Having contacted the smuggling group again, they arranged for Behrouz to enter the UK on a lorry from Calais. The lorry driver discovered Behrouz when they arrived in the UK: the police then detained him, and he claimed asylum. Since Behrouz was 16 years old at the time, he was placed with foster parents until he was granted refugee status.

There are numerous issues arising from Behrouz’ migration journey that could be examined in great detail, including the reliance on smugglers. It is not clear what, if any, precautions the smugglers took in order to ensure safe travel over the land and sea routes. Nor is it clear what the smugglers might have done if their payment issues were unresolved. Previous work indicates the poor treatment of detained asylum seekers and irregular migrants in destination countries (Bosworth 2007; Canning 2014). As noted in the introduction to this chapter, the purpose here is to provide some illustration and context for migrant participants’ backgrounds. Therefore, the migration journey and asylum process are not treated as central parts of the analysis. These factors are acknowledged as important in their own right, and suggest that migrants face additional challenges before entering the UK labour market.
5.4.3 Immigration Policies

As noted, non-European migrant participants typically claimed asylum when they arrived in the UK. Most participants found this process relatively straightforward:

... at the time I came, the situation in Iran and Iraq was really serious. When you say that I'm from the north, or Kurdish, they not have excuse, straight away they know what happened in Home Office, in immigration, they know, and straight away they ... they interview you what happened, they straight away give you a passport.

Behrouz-M-Irn-26

From Behrouz’s account, it seems that Kurdish asylum seekers from northern Iraq and Iran had few problems obtaining refugee status in the UK during the mid-2000s – especially unaccompanied children like Behrouz. However, the majority of asylum claims are rejected; in 2015, 64% of initial applications were refused, and this rate was even higher in previous years (Blinder 2016: 6), which demonstrates some restrictions associated with UK immigration policy. This point was reflected in the data, where some participants stated that their asylum claims were not straightforward:

After I’d been through the asylum process, I was refused. The evidence wasn’t good enough. But they said I had a right to appeal, to be looked into it again. I got married, they gave me the refugee status shortly after this ... Because of the nature of my entry to the UK, at first I wasn’t allowed to work. That process took a long time, a few years ...

Zaki-M-Nig-40

Zaki’s point supports existing data which shows that a large number of asylum claims are rejected (Blinder 2016). However, these restrictions do not necessarily deter people from trying to enter and remain in the UK, as evidenced by coverage of dangerous migration journeys (IOM 2014). Zaki refers to difficulties that asylum seekers have in accessing the UK labour market, who are not permitted to work until they have refugee status.
Yet this restriction does not deter all asylum seekers from working, and there have been examples of this in previous research (Vickers 2015). Since the subsistence support available to asylum seekers is arguably limited, some may feel as though working illegally is the only way they can support their family or themselves. As asylum seekers are not legally permitted to work (Home Office 2017), they are potentially more vulnerable to employers, who can exploit them with little fear of reprisal. Such employment is likely to be casual, less than the minimum wage, and in isolated areas (Holgate 2005). Asylum seekers may fear being reported to immigration authorities and subsequently deported if they complain (France 2016: 5). There were no examples in the data of participants who had worked while their asylum claims were ongoing, yet the issue is significant for asylum seekers, and suggests circumstances where migrants may be more vulnerable to exploitative labour practices (Vickers 2015). Similarly, there can be a vulnerability ‘gap’ when the initial refugee status expires:

… my visa for here was expiring, you know, the refugee status was expiring, so I had to apply for indefinite leave to remain. That’s done in about two or three months …

Ashkir-M-Som-26

While Ashkir did not refer to any problems with this application process, it highlights a potential vulnerability with current UK immigration policy. The vulnerability ‘gap’ is found in between the time that one visa expires and a new one is issued, whereby individuals technically become undocumented. While individuals can apply in advance of their existing visas expiring, not everyone does this; they may simply forget, or be unsure of how long the process will take. This evidence suggests that the UK’s immigration policy can unwittingly facilitate migrant labour exploitation, either by restricting access to the country or labour market. There seem to be few safeguards in place for vulnerability ‘gaps’ between old visas expiring and new ones being issued.
5.5 Education and Language Skills

5.5.1 Education and Overqualified Migrants

There was a clear distinction between the European and non-European migrant participants in terms of education⁹. Participants from Middle Eastern or African countries frequently reported that they had few or no educational qualifications, or had left school early while at home. However, participants expressed interest in pursuing their education now that they were more settled in the UK:

So I come here, I go to college, learn some English. In my country I didn’t even study, I told you at 12 years I left school.

Marwan-M-Syr-33

Most European participants had received university education back home, including some with postgraduate qualifications. The issue of highly educated migrants working in low-skilled jobs in destination countries is well established (Behtoui and Neergaard 2010; Tannock 2015). During data collection, this issue appears to remain relevant:

I saw people with Masters degrees, Master of engineering, Masters in management, I saw lots of different Masters degrees in [chocolate factory]. I said to them, why are you working here? You have a Masters, you should be working in HR, working in an office, working somewhere with good pay. And they told me, we cannot find a job … They told me, they said, yeah I know I shouldn’t be here … I should be working in HR now, but they say, I’m packing with you here, on the machine, with you, because this happens.

Behrouz-M-Irn-26

… most of them are low-skilled, I would say, and they work in low-skilled jobs. But maybe it’s wrong to say they’re low-skilled, some of them are really highly-skilled, but they come to the UK to do low-skilled jobs, that’s maybe the right way to put it. … When I ask them why do you do it, surely there are better jobs in Lithuania for you to do it, and you are a physiotherapist in Lithuania, why would you do it? And they just haven’t got like, you know, a good answer, a concrete answer to me.

Elena-Caseworker-2

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⁹ Refer to Table 2 in Chapter 4.
Behrouz and Elena reported the issue of overqualification through their observations of others, rather than having personal experience of this. However, it is not the most impoverished people who always migrate, but educated people from emerging middle classes who perceive better opportunities in other countries (Haynes 2009). Highly educated migrants may perceive low-skilled jobs as ‘stepping stones’ which will eventually lead to better work: whether this happens or not is another matter. Alternatively, migrants may perceive greater opportunities than those available to them. Some opportunities may be blocked to migrants if a proficient understanding of English is needed, which means that low paid and low-skilled work may be the only realistic options for them.

5.5.2 Importance of English

All migrant participants recognised the importance of understanding English while living and working in the UK. Learning English was seen as a skill that they needed for work in the UK, and as a generalised means to achieve various goals, including education and better work opportunities. The vast majority of participants had taken, or wanted to take steps to improve their English:

*I think English is important for many things, everywhere you go you need to speak English. For different jobs, yeah, it’s important, I went to two or three companies before this job, they said I needed to understand more English. If you don’t know English, how do you go to interview? I mean, it’s not easy …*

Marwan-M-Syr-33

*I went to college to improve my English, maybe after I can work there with the company, might be easier to communicate with people and the company. This is what I hope now, this is why I’m here.*

Navdar-M-Syr-40

Almost all migrant and stakeholder participants discussed language barriers and their implications, such as limited understanding of rights, poor treatment from employers, and fear
of job loss. The implications of these language barriers are important to understand, because they suggest how migrant workers may be vulnerable to exploitation and harm in ways that British workers are not. Participants felt that understanding at least basic English was essential for finding work, and for speaking up if there were problems at work. The EHRCs (2010) research in the meat-processing sector found that a lack of fluency in English was consistently linked to poor treatment, and less ability to access information or workplace procedures. As will be discussed in Chapter 6, migrants do not always challenge or report questionable labour practices, even if they understand English. Yet participants still felt that being able to communicate effectively was an important skill, which many lacked or had lacked in the past:

*Sometimes I used to feel that I wanted to speak, I wanted to say everything, but because my English wasn't good enough, I knew that I wouldn't be able to explain as I really wanted and everything. So you just simply leaving it and that's it. Because you are afraid that you won't be understood properly and everything … you need to know English, without English you are even in a worse position. Because then, how are you going to express yourself, what are you going to say, you cannot even say anything, and if you don't understand people and everything …*

**Klaudia-F-Pol-34**

Caseworkers who supported migrants on a day to day basis felt that having a good understanding of English was essential in order to address potential problems:

*... we always encourage them to learn the language as much as they can, because that communication is the key. Once you can communicate you can ask anybody, you can read things online, you can do research yourself, or you could be a bit more vocal if you know the language.*

**Ibrahim-Caseworker-3**

Most participants improved their English over time, having arrived in the UK with limited or no understanding of English. As noted in Chapter 4, although most migrant participants were proficient in English during the interviews, this was not necessarily the case when they first arrived in the UK. Communication barriers and migrants being unable to fully express
themselves in the workplace were consistent factors during the data collection. In some cases, if migrants do not have the language skills to report workplace problems, employers remain unaware of issues and do not receive complaints (EHRC 2010). Therefore, employers may assume that any problems occurring are not serious enough to complain about.

5.6 Conclusion

This chapter has outlined some key challenges that migrant participants encountered, including their reasons for migration, the migration journey, and how they may face additional communication barriers while working in the UK. The prospect of better life and work opportunities in the UK was a consistent motivating factor, which can be understood in financial or non-financial terms. During the migration journey, some participants were dependent on intermediaries, whether these operated as legitimate work agencies or illegitimate smugglers. The migration journey posed significant risks for some migrants, including unsafe border crossings. Once in the UK, most migrant participants faced language barriers, whereby they recognised language skills as an important communication skill, especially with regards to being vocal and taking action if there were problems in the workplace.

Based on the contextual factors discussed so far, it is possible to link migrants’ attitudes towards risk and uncertainty to their experiences of exploitation and harm in the labour market. Migration decisions may be based on incomplete information regarding the risks of staying in the home country, and conditions in the destination country – although decisions are rarely made in complete ignorance (Williams and Baláž 2012: 169). Migrants may not perceive risks in a negative manner, which means that these ‘edgeworkers’ actively seek to build resilience towards risk, which includes adapting to new living and working conditions. Therefore, a key issue emerging from this discussion is which parts of risk migrants consider during and after the migration journey (Williams and Baláž 2012: 177). For example, they may contemplate
more extreme issues such as death or imprisonment, which could be risks if they remain in their home country. This focus on extreme risks may lead them to neglect more foreseeable risks, such as problems finding work in the destination country or language barriers. The purpose of Chapter 6 is to draw out these normalised risks and potential harms that migrants encounter on a regular basis in the workplace.
Chapter 6: Individual Exploitation and Harm

6.1 Introduction

This findings chapter argues that routine labour exploitation is a significant issue and potentially affects a large number of workers in UK food supply chains. It draws primarily on the interviews conducted with migrant workers and caseworkers. First, the chapter provides a brief overview of migrant recruitment experiences and workplace demographics. Second, it examines the themes that begin to depict routine forms of exploitation and harm. Third, it considers why some migrants tolerate labour exploitation despite being aware of workplace problems, before finally discussing how exploitation can be understood as an embedded problem in food supply chains.

6.2 Recruitment Experiences and Workplace Demographics

Recruiting migrant labour has been essential for the UK food industry, where migrants tend to dominate secondary sector jobs (EHRC 2012). From the data, labour intermediaries and social networks typically facilitated migrants’ routes into employment. This section examines these issues in relation to harmful practices.

6.2.1 Deceptive Recruitment Practices

Most migrant participants found employment in the UK through labour intermediaries, including work agencies and gangmasters. Participants tended to rely on friends or word of mouth to contact these intermediaries. In some cases, their recruitment experiences indicated exploitation because intermediaries did not deliver on their end of the ‘deal’:

I pay some money to one agency, they said to me, you will go there and you will work in chicken factory. When I come here they say to me, I don’t have job for you … I don’t have money, I don’t have money to come back, it was difficult. I don’t have money for food, I don’t have friends where to borrow some money … I think it’s normal to explain to them what they’re gonna do, the next step, what they have to do. Not just leave you in this way, don’t tell you
nothing, and you stay and wait, but you don’t know what you wait for. It’s not normal. And when you start to call them, they tell you, go and search by yourself.

Raluca-F-Rom-28

The agency seemed to deceive Raluca here, since there was no job waiting for her as promised, despite her paying a fee to the agency that included a job-finding service. This apparent breach of contract and associated deception arguably makes the transaction exploitative, due to the lack of ‘fairness’ demonstrated by the agency in honouring their obligation to find Raluca employment. Raluca faced short term financial problems due to the agency’s failure to uphold their agreement to find accommodation and work in exchange for money. While Raluca found another job after several weeks, this example illustrates that some labour providers deceive workers from the recruitment phase onwards. Perhaps more importantly in the context of harm, the agency’s (lack of) action may have been unintentional, or at least not malicious; there may have been a bureaucratic oversight, for example. Nevertheless, this problem exposed Raluca to harm, including a lack of salary to pay for basic goods in the short term, as well as the risk of homelessness if she could not cover her accommodation expenses. Other participants discussed more extreme forms of deception with the recruitment process:

There is this lady called Anastasia, and there were rumours that she gathers homeless people, lonely people, poor people in Lithuania that want to leave the country, she gathers all these people and helps them to get to England, for promises of work and accommodation. And once they’re here in the UK, they get into the hands of Romany people, gypsies, who then exploit these people for various work, like in the fields and taking money away … one of her friends, one of the friends who actually came to England was exploited, he managed to escape from the gypsies and went back to Lithuania. These gangmasters, you would say. So he … warned Monika not to get involved with these people and this lady called Anastasia, because she will end up in the same situation with gangmasters who exploit people. But her other two friends were very curious about all these big opportunities in England, so they suggested to Monika, well why don’t we go and try to see what’s actually happening there, maybe there are some good opportunities and good jobs?

Monika-F-Lit-46
Interestingly, Monika and her friends were aware of the risks associated with travelling to and working in the UK through the intermediary. Despite this risk, they decided to proceed because ‘big opportunities’ might have outweighed the risks of being mistreated. However, once in the UK Monika began working for the gangmaster, which ‘Anastasia’ facilitated. Monika was subject to overcrowded accommodation, unauthorised deductions from her salary, and cold working conditions with no protective clothing. To make matters worse, other Lithuanian workers gained the gangmasters’ trust, and were paid to return to Lithuania in order to recruit others, by deceiving them to come to the UK for promises of good money and work. This suggests that the ‘exploited’ may become the ‘exploiters’.

The extracts imply that deception may be embedded in some recruitment practices. Since secondary food industry jobs have a high turnover of staff, employers rely on a flexible and constant flow of new applicants (MacKenzie and Forde 2009). Some employers may be aware from prior experience that new migrants are unlikely to challenge work conditions, and take advantage of this when recruiting new workers. Others may simply not have sufficient administration systems to monitor all applicants, yet the harmful consequences can be similar. Monika and Raluca’s extracts suggest deception, and at least in Monika’s case, the possibility of severe exploitation. However, most migrant participants entered employment relationships in the absence of deception, and were aware of the work that they would be doing:

_A friend of mine mentioned, because we were just talking, we were just talking in the town centre. I told him I was looking for work, and he said he knew of jobs that were going, in this meat factory place. He said I should register with the agency and see what happens … there weren’t any nasty surprises, because when you signed the contract with the agency, they tell you what to expect and everything._

_Zaki-M-Nig-40_

In Zaki’s case, ‘what to expect’ was a zero-hours contract that offered little in terms of job security and regular work hours. Yet many participants who lacked experience working in the UK food industry struggled to get their first job. In other words, participants were sometimes
grateful to get any work rather than no work, regardless of the job security and conditions. This issue links into the assertion that migrants may tolerate exploitative work in the context of limited alternative options – with or without deception (Binford 2009), which will be discussed further in section 6.4.

More widely, there may be differences between the recruitment process, which leads to migrants getting their first job, to subsequent jobs obtained by migrants using their own connections and resources. It is possible that the first job may be the most difficult to obtain, since new migrants are likely to lack prior experience of working in the UK. However, finding their next job may be easier, since they are more experienced, and have likely improved their social networks, as well as their understanding of employment rights. This suggests that there are embedded vulnerabilities and harmful impacts associated with different means of recruitment.

6.2.2. Few British Workers

Once they had secured employment, most migrant participants found that the vast majority of other workers were migrants:

… in the factory here there are lots of European people. I would say 70%, 85% of employees working in [chocolate factory] come from European countries. Kurdish people, Iranian, Latvian, Poles, Romanian …

Navdar-M-Syr-40

Mostly it was Eastern Europeans, Indian people, people from Pakistan, however I worked in many many factories and fields, I’ve never ever seen even one British person working … they would never ever work for this amount of money. A British person would never go for this kind of money, in the factories, in the fields.

Monika-F-Lit-46

Therefore, British workers seemed to be in a minority, which was an opinion confirmed by the labour providers in this research:
… we advertised a fair amount in the Jobcentre, anyone was welcome to apply. The number of times we get any British applicants is very, very rare, I mean, maybe two or three people per year, when you think that we employ and supply hundreds of people every year, it really is 97%, 98% foreign.

Brian-Gangmaster-2

The perception appears to be that the vast majority of workers in the UK food industry are migrants. These opinions should be treated with some caution, since official figures indicate that approximately 40% of food industry employees are migrants – although this percentage has been steadily increasing (Rienzo 2016: 5). Nevertheless, these figures may not cover all labour subcontracting chains that businesses use, where the presence of migrants may be particularly high, especially those with irregular immigration status. Participants stated that while most ‘grassroots’ workers doing field and factory work were migrants, junior and senior management tended to be British:

Actually, I don’t remember seeing any British workers there, apart from the managers and big bosses.

Ashkir-M-Som-26

The data suggests that the UK food industry contains a relatively small number of full-time, permanent, higher-paid jobs occupied by British people, alongside a larger number of part-time, flexible, lower-paid jobs which many migrants occupy. As noted in Chapter 3, this ‘dual labour market’ (Plore 1979) in food supply chains consists of migrants typically occupying insecure secondary sector jobs, which have few in-work benefits such as paid sick leave.

6.3 Exploitative and Harmful Working Experiences

As argued in the literature review, previous research usually overlooks routine labour exploitation in theoretical and empirical terms. The purpose of this section is to discuss routine exploitation and harm based on the research findings. It is here that the routine, banal, and
embedded aspects of labour exploitation become clear, since workers seem to be better off than having no work at all, but are worse off than they should be, were they treated fairly. Yet workers may accept these practices as being a ‘normal’ part of their jobs, or at least necessary to accept if they want to continue in their role. Hence, workers may have been harmed, but have still made relative gains when compared to having no work at all. Key issues of this section include: substandard accommodation, underpayment, physically demanding and intense work, poor safety practices, personal injuries, and abusive workplace interactions. This routine exploitation and harm is important because it illustrates the repetitive and mundane features of various work pressures.

6.3.1 Substandard Accommodation

Gangmasters or farmers provided accommodation to some migrant participants as part of their employment. Other participants paid agencies in their home countries to find accommodation in the UK, but this was not attached to their employment. Participants tended to describe subtle problems with their accommodation, which suggested a lack of care from employers:

*He told me what my friend had said, that … I’d live in a caravan near the farm with other workers … The guy said he would send someone to take a look and fix the, the generator, the machine, but never did … maybe two or three times a week the machine wouldn’t be working properly, but we just had to get on with it and use what we could.*

*Ashkir-M-Som-26*

For clarity, ‘the generator’ connected electricity to the caravan, which Ashkir shared with six other migrant workers. The workers sometimes had no electricity in order to cook, wash and clean, despite complaining frequently to the employer. These issues suggest indifference rather than malice on the employer’s part for not maintaining accommodation standards, especially since the employer was deducting accommodation expenses from workers’ salaries. As with the recruitment agencies, the transaction here is arguably exploitative, because the employer appears to be taking unfair advantage of workers by not delivering
service paid for through wage deductions. If this practice is repetitive and not rectified, there is potential here for harm against material interests, in the form of unjustified deductions from wages. Therefore, subtle problems can persist if they are not addressed. Yet these subtle forms of mistreatment somewhat contrast with more ‘newsworthy’ and archetypal examples of accommodation problems:

There were some clients with tied accommodation for these kind of jobs, with, you know, the gangmasters … they were complaining very much about overcrowding. Overcrowded houses that they were staying in, there were maybe 20 people in a room, sleeping anywhere, dirty rooms, beds, sheets …

Angelika-Caseworker-1

Angelika highlights serious accommodation problems, whereby employers seek to minimise costs by providing poor housing and facilities. Previous work has documented the degrading, unhygienic, and overcrowded aspects of accommodation that some labour intermediaries provide (Pollard 2006). However, the interviews here suggest that accommodation problems are more subtle and routine. The severe examples that Angelika highlights are important, but are more likely to receive public coverage, which means that a significant amount of routine exploitation and harm remains ‘under the radar’.

6.3.2 Payment Problems

No participants stated that their full salaries had been deliberately withheld, or that there were obvious attempts by their employers to do so. However, some were paid late or received the wrong amount:

… we weren’t getting paid for the first two weeks, it took them ages to sort this out. By the end of the week you should get your money, but this wasn’t always happening. And when you do get the pay, it’s lower than you expect, not just because of the tax, but the agency take some of the money as a benefit to them, for helping you find the work.

Ashkir-M-Som-26
These problems were significant for most participants, who had bills to pay or families to provide for, and had little spare money to cover these costs until they received payment. In addition, being paid in cash, and not receiving payslips were common features of working in fields, factories, and other food outlets. Some participants were paid on piece rates, based on the number of items they produced, regardless of the time this took. Therefore, researchers tend to conclude that hourly rates are preferable to piece rates (TUC 2008). As with substandard accommodation, these exploitative practices may have resulted from employer indifference or bureaucratic oversight, rather than malicious intent. Whether payment problems were deliberate or unintentional, many participants struggled to pay their rent or other expenses because of this, and did not usually have spare money. Even in extreme cases, migrant workers appeared to receive some payment:

… they pay them way less than the minimum income, so for example they’d pay £3, or maybe £4, and on top of that they will say, okay, this is how much you earn per hour, but because we accommodate you, we give you food, so after deductions this much comes out. So the clients will get shocked, you know, I wasn’t in a hotel, how come you’ve taken this much money? Yes, because of accommodation, because of food, because of clothes, the washing machine there, this and that.

Ibrahim-Caseworker-3

Unlawful deductions from salary, as well as non-payment of the National Minimum Wage (NMW) are common findings in other research (Barrientos 2013: 1063; McKay et al. 2006), and seem prominent in severe cases of exploitation. The data here suggests that payment problems are likely to be embedded in daily business practices or bureaucratic oversights. Nevertheless, the harm here may result from setbacks to workers’ material interests, with possible ancillary harms if workers dispute their pay and lose their jobs.

6.3.3 Work Pressures and Speed

Regarding the daily experiences of migrant workers, most participants recognised that business pressures and the need to meet targets were catalysts for exploitative and harmful
practices that occurred in the workplace. These practices ranged from intentional and direct acts of abuse from managers, to unintentional and indirect acts, or even omissions, such as a lack of health and safety training. The need to meet targets was important in most workplaces, whether in fields, factories, or other food outlets. Targets may indicate individual worker performance, but participants had concerns with these:

*In general, we can’t complete the target because it’s so high for us. Sometimes it appears on the payslip that you did not complete the target, but on the screen it says you have, I think only because they want us to work work work.*

Adriana-F-Rom-41

Not only does Adriana suggest that targets were associated with intense pressure to work, she indicates that there were financial penalties for not meeting targets, as reflected in her salary. As in other sectors, business targets are typically time-bound and require a sense of urgency, especially if targets are geared towards customers, which in the food industry refers to buyers and their demands for ‘just in time’ products (Walters and James 2009). It is possible that a wider workplace shift towards individual targets and monitoring contributes to this intensity (Scott 2017). Therefore, from workers’ perspectives, the need to work fast was closely associated with meeting targets:

*Once they sent me home because I was too slow, in the middle of the day, because they were timing people and looking at what you’re doing, and if they didn’t like it they would send you home. So this is another pressure … Basically you feel like you are trapped there, and you are in deep water, under pressure, and you just want to explode.*

Marcelina-F-Pol-33

The pressure that Marcelina highlights in relation to the need to work fast was representative of most migrant participants. Some acknowledged that the principle of working towards targets was helpful so that workers did not become lazy. Yet others felt that the fast work needed in order to meet targets could be physically and mentally exhausting. As with the features of work discussed so far, these practices appear to be legitimate business functions, but have the
potential to contain exploitative dynamics and so result in harm, especially if monitoring becomes excessive.

6.3.4 Abuse from Employers

A problem with workplace pressure and the need to work fast includes the way in which managers enforced targets and ‘encouraged’ migrants to work harder. Although some participants reported friendly working relationships with managers and employers, more frequently this was not the case. Participants did not feel as though managers always treated them with respect, and in some cases reported instances of verbal abuse:

… some of the supervisors they used to shout, shout, literally shout like at a small child, at employees who were not doing the job properly …
Klaudia-F-Pol-34

… people are being yelled at, like I literally see some supervisors and managers screaming in peoples’ faces. But this is not good for people or for their work.
Zaki-M-Nig-40

When explaining why some employers resort to verbal abuse, there are a number of potential explanations beyond them being ‘bad employers’. Participants recognised that employers faced their own pressures to meet targets and orders within a limited time frame. This recognition links with the dynamics of many supply chains, where buyers, particularly large retailers, place a significant amount of pressure on their suppliers to meet orders for products (Robinson 2010). When coupled with a lack of English language skills, participants felt that this created tension between management and employees, who were not always able to communicate and fully understand each other. These pressures may help to explain why some managers verbally abuse migrant workers – although they do not excuse it. Instances of physical abuse from management seemed more rare than verbal abuse, but some participants observed this occurring:
I’m not saying every single supervisor was like that, but I’m just giving an example of this one. So throwing boxes at people and everything, and you couldn’t really do anything.

Klaudia-F-Pol-34

… these Roma families etc were bringing people here, exploiting them, taking off all the documents, giving them £10 or something a week, for food. Beating them if they don’t want to do the work, or if they try to run.

Angelika-Caseworker-1

Physical abuse is commonly cited as a means for employers to control and manipulate workers, especially in cases of severe exploitation (Wilkinson 2010), since there tends to be a greater degree of individual domination over workers. However, the data suggests that physical abuse or direct coercion is rare, and not an essential factor for routine exploitative labour practices to occur. These verbal and physical forms of abuse are intentional, direct harms, where individual employers are the perpetrators. Arguably employers face their own pressures which may explain their frustration with some workers, but this fails to explain why some employers abuse their employees and others do not.

6.3.5 Physically Demanding Work

Participants associated physically demanding work with workplace targets and pressures. As discussed in Chapter 3, such conditions typically consist of ‘3D’ work, which is difficult, dirty, and dangerous. The physical demands of food industry work were common experiences across the migrant participant group:

One colleague has some programme on the phone and measures how many times, how many steps we do between screens in one night. And was like 30km in one night …

Adriana-F-Rom-41

… it is very hard work … there can be long hours, it’s very demanding, and you have to bend, it’s not like a standing job. It’s quite a physically demanding job, and I don’t think there are many people who want to do it.

Klara-Gangmaster-1
Interestingly, Adriana mentions that the number of steps were measured over the course of one night. Most participants who had worked in food factories had experience of 12-hour night shifts, which were associated with increased feelings of fatigue, as well as less stringent health, safety and hygiene practices. Since some food factories were in isolated locations, the company arranged transport home, which may seem like an in-work benefit. However, participants reported poor oversight of this transport which resulted in a lack of sleep and further exhaustion:

… sometimes it takes four hours … example, you finish work at five in the morning … I go to the bus, and the driver says, we have to wait until 6.30. One hour and 30 minutes you just stay there and wait. After one hour and 30 minutes that you wait, staying there, he says that we have to take some other people back to another depot, so that’s another half hour, and when you get back to the city after another hour, it’s very full, and you come home at eight o’clock. Raluca-F-Rom-28

For factories that are open 24 hours a day, the physical demands of work seemed especially prominent for those doing night shifts, since participants found it difficult to sleep during the day, which can have longer term health impacts (TUC 2008). Physically demanding tasks are intrinsic aspects of food industry work, which brings into question whether outcomes are harmful or just ‘part of the job’. Catching chickens, carrying boxes of fruit to transport vehicles, and working in extreme temperatures, for example, are all typical daily activities that migrants undertake. However, these physical demands are usually associated with health and safety hazards, which employers are obliged to mitigate or prevent (HSE 2015: 9). Associated with these hazardous work conditions, many participants spent long periods of time in hazardous cold working conditions. Cold temperatures did not only apply to those working outside in the fields, but to chilled and frozen areas of food factories:

… in the factory, there are different kinds of temperatures, you have the freezer, the cold room, the chilled room, and normal temperatures … The company doesn’t provide you with special clothing, you have to provide clothing for yourself. But sometimes you’re moving from one area to another for long periods of time, so you just say, hang on, let me put on an extra layer
of clothing ... sometimes you don’t get chance to put on extra layers, so you’re moving from normal temperature to freezing without extra layers …
Zaki-M-Nig-40

Zaki implies that taking extra time to add or remove additional layers of clothing is an inconvenience to employers, rather than standard health and safety practice. Exposure to cold temperatures over a sustained period of time is arguably a key part of field and factory work. Yet employers still have a duty of care to ensure that their workers have appropriate protective clothing, and to limit this exposure by providing breaks or rotating work (HSE 2013). Previous research suggests that working in cold conditions over sustained periods, particularly without protective clothing, can cause various illnesses, including headaches, colds, longer-term joint problems, and even miscarriages (Holgate 2005: 470; Lloyd and James 2008: 725). Given the potentially harmful implications of cold working conditions, it seems especially important to enforce good practice as recommended by the HSE (2013), which does not appear to consistently be the case.

6.3.6 Intense Work

As part of physically demanding work, most participants complained about long working hours over a sustained period of time:

... another thing I don’t like, is seeing people work seven days a week, for 12-hour shifts. And this is not good for people, seven days. And they’re giving people seven days, they’re not telling them that this is not good for people, there’s going to be problems, people working seven days, 12 hours, it’s too much. I saw people who were dizzy, losing control really ...
Behrouz-M-Irn-26

Since a large amount of work in the UK food industry is based on flexible or zero-hours contracts, some workers may accept long and intense working hours whenever they can. The insecurity of some jobs means that labour is in high demand one week, but not the next. Alternatively, Monika suggested employer neglect regarding her own working hours:
... in one agency, I worked 48 hours without stopping, and nobody even noticed, and eventually they paid me, it was 131 hours in a week, and I didn't work for another three weeks, because it was illegal to show on the payslip that someone worked 131 hours per week.

Monika-F-Lit-46

Monika insisted that no one coerced her to work for 131 hours, but the assertion that her employer did not notice this suggests a lack of care and oversight. Monika explained that she wanted to earn as much money as possible and was willing to work hard, which may explain her tacit acceptance of a 131-hour shift. This example was not representative of most participants’ experiences, but demonstrates the consequences of oversights. Limited rest breaks were closely associated with long work shifts, whereby most participants felt that there were too few breaks in order to meet the physical demands of field and factory work:

*Three breaks are not enough if you ask me, because for 12 hours you are busy with the food, standing up, you cannot sit on a chair, for 12 hours you stand. That is not good if you ask me, I think at least four breaks would be better than three breaks, four breaks for 20 or 25 minutes, also good for the health and good for the person, you are very busy and there is lots of noise in the factory …*

Navdar-M-Syr-40

Navdar suggests that workers were physically tired due to long shifts, coupled with a lack of breaks. Participants stated that managers rigorously monitored breaks, and that they imposed penalties for taking longer than the permitted time. For instance, some migrants stated that pay was deducted from their salary if they returned late, or in extreme cases, witnesses others being sacked on the spot. However, employers did not appear to discourage toilet breaks to the extent that they humiliated workers by requiring them to wear nappies, as was illustrated in recent research (Oxfam 2016). As highlighted in Chapters 2 and 3, from a harm perspective, Scott (2017) argues that secondary sector work in the food industry tends to be associated with intense levels of control over workers. While this control is necessary to some extent,
exploitation and harm may emerge when workplace controls become excessive (Scott 2017), which this oversight of rest and toilet breaks suggests.

6.3.7 Lack of Health and Safety Training

Based on the exploitative and harmful experiences discussed so far, almost all migrant participants expressed that health and safety training was inadequate. Their training appeared to be superficial at best, or non-existent at worst:

*When you start at the company, they sit you in front of a TV, where some guys are talking about health and safety ... But when you start working it’s different, everybody tells you to carry on, carry on. Even the guy who delivered the health and safety session and showed you the TV training, as soon as you start working he’ll say to you, move this one, why are you not moving this one? So it’s like the training didn’t matter because they just don’t care after they’ve showed you the videos, it’s like a tick in the box. I’m sure that with my training group, at least half the people there had no idea what the people were saying anyway, because the training was all in English ... So it’s different in practice ...*

**Abroon-M-Som-36**

*They give you jackets and boots, that’s it. They give you a knife straight away, they tell you to start cutting chickens straight away. They put you on the line, they don’t give you any health and safety training.*

**Behrouz-M-Irn-26**

These extracts suggest that health and safety is not necessarily a business priority, and that employers may regard training as a formality that is included in workplace inductions but not enforced in practice. Yet comprehensive and regular training is arguably an integral part of workers’ safety. Some migrants even felt that management did not care about health and safety as long as production was not affected. Even safety notices or signs that are intended to provide reminders may only be available in English, which is not helpful for migrants if they lack the necessary language skills.
6.3.8 Physical Injuries

It may be unsurprising that the accumulation of physically demanding manual work, long working hours, and restricted rest breaks in the context of poor health and safety amounted to workplace injuries, some of them serious:

*I saw one guy who cut his hand last week. He cut his hand really badly, very deep, his finger’s not working … He said, it’s just the managers, this is my first week here, they give me a knife. He told me to go and pack chickens. And he cut the knife here [points to hand], he cut it really deeply, and he get operations. His finger is not working, because of no health and safety, there is no health and safety there, and there’s evidence here.*

**Behrouz-M-Irn-26**

Other injuries typically consisted of back problems caused by heavy lifting, as well as injuries to hands and legs, associated with repetitive strain disorder. A significant amount of food industry work consists of repetitive tasks which can become strenuous over time (Lloyd and James 2008: 725). Typical activities include bending down, lifting items, and repetitive hand movements, such as picking fruit or packing food into boxes. There were some indications of pregnant workers who were subject to the same work pressures as others. While no participants indicated that they had personal experience of miscarriages, they did refer to such problems:

*I’m sure this kind of thing happened, miscarriages and everything, especially at the very beginning. And at the very beginning, basically, okay, certificate, you’re not going to get within the first three months, so there is no certificate, so they won’t believe you. And this is the most sensitive time, the time when you can actually, you know, lose your baby, so, I’m sure many cases was like that.*

**Klaudia-F-Pol-34**

Klaudia here is referring to the Maternity Certificate issued to women in order to confirm their pregnancy and expected ‘week of confinement’, which allows them to claim Statutory Maternity Pay (Department for Work and Pensions (DWP) 2015). Since these certificates are usually issued no sooner than approximately four months into the pregnancy (DWP 2015),
female workers during these earlier stages are more vulnerable. Importantly, medical evidence demonstrates that the first four months of a pregnancy are more dangerous for risk of miscarriages (Ammon Avalos et al. 2012). Unfortunately for many workers in the food industry, their employers do not always take pregnancies seriously (EHRC 2014, 2010; Holgate 2005). It is possible that if pregnant workers are employed through intermediaries, field or factory management may assume that the intermediaries as the employers would have already taken precautionary measures, which is one example of how responsibility for workers’ well-being can become blurred through subcontracting. Therefore, as with other harms discussed so far, the issue may be one of omission and neglect, rather than malice.

A minority of participants felt that individual workers were responsible for their own injuries, rather than management policies and oversight:

… I think people got injured because of their own foolishness. At the end of the day, the rules are there to be obeyed. It’s not really anybody’s fault except yourself … the management are not there to be babysitting you. So if you move a pallet, put it somewhere else, and then trip over it if you move backwards or something, this is your fault, you’re the one who moved the pallet … So the health and safety issues, they are just individuals who don’t follow the rules … you need to use your common sense. I think the safety is there.
Zaki-M-Nig-40

Most participants felt that management did not do enough to enforce health and safety standards, therefore Zaki’s opinion was not representative of the data. Nevertheless, the extract suggests that some workers are more willing than others to take the notion of individual responsibility more seriously than others. While not every workplace injury likely arises due to poor training and oversight, this demonstrates the complexity of whether injuries are regarded as accidents or not. Workplace injuries and ‘safety crimes’ have a strong grounding in the corporate crime literature, whereby incidents are commonly depicted as accidents, and individual workers are blamed for being clumsy or unlucky (Tombs and Whyte 2007). Regarding the prevalence of workplace injuries, official figures represent only a fraction of
actual incidents (Tombs 2016: 25). This underreporting is partially because workers are unlikely to see themselves as victims of corporate harm, but may instead blame themselves for their injuries.

6.3.9 Impacts on Mental Health

Aside from the physical injuries that participants experienced or witnessed, the demands of their work sometimes resulted in psychological and mental health problems:

… sometimes I remember when I used to come home, I used to cry, this happened on many occasions … my husband remembers how exhausted I was at the end of the day. Mainly physically, but … mentally as well.

Klaudia-F-Pol-34

A small number of participants felt depressed due to the demands of their work. Mental health issues may be more difficult to notice and explain when compared to more obvious physical injuries. One participant stated that other workers used drugs as a means to stay alert and manage the impacts on their mental health:

Sometimes they would test people for drugs, but never health and safety … Yeah, some people came to work with drugs, or had taken drugs, and were working … there are drugs that stop you feeling tired, you can carry on, you can do everything, yeah? All night you can carry on, and this was happening a lot … People took them to stay alert, to stay active, especially for the night shifts, and at first there were less drug tests at night. Others took drugs because they weren’t happy with their work, they were stressed, depressed.

Abroon-M-Som-36

While using drugs as a coping mechanism for strenuous work was not a significant theme from the data, it suggests that some workers’ conditions are physically and mentally demanding to the extent that they feel it is necessary to turn to drug use. Abroon did not confirm what type of drugs the factory workers had taken, but it is possible that they used stimulants, which increase activity of the body and mind (National Institute on Drug Abuse
Work-related stress can be a catalyst for alcohol and other substance abuse (Wiesner et al. 2005), which potentially generates remote harms that affect workers. It seems ironic that employers may conduct routine drug tests on workers, which ultimately originate from stress that they help to facilitate in the first place. Workers under the influence of drugs in food production is dangerous due to potential health, safety and hygiene issues, as well as the damaging side effects of some drugs. However, employers may find a more constructive and longer-term solution if they addressed underlying factors that encourage workers to take drugs, instead of reactively drug testing and dismissing workers.

6.3.10 Workplace Harassment

Aside from poor treatment by employers, some participants expressed concerns with their co-workers. Some of these frustrations included cases of harassment and bullying from other migrants. There were tensions amongst workers along the lines of gender, nationality, and ethnicity:

I don’t want to be, I don’t want to sound … racist, or I don’t know, offensive, but I had lots of problems with Kurdish men … Basically, we were doing the chocolate on the line, we were like, segregating, selecting, so the bad chocolate we had to put in separate bins. It’s like scrap, and at the end of the day you had to take the bins with the scrap to the warehouse … It was very heavy, it’s not a job for women. And I asked one man, one Kurdish man to help me with this … He started arguing with me, shouting in front of everyone, it was like a huge argument, I was shocked. And he said, it’s because you didn’t say please … I said, I’ve said please, I always say to everyone … Simply, he just wanted to be difficult …

Klaudia-F-Pol-34

It is unclear from the research whether the Kurdish men in this context would have reacted in a similar manner had Klaudia been British, or if a male worker had asked for help. Nevertheless, her experience suggests that there can be significant tension between different groups of workers, which previous work discusses along the lines of sex, nationality and ethnicity (McCollum and Findlay 2015; McDowell et al. 2007). As noted in Chapter 3.2.1, some
employers stereotype workers based on such characteristics (EHRC 2010), so it is possible that a number of workers do the same.

The problems occurring amongst co-workers suggest at least three important points regarding harmful practices in the food industry. First, not all possible harms affecting workers are exploitative. The actions of co-workers highlighted in this section might be considered harassment, bullying, or intimidation, but these terms are distinct from labour exploitation as highlighted in Chapter 2. Second, and related to the first point, it may be overly simplistic to refer to a generic group of ‘migrant workers’ who occupy low-skilled work. To use this term may assume worker solidarity and homogeneity, whereas the data suggests that there can be significant divisions amongst workers across cultures, genders, and nationalities. This point is especially relevant in secondary sector food work, which contains multiple nationalities and ethnicities (Lever and Milbourne 2015). Third, and based on the first two points, the implication here is that harmful practices occurring in food supply chains are not just an issue of ‘bad employers’ and poor management practices, since tension can arise between groups of workers, rather than just between employers and workers. Nevertheless, management have a responsibility to facilitate positive working relationships that are free from harassment and discrimination (HSE 2010). This goal may be a high maintenance task in practice, given the high turnover of staff and flexible nature of work in food supply chains.

6.4 Tolerating the Tensions of Harmful Work

As suggested in the previous sections of this chapter, most migrant participants experienced problems with their work, and many of these could be considered exploitative or harmful. Yet the majority of participants felt that parts of their work were beneficial, which generates a tension, since migrants may simultaneously appear to be content with their work, in spite of evidence that exploitative or harmful practices are occurring. This section examines why some migrants seem willing to tolerate labour exploitation. Contributing factors include being
unfamiliar with the UK, a fear of losing employment, and the prospect of limited alternative options.

6.4.1 Unfamiliar with the UK

Nearly every migrant participant felt that they were more vulnerable to exploitation and harm because they were new in the UK. Being new in the UK was synonymous with knowing little or nothing at all about ‘the system’:

*I didn’t feel at that time, perhaps because I was new and scared, you know, and I didn’t know much about the system and everything.*

**Klaudia-F-Pol-34**

*… you don’t know the rules, you don’t know what will happen to you, a lot of things in those first months you have to think about, you’re always thinking. And when you’re thinking it’s terrible for you.*

**Marwan-M-Syr-33**

This lack of awareness is not necessarily migrant specific, since British workers are not always familiar with their workplace rights. However, when coupled with language barriers, learning about workplace rights may be more difficult unless migrants have some prior understanding of these, or can find support through their social networks. There are potentially serious implications for this low awareness of employment and welfare rights. Migrants may be less likely to challenge harmful workplace practices if they do not know whether these are illegal or at least dubious (Bloch 2013), such as a lack of breaks or unauthorised deductions from salaries. Since migrants are not always entitled to access the UK’s welfare system, they may feel as though they have no option but to remain in exploitative work. Although newer migrants may be unlikely to understand their workplace rights, this may change with time as they become more familiar with life in the UK:
… now that I’m more settled in this country and have improved my English, I know that there are places you can go to like the trade unions or whatever. But none of us knew these things, nobody tells us these things when we start working or anything.

Ashkir-M-Som-26

Mostly I would say it’s for new migrants. I don’t think so much for those who have been here a number of years, they would still go and work in such conditions.

Angelika-Caseworker-1

These extracts suggest that migrants are likely to become more familiar with their workplace rights over time. This familiarity is important because migrants may demand more from their employers and tolerate poor conditions less once they become more aware of their employment rights. For instance, MacKenzie and Forde (2009) found that over time, employers became less satisfied with migrants’ work ethic and performance, because they were demanding additional benefits such as more pay or less strenuous working hours. In other words, migrants were beginning to adopt similar attitudes to British workers, who were usually reluctant to do low-skilled work for low pay, which was the key reason that employers preferred to hire migrant labour in the first place.

6.4.2 Fear of Job Loss

Almost every migrant participant stated that they feared losing their jobs, either if they did not do their jobs well, or if they complained about harmful workplace practices:

We were worried that they would just say to us, you can go home, don’t come back. We get many applicants who will step into your shoes and do your job. So for this reason I kept quiet.

Xiao-F-Chi-32

If the supervisor tells you to take something by yourself, you might say that it’s too heavy and you can’t do it alone. The supervisor then says, why, why? If you can’t do it then you’ll have to go home. Go home. Sometimes they call the manager and say that you’re not doing your job, you’re not picking this up.

Abroon-M-Som-36
Xiao’s point suggests that workers are easily replaceable if they complain about potentially unfair or harmful practices. Regardless of why participants feared to lose their jobs, they were aware of the possibility, which led many to tolerate exploitative and harmful workplace practices. However, participants’ fear of losing their jobs was not simply an intuitive feeling. Some had personal experience of employers threatening them with job dismissal:

… if you complain to the employer, they don't give you answers, they tell you that if you want work here, then stay, if you don't want it, go home, go and find another job.

Navdar-M-Syr-40

… still there are places that you don't have any rights, and if you don't like it, then thank you very much, go. I don't need you, because I have another 12 people to come and work.

Angelika-Caseworker-1

Since migrants are proportionally more likely than British workers to be employed in the food industry (Rienzo 2016), threats of job dismissal may affect migrant workers the most. Additionally, when discussing how routine exploitation continues, the mere threat of job loss may be sufficient to prevent workers from complaining and to remain working in difficult conditions. In some cases, participants had been sacked on the spot when complaining, which seemed to deter other workers:

… people are scared to report some things, so when I worked in the factory, for a recruitment agency, I suggested that we all report how they’re actually exploiting us, and how they’re giving us overtime but we’re not getting paid. So I suggested that 10, 20, 100 people sign a petition to say that we don’t agree with these conditions. So we decided that we will report them. And one day, the people, the inspection came, and they were calling each of the workers to the office to have a chat, and find out whether everyone's happy with the conditions and everything. So it was my turn, and I went and I said everything I'm just telling you now, I told the truth, and I was very honest. The next day I was sacked from work, and the other workers noticed what happened to me when I decided to be honest about it, and they just went quiet. So nobody reports these kind of things, because they’re scared of losing their job.

Monika-F-Lit-46
Monika highlights that she was working for the factory through a recruitment agency, which presents its own challenges. Agency workers are easier to sack than permanent workers, since they are employed on a casual basis (Sykes et al. 2014). These factors on flexible work contracts begin to consider wider supply chain dynamics, including complex employment relationships, which will be discussed further in Chapter 7. From this extract, seeing co-workers lose their jobs can encourage others to remain quiet and not complain about exploitative conditions. Therefore, some migrants’ fear of job loss is reinforced by employer threats and actual incidents of dismissal.

6.4.3 Limited Alternative Options

Based on participants’ fear of dismissal, some felt that remaining in exploitative work was better for migrants than having no job at all:

… they could leave this job, but there is no guarantee that tomorrow you’re going to land another job. So they have some sort of stability now, so to break that stability and to go for the unknown bit … everyone is so cautious about their next move … So some of them say, well, I have got this stability now … when someone becomes unemployed, if they find out that there is so and so agency sending people to the fields, the individuals may say, well I have nothing to lose, so I would rather work in the field than not get anything at all.

Ibrahim-Caseworker-3

From the caseworker’s interactions with migrants, it is interesting that they find some stability even with flexible employment contracts. After all, the design of flexible contracts could mean that workers are allocated a large number of hours one week, and barely anything the next. While this arrangement does not seem to offer a meaningful form of job security, it may be the only stability that migrants can maintain, especially if they are new to the country and cannot find any other work. This point supports the assertion that labour exploitation can be mutually advantageous as well as harmful, since workers are making relative gains (Mayer 2007a). For instance, the pay and experience gained from any work may encourage migrants to tolerate exploitation, even if they know they are being underpaid or overworked.
Alternatively, a number of participants felt that they had little choice but to accept work that was low paid, difficult, and flexible. Yet in some cases, employers seemed reluctant to hire applicants who had not previously worked in the UK food industry:

… because I hadn't worked in the UK until then, getting a job was quite difficult … I had just got my working permit, but my CV didn’t have anything on it. So I had no previous experience, nothing … most of the agencies I went to wanted someone with previous experience for the kind of jobs they were offering … I went to the jobcentre for two years, I’m looking for jobs there, whenever I got an interview they said that I’d failed the interview.

Zaki-M-Nig-40

Like many participants, Zaki later found work in a chicken factory through a friend, who warned him that neither the job nor the managers were ‘good’, but that the opportunity was there if he wanted it. From this extract, it is possible that rejected applicants who lack experience become frustrated to the point that they will accept any work, including zero-hours contracts. If they subsequently feel mistreated, migrants may be reluctant to either complain or leave their job, because they know how difficult it was to obtain employment in the first place.

Since non-European participants usually came to the UK through the asylum process before being permitted to work, they felt that they had to make a new start in the UK, since they were unable to return home. However, non-European participants stated that they were grateful for the opportunity to live and work in a ‘safe’ country like the UK. Given that these participants were previously living in conflict zones or where there was some form of state oppression that led them to claim asylum in the UK, problems in the workplace were not necessarily as important to them:

… for me is okay, is good job, I don’t need to take the breaks too often. At home I work on farm, I’m used to standing up and working. I’m glad to be working in a safe country, I don’t mind about the long shifts, the breaks, the smaller problems, that’s just life.

Hakim-M-Irq-37
Being content to live and work in the UK may be a factor in explaining why non-European participants rarely reported unsafe or unfair work practices. Some migrants may not be concerned with less ‘extreme’ issues such as workplace injuries, because they are still relatively better off and ‘safe’ when compared to circumstances in their home country. Some migrants appeared to tolerate exploitative work conditions partly because they felt that this work was a temporary arrangement, whereby their circumstances would eventually improve:

*Most of the clients think that I just need this little hook to start things, to get the ball rolling. So I’ll do any job, and from there, I’m sure that things will pick up, and I’ll end up somewhere better.*

**Elena-Caseworker-2**

These attitudes towards work may be considered as ‘stepping stones’ (MAC 2013: 164), whereby migrants tolerate harmful practices in the hope that their experiences will eventually lead them to find permanent work or better-quality work. As one participant stated:

*At the end of the day I’m there for the money, I work hard but I’m there to get paid. I’m sure there are worse jobs, but if another opportunity comes my way to get a better job, I will take it.*

**Zaki-M-Nig-40**

Such perceptions of ‘stepping stone’ work appear to have some credibility, since the majority of participants reported that after a period of time working on flexible contracts, they were able to secure permanent contracts and even become involved in supervisory roles. Indeed, Parutis (2014) highlights the importance of understanding migrants’ work decisions in the context of their long-term aspirations, including career progression. Others mentioned that they were simply willing to ‘get used to’ harmful work practices:

*… now, like it’s awful, they think it’s fine, they just get used to it … if you go to them and ask them if they want to be in the union, they’ll be like, no, we don’t mind, we get used to it …*

**Marcelina-F-Pol-33**
This view of low paid, mundane, and potentially exploitative stepping stone work that migrants become used to may seem like a pragmatic approach for migrants seeking employment in the UK on a long-term basis. Consequently, exploitative and harmful food industry work, even if not severe, may be accepted as a standard aspect of working in the industry, and as factors that are expected for the role. However, this tacit acceptance may normalise harmful labour practices that migrants experience, especially those who are new to the UK.

6.5 Consent, Ideal Victims and Harm

Section 6.4 began to discuss to what extent migrants consent to exploitative and harmful work conditions when faced with few alternative options. These decisions have impacts on how society perceives some workers as ‘deserving’ or ‘undeserving’ of support. Such problematic issues in relation to harmful labour practices are discussed here.

While research on labour exploitation has considered the issue of consent, this is usually discussed in the context of severe exploitation (GLA 2015a; Skrivankova 2010). A well-grounded misconception is that individuals subject to severe exploitation are usually coerced into work. These misconceptions are understandable, since the International Labour Organization (ILO) indicators of forced labour consist of statements such as “threats of actual physical or sexual violence”, and “restriction of movement and confinement” (ILO 2012: 3). However, workers may initially agree to employment terms before later learning that their work is exploitative – whereby they may not be able to leave without harmful repercussions (Geddes et al. 2013: 89). Domestic and international law specifies that where deception is present in labour exploitation cases, any initial consent that workers provide is deemed irrelevant (Ollus 2015) – yet this principle is not always reflected in practice (Skrivankova 2010).
In contrast to severe exploitation, consent has received comparatively less attention with routine exploitation. As may be expected, workers who experience routine exploitation or harm are more likely to ‘freely’ enter employment relationships in the absence of coercion or deception (Ollus 2016). Yet some workers may feel forced to take a job by necessity, even though they are not literally coerced. Others have used terms such as “forced flexibility” (Ollus 2016) or “compulsion by necessity” (O’Neill 2011), whereby workers’ realistic job options are restricted by personal and socio-economic factors, such as being new in the country, family commitments, and labour market conditions. For ethnic minority and female migrants, job choices may be even more restricted due to potential discriminatory practices by employers (Connolly et al. 2014; McGovern 2007: 223-224). Therefore, neither coercion nor deception may be necessary where (migrant) workers feel as though they have little choice but to accept any work.

These different degrees of consent can be conceptualised through discussions on corporate harm. Reiman (1998) argues that a common misconception with corporate harms is that workers consent to occupational hazards when they accept their jobs, which contrasts with many street crimes where harms are imposed on victims. This misconception is unhelpful when considering harms facilitated by companies, because workers can only consent to the risks of a job if they are known, whereas many risks are initially hidden. Haynes (2009) suggests that even if workers consent to a particular type of employment, they are not necessarily consenting to the exploitative and harmful conditions that result from this. As the data extracts in section 6.3 suggested, problems with safety and underpayment may only become clear after a period of time working for a company.

Nevertheless, workers’ experiences of exploitation risk becoming delegitimised if they appear to consent to harmful labour practices (Alvesalo et al. 2014). Previous work highlights that some workers knowingly break laws in collusion with their employers for the sake of mutual advantage (Ruhs and Anderson 2010). From an enforcement perspective, this collusion may
encourage a narrow focus on ‘clear cut’ innocent victims who were coerced into work (Shamir 2012: 107), which encourages stereotypical depictions of ideal and deserving victims. These distinctions risk generating a simple discourse that someone can be either a victim or a person capable of free will, but not both (Haynes 2009). In other words, those who have been coerced or deceived may be considered ‘ideal victims’ that need ‘rescuing’ when contrasted to those who appear to tolerate exploitative practices, especially if they engage in some form of illegal activity during this process.

In relation to harmful consequences that emerge from exploitative labour practices, Haynes (2009) questions to what extent victims should be protected if they appear to consent to harms. In practice, it can be difficult to establish whether exploitation has occurred, since workers may not regard themselves as victims, and more subtle forms of exploitation are easier to overlook from the perspective of many workers, employers and regulators. Greenfield and Paoli (2013: 879) assert that there is no systematic means to exclude harms that occur through victim consent from discussion. However, consent is not necessarily useful to analyse exploitative labour practices if seen in isolation from workers’ personal and social circumstances under which they enter employment relationships. Exploited workers are not merely victims, but are individuals attempting to improve their life chances.

These issues of consent begin to dovetail with the notions of ‘free’ and ‘unfree’ labour. Traditionally, ‘unfree’ labour referred to the transatlantic slave trade where there was a strong sense of individual domination supported by threats and coercion. Unfree labour more recently was seen as incompatible with contemporary capitalism, since an unfree worker has no incentive to work well (Brass 2009). Whereas in theory, a free worker willingly enters employment, so will be more productive when faced with the prospect of gaining material benefits.
However, recent years have seen a more critical approach develop towards the binary notions of ‘free’ and ‘unfree’ labour (Morgan and Olsen 2014). Barrientos (2013) argues that even if workers voluntarily offer their labour at the start of employment relationships, this does not necessarily mean that the relationship is ‘free’, because workers’ options are limited due to “compulsion by necessity” (O’Neill 2011). In other words, involuntariness can determine what is ‘unfree’ labour, but unfree labour does not just mean that one person coerces another. Rather, it is necessary to consider workers’ economic and social conditions in terms of how they consent to employment relationships (Barrientos 2013; Morgan and Olsen 2014). Even though some workers may not be particularly ‘happy’ with their conditions, they recognise that this work is better than other options available to them. For migrants, the notion of comparable options relates back to the dual frame of reference perspective discussed in Chapter 3, whereby migrants compare their experiences in the destination country against their home country.

As might be anticipated, most decision-making processes in relation to consent occur somewhere in between these two extremes, due to the variety of personal and social circumstances that individuals experience. Concepts such as deception, manipulation, and toleration would likely occur between the two extremes of coercion and full consent. However, as with exploitation (Skrivankova 2014), consent cannot simply be ‘placed’ on a point of the continuum, since this may change over time. What emerges from this discussion of consent is that where workers tolerate routine exploitation, they may be portrayed as ‘undeserving’ of support in the same way as victims of severe exploitation. In the UK policy framework, this is partially represented by the fact that law enforcement may only address severe exploitation, whereby few alternative support mechanisms exist for those affected by less severe exploitation (France 2016). Some migrants may assent to harmful practices under a particular set of circumstances, but this is not necessarily the same as informed consent, whereby they have a clearer idea of what their labour conditions will be like. Nevertheless, focusing just on
victims of exploitation risks missing the opportunity to consider what factors may drive the cycle of exploitation (Haynes 2009), which is the focus of Chapter 7.

6.6 Emergence of Routine Labour Exploitation

From the data extracts in this chapter, migrant workers face various exploitative and harmful practices in food supply chains, whereby they make decisions based on few alternative options. Routine exploitation seems to be associated with employer neglect and unintended consequences, rather than intentional exploitative acts. The data reveals harsh and disrespectful treatment of migrant workers, which becomes routine and embedded in daily practices. Most of these practices do not meet the threshold of modern slavery, especially as isolated incidents. Yet the data indicates that migrants seemed to experience routine exploitation more frequently than severe exploitation:

*I think it's fair to say that those cases [modern slavery] are more rare, we get a lot more clients where the issues are just about the contract, or the payment, or the agency, treatment, sometimes a combination of these things.*

*Ibrahim-Caseworker-3*

Many severe exploitative practices remain undetected for various reasons, which is a well-established point in previous work (Skrivankova 2014: 2; TUC 2008). However, the same applies for routine exploitation, whereby workers and employers may not realise that exploitation has occurred. This routine exploitation tends to be neglected in the context of severe exploitation, which is perhaps understandable due to the brutal and ‘newsworthy’ practices typically associated with modern slavery.

Yet a stronger focus on routine labour exploitation is important, for two key reasons. First, routine exploitation underpins and allows more severe practices to develop. With salary, for instance, workers may be less likely to complain about underpayment or payment delays if they fear losing employment and the small amount of income they have (Sykes et al. 2014:}
49). If migrant workers are on low incomes and “survival is more urgent than remedy” (France 2016: 4), they may have little choice but to accept exploitation, which means that employers can worsen conditions with little risk of reprisal. Similarly, if employers are abusing their workers, this may erode workers’ confidence so that they feel unable to complain or leave, especially with migrants who lack the necessary language skills. The intention here is not to draw a superficial boundary separating ‘routine’ and ‘severe’ exploitation, since the difference is arguably a matter of degree, not kind (Shamir 2012: 110). Rather than being superficially placed on a point of the exploitation continuum and remaining static (Skrivankova 2014: 5), exploitative practices can improve or deteriorate over time:

... these people go home, moan about it, blah blah blah, but none of them will go and do anything about it. So it’s just getting worse and worse.

Marcelina-F-Pol-33

In this context, Marcelina was referring primarily to poor treatment from managers and the pressure they applied on factory workers to work faster. No migrant participants suggested that their experiences had deteriorated from routine exploitation to the point of modern slavery. Nevertheless, previous research suggests that it is possible for labour conditions to deteriorate (France 2016; Skrivankova 2014), which highlights the importance of addressing routine exploitation and harm.

Second, routine exploitation is likely to occur more frequently than severe exploitation, since many practices are embedded and form part of standard, legal business processes (Shamir 2012: 134). When discussing the variation between the magnitude and probability of harm, Feinberg (1984: 190-191) argues that “the greater the probability of harm, the less grave the harm need be to justify coercion; the greater the gravity of the envisioned harm, the less probable it need be”. If applied to labour exploitation, Feinberg’s argument suggests that routine exploitation is collectively just as harmful as severe exploitation, since routine
exploitation tends to occur more frequently but is less harmful, whereas severe exploitation occurs less frequently but is more harmful. Although severe exploitation deserves attention from policy makers, routine exploitation should not be dismissed as less worthy of intervention.

6.7 Conclusion

As suggested from the data, routine labour exploitation is a significant issue in UK food supply chains. These repetitive, routine labour practices may result in exploitation, and risk becoming normalised as part of standard business practices. Routine exploitation seems to emerge largely from the pressures and need to work fast in fields and food factories. Underpayment, poor health and safety practices, workplace injuries, and discrimination were all common features of migrant participants’ experiences. Many participants, and migrants more widely, may tolerate these poor labour practices because they are unaware of their employment rights, have few alternative work options, and fear losing their jobs, along with the little security that this offers. Importantly, these harmful practices may be intentional or unintentional, which suggests that consequences, and therefore a focus on harm, is important in this context. As demonstrated in this chapter, exploitation and harm can occur on an individual basis between two or more individuals. However, researchers should arguably not view abusive employers in isolation from wider labour market influences (Anderson 2010: 313; Haynes 2009), since numerous abuses have structural economic causes, especially if they are common across the industry (Potter and Hamilton 2014: 403). Therefore, Chapter 7 considers structural problems within supply chains that can facilitate exploitation and harm.
Chapter 7: Structural Exploitation and Harm

7.1 Introduction

The previous chapter argued that the impacts of routine labour exploitation and harm on migrant workers are important. This chapter builds on Chapter 6 by arguing that supply chain dynamics and socio-economic processes enable this exploitation and harmful consequences. Vaughan (1996: xiv) refers to a “banality of organizational life” facilitated by factors such as competition, routinisation, as well as complex organisational structures and cultures to explain deviance within organisational settings. Food supply chains contain inherent tensions, which typically stem from the pressures associated with business demand, profit maximisation and remaining competitive (Robinson 2010; Tombs and Whyte 2015). Individual businesses or employers do not usually create the vulnerabilities of which they unfairly take advantage: they are likely to play by established “rules of the game” (Mayer 2007a: 148), which makes these tensions structural. This chapter is based primarily on the interviews and discussions with supply chain stakeholders, but draws on migrant participants’ experiences where appropriate.

It is structured as follows: first, supply chain tensions associated with the UK food industry are addressed regarding their harmful impacts on migrant workers. Second, the harms of subcontracting, or ‘labour supply chains’ are assessed in relation to the migrant participants. Third, based on the available interview evidence, socio-economic factors such as the role of migrant communities and cultural attitudes are evaluated as helping to facilitate labour exploitation.

7.2 Food Supply Chain Pressures

There are factors inherent to the food industry that present challenges to supply chain stakeholders when addressing labour practices. Some issues, such as extreme weather conditions, locations of food production, and the ‘dirty’ tasks of farm or factory work are largely unavoidable. Other issues, including the need for supply chain firms to maximise profits and
remain competitive, can result in tensions between stakeholders. This tension may be avoidable to some extent, but is problematic to address systematically given the dominance of some supply chain actors over others, and the fluctuating demand for products. The following section discusses these challenges that have emerged from the data.

7.2.1 Seasonal Impacts on Food Production

An issue that the food industry does not share with other economic sectors is its dependence on seasonal and weather conditions. For instance, a poor season that results in low quality produce can have consequences for suppliers:

_What you'll get is buyers just going to Europe to get their produce rather than the UK. And this is what happens when you get a bad season in the UK, the prices aren't as good as in Europe, you might get higher prices in the UK, so they'll be going where they're cheaper._

Lisa-Buyer-2

Since buyers try to minimise costs and maximise profits wherever possible, turning to European suppliers may be an option if there is a bad season in the UK, especially since consumers typically demand high quality and low-cost products. Other seasonal impacts affected migrant workers, who were aware of these wider pressures:

_… sometimes, if it’s like summer, because it’s a food factory, then we have a peak season, or peak times in the week. Or maybe when it’s the Christmas period. Because of that, we are trying to sell as many goods as possible. So the pressure is on, and you have to go very fast and everything._

Zaki-M-Nig-40

Regarding labour practices, Zaki was required to work at a more intense level because of this seasonal pressure. During peak production times, the demand for certain foods is somewhat predictable, yet there can still be sudden fluctuations in demand from buyers in order to reflect consumer activity, which may be less predictable. These extracts suggest that supply chain
pressures, not just individual employers, influence the response to product demand and labour practices.

7.2.2 Extreme Weather Conditions

Although poor weather conditions cannot be labelled exclusively as a supply chain dynamic, they are important factors in the context of food production. From a business perspective, potential cost pressures were associated with bad weather:

*It’s incredibly hard, there’s the price pressure on the things that they sell, climate change impacts, volatile weather conditions that have an impact on the food quality.*

**Lisa-Buyer-2**

*... in difficult times, for example now when the weather is not very good, the crops are not very good, it costs you so much more to pick the crop, and you’re not getting any more money for it.*

**Klara-Gangmaster-1**

Adverse weather conditions imply that food supply chain firms can be hostages to fortune, since the weather and longer-term climate changes influence their daily business activities. Poor quality products may result in buyers switching suppliers, or imposing financial penalties on existing suppliers. Benton et al. (2012) summarise the challenges associated with severe weather impacts on UK food production. Factors such as extreme temperatures, high winds, rainfall, and air pollution can all affect production. For instance, flooding not only impedes access to crops, but erodes soil and drowns plants; this translates into yield losses and the need to replace plants, which costs money (Benton et al. 2012: 2-3). Extreme weather conditions had potentially harmful workplace implications for migrant workers:

*... normally we would return home at three in the afternoon, but it all depended on the weather, the weather is very unpredictable in the UK, so if the weather is good we have to do as much as we can, and at times we would return home late at night. But as I said, it all depended on weather.*

**Monika-F-Lit-46**
This account suggests that employers push their workers to be more productive when favourable weather permits, since extreme weather conditions may hamper these efforts at a later point. For Monika, this pressure meant longer working hours during favourable weather conditions, since extreme weather was unpredictable. Hence, weather conditions understandably influence how much work can be completed, but excessive and intense working hours could have harmful impacts on workers.

The impacts of extreme weather are unique to the food industry, since they can affect production and labour practices in ways that other industries do not share. A comparable example is the construction industry, where most manual work occurs outside, potentially in extreme conditions such as heatwaves (Alshebani and Wedawatta 2014). Yet the risk profile is different between the two industries, because some extreme weather in food production, such as flooding, presents physical obstacles to accessing work sites (Alshebani and Wedawatta 2014). If crops are destroyed, they are not easily replaced, which determines how much work is available for labourers. Labourers in the food industry are therefore more reliant on some weather conditions, since the weather may determine how much work is available for them.

While labourers are frequently the recipients of pressures resulting from weather conditions, producers and farmers are under pressure as well. Farmers may only have a limited time frame to meet their orders and pick crops while they are of a high quality. Once this time frame passes, farmers may fail to comply with their orders, which results in a loss of profit. In these circumstances, supply chain actors such as farmers are constrained by contractual obligations and unpredictable events. One strategy to manage these pressures is to use exploitative labour practices as a means to meet contractual obligations. As Tombs and Whyte (2015) assert, transferring costs and pressures down supply chains to workers is sometimes the only way that businesses can maintain their profits.
7.2.3 Locations of Food Production

The nature of food production processes means that a significant amount of work occurs in isolated locations, especially agricultural fields. Food factories may be in urban or rural areas, but factory practices are still ‘isolated’ because they occur outside public view, and night shifts reduce the chance of labour inspections. Some participants felt that fields presented more opportunities for labour exploitation when compared to processing factories:

*Those that work in the factories in towns, in cities, they are still being exploited, but ... in a different way, the conditions as well are not good, and health and safety not followed. But they get paid, they get payslips, and ... they have probably more say. Whereas those that work outside the towns in rural areas, in the farms, live in the caravans, they have no access to cities, advice centres, no other people to ask for help with. They’re being exploited more, because 99% of those clients don’t even know where they are, what’s the name of the place, what sort of village or farm, which county even they are in. They are just somewhere in the field, and they can’t even tell me ....*

**Elena-Caseworker-2**

The geographic isolation of fields seems to be an important factor here, since labour intermediaries typically provide accommodation to field workers (Pollard 2006). Some abusers may use the isolated locations of workplaces to develop forms of control, whereby workers become dependent on employers. Therefore, opportunities to interact with support organisations or social networks are more limited than if workers were living in urban areas with established communities and organisations. Since labour intermediaries can transport workers across numerous farms during a work shift, it may be problematic for workers to monitor their location, especially if they are unfamiliar with the area and do not understand English. Such structural conditions provide opportunities for unscrupulous employers to take advantage of their workforce. Despite these vulnerabilities, other participants cited benefits of field work compared to factory conditions:
I was happy working in the fields, we were in the fields, in nature … it’s not like when you work in a factory, you can’t have a break when you want, you can’t have a drink, or have a cigarette whenever you want, it’s very strict in a factory.

Monika-F-Lit-46

Field work may seem more physically demanding when compared to factory work, at least when considering exposure to poor weather. While processing factories are well known for developing systematic means of control over individual workers’ performance in low-skilled jobs (EHRC 2012), this oversight may not be as intense or feasible with field work. Similar to Scott’s (2017) argument signposted in Chapters 2 and 3, exploitation and harm may result when control of workers becomes excessive, which may differ depending on locations of food production. On this basis, there was no dominant attitude as to whether migrant participants preferred field or factory work, but then not all participants had experience of working in fields and food factories.

7.2.4 Maximising Profit

Many harmful supply chain pressures are associated with the necessity of companies to survive financially, which ranges from companies minimising losses to maximising profits, whether they are small businesses or multi-national corporations. The need for businesses to make money was a significant theme in the research, and frontline workers were aware of this:

… at the end of the day it’s not a charity, it’s a business. They need to make a profit as well … The company has their own pressures, but they need to make money, they need to get their targets, so the people working there are almost like machines, they’re treated as machines.

Zaki-M-Nig-40

If one line stops, every hour, the company loses more than £2,500 each hour. Because some lines have different values, so some lines would be more than £5,000, other lines £3,000. But I give you an example of the line I work on, because I know that line very well. I ask the team leader. But if the line stops or if people don’t come to work, some lines lose £2,500 to the company. And the big boss, for him this is maybe more than £5,000 or £10,000 lost money.

Navdar-M-Syr-40

150
From Zaki’s extract, just as workers face workplace pressures, so do employers in the context of supply chain processes. Zaki suggests that companies can lose significant sums of money if there are production problems. This relates back to the point that the need of companies to make profits can affect workers in the form of intense, repetitive work; albeit this seems to form part of managing contractual and production pressures. The supply chain businesses tried to explain why some companies engage in deviant or illegal practices to make profits:

*It’s actually greed, because we all make reasonable money from this job, we’re not having to cut corners and pay people illegally. So we don’t need to do that, so there are some pretty greedy people. It’s the same in any business. It’s greed that drives all the things that go wrong in the end … our people who employ us, use our labour, you know, are on very tight margins with chickens, eggs and competition generally.*

**Brian-Gangmaster-2**

Brian seems to highlight a contradiction here. He believes that supply chain businesses make ‘reasonable money’, hence the causes of labour exploitation may be explained by the individual greed of employers, rather than supply chain dynamics. However, he recognises that profit margins for many businesses tend to be small, which suggests that profits are at risk due to intense competition. The trade union representative felt that the drive for companies to make profits related to wider purchasing practices:

*It’s not a secret that purchasing practices are also instrumental in causing this problem, because these people are so far removed from the eyeliner of the people making the decision, we think it’s easier for them to press the button marked panic and say, well we need a last-minute response. And they might be seven stages away from the people who are actually going to have to work 16-hour days in order to deliver this product, because it saves money at this end of the operation …*

**Mike-TU-Rep**

Mike’s input suggests that dominant supply chain actors such as buyers are not necessarily aware of the impacts their decisions will have further down their supply chains. Buyers may
think they are responding rationally to business problems, and will not see the potentially exploitative and harmful effects of their decisions on workers, such as long shifts or injuries that result from intense work. The main objective of private firms, and indeed one of their legal obligations, is to maximise profit levels for shareholders (Fauset 2006). Hence, companies are likely to place profit above labour conditions, and so remain unaware of the harmful consequences on workers several stages away from them. This issue begins to examine the problems with lengthy and complex supply chains, discussed further in section 7.3.1.

7.2.5 Business Competition

One of the ways in which legitimate businesses try to maximise their profits is by limiting the influence of their competitors. Many of these price control mechanisms are legal and standard business practices, such as altering product prices to remain competitive. However, some companies may try to reduce their costs by undermining labour standards:

… we heard from people who worked for this one agency that other agencies had saved money by causing delays with payments, underpayments, these zero-hours contracts. This meant that their agency was not as competitive because they had higher costs, but it was really because they were at least trying to look after the people working for them, by making sure the payments were right, by making sure there were not big problems, things like that. 

Ibrahim-Caseworker-3

As Ibrahim implies, the measures that some businesses take to reduce their labour costs may range from legal to ‘dubious’ to illegal, whereby the boundaries in between can be blurred. Zero-hours contracts, for instance, discussed further in section 7.3.3, are legal mechanisms that many employers argue are essential for the fluctuating levels of demand in food supply chains (ACAS 2017) – despite dubious benefits for workers. Ibrahim hints at a larger issue in food supply chains, whereby price competition is this industry is intense, so buyers may be reluctant to increase their prices for the sake of appearing less competitive and losing business. This is somewhat paradoxical, because if some buyers are willing to increase prices to ensure better worker treatment, they would likely be priced out by less ‘ethical’ buyers who
do not take the same action. Therefore, this issue seems to be a structural problem, whereby it may be necessary for supply chain companies to minimise their costs and exploit workers, or risk going out of business due to uncompetitive prices (ILO 2016a: 26). Many businesses respond to competitive pressures in a rational manner, by trying to minimise expenditure, which includes labour costs:

… a lot of people pass on this pressure to their labour workforce, their labour workforces tend to migrate and change quite often. Maybe that will change with the minimum wage, but it could be that it just makes things harder for UK growers … it’ll be different to different commodities and markets, I imagine. But exploitation definitely happens down the supply chain.

Lisa-Buyer-2

Migrant workers may experience this increased pressure in the form of flexible, low paid work, or poor safety training, since providing ‘decent work’ and improving labour conditions can be expensive for businesses. Yet in many cases, employers or businesses do not intend to harm anyone, as some participants seemed to recognise:

Just normal local people who you never think they would do that, or they are gangmasters, or have some sort of business like that in the UK. So the employers are just normal people.

Angelika-Caseworker-1

The descriptions of employers as ‘normal people’ suggests that most business people are engaged in legal and otherwise respectable practices, and are simply trying to protect their organisations’ profit margins. This suggests that exploitation is not intentional, but the consequences on workers can nevertheless be harmful.

7.2.6 Pressure on Suppliers

The labour intermediaries/suppliers suggested a mixed picture of working with buyers. Buyers’ orders were important for them to survive as businesses, but there were some reported difficulties:
… we know what we can grow, pick, and pack with a given number of workers in order to meet a particular order. But if one of our buyers suddenly calls us and says that we want to double the order, the deadline for that order won’t change, and we either meet it or risk losing their business.

**Klara-Gangmaster-1**

The labour intermediaries from the research, who also run their own farms, describe different problems when working with buyers. Klara refers to the daily pressures that result from fluctuating levels of demand – an established point in previous work (Lever and Milbourne 2015). Suppliers are most likely aware that should they fail to meet their orders on time or with the correct quantity and quality, they risk losing future business. With this pressure in mind, some suppliers may conclude that if there is less business to conduct, there will be less employment for workers. As discussed in Chapter 6 from workers’ perspectives, sometimes having no work at all is worse than exploitative work. Some employers may be aware of these migrant perspectives, so the welfare of workers comes second to meeting business targets and orders. Gangmaster 2 refers to a different type of pressure with suppliers receiving payment from buyers:

*There’s an awful lot of poor payments, two months’ payments, usually three months, which can mess up accounts if they don’t pay up for the order quickly. So there’s more needed against the big ones.*

**Brian-Gangmaster-2**

For clarity, Brian refers to the ‘big ones’ as the major UK retailers as part of these delays with payment. Since approximately 70% of suppliers in food chains are small businesses (HM Government 2014a: 14), they may rely heavily on being paid on time for orders. Short term payments may be important in order for suppliers to pay their workers, or at least to pay the intermediaries who supplied workers to them. Buyers reported their own concerns when working with suppliers, which suggests a degree of tension between supply chain stakeholders; these factors will be discussed in Chapter 8 as part of the emphasis on corporate
social responsibility (CSR). However, other supply chain tensions emerge from casual and subcontracted employment relationships, otherwise known as ‘labour supply chains’.

7.3 Labour Supply Chain Dynamics

The pressures generated by factors inherent to the food industry, as well as business practices concerning demand for products, mean that costs and risks can be transferred down supply chains. Not only do suppliers face pressure to meet orders, but they may transfer this pressure to labour providers and workers in the form of flexible employment contracts and poor safety training. The purpose of this section is to demonstrate the harmful consequences of labour supply chain dynamics in order to suggest that fragmented employment relationships are a contributing factor.

7.3.1 Length of Supply Chains

Participants indicated that the length of supply chains was an important factor in relation to tackling labour exploitation. However, supply chain length can have different meanings:

… longer or shorter chains, that can refer to distance from home and also the relationships that are in place. So for example, in a supply chain which supplies bananas from Ecuador, in some cases the supply chain may be shorter than our supply chain of say, cabbages from Kent. In the sense that if we buy direct from a farm or plantation in South America, we’ve got that direct relationship and oversight with the plantation, we can do more. If we’re dealing with some kind of import or agent, or middle men, then that becomes more difficult … because you’re further, more steps away from where the action is … clearly, if you can have a direct relationship with the people who are making or growing the product, then first of all you’ve got a far better oversight of what’s going on, and you’ve got direct influence, and that kind of leverage, and to make change.

Mark-Buyer-1

From a global supply chain perspective, chains that extend over numerous countries face their own challenges, including logistics planning over extended areas and the potential for food manipulation or exploitative labour practices along the chain (Walters and James 2009). However, Mark refers to the notion of labour supply chains, which can complicate supply chain
relationships, even if they extend only over a regional or national level. As Mark indicates, purchasing directly from suppliers over longer spatial distances can be more manageable when compared to purchasing through intermediaries over shorter spatial distances. Mark refers to the direct pressure that buyers can apply to their suppliers and growers to improve labour standards, for instance. This pressure may be less effective if suppliers outsource their labour costs to intermediaries, since buyers may be unaware of subcontracting relationships. In turn, suppliers can claim that labour ethics and compliance is the primary responsibility of their subcontractors, since intermediaries would likely employ the workers.

Shorter supply chains usually offer less opportunities for labour exploitation, especially if there are fewer intermediaries involved (Allain et al. 2013). A problem with extended labour supply chains is that they can have harmful impacts on workers, in the form of inconsistent wages and poor working conditions:

_The problem is also the length of the supply chain, the shorter you can make it, the more responsibility companies can take. There’s also the classic, a lot of campaigners over the years have used the, all you need to do to pay someone a decent wage is pay 2p more for a box of fruit or whatever. But the longer the supply chain, the harder it is for that 2p to be enough, because all the people in between you and them want a piece of the increase in price as well. So suddenly it starts to become a price that retailers don’t want to stick on their fruit products, because it does actually make them noticeably more expensive than their competitors, whereas 2p obviously wouldn’t._

**Mike-TU-Rep**

Mike confirms the perspective offered by Buyer 1 that shorter supply chains make it easier for buyers to oversee and influence activities, whereas complex relationships may result in a number of supply chain ‘gaps’ where exploitation occurs. As discussed in the introduction, these structural factors may encourage businesses to ‘cheat’ and exploit workers if they want to remain competitive.
7.3.2 No Contract Provided

A number of participants stated that their employers did not provide them with work contracts. Having no contract was typically associated with being paid cash in hand, which reinforces the notion that food industry work is highly casualised:

… we were worried about losing our jobs, because there’s no contract, nothing written down, all cash in hand …

Xiao-F-Chi-32

… their working hours are more than what they’re supposed to work, there is no proper contract signed … The client is happy, they get what they wanted, these vulnerable individuals who are willing to work, and because they’re also not given a contract or anything, the individual is not so much aware of their rights, because they’re alien to the UK, the UK is very new, they don’t know much information.

Ibrahim-Caseworker-3

The absence of a contract can contribute towards facilitating labour exploitation, since new migrants in particular may not be aware of their employment rights, so might accept any available jobs (Anderson and Ruhs 2012; Spencer et al. 2007). As Xiao implies, some employers may be reluctant to provide contracts so that they can easily dismiss workers. Alternatively, employers may try to avoid HMRC obligations such as paying tax, and believe they can do this if no one challenges them (Scott et al. 2012). For instance, the likelihood of a HMRC inspection occurring is low (MAC 2014: 4). If some businesses do not pay tax due to their informal labour practices, private and public-sector organisations may be harmed. Private-sector companies may be harmed because they are placed at a structural disadvantage when compared to companies that avoid paying tax – the businesses paying tax may therefore become less competitive or forced out of business. Public-sector bodies may be harmed by seeing a reduction in their revenue (Greenfield and Paoli 2013: 869), which undermines the credibility of legislation that determines the amount of tax companies should pay. If non-payment of tax is repeated or becomes widespread, this results in less public funds available to spend on other policy areas.
7.3.3 Zero-Hours Contracts

Where migrant participants had an employment contract, these were usually zero-hours contracts provided through labour intermediaries. Most participants regarded flexible contracts negatively, especially when contrasted with permanent contracts:

… most people are on zero-hours contracts, I’d say 70% are on this contract. They have some people who are on permanent contracts, so if they don’t come in, or get sick, the company must pay those people, because they have a permanent contract. For example, they have a contract for 40, 48 hours a week. If they come in and the machine is not working, that is not their fault, the company still has to pay them. But for zero-hours contracts, they don’t pay anything, they tell you to clock out and go home.

Navdar-M-Syr-40

… if you don’t like the zero-hours contracts or part time contracts, they just say to you, take it or leave it, because they know that others will be happy to do this kind of work. This is fine if you’re looking for a small amount of work, but not for a full-time job, like a permanent contract.

Ashkir-M-Som-26

Both Navdar and Ashkir highlight disadvantages associated with zero-hours contracts, including the possibility of being sent home, either if there was a problem with workplace facilities, or if they did not like the employment conditions. At the time of interview, both participants had permanent contracts, so were able to compare their present working conditions with previous experience of zero-hours contracts. Others indicated that zero-hours contracts offered little work stability:

… they’re always balancing, always between different work, the future is uncertain, and one week they’re doing 70 hours, the next week, maybe for a couple of weeks, they’re doing zero-hours, and there is no law to tell them that it’s not right. The law says yes, agencies can do that.

Elena-Caseworker-2

Aside from the uncertainty associated with flexible contracts, Elena acknowledges that zero-hours contracts are a legal option for employers. This begins to suggest that despite the
legality of some supply chain practices, they can still have harmful implications for workers, in this case with flexible contracts. Aside from low earnings, previous research highlights long-term health problems of workers who are employed on flexible contracts due to the stress and uncertainty of having irregular work hours (Stuart et al. 2016; TUC 2008). Despite the precarious work conditions associated with zero-hours contracts, a small number of participants held a more balanced view:

... they said it would be a zero-hours contract, that they would call you whenever they need you. Sometimes this would only be 15 hours a week, you would struggle to get the big hours. So that was the kind of job it was. But I was happy to be doing that, because at least then I would have something to put on my CV to show my abilities, and the manager there would be able to vouch for me to say I was good or bad, but at least I had this. So I was willing to take this ... there weren't any nasty surprises, because when you signed the contract with the agency, they tell you what to expect and everything.

Zaki-M-Nig-40

Zaki’s extract suggests that he was both aware of and ‘happy’ with his circumstances, as suggested by his assertion that there were no ‘nasty surprises’. Zaki had struggled to obtain his first job for some time, which may explain why he was willing to accept a zero-hours contract. Nevertheless, most migrant participants retrospectively did not like zero-hours contracts, especially if they had permanent employment as a comparison point. This dynamic reinforces the assertion made in Chapter 6 that the first job may be the most difficult to obtain and has poorer conditions, whereas permanent direct employment secured at a later point tends to be associated with better conditions.

Obtaining the first job compared to later employment highlights the subjectivity of exploitation and harm as signposted in Chapter 2. Workers who have no benchmark comparison point of permanent contracts may be content with zero-hours contracts because they have experienced little else. In contrast, those currently on permanent contracts may resent the idea of returning to zero-hours contracts, because this would mean abandoning permanent, secure work. Dawson et al. (2017) contextualise this point by referring to the ‘migrant work
ethic’, whereby newer migrants have minimal labour market power, so are willing to exert themselves more in order to demonstrate their abilities to employers. After a period of time migrants tend to assimilate, and this perceived ‘good’ work ethic somewhat diminishes as they progress to more permanent work (Dawson et al. 2017). This process suggests that migrants may be less willing to tolerate poor conditions such as zero-hours contracts after a period of time.

The participating supply chain businesses acknowledged that zero-hours contracts were undesirable, but implicitly seemed to accept them as a standard supply chain process:

... seasonal contracts, zero-hours contracts, we cannot really ... I mean, they're not very useful if you want to stay in the UK, let's put it like that. So we cannot really guarantee any work as such, it all depends on the demand, and our crop. So if we haven't got orders or our crop gets destroyed by the weather, there is no job basically for the people.

Klara-Gangmaster-1

For clarity, Klara recruits hundreds of workers per year to work in fields for other farmers, and runs her own fruit farm. In this instance, Klara’s extract highlights two points that suggest wider supply chain pressures. She is unable to offer permanent full-time contracts due to the fluctuating demand for products. In other cases, Klara relies on weather conditions not damaging crops in order for work to be available. These factors suggest that individual employers face some lack of control over how their products will be affected, either from natural occurrences or supply chain dynamics. The other labour provider, Brian, shared similar views that flexible employment contracts were undesirable, but cited different reasons:

I mean, that would help our industry an awful lot if zero-hours contracts were scrapped. It’s a disgusting thing, and we’d all be better, everything would be a lot better if you get rid of zero-hours ... Some people travel for miles, it takes them hours to get to the field to sign on, they get to work and they get told that we don't need you today. So they get put back on the bus, sent away and don’t earn any wages. But if they don’t turn up to say they’re ready for work, they won’t get used again, won’t get asked again, so you know, there’s a lot that could be done there.

Brian-Gangmaster-2
Brian’s withering opinion of zero-hours contracts summarises the key problems around non-guaranteed work, lack of wages if work is not available, and the implicit threat of workers being ‘struck off’ if they do not accept work when it is offered. In legal terms, zero-hours contracts mean that although employers are not obliged to offer any hours, workers are not obliged to accept any work offered (ACAS 2017). Yet some workers seem unwilling to reject work for fear of not being offered it again. There seems to be little oversight of the way in which employers offer work, and to what extent they make ‘second offers’ if individuals reject work in the first instance.

While zero-hours contracts have impacts on individual workers, they are a structural issue related to supply chain dynamics, since employers tend to rely on them despite not ‘embracing’ them. This suggests that zero-hours contracts are a necessary aspect of supply chains, and at least allow employers to remain competitive by minimising labour costs. Yet many businesses continue to advocate and use zero-hours contracts on the basis that they allow employers to be flexible and adapt to fluctuating demand (REC 2013). As seen from Gangmaster 1’s extract, if her company had few orders to meet, it would presumably not make business sense to employ all her workers on full time, permanent contracts, since there would be little work to do. Many food production firms like Klara’s are small businesses, so are unlikely to have the resources needed to maintain workers on a full time and permanent basis. Under competitive market conditions, zero-hours contracts may remain necessary if employers want to remain competitive with other businesses.

7.3.4 Illegal Employment

Many portrayals of migrant labour exploitation emphasise those with irregular immigration status who are legally not permitted to live and work in the UK (FRA 2015). While none of the migrant participants held irregular immigration status at the time of interview, they referred to others in the workplace who did:
... this is a bit awkward ... some takeaways don’t have every single chef with legal work permits ... the way they came to the UK, I found out later they came the rough way, they came illegally, on a lorry, from different countries, they came probably a couple of weeks later from where they left in China.

Xiao-F-Chi-32

I don’t know the other workers that well, but I think some of them may have had no legal status, so night shifts were the perfect time to bring them to work, because there was less chance of an inspection then.

Monika-F-Lit-46

These secondary perspectives suggest that irregular immigration status remains a factor in relation to how some companies use migrant labour. From a business perspective, companies may want to avoid illegal or dubious practices because of potential reputational and legal repercussions (Barrientos et al. 2011: 300). However, one labour provider admitted that they had unwittingly breached UK immigration rules:

… if there’s a gap between the end of the visa and getting the new one, we can’t employ them. We came unstuck with the Border Agency with that, it was a kind of an oversight, and we got fined for two weeks of using the workers until the new visa arrived. So after that, we’re very very hot on all aspects of foreign workers, either the Commonwealth or Eastern Europeans on the other side ... we fell, unintentionally of course, short of the law really ... so now we explain that if the visa expires, they have to stop work immediately until they get a new visa ... I don’t know how often this happens elsewhere, I imagine it must do ...

Brian-Gangmaster-2

In this instance, Brian referred primarily to Indian workers, who as non-EU citizens require a work visa while undertaking paid employment in the UK. The time between one work visa expiring and a new one being issued is significant, because this creates a vulnerability ‘gap’ whereby there are not just legal implications for employers, but potentially harmful impacts on workers. Irregular migrants may be more exposed to labour exploitation, even if this irregular status is temporary. Interestingly, Brian stated that his company tightened their visa policy after they were fined, which suggests that companies respond to enforcement and may insist
on using only migrants who hold legal immigration status, which may inadvertently put those without documentation in increasingly vulnerable situations.

7.3.5 Employer Preference for Legal Workers

The data suggests that some employers prefer to hire migrants with legal immigration status over irregular migrants: yet the motivations for this vary. One explanation is that strong immigration enforcement deters employers from recruiting irregular migrants:

*Maybe nowadays it’s a little bit better than it used to be … Because I guess there is a little bit more control, you know, over these factories etc, it’s not as it used to be over 10 years ago when there were lots of people working illegally etc. I think there are a few more restrictions now, so employers are I guess aware of this … the Home Office used to come and check the factories, they were employing illegal EU migrants before we joined the EU …. So you know, they were still doing it, but there were also visits. So they were afraid and they weren’t doing this afterwards, because they knew that the Home Office would come and check everything …*

Angelika-Caseworker-1

Exploitation in the form of human trafficking was still a relatively new issue for policymakers and enforcement bodies in the 2000s – the time period that Angelika refers to. Hence, employers may have felt more able to use irregular migrant labour with little fear of repercussions. However, irregular immigration seems to be less associated with labour exploitation than it used to be, which the intermediaries confirm:

*I think we’re very cautious now, so you know, every time we get approached by some other people, the first thing I do is ask them if they have a GLA license.*

Klara-Gangmaster-1

*… workers come primarily from the EU, in the majority there is not much irregular immigration.*

Brian-Gangmaster-2

Klara suggests that like Brian in section 7.3.4, her company takes precautions to ensure that they are not hiring labour illegally. Brian here implies that since the majority of workers in the
food industry are EU migrants, this reduces the likelihood of employers needing to hire migrants with irregular immigration status. This point leads on to another possible explanation for employers preferring to use migrants with legal immigration status: labour exploitation may be more difficult to detect if it occurs within the scope of otherwise legitimate labour market practices:

… it’s a continual puzzle, because a lot of the people being exploited have the right to be here, and yet are being as successfully exploited as irregular migrants, who have traditionally been, and are enduring exactly the same conditions such as bad accommodation.

Mike-TU-Rep

Mike’s claim suggests that irregular immigration status is not an essential factor for labour exploitation to occur. This has wider implications for supply chain practices, since it seems increasingly likely that labour exploitation is subtle, unintentional, occurs in legitimate market dynamics, and affects migrants with legal immigration status. The resulting harm seems to be increasingly normalised within such legitimate backdrops.

### 7.4 Socio-Economic Facilitators of Harm

Given the harmful consequences of some food and labour supply chain practices, it is important to consider wider socio-economic factors that may influence these. Others refer to forms of neoliberalism which emphasise restrictive border controls and minimalist welfare states (Cavadino and Dignan 2006; Pemberton 2015). Indeed, some socio-economic factors concerning restrictive immigration policies were discussed in Chapter 5.4.3. Such factors suggest that a neoliberal framework erodes social protections for migrant workers. This section does not analyse all possible socio-economic factors that can facilitate harm, but elaborates on key issues from the research, including the welfare system, the role of migrant communities, and cultural attitudes towards work.
7.4.1 Reliance on Welfare System

The majority of migrant participants recognised that the UK welfare system was an important support mechanism for them, whether they were already employed or seeking employment:

*After one year seven months I can work, so I claim the Jobseekers’ allowance to provide me with money.*

**Hakim-M-Irq-37**

*I have housing benefit, so have some help. But you can’t always get help, for example in my country, if you lose the shop or need to borrow money, no one can help you, that’s it, you’re closed. You can’t pay slowly slowly, whereas there is a lot of help here.*

**Marwan-M-Syr-33**

Participants recognised the value of the UK welfare system in supporting them with their daily lives, albeit in different ways. In Hakim’s case, after his asylum claim was successful, he was eligible for Jobseeker’s Allowance (JSA), which provides a weekly payment to those who can demonstrate that they are searching for employment (Citizens Advice 2017). Marwan, in contrast, was already working, but relied on housing benefit\(^\text{10}\) to supplement his salary, which suggests that low paid, low-skilled food industry work does not necessarily deliver an adequate income to cover basic living costs. The welfare system therefore provides some security to workers. Importantly, an advantage of migrants using the welfare system was that it sometimes served as a catalyst for caseworkers to identify exploitative labour practices:

*For example, they come to claim benefits, they’ll tell you that before I was working in a factory, a field, whatever, I lost my job, so we ask the set of questions that you normally ask for every jobseeker. Then you’ll find out, they’ll tell you, oh, I used to earn say £3 an hour. You then say, hang on, did you say £3 an hour? But you know yourself that minimum wage is six or seven something, so you ask how come you’re earning £3 an hour? And that’s how you find out.*

**Ibrahim-Caseworker-3**

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\(^{10}\) Claimants are eligible for housing benefit ‘out-of-work’ or ‘in-work’, but in-work must be on low incomes (Sumption and Altorjai 2016: 3).
Ibrahim’s extract suggests that workers’ circumstances may only become clear when they discuss other unrelated issues. This view implies that a number of migrants are unwilling to report exploitative labour practices, or that they do not realise they are being underpaid or mistreated. Therefore, some interaction with support organisations and the welfare system can indirectly encourage migrants to share details of their exploitative work conditions. Despite the advantages of the UK welfare system, both for low income support and the potential to identify labour exploitation, migrants cannot always access it:

*Everything is different for us, they don’t give you any benefits, you cannot get Jobseeker’s allowance because you have European nationality, and you cannot go for a long time outside the UK and come back, otherwise you must pay for yourself, you’d have to pay the rent, because this is the law in the UK.*

**Navdar-M-Syr-40**

*I stay here three weeks without a job, I have some money from house, I keep for rent, for food, and I think maybe every moment I have a job and I put money away for the transport. I had very little to eat because I didn’t have the money after paying most of it to this agency. And because I was new, they don’t help you with accommodation, the government, you have to be here for a while first …*

**Raluca-F-Rom-28**

For clarity, Navdar refers to migrants not being eligible for JSA within the first three months of residence in the UK (Sumption and Altorjai 2016: 5). Additionally, if individuals voluntarily quit their job or are dismissed, they may not be eligible for JSA. These factors have significant implications, because some migrants may feel as though they have little choice but to remain in exploitative work, since they are unable to rely on the safety net of the welfare system. These welfare provisions have individual impacts, yet associated problems may stem from organisational activity:

*These incorrect recordings on the payslips affect clients’ eligibility to some welfare benefits, maybe to their residence in the UK, a possibility of obtaining permanent residence in the UK or even citizenship. So, or for example getting housing benefit, so it all affects them. They can’t do anything … clients were basically given the incorrect payslips with the wrong details, and that affected their claims to benefits that they were perfectly entitled to.*

**Elena-Caseworker-2**
Incorrect payslips suggest that some welfare claimants are placed in a worse position than they would have been, had their employers issued the correct details. As with some business practices already discussed, they indicate neglect rather than malice, but still may have harmful consequences if migrants cannot access financial support. When considering structural influences, in this case the regulations that determine whether migrants can access the welfare system, harmful consequences may emerge as a product of legal state mechanisms and employer neglect.

7.4.2 Migrant Communities and Exploitation

Chapter 6 suggested that many migrant participants depended on social networks to find jobs, especially if they were new to the UK and lacked prior working experience. These connections seem to be grounded in the context of migrant communities:

… most of them are being active, looking for a better job, through their friends, through their own community.

Elena-Caseworker-2

Elena suggests that some migrants are not content with their existing jobs, so use social networks to find better work. Notwithstanding the perceived benefits of speaking English as noted in Chapter 5, in some cases migrant communities seemed to hinder this:

Some clients work in jobs in a food area, where the language is not required, and they got this job through their own community. So the job is amongst their community, amongst those people that speak their language. So there is no necessity for them to learn English, because at home they speak their language, they go to work, they’re still in a Polish community, everyone around them is speaking Polish, and then they go to the shop, probably a Polish shop, so they speak Polish. There are these communities in different cities, because now there are more Eastern European communities established, since we joined the EU. So there is no necessity for them to speak the English language, and they comfortably live without the language, if they have a job.

Elena-Caseworker-2
If migrants live, socialise and work among other migrants or those with the same nationality, this reduces the chances of them interacting with British workers or residents. Therefore, migrants who do not understand English may be more exposed to exploitative labour practices if they subsequently find other work with less Polish workers. Such language issues represent one example of how migrant communities may unwittingly contribute towards exploitative and harmful employment practices. Sometimes communities seemed more active in facilitating exploitation:

... it’s not the fault of England or anyone else, it’s just that people from Lithuania or similar countries, Eastern European countries, people are just selling each other, there is no trust between us, they should help each other, not sell other people for £200.

Monika-F-Lit-46

I think now, because it’s been over 10 years since the A8 countries joined the EU, there are large communities established. So it’s probably easier for the communities to exploit their own people from their own country, and recruit them, and bring them here, set up their own businesses, and work for them ... Whereas before, they used to come and work for British, or non-EU workers, so it was a different kind of exploitation. But now, there are more communities exploiting their own people, which is really horrible ... The way you imagine it is that communities are supporting people, not just people but if it’s someone from your community you’re also maybe going the extra mile to help them. But actually I hear these stories that are the other way round sometimes.

Elena-Caseworker-2

Therefore, migrants may be exposed to exploitative work not due to a lack of social networks, but because of them. It is possible that a Polish person, for example, can better associate with other Polish people in their community than any other group, which means that they may be more easily deceived. Hence, it is clear that migrant communities can be both a source of support and a risk for exploitative practices, which challenges the assumption that social networks provide a bulwark against harmful labour practices.
7.4.3 Cultural Influences

Based on the impacts of migrant communities, some participants were explicit that cultural influences underpin exploitative work conditions due to a strong underlying work ethic:

… looking at our Eastern European culture, we know that we have to work hard, and we work hard, okay. If we are told that we need to work, and the work involves this, that, this or whatever, we just do it, sometimes even without thinking and questioning. Very often that is the case, you know, that lots of clients, migrants, they think that basically this is the job, and I have to do as they say, and this is probably the money I will get. So basically, and till I find out from someone else, until I get some knowledge in this country about the system and everything, sometimes they’re probably just not aware that they shouldn’t be working in such conditions, and they shouldn’t be paying these low wages etc.

Angelika-Caseworker-1

Angelika suggests that working hard without question is strongly associated with ‘Eastern European culture’ – albeit she does not state what she means by such a culture, within which there would surely be significant variety. In a comparison of attitudes towards work across European countries, Torgler (2011) found that being from Eastern Europe rather than Western Europe increased the probability of ‘work centrality’ – how important respondents thought work was to them. However, most participants said that they were willing to work hard regardless of where they were from, which suggests that associating this trait purely with Eastern European culture is not necessarily untrue, but may be simplistic. Interestingly, Angelika implies that once workers become more familiar with ‘the system’, they may be less willing to tolerate exploitation. This point supports the discussion in Chapter 6, whereby workers may question employers after they become more familiar with employment rights (Lloyd and James 2008). However, in some instances culture may be even more embedded:

Those that haven’t done the education are primarily Roma people, from different European countries. It’s because it’s in their culture, for example, that women don’t need education, so some of my Lithuanian Roma women that come to see me, they don’t even read, and they don’t write, they only speak like Lithuanian and their Roma language, the local dialect … it’s bad enough not to speak the country’s language, the absence of the knowledge of the law. But when you can’t even read or write? … it’s just their life, it’s just the way they explain things to me, it’s just the way we are, it’s our communities, it’s just the way we do things. So I say
okay, fair enough … some clients are happy doing that, in those farms and appalling conditions, and they just say, this is just the way we do it, the way we live, and they haven’t seen anything better, so they can’t even imagine it could be better.

Elena-Caseworker-2

This extract focuses on a specific group of women who do not receive a ‘conventional’ education. Elena emphasises culture here, but implies that Roma women who cannot read or write may be less able to complain about poor work conditions, even if they wanted to. Evidence suggests that Roma women in Europe face distinct challenges, since they are less likely than Roma men to be educated and employed (FRA 2016). When considering that some Roma women may be ‘happy’ to work in poor conditions, this makes routine labour exploitation more problematic to address, since it contributes to the normalisation of harmful consequences. This issue adds a level of complexity to why some migrants tolerate exploitative and harmful labour practices: if workers are content with poor conditions, as Elena asserts, then workers may not regard themselves as exploited. If workers cannot ‘imagine’ their work could be better, this suggests a lack of outreach to new migrants who work in this industry with little understanding of employment rights.

Regarding vulnerabilities that female workers are exposed to, this issue does not just affect Roma women or other female migrants in the UK, but can be seen as a challenge throughout global supply chains:

… you’ve got other cultural issues, again, this comes up mostly in other countries, like India, where, you know, whether you like it or not, whatever it says on paper, women are classed as inferior by the system, by society in general, where they don’t have the same rights as men. So it’s very paternalistic, and as a result, you may have heard, about this scheme that’s kind of common, in relation to unmarried women, where it’s all, you know, young ladies, who aren’t yet married, if they’re allowed to work then the conditions are often strict, where they’re locked up in dormitories with little or no access to the outside world, where the chances of abuse, be it verbal harassment, sexual harassment, just not getting paid properly, just not getting rest hours, not being allowed to communicate with the outside world.

Mark-Buyer-1
Mark’s point suggests that severe exploitation such as movement restrictions are more prominent in global supply chains, especially for female workers, who for cultural reasons may be subject to intense oversight from family members (Prieto-Carrón 2006). Coupled with this oversight, female workers in global supply chains can be vulnerable to sexual exploitation from managers and employers, which is associated with threats of job dismissal or cuts in pay should they refuse to comply (Prieto-Carrón 2006). From this discussion, cultural influences seem to be a significant factor in explaining why exploitative labour practices occurring in supply chains are not easily remedied. It is unlikely that any single organisation or law would be able to resolve exploitation that results partly from the ‘strong work ethic’ of Eastern European workers, the ‘lack of education’ for Roma women, or the treatment of female workers in global supply chains.

### 7.5 Unintended Harmful Consequences of Food Production

In terms of shifting towards a more interpretive discussion from the data, exploitative and harmful labour practices are not necessarily intentional or desirable outcomes for supply chain businesses. The combination of natural factors associated with food production and the demand for products in competitive markets generate ‘gaps’ whereby opportunities for labour exploitation emerge. These gaps can be conceptualised through a number of cross-cutting themes. First, the actions of labour intermediaries and how they respond to the pressures on them to recruit. Second, the contractual pressures which are beyond the control of intermediaries and suppliers. Third, sudden changes in demand can affect demand for labour and so employment practice. Fourth, the demand placed on producers to deliver products of a sufficient quality to buyers. The controls exerted by buyers a long distance from food production sites can have significant impacts on business processes and workers. These factors influence how the demands placed on workers and producers are understood, which do not excuse exploitative practices, but demonstrate the embedded and normalised nature of supply chain processes.
In such circumstances, some employers and businesses may intentionally take unfair advantage of their workers. Yet in many more cases, labour exploitation and harm seems to emerge from supply chain processes as ‘unintentional consequences’:

*I do think that every person deep down wants to not have exploitation in their supply chains, I don’t think anyone wants that. But I think a lot of people get very focused on the facts of what they’ve got to do every day. They’ve got to please their shareholders, meet their orders, so that can kind of put blinkers up, because they’re just in the mind frame of, this is what we’ve got to do, this is our role.*

Lisa-Buyer-2

*… nobody probably wants to mistreat anyone, I just have a big farm and I want to meet my order, what has been agreed.*

Ibrahim-Caseworker-3

From those business representatives who participated, there is some indication that employers, managers and businesses do not want to see labour exploitation occurring in their supply chains, at least on an individual level. However, it may be helpful to consider on what basis employers do not want exploitation to occur. Adapted from Pascal’s (2014: 33) assertion, some employers may treat workers fairly out of prudence: they are afraid of negative publicity or losing business if they are caught. Other employers treat their workers fairly due to some form of moral conviction: because they feel it is the right approach to take (Pascal 2014: 33). While only the latter is arguably behaving ‘morally’ due to their motives, it seems reasonable to assert that neither group have criminal intentions and want exploitation to occur.

Despite the well-meaning, or at least ‘non-criminal’ intentions of many individual business people, individual commitment may only go so far when addressing exploitation and harm, regardless of what position they occupy and the influence they have within their organisation. This concern essentially relates back to the notion of corporate social responsibility (CSR) highlighted in Chapter 3, whereby positive rhetoric gives the impression that businesses and
individuals within them are committed to tackling labour exploitation. Yet improving labour conditions is likely to cost money, and the prospect of these expenses may be unpalatable to some decision makers who may try to water down initial proposals from more ‘ethical’ business people. Hence, individual voices risk becoming lost among a larger group dynamic.

Therefore, ‘groupthink’ may emerge in business decision making processes. Janis (1972) originally developed the psycho-social concept of groupthink, whereby cohesive groups face pressure to make good quality decisions, which may discourage individual group members from speaking against the dominant position. A key aspect of groupthink is that individual group members, who may be ‘dissenters’, are under pressure not to argue against other group members for the sake of making progress and accepting compromise (Fuller and Aldag 1998). This pressure may result in important issues being side-lined in order to facilitate collective agreement, regardless of how strongly some individuals feel about them.

Groupthink has been subject to relatively little empirical rigour, so empirical support for the theory is ambiguous at best (Turner and Pratkanis 1998). Nevertheless, when applied to the context of food supply chain businesses, it is possible that some business people will not have the same priorities as others. For instance, a compliance manager who has a good understanding of labour exploitation and how their organisation can address it may approach the issue differently when compared to a recruitment manager. While a compliance manager may be primarily focused on internal compliance, regulatory and legal obligations, a recruitment manager will likely care more about the quantitative supply of workers. These roles do not necessarily complement each other when considering efforts to address labour exploitation.

As Chapter 6 suggested, supply chain businesses can apply significant pressure to their grassroots workers to meet orders, so the same principle may apply to higher levels of management, regardless of whether the organisation is a small or large firm. The company
policy that emerges is therefore the outcome of several inputs, rather than a single individual’s input: hence, policy is unlikely to represent the view of a single person (Gobert 1994: 408). These assumptions of organisational decision making relate back to the idea that the actions of organisations are more than the sum of individual actions. Fisse and Braithwaite (1988: 479) assert that while individual actors are important in organisational settings, organisations have “manifest routines” which to some extent operate independently of individuals who “flick the switches”. In other words, organisations are systems in their own right, not just the collective actions of individuals.

Related to the notion of groupthink is the idea that managers or employers become preoccupied with daily, routine tasks and business decisions to the extent that they lose sight of harmful labour implications; not that they maliciously intend to worsen labour conditions. Arendt (1963) refers to the “banality of evil” as a means to explain how professional standards rather than ideology can motivate people, and that bureaucracies “make functionaries and mere cogs” out of people. These factors relate back to the notion of harm, where initial business goals involve addressing legitimate business problems in a rational manner, but the consequences may be illegal or at least harmful. In a similar context, Bauman (1989) discusses how the Holocaust was able to occur. While the intention here is not to compare the Holocaust with contemporary events occurring in food supply chain processes, Bauman’s theoretical position seems to hold some relevance.

When discussing the Holocaust, Bauman (1989: 17) argues that extermination occurred as “a product of routine bureaucratic procedures” rather than the actions of sadists, born criminals, and morally defective individuals. Most participants in the Holocaust did not conduct executions, but were involved in associated bureaucratic procedures that had no direct link with the extermination, such as answering telephones, holding meetings or designing blueprints (Bauman 1989: 24). In other words, ringleaders involved in the extermination process relied more on organisational routine, not individual zeal (Bauman 1989: 20). Albeit
in a different context, it is possible to transpose Bauman’s theory to corporate settings and migrant labour exploitation in supply chains. This transposition is possible because harmful employment practices arguably develop primarily from standard business procedures rather than malicious ‘traffickers’ and organised crime groups as is commonly depicted (Focus on Labour Exploitation Advisory Group (LEAG) 2016: 6). Perpetrators of labour exploitation are therefore typically ‘normal people’ who are usually trying to respond rationally to legitimate business concerns.

Part of the organisational routine argument involves the notion of compartmentalisation, whereby some actors can claim unawareness and so responsibility for subsequent exploitation and harm. A number of stakeholders implicitly referred to this division of labour:

… it’s an out of sight, out of mind thing, while they don’t have to see that any of this is happening, they can conduct business with what they see as plausible deniability until proof emerges.  
Mike-TU-Rep

In this context, Mike refers to how labour exploitation can be difficult to detect if supply chain actors are numerous stages away from where the exploitation is occurring, in line with the lengthy supply chains issue highlighted in section 7.3.1. Passas (2005) asserts that compartmentalised corporate structures may create “firewalls” which protect the company and its executives from awareness of illegal or harmful behaviour, and therefore from liability – albeit this is not always sufficient to prevent prosecution. In supply chains, decision makers may not be fully aware of their effects or the ‘end result’ of labour exploitation. This physical or mental distance between actions and consequences may diminish the tension between personal notions of “moral decency” and the “immorality” of the act’s social consequences (Bauman 1989: 25). Such processes allow many supply chain actors to continue claiming plausible deniability. Cohen (2001: 51) asserts that many undesirable situations can be unrecognised, ignored, or even normalised through denial on an individual and societal basis
– a process which the FRA (2015: 54) refers to as a “climate of indifference” in the context of labour exploitation.

From a bureaucratic ‘division of labour’ perspective, supply chain processes can be divided into small functional tasks, which makes awareness of activities elsewhere irrelevant and problematic to achieve. If actors are isolated from eventual outcomes such as exploitation and harm, they remain focused on their aspect of work which enables such practices to continue. The result is the “irrelevance of moral standards for the technical success of the operation” (Bauman 1989: 101). As Lisa noted in her extract above, supply chain actors may not want exploitation to occur, but become occupied with their daily tasks to the extent that they are not aware that their actions or omissions may facilitate exploitation. This lack of awareness reinforces the argument that boundaries between legal and illegal business activities are not necessarily distinct, but can connect and be interdependent, since they each have common features, including the need to make profits (Vander Beken 2004). Ultimately such a “policy of toleration” (Vander Beken and Van Daele 2008: 745) of illegal and harmful activities may affect other legal activities to the extent that legal and illegal aspects become further intertwined, which reduces the influence of government and regulators.

Regardless of the reasoning behind actions or omissions that have unintentional and harmful consequences for migrant workers, these explanations contrast with portrayals of labour exploitation that depict individual perpetrators and criminal groups as the main drivers of exploitation (Bales and Soodalter 2010). Therefore, rather than being understood as a ‘criminal’ problem that is somehow distinct from legitimate business, supply chain and labour market processes, labour exploitation can be understood as integral to them. There is clearly an element of organised criminal activity behind some instances of severe exploitation (GLA 2015a). However, organised crime seems less likely for more subtle and routine exploitation. Based on the work of Lord et al. (2017), it may be more effective to conceptualise the
‘organisation’ of deviant and illegal activity, as understood within legitimate supply chain dynamics and market processes.

Unintended harmful consequences that result from legitimate business processes combine with the idea that many (migrant) workers tolerate them, including those who ‘willingly’ enter employment relationships. These factors reinforce the notion that routine labour exploitation becomes normalised and embedded within the scope of legitimate markets. Many practices that emerge may not be illegal or treated as criminal, but can nevertheless be harmful, which brings into question what measures are appropriate to control them.

7.6 Conclusion

A range of food supply chain dynamics can facilitate exploitation and harm for migrant workers, which revolve around the demand for products. These structural dynamics consist of factors inherent to food production, such as seasonality, tight profit margins, and the dominance of buyers over suppliers. Suppliers may respond rationally to legitimate business pressures by outsourcing their costs to labour intermediaries, which can harm workers in the form of flexible contracts in complex supply chains. Socio-economic factors such as work ethic, the welfare system, and communities may serve as a backdrop against which exploitation and harm occurs. Many of these harms do not occur simply because of ‘bad employers’. Instead, supply chain businesses respond to daily pressures in order to maintain their business interests, which can unintentionally result in harmful consequences. The structure of food supply chains may mean that businesses are required to cut corners in order to remain competitive. This complexity suggests that the spectrum of exploitative labour practices is grounded in supply chain dynamics and socio-economic factors, which may facilitate harmful individual experiences. The regulatory context plays a significant role in detecting and enforcing against these harmful consequences, which is the focus of Chapter 8.
Chapter 8: Fragmented Regulatory Protections

8.1 Introduction

The findings from Chapters 6 and 7 suggest that labour exploitation and harm can be routine, banal, and structurally embedded in legitimate food supply chain processes, within which individual actors respond to pressures. This chapter argues that different types of regulation have conflicting goals, which leads to a collectively limited regulatory framework, whereby labour conditions deteriorate and so enables exploitation to continue. As Braithwaite (2008: 62) asserts, regulation can be difficult to “do well” in political, legal, and technical terms. Since different regulatory bodies and associated organisations have different goals, conflicting perspectives on controlling labour exploitation emerge, which not only generates tension between supply chain actors, but arguably erodes labour conditions further. In particular, the focus on regulating severe exploitation may encourage the normalisation of routine exploitation.

Four central themes have been developed from the data. First, the chapter discusses ‘command and control’ responses to labour abuse, including actions by the police, criminal justice system, and state regulatory bodies. Second, just as others refer to police accountability and the matter of policing the police (Baker 2016; Chambers 2014), the chapter will briefly examine who polices or regulates the regulators, or ‘meta-regulation’. Third, it considers the self-regulation of companies, who tend to advocate the notion of corporate social responsibility (CSR). Fourth, ‘smart’ regulation will be examined, which consists of trade union activity, as well as individual employee actions and NGO involvement. These strands of regulation centre on corporate accountability, which is important to address when considering how supply chain actors facilitate exploitation and harm.
8.2 Command and Control Regulation

‘Command and control’ regulation is broadly understood as the direct oversight of a sector or activity by legislation that establishes what is permitted and what is illegal (McManus 2009: 546). The police, legal system, and state regulatory bodies typically enforce this ‘top down’ regulation. This section evaluates key issues emerging from command and control-style oversight of the food industry.

8.2.1 Problems of Police Involvement

Labour exploitation and corporate crime more widely has traditionally not been a priority for the police when compared to street crimes that occupy most police time (Gobert 2014). This low prioritisation suggests that their awareness of labour exploitation cases is limited:

*Police don’t generally understand labour exploitation, they understand sex work.*

Tom-GLAA

Tom highlights key issues here in relation to how the police perceive labour exploitation. While many local UK police forces now have specialised anti-human trafficking units, detection rates remain low, and treatment of victims may be inadequate (Elliott and Garbers 2016). As Gadd et al. (2017: 2) found in the Greater Manchester area of the UK, only one in three suspects were subject to criminal charges, and many victims did not receive a positive conclusive decision through the National Referral Mechanism (NRM). In other jurisdictions, research suggests that police attitudes towards health and safety issues can be derisory when compared to ‘real crimes’ such as murder investigations (Alvesalo and Whyte 2007: 58). Tom’s assertion that the police tend to understand sex work indicates that the policy and enforcement focus on sex trafficking in the 2000s still dominates some police attitudes in terms of what they think exploitation or modern slavery is. Some policy and research still synonymises exploitation with sex trafficking while neglecting labour exploitation (O’Brien 2016).
However, blaming solely a lack of police awareness and training for low detection rates of labour exploitation is limited, since this assumes that police involvement is desirable and constructive for exploited workers. Many workers do not report exploitation to the police, which inherently limits the amount of police involvement:

*The police are an option as well, although not many clients would contact them. They would probably rather start with some kind of other place than the police, because the police are the last thing they would consider ... And it’s because they are simply afraid. If we’re talking about police, it’s like, they might go to close down the factory or field or whatever, and then they’d lose their jobs, would be worse off, have to look for another job where they might also be exploited.*

**Angelika-Caseworker-1**

Since many workers seem to consider the police as a last resort, if at all, this reinforces the idea that the police are one of several options in terms of reporting and addressing labour abuse. Workers may hesitate to contact the police for a number of reasons, including fear of repercussions, a lack of trust in authority figures, concerns that no action will be taken, and a possibility that they were complicit in illegal practices (Ruhs and Anderson 2010). Angelika proceeded to describe how some Polish migrants were willing to speak to interpreters at the GLAA about their concerns, which suggests that they did not want to contact the police if they had alternative options.

Interestingly, Angelika implies that police intervention and subsequent criminal accountability may be more harmful to workers than letting the exploitation continue. Researchers and regulatory bodies tend to argue that ‘strong regulation’ supported by enforcement are key benchmarks of any response to labour exploitation (Balch 2012; GLA 2015a). Yet in some cases, police intervention may result in further harm, since workers face losing whatever job or housing security they had, on top of the exploitation and harm they already experience. Unless the NRM identifies individuals as victims of human trafficking, the support available to workers may be negligible. As France (2016) posits, there are few support mechanisms
available to address ‘less severe’ exploitation, and law enforcement bodies are less willing to intervene in cases that are not severe.

Notwithstanding the potential lack of police involvement, caseworkers tried to help the police understand labour exploitation wherever possible:

… we try to inform or make the police aware of what’s happening. We also try to arrange an appointment so they can see the actual client themselves and get their story from the client instead of us lecturing them. Then they can see when someone is in front of you and they’ve been through what they’ve been through, they will tell in their own way, so you can see their emotions coming out, you can see the sadness, you can see all these things. So you could read their faces as well. That’s what we want to show the police as well, to find out the deeper problem, the scale of the issue.

Ibrahim-Caseworker-3

Linked to this extract is the idea raised in Chapter 7 that supply chain actors do not always see the impacts of their purchasing practices if they are several stages away from the workers who do the exploitative work. Similarly with enforcement responses, some police officers may not understand labour exploitation if they lack first hand contact with abused workers. Even if police forces are equipped to investigate labour exploitation, the informality of many labour practices may hamper their efforts:

… these agencies are very smart, they are trying to cover any angle, any links that the police could investigate. So they won’t give any documentation, nothing, so at the end of the day, whenever an investigation comes up, it’s his word against their word.

Ibrahim-Caseworker-3

Ibrahim suggests that the police and any subsequent investigations need to obtain high standards of evidence in order to justify criminal prosecutions. The problems of casual labour in the food industry can make obtaining this evidence problematic, since contracts may be verbal, and workers may hesitate to interact with the police and provide evidence. Therefore,
police involvement in labour exploitation cases may be desirable and necessary from a law enforcement perspective, but this is more complex to deliver in practice.

8.2.2 Limitations of Criminal Law

Since police involvement seems unlikely in many labour exploitation cases, the criminal justice system tends to adopt a limited role as one of several enforcement responses:

The buyers acknowledged that modern slavery is a crime, but felt that tackling these issues are not ‘black and white’ because criminal law enforcement is just one approach, and may not always be effective due to the high standards of evidence needed.

Fieldnotes-buyers-3&4

The buyers imply that the criminal justice system will only address severe exploitation, but that even in such cases, the need to provide proof beyond reasonable doubt can be problematic. Yet as Chapter 6 suggested, even severe exploitation may not be criminally prosecuted, which means that civil or administrative law emerges as an alternative option to secure some form of ‘justice’. Unlike the criminal courts, the burden of proof for civil courts is on the balance of probabilities (Pascal 2014: 45), which as the DJ Houghton case demonstrated, claimants can secure some form of accountability.

Routine labour exploitation is even less likely to be criminally prosecuted, since harmful consequences may appear to be unfortunate ‘by-products’ of otherwise legitimate activities (Tombs 2016: 22-23). This lack of criminal investigation may be understandable from a legal perspective, since isolated, low-level incidents of labour exploitation may not meet the threshold needed to warrant criminal prosecution. Employers may try to explain away some exploitation by claiming ‘poor administration’ or ignorance of the law, which complicates the notion of intent usually associated with criminal prosecutions. However, some participants felt that the criminal justice system remains a preferable option in many cases:
The criminal justice system, that’s absolutely the ideal way, because ultimately where exploitation leads to the denial of fundamental human rights, and also risking health and life, then that is a criminal act. The Modern Slavery Act up to a point reflects that in terms of exploitation here domestically. The transparency in supply chains stuff, although toothless, in conjunction with some of the financial laws which give extra territorial jurisdiction, is beginning to break down the barrier of, well it happened over there, it’s nothing to do with us. So we hope that eventually these things will evolve, so that the teeth of the financial regulations and the principles of the Modern Slavery Act on labour exploitation come together to give something with teeth on labour exploitation. Something where you could prosecute a company here, for allowing the denial of fundamental human rights at the far end of the supply chain, is going to get peoples’ attention. It is the wonderful capstone of state regulation and company responsibility coming together.

Mike-TU-Rep

While Mike seemed to discuss severe exploitation, he highlights a potential fusion of this Act with financial laws in order to address labour exploitation. Mike did not specify which financial regulations would be helpful, yet it is possible that he referred to UK legislation such as the Bribery Act 2010. This Act contains extraterritorial provisions for some offences committed outside the UK, whereby UK courts have jurisdiction over individuals and businesses if they have a close connection to the UK (Lord 2014: 71). Previous work has started to make connections between labour exploitation and financial crimes such as money laundering (HM Government 2015a), which may be worth exploring further in future work, especially given the complex dynamics associated with organised transnational criminal activities (Paoli and Vander Beken 2014).

Although Section 54 of the Modern Slavery Act 2015 includes extraterritorial scope in that companies are required to communicate the measures they are taking to address exploitation in their global supply chains, it does not require them to guarantee prevention (ETO 2015). This gap potentially means that companies can hide exploitative practices occurring beyond the UK, since they do not have to report on all supply chains abroad (Chandran 2015). Ultimately criminal labels and penalties may be the strongest forms of accountability, but do not necessarily change workers’ labour conditions, since they are reactive. In contrast to
criminal accountability, state regulatory bodies such as the GLAA may offer a more pro-active approach.

8.2.3 The Changing Role of State Regulation

The ability of regulators to impose non-criminal sanctions on businesses has been cited as an alternative to criminal sanctions (Gobert and Punch 2003; Wells 2014). As discussed in Chapter 3, the GLAA regulates labour intermediaries in the UK food industry, and is gradually expanding its remit to cover the entire labour market. Rather than merely re-examining the well-trodden debate of whether regulatory sanctions are more ‘effective’ than criminal sanctions (Gobert 1994; Wells 2014), this section examines the contemporary role of the GLAA in relation to labour exploitation.

Unlike the criminal justice system, an advantage of regulatory bodies like the GLAA is that they can pro-actively try to address labour exploitation before a case is reported to them; albeit a key part of their role involves responding to reports of labour abuse. When they are pro-active, the GLAA seem to have positive impacts on workers that they reach out to:

... we had this training with the Gangmasters licensing place, we've got even leaflets and everything in different languages, numbers that you could contact that speak your own language. So we try to encourage clients, these are always on the desk, so lots of clients were taking these, actually there was nothing left on my desk. Because every time they see their language, and every time they see if you have trouble with your employer, they were picking these up. So we try to pass the message that there is this place that could help you.

Angelika-Caseworker-1

The GLAAs outreach means that caseworkers and labourers can improve their awareness of labour exploitation, as well as available options for addressing problems. Making information available in multiple languages and organisational outreach can be helpful factors in addressing labour exploitation (ALP 2012; Fitzgerald 2007). What is particularly interesting from Angelika’s quote is that there was ‘nothing left’ on her desk regarding the GLAAs
information leaflets. If migrant workers believe that organisations like the GLAA will take their concerns seriously, then this challenges the assertion that workers are willing to tolerate exploitative work conditions, or at least that they are content with these conditions. Angelika’s extract suggests that some are willing to find out new information, and perhaps report labour abuse. Despite these positive reports of GLAA actions, some supply chain stakeholders took a more critical stance of the regulatory body:

… unfortunately, the GLA [GLAA] is very, what’s the word … hasn’t got a lot of strength, hasn’t got a lot of people working there, they can’t cover the country. That’s one of the problems with the GLA. I mean, of course we work with them and they examine us, make sure we’re doing all the right things … but the GLA haven’t got any teeth, you know, they can do the odd person but they need far more strength.

Brian-Gangmaster-2

This idea that the GLAA have no ‘teeth’ is an issue that previous work highlights (EHRC 2010; Lalani and Metcalf 2012), on the basis that it lacks the necessary resources to cover the food industry, and that its remit prior to 2017 did not include other sectors such as construction. Criticism of the GLAA has typically focused on these issues of remit and funding, rather than the efficacy of the work it does when it is adequately resourced and appropriately deployed. This criticism links to the GLAA’s development since 2004 whereby the GLAA faced numerous threats from pro-business lobby groups. For instance, there was a proposal that the licensing of labour providers should be voluntary rather than a statutory obligation (McKay et al. 2006: 109). The GLAA therefore seem to be placed between two competing regulatory positions:

An important point for regulation is that labour market policy is run by BIS [Department for Business, Innovation and Skills], not by the Home Office. A significant tension is the result, because the Home Office adopts a command and control style of oversight, whereas BIS emphasises deregulation and self-control, so we’re caught in the middle … the Home Office may say that more licensing is better for crime prevention, whereas BIS may say no, we don’t want more regulation. This tension of different positions chips away at workers’ rights.

Tom-GLAA
For clarity, the GLAA is currently accountable to the Home Office, which oversees crime prevention through agencies including the police, immigration authorities and security services. This Home Office oversight does not necessarily complement the priorities of BEIS\textsuperscript{11}, which tends to be critical of state regulation, portraying it as ‘red tape’ or as hindering business growth (HM Government 2015b). Therefore, regulators like the GLAA arguably find themselves between the principles of ‘top down’ and voluntary regulation, since regulators are now required to consider the impact of regulation on business enterprise:

\textit{The Enterprise Bill emphasises the business impact test, where regulators need to calculate the burden of regulation on business. This is a constant burden on regulators, and is geared towards distracting them on purpose from their main activity of regulation. In other words, the government are trying to regulate the regulators.}

\textbf{Tom-GLAA}

The Enterprise Bill that Tom refers to, now the Enterprise Act 2016, emphasises “cutting red tape” from businesses (HM Government 2015b: 2), partly by requiring regulators to develop cost reports of regulatory activities on businesses. The Act’s primary focus is therefore on deregulation and encouraging business development. Unscrupulous employers may regard the GLAAs somewhat uncomfortable position between the Home Office and BEIS as an opportunity to engage in deviant practices, especially if they are aware that the GLAA has limited resources to inspect premises, apply sanctions or initiate prosecutions. Aside from business reactions to the GLAAs new remit, there are questions around how it is accountable given its new remit and police-style powers.

\section*{8.3 Meta-Regulation}

The concept of ‘meta-regulation’ broadly refers to the oversight or governance of regulation (Grabosky 2017). For instance, section 8.2.3 referred to the idea that, according to the GLAA,

\textsuperscript{11} The Department for Business, Innovation and Skills (BIS) evolved into the Department for Business, Energy, and Industrial Strategy (BEIS) in July 2016.
the government were trying to ‘regulate the regulators’ by requiring the GLAA to consider their impacts on business development. However, the new GLAA has additional police style powers in order to stop and search suspects:

Court warrants under PACE mean that the GLA have to sift through evidence on site and take what’s relevant. Under new PACE powers, they can take everything and sift later. Currently inspectors can go in but can’t arrest, meaning that some employers may have incriminating evidence on a memory stick in their pocket. New powers will mean that the suspect can be searched and will have to hand over the memory stick. Whereas previously the GLA could only search filing cabinets and the premises … The GLAA will fall under the IPCC with these extra policing powers.

Tom-GLAA

Usually discussed in a policing context, the Police and Criminal Evidence Act 1984 (PACE) defines police powers in the UK. Section A of PACE allows police officers to search persons if they have ‘reasonable grounds’ for suspicion (Home Office 2014a), whereas Section B allows them to search premises and seize property for examination elsewhere (Home Office 2013). Tom clarifies that the new GLAA will have further police powers, which may make investigations of labour abuse easier to conduct if the GLAA is able to remove potential evidence from premises and examine it later.

However, the GLAA’s new police style powers mean that they are subject to extra oversight, in this case from the Independent Police Complaints Commission (IPCC). The IPCC is officially a separate body from the police and government, although it contains a number of former police officers, which has led some to question its independence from the police (Gilmore and Tufail 2013: 8). According to the IPCCs mission statement (IPCC 2017), it oversees the UK police complaints system, and considers appeals from those who feel that local police forces have mishandled complaints. When applied to the context of labour exploitation, employers or businesses could complain if they felt that the GLAA search them or their premises on grounds that were not ‘reasonable’. This problem of reasonable grounds is a common complaint with stop and searches among the public, especially those from ethnic
minority backgrounds (Medina-Ariza 2014). Since the IPCCs role in overseeing the GLAA is a relatively new development, this may be an important area of research in the coming years when discussing meta-regulation. As noted in Chapter 3 however, there are significant differences between ‘formal’ and ‘informal’ types of regulatory oversight; this chapter now turns to the latter type.

### 8.4 Self-Regulation

As discussed in Chapter 3, companies usually prefer to self-regulate, either as individual organisations, or across their industry: what Gobert and Punch (2003: 316) refer to as ‘individualised’ and ‘collective’ self-regulation respectively. Previous work has long argued that notions of self-regulation, including corporate social responsibility (CSR) are flawed because they are voluntary, which means that companies may curtail their non-statutory ethical policies if profit levels are threatened (Fauset 2006). This section firstly suggests that some buyers tolerate a degree of exploitation in their supply chains. Secondly, it proposes that labour and safety inspections are of a limited quality in comparison to inspections that focus on food quality and hygiene.

#### 8.4.1 Demonstrating Corporate Social Responsibility

When discussing the principles of labour ethics with supply chain businesses, they were keen to demonstrate the efforts that their organisations were making to address exploitation, especially when compared to their competitors:

… we’ve got people placed round the world, parts of Africa and parts of America, who they work directly with on the farms and packhouses, to ensure that there are decent standards and plans in place to improve all the time. Whereas historically, going back 10 or 15 years, we didn’t have that, and some of our competitors don’t have that still. You know, they’ll be buying their bananas or whatever else through an importer, and they might occasionally go on a trip to the farms on the far side of the world, to have a look and see what’s going on, but that’s not the same as having people based there all the time, with a proper, ongoing relationship, not working hand in hand with these organisations.

Mark-Buyer-1
The people who come to us, some of the jobs only last two hours … If they exceed eight hours, then there’s the option of overtime, so although they’re on zero-hours, we maintain these standards and try to offer more work where we can. We’re actually looking at giving people a full day’s pay even if they only do two hours’ work, even though it’s a zero contract, so we’d be looking to maintain a certain amount of pay each day.

Brian-Gangmaster-2

These perspectives suggest that businesspeople are both willing to adopt ethical labour policies, and have the means to implement them. Mark emphasises the importance of oversight and ongoing working relationships with suppliers, whereas Brian highlights his intention to pay workers more than they would be entitled to on zero-hours contracts. Although there is no universally agreed standard from which to measure ‘ethical’ business practices, this rhetoric suggests that senior business people on an individual level are committed to improving labour standards.

Yet a key problem with CSR is that it emphasises positive rhetoric until profit levels are threatened, whereby labour ethics may become secondary considerations (Gobert and Punch 2003: 18). The non-statutory, voluntary, and loose rhetoric of CSR “buzzwords” (Tombs and Whyte 2007: xvi) allows companies to prioritise profit over labour ethics where they feel it is necessary. From the data, buyers asserted that pursuing profit while maintaining ethical standards were not separate issues, but were linked together as part of their overall business approach:

When I asked the buyers about the tension between pursuing profit and enforcing their policies on corporate social responsibility, their immediate response was that if the company was not making money, they cannot implement the positive ethical practices that they want to see. When asked about whether profit or CSR would emerge as the priority if the organisation was under financial pressure, the buyers claimed that CSR would remain the priority because the organisation’s reputation was at stake. The need to maintain a positive reputation seemed to be a long-term priority, through which CSR is a means to an end.

Fieldnotes-buyers-3&4
The buyers highlight a key tension when CSR policies conflict with maximising profits. While the buyers seemed keen to assert that CSR would remain the priority when compared to making profits, previous research contradicts this claim (Conley and Williams 2005; Fauset 2006; Pemberton et al. 2012). While many businesses have a legal requirement to maximise profits for shareholders (Fauset 2006), some businesses do not have traditional shareholders, which means that they can act on their principles to a greater extent (Spence and Bourlakis 2009: 296). Although buyers may support the principles of CSR on an individual basis, the combination of ‘group-think’ processes and company pressures, such as the necessity to meet orders, makes CSR more difficult to implement and develop in practice. On a pragmatic basis, some buyers may need to be flexible with their CSR approaches and tolerate some exploitation in their supply chains.

8.4.2 Accepting Non-Compliance

One of the more striking assertions that buyers made in the research was that they accept some degree of labour exploitation in order to maintain their supply chains and so remain competitive when engaging with suppliers:

… some of those challenges are not just going to go away overnight, and our general approach is to try and work with companies that are showing the right attitude, and are willing to try and change, and we accept a certain level of non-compliance on the basis that some people are committed to doing the right thing. We accept that it will take time, with there being all sorts of boundaries in the way which you can’t just sort of magic away.

**Mark-Buyer-1**

… we’ve always accepted that there’s lots of compromises in how we trade, because we want to be competitive with supermarkets. So we can never say that our supply chains are free from exploitation of labour … What we can do is make more informed and better choices, and build links all the time. We’re a commercial enterprise, and a lot of the ethics and the foundation principles that we’re based on are meaningless if we don’t keep trading and proving what we do.

**Lisa-Buyer-2**
The extracts suggest that labour exploitation is common in some supply chains, at least to the extent that businesses are unable to ensure the absence of exploitative practices. Mark and Lisa acknowledge the complexities of trading within and across borders, since exploitation and harm is not always resolved easily. Interpretations of “certain level of non-compliance” and “compromises” may differ from one individual or organisation to the next. Therefore, it is unclear at which point exploitation and harm becomes unacceptable for buyers to tolerate. It is possible that buyers would be more willing to tolerate ‘minor’ labour abuses compared to modern slavery, which contributes to some exploitation becoming normalised and embedded in legitimate business processes. Even if buyers become aware of suppliers who facilitate exploitative practices, Lisa’s assertion that ‘we try to make better choices’ suggests that they might discontinue business but not report them or involve enforcement bodies, potentially over reputational concerns.

While businesses may be aware of exploitation and harm occurring in the labour market or their industry, they may neither be aware of exploitation occurring in their own supply chains, nor have the means to monitor such practices:

... there are some wholesalers that we don’t really buy anything direct from, and we later find out that workers further down their supply chains weren’t being treated fairly, being underpaid, given poor accommodation by gangmasters, that sort of thing. We try to make better choices where you know there are issues, but you don’t always know that ... there’s no way a company our size could check all the thousands of supply lines on the ground ourselves. You do rely on good relationships and trust, as well as knowledge ... But we do make commercial compromises, so there will be occasions where we realise that, well, this company has now been bought up by a larger company that has a less good reputation ...

Lisa-Buyer-2

As in her previous extract, Lisa acknowledges that labour exploitation is likely to exist in supply chains, but adds that small buyers like her organisation would be unable to pro-actively monitor labour practices even if they wanted to. According to Lake et al. (2015: 6), nearly 75% of UK companies believe that labour exploitation is likely to occur in their supply chains. This
figure is problematic if companies do not know where exploitation occurs in their chains, or if they cannot detect it, since they may know there are problems but are not always able to intervene. Buyers therefore face the choice of either tolerating some degree of exploitation in their supply chains, at least on a temporary basis, or dropping suppliers completely:

*Is it better to continue to engage with their business in the hope and expectation that over time, you can change their views, and their ways to improve, and to modernise, or do you just walk away? Where we just say, well, no business for you. In some cases that could actually make things worse because it just drives factories underground … and they can't get any better.*

Mark-Buyer-1

Mark highlights a complex and arguably a normative issue, since buyers like his organisation are faced with two problematic options. First, buyers can avoid conducting future business with exploitative suppliers, which may disrupt their supply chains for particular products, at least in the short term, while they search for and verify alternative suppliers. At face value, dropping such suppliers may appear to be more ‘ethical’, but as Mark acknowledges, can displace the problem and drive factories ‘underground’. Second, buyers can engage with suppliers who they suspect are exploiting workers, and hope that this will improve future conditions. However, this engagement risks significant reputational damage if it becomes public knowledge that supply chain companies are complicit in trading with companies who facilitate exploitation and harm.

Regardless of how far individual buyers can support their suppliers and improve labour practices, this approach is limited because systemic supply chain pressures are unlikely to change, including buyers setting prices and levels of demand. Therefore, buyers may remain the dominant supply chain actors and appear to behave responsibly, while still being partially responsible for facilitating exploitation and harm. Importantly, these factors highlight the difficulties that buyers and suppliers face in having full knowledge of their supply chains. Given the dynamics of labour supply chains discussed in Chapter 7, coupled with the notion of
‘commercial interests’ and the secrecy around this, locating exploitation and poor practice within supply chains may be problematic. Nevertheless, the need to hold suppliers accountable for their labour ethics is one reason that inspections or audits of suppliers can be helpful.

8.4.3 Buyers and Labour Inspections

Labour inspections are not solely an aspect of CSR, since regulatory bodies such as the Health and Safety Executive (HSE) and GLAA can initiate these. However, for the sake of brevity, and since most discussion on labour inspections in the data came from supply chain businesses, this section addresses inspections largely from a business perspective, rather than a regulatory perspective. Buyers suggested that some suppliers are less willing than others to undertake inspections:

… in many cases, we have to start with an audit, an objective assessment of conditions in the workplace. Many suppliers are familiar with that process, consent to that, and that stage goes okay. Others are less familiar, particularly the small suppliers or the international businesses … they don’t want to play ball very often, they don’t see why we’re asking and our competitors aren’t asking ‘what business is it of ours?’ … in some of those situations, an educational piece needs to be done first, to try and get them to understand what it is that we’re trying to do.

Mark-Buyer-1

Mark suggests that some suppliers may be unwilling to undertake labour inspections, especially if other buyers do not have similar processes in place. This inconsistency may explain the difficulties that Mark’s organisation has when conducting inspections. The fact that buyers may do an ‘educational piece’ implies that there is limited direct state oversight of suppliers, either in UK or global supply chains. This lack of oversight means that the quality and frequency of inspections is largely dependent on the ethical stances of buyers. However, when suppliers consent to inspections, buyers may uncover various challenges, which Mark categorises into three central groups:
… the next stage is getting into audits, and from there, depending what the audits find, there’s a conversation about trying to resolve any issues … we think of this as two or three buckets. One first bucket is the easy bucket, things which suppliers should be able to resolve themselves without too much support and guidance. You know, if they don’t have fire doors, or they don’t have fire extinguishers or they don’t keep records of working hours, whatever it happens to be, things which aren’t difficult so don’t require a great deal of specialist knowledge to solve, they just need to knuckle down and put them in place. You know, health and safety is the most common kind of issue under that heading.

Mark-Buyer-1

Routine and repetitive exploitation may occur under this ‘first bucket’ of challenges, which from Mark’s description seem to revolve primarily around health and safety concerns that individual employers can resolve. Some suppliers may be reluctant to address these ‘minor’ issues if other buyers do not impose the same standards on them. Exploitation and harm may develop due to a lack of action from individual employers, but the problem may be structural if other buyers do not conduct labour inspections, which begins to become ‘normal’ industry practice.

The second set of challenges can be more complex to resolve, albeit still seem to occur at an organisational level:

You get a second bucket of issues which are more complicated if you like, but with the kind of support and guidance from ourselves, or people like ourselves, you can make progress. Sometimes that will be things again like working hours, in terms of putting better systems in place, in terms of, and by systems I mean like things like you’re helping them to do production planning, and managing their … putting better management routines in place …

Mark-Buyer-1

Smaller suppliers in particular tend to lack the expertise and resources to implement formal systems (Walters and James 2009), which suggests that they may need support from buyers in order to be compliant. Indeed, Braithwaite (2008: 94) argues that larger organisations are better able to face the pressures of “regulated self-regulation”, where businesses adopt responsibility for ethical practices with some state oversight. While this emphasis on compliance seems to provide a constructive approach towards addressing labour exploitation, it is dependent on the interventions of buyers, whereby the state appears to make little
intervention. As Mark claims in an earlier extract, his organisation tends to conduct audits as a matter of routine and monitors suppliers through ongoing business relationships, which their competitors do not necessarily replicate. Mark highlighted a final set of challenges, which occur beyond individual organisational control at the macro level:

…the third bucket is the endemic issues, where … with the best will in the world, one company can't change the situation because it's so ingrained in the general culture or national law or whatever the case may be.

Mark-Buyer-1

This third set of challenges revolves around some issues that Mark highlighted in Chapter 7.4.4, whereby cultural factors such as the treatment of female workers in developing countries may help to facilitate exploitation and harm, either in UK or global supply chains. By endemic issues, Mark discussed that in some countries, the state regards trade unions with hostility, or even as terrorist organisations. These factors may be embedded within the culture and history of some societies, which makes them difficult to resolve, especially at an individual company level. Therefore, labour inspections initiated by buyers can help to identify harmful workplace practices, but their effectiveness is questionable.

8.4.4 Quality of Labour Inspections

Most migrant participants stated that they had never seen a labour inspection occurring while working in fields, factories, and other processing areas. Any labour inspections occurred rarely and were pre-announced:

Maybe there was something, but definitely not that often ... I remember I think there was something, and ... they chose some people I think to give some answers, so they were kind of like preparing, and I think I had been chosen.

Klaudia-F-Pol-34
Before the inspection comes, the company, the factory is notified in advance, so they have time to make preparations to look as if everything is perfect. So everyone has to wear clean clothes, everyone has to almost be like army standards, and this sort of thing happens when the inspection arrives. But I would like the inspection to come without notification so that they actually see what’s happening in the factory. If they came at night, for example, without notifying the owner, they would see all sorts of things happening, everyone’s wearing dirty clothes, no health and safety ... So they should come without notification.

Monika-F-Lit-46

As Klaudia and Monika note, not only are labour inspections unlikely to occur, but there seems to be some stage management when they do, whereby companies are given advance notice of inspections. This advance notice is significant, because pre-announced visits allow companies to potentially hide non-compliant behaviour. Similarly, employers may ensure that the ‘right’ employees are present so that they can provide positive feedback about the company. For instance, previous research found that on the days when inspections occurred, few agency workers were present, (EHRC 2012: 42), since they may have given a less positive outlook of working conditions if they were on flexible contracts.

Aside from the possibility of labour inspections being stage managed, there may be a limit to what inspections can achieve. From an inspector’s perspective, it is easy to notice if fire extinguishers are missing or if there are other obvious safety concerns, such as slippery floors. It is less clear what employment relationships and working conditions are like, especially if inspectors speak mostly to management or pre-selected employees (Auret and Barrientos 2006). These highly selective methods mean that inspections do not necessarily provide an accurate snapshot of work conditions. In terms of accuracy, some stakeholder participants even discussed suppliers holding duplicate sets of records, whereby inspectors see ‘modified’ versions:

... you can say that we’re going to conduct an audit, they may hold sets of fake records, so you don’t really know what’s going on because they’re faking their records.

Mark-Buyer-1
In the context of labour inspections, fake records may consist of factors including non-payment of tax, as well as the number of safety incidents in the workplace and complaints made by workers (HM Government 2015a: 32). The issue of fake records was not a recurring theme in the data collection, but illustrates the measures that some companies may take in order to hide exploitative practices.

Although regulatory bodies such as the GLAA and HSE can conduct inspections of work sites in the UK food industry, the likelihood of this happening is low. As one gangmaster noted in section 8.2.3, the GLAA have a small number of inspectors, and the HSE are likely to conduct an inspection of a company once every 38 years (Unite 2011: 7). The absence of a unitary UK labour inspectorate arguably contributes towards this inconsistency. The inconsistent approach towards labour inspections means that routine labour exploitation continues unchecked and becomes normalised with minimal risk of detection. However, not all types of inspections seem to be treated with the same priority.

8.4.5 Hygiene and Food Quality Inspections

Poor food quality and substandard hygiene practices can have serious consequences, including public health impacts (HM Government 2014). When migrant participants were asked about what type of inspections occurred, they usually referred to inspections that focused on food quality and hygiene practices:

…they do ask questions, do you wash your hands, how many times do you wash your hands, they ask the staff, they ask everyone, but they never ask like about the work, like, are you happy with the work? Have you been treated properly? Do you always get paid on time? No, we never get asked things like that, even check the paperwork, no. Xioao-F-Chi-32
… the questions were focused on mainly the food, not, you know, health and safety. Nobody asked us about health and safety apart from the training at the start, and if we had any questions.

Ashkir-M-Som-26

These extracts complement a prominent theme in previous research, whereby labour conditions and health and safety appear to be secondary concerns for many organisations when compared to food quality and hygiene (EHRC 2012: 42; Lloyd and James 2008). Importantly, the data suggests that not only were food quality inspections more likely to occur than labour inspections, but that they were unannounced:

We do get people coming to inspect the factory. Somebody comes to look at the facilities, they make sure that everything is clean, sometimes they check the chocolate, or the person, you know, they make sure that the uniform is clean. But we don’t know when they’re coming.

Navdar-M-Syr-40

We don’t know when the people from the Council will come to the shop, they don’t say, okay, I’m coming tomorrow at 2pm, no. So you need to be prepared, especially if they come every, I think, 18 months, they come to check. So when it’s around 15 months, we have to make sure everything’s prepared every single day …

Xiao-F-Ch-32

Unannounced visits seem to hold an advantage, because they may provide a more realistic overview of workplace conditions when contrasted with announced visits. However, unannounced inspections seem to be more prominent for food quality rather than labour standards. Food quality and hygiene inspections arguably occur more frequently, whereby local councils inspect some premises every six months – albeit this frequency can vary considerably (Food Standards Agency (FSA) 2017). There is currently no equivalent timeframe for labour inspections. This lack of consistency suggests that existing regulatory bodies are not equipped with the resources they need to detect labour exploitation. Problems with food quality and hygiene may have traditionally affected buyers’ reputations more so than poor labour conditions; although poor working conditions have increasingly been on the public agenda in recent years (Allain et al. 2013; EHRC 2010; GLA 2015a). While a greater number
of labour inspections by themselves will not resolve the problems of labour exploitation, they may be a helpful starting point in order to ensure compliance. Despite the self-regulatory actions of companies, some migrant workers may prefer to address exploitative labour practices by other means.

8.5 Smart Regulation

Besides direct state oversight and businesses self-regulating, other regulatory protections can have positive outcomes for workers. Collective bargaining in the form of trade union representation is perhaps an obvious starting point, but NGOs and individual worker complaints processes have a role. Gunningham and Sinclair (2017) describe ‘smart regulation’ as facilitated by non-government agents, which implicitly includes trade unions and NGOs. They argue that this broader range of regulatory actors can result in better regulation, rather than being restricted to the traditional bipartite process of government as the regulator and business as the regulated entity (Gunningham and Sinclair 2017). Social networks within communities arguably form part of this ‘smart’ regulation, however their role was discussed in Chapter 7.4.2, whereby it was established that communities can be both a source of support as well as risk. This section focuses primarily on the role of trade unions and individual support mechanisms in addressing exploitation and harm.

8.5.1 Mixed Experiences of Trade Union Membership

Only a small number of migrant participants were aware or involved with trade unions. These participants tended to be members, or at least had experience of being members. There were mixed views on how effective unions were:
M: … I signed up to the union, and I didn’t give a shit that someone tells me off because the first thing I will do is go to the union.
JD: Has the union been helpful?
M: Yes. Very helpful, they were always coming with me, if I had a meeting, or something, they were always there. If I was in Poland, I would be part of a union.

Marcelina-F-Pol-33

Marcelina’s opinion is consistent with points made in the labour relations literature that trade unions can have a positive influence on employment relationships and problem-solving (Foster et al. 2015; James and Karmowska 2012; MacKinnon et al. 2011). While union membership in the UK has been declining since the 1970s (BEIS 2017; James and Karmowska 2012), unions retain their core functions of organising workers and advocating better labour conditions. Despite the potential for trade unions to have a positive impact on employment relationships and therefore the regulatory context, other migrant participants were more critical of their ability to intervene and respond to problems:

I was a member for two months, but left when they didn’t do anything about that complaint, I thought they just wanted the money. They said “okay, we’re going to investigate”, but nothing came of this … Some people didn’t get paid, they complained and said “I’ve not been paid this week, I’m at least £20 or £30 short”, and they said “okay, we get it”. But they’re not working really clearly, because of this I got out, I left them.
Behrouz-M-Irn-26

For clarity, ‘that complaint’ refers to Behrouz’s assertion that some female workers in his workplace (a chicken factory) were allowed to leave work early while still getting paid, because they were in relationships with the factory managers. Since some of these female workers were supposed to be on the same work line as Behrouz, he felt that he and others had to work harder and faster in order to meet their targets. He expected the union to intervene and encourage remedial action over the ‘missing’ workers and the underpayments. However, the apparent lack of action resulted in him revoking his membership. As a side note, previous research in food supply chains demonstrates that male managers can make unwanted sexual advances on female workers, either by offering work incentives or threatening them with job
dismissal (Prieto-Carron 2006). Neither Behrouz nor any female workers referred to sexual exploitation in their interviews, but this remains a factor in some supply chains, and may begin to explain the actions of some female workers who appear close to managers.

From a worker’s perspective, Behrouz’s point about the perceived ineffectiveness of trade unions is not an isolated example. Potter and Hamilton’s (2014) research on mushroom picking demonstrates that union efforts at recruiting migrant workers met limited success, despite well-meaning intentions. Other sources document limitations of trade union efforts with organising migrants and responding to their concerns (Holgate 2005). However, a key problem with trade union involvement is that many migrant workers seem to be unaware of their existence.

8.5.2 Lack of Trade Union Awareness

During data collection, most migrant participants claimed never to have heard of trade unions, regardless of how long they had been in the UK. Initially migrants were asked whether they were members of a union, but due to low awareness, this was later amended to whether they had heard of unions:

**JD:** Are you a member of a trade union?

**M:** Trade?

**JD:** A trade union, an organisation that provides support for workers. Like Unite the Union?

**M:** No.

**Marwan-M-Syr-33**

**JD:** … have you heard of trade unions?

**A:** Train?

**JD:** Trade unions. Were you ever a member of a trade union?

**A:** No. I’m not sure I understand the question.

**JD:** A trade union, they provide support for workers, you might have heard of Unite, TUC?

**A:** No, I’ve never heard of these.

**Abroon-M-Som-36**
An initial reaction to this lack of awareness might be that new migrants in particular are less likely to understand workplace rights in destination countries due to a lack of familiarity. Indeed, the research for this thesis included participants who were relatively new to the UK and had not heard of unions. The small number of participants who had heard of unions or been members had been in the UK on a longer-term basis. Yet Marwan and Abroon were not new to the UK: at the time of interview, they had each been in the UK for at least five years, which suggests that this lack of awareness is not exclusive to new migrants. In any event, despite the potentially positive role of trade unions, migrants may remain unaware of them, or are not covered by collective agreements if they work through agencies (EHRC 2010: 35), suggesting more differences between permanent and agency work.

This lack of trade union involvement seems consistent with the point that union membership in the UK has been declining since the late 1970s (MAC 2014: 150). Others have discussed the reasons for this decline, which include an industrial relations shift from collective bargaining processes to individual workers’ rights (Connolly et al. 2012: 10). This reduction of collective regulation occurred primarily through legislative changes that weakened trade unions, especially during the Conservative governments of the 1980s; New Labour did not reverse most of these changes from the late 1990s onwards (Connolly et al. 2012: 9).

8.5.3 Reasons for Non-Involvement

There are migrant specific challenges in terms of addressing low unionisation rates, which are centred on language barriers, culture, and poor understanding of labour rights (Fitzgerald 2007; Krings 2009). Unions may adopt either a resistive, facilitative, or active approach towards incorporating migrant workers into existing membership (Foster et al. 2015). Some migrants are aware that trade unions exist, or at least become aware of them through others in their social networks. Yet these migrants do not necessarily want to join unions, or feel as though they cannot or should not join. As with their concerns over employment, a fear of
disciplinary action or job loss seems to be a major factor with some decision-making processes:

Some people they’re asking about that [trade unions] but they, some people want to join, because maybe they have the membership information and everything, or sometimes they want to involve, but they are scared because they believe they will be, you know, dismissed and everything, it will just make everything worse, they don’t want to go forward.

Klaudia-F-Pol-34

Some of the clients know and they were actually asking me if they will lose their job if they join [a trade union]. Or somebody was saying ‘I’m going to lose my job if I join them’, and basically you say ‘no, that’s not true, you’re not going to lose your job, you can join, you can ask for help.

Angelika-Caseworker-1

Explanations for why migrants hold this underpinning fear of losing their jobs vary as discussed in Chapter 6, but seem to relate back to the fact that they are typically employed in precarious work, where they have limited job options, are easily replaceable, and believe that having any work is better than no work at all. Some employers exploit migrant workers’ reluctance to join unions, or even threaten workers who do try to join, as a means to minimise the potential for collective bargaining and so maximise their chances of making profits (MAC 2014: 150-151).

In order to keep this precarious work, along with any form of job security, migrants may not want to aggravate their employers. However, not joining a union could result in work conditions deteriorating:

… this is how it is, like working in a frigging camp, these people go home, moan about it, blah blah blah, but none of them will go and sign up for a union, none of them will do anything about it. So it’s just getting worse and worse … If you are living in civilised world, and Poland is civilised … you know that someone, something like a union exists. Everyone knows it, so obviously you expect it will exist all over the world. So use your brain, go on the internet. Jesus.

Marcelina-F-Pol-33

In terms of labour exploitation ‘getting worse’ as Marcelina notes, it is possible that work conditions can improve or deteriorate over time, rather than remaining static. Referring back
to the continuum of exploitation (Andrees 2008; BIS 2015; Skrivankova 2010; Scott 2017), a person’s working experiences can change depending on individual circumstances, market conditions, and wider social processes. The lack of trade union membership among migrant workers may help to explain why conditions can get worse over time. Marcelina was critical of colleagues who were not aware of unions, and believed that people had a responsibility to enhance their own awareness. While Marcelina makes her point about union awareness, she is advocating that workers take action over what they perceive as unfair workplace practices to prevent conditions from getting worse. Marcelina blames individual workers who complain but do nothing, which reflected her frustration over this issue during her interview. Nevertheless, Marcelina’s view does not consider the more complex factors already discussed, namely fear of reprimands, which may discourage migrants from joining unions.

Some migrants seem to be aware of trade unions in their home country, but have little to no understanding of unions in the UK. Therefore, the initial assumption that migrants are not part of unions simply due to a lack of knowledge may be overly simplistic:

*They may know back in their country about some kind of help, like we have these trade unions, called basically differently, they know that there is such an organisation, and in fact it’s nearly in every place. But they don’t know anything about these places here.*

**Angelika-Caseworker-1**

*Trade unions are pretty popular in Eastern Europe, your Eastern European countries. So after the abuse happened, some clients do look for information on how to join a trade union. Not all of them, there were a number of clients that were interested in joining the trade union, and they asked me to search and help them to join.*

**Elena-Caseworker-2**

It is not clear from the research why some migrants seem to be aware of unions in their home countries but not in the UK. Angelika and Elena are speaking primarily about Eastern Europeans, since it is those migrants that they regularly support. Yet this point may not extend to other migrants, since unions in some African and Middle Eastern countries are likely to be
more integrated with ruling political parties, which raises questions about union independence and effectiveness (Albrecht and Schlumberger 2004). Nevertheless, awareness of unions in the UK was very low among participants, regardless of their background.

An alternative interpretation of these low unionisation rates is that the migrant participants may have been satisfied with their work conditions, to the extent that they did not feel the need to seek additional support. While migrant participants’ attitudes to their work were mixed, in many cases they appeared at least willing to tolerate questionable labour conditions. In contrast, had they been unhappy enough and decided to take action, they would likely have found out about trade unions through social networks or support organisations. Indeed, the caseworker participants revealed that some migrants came to them seeking help only because they were not happy with their work, and wanted to explore possible remedies, whereby union involvement was one option.

It is likely that trade union involvement requires some stability of employment, as well as a sense of workplace community in order to be successful. Workers do not necessarily have this community if large numbers are employed through labour intermediaries on flexible contracts. Trade union involvement may depend on the type of employment that dominates the industry, as well as the location of work sites, which may demand greater levels of labour flexibility (Lever and Milbourne 2015). The food industry contains a high proportion of flexible employment contracts, as well as large numbers of transient migrant workers who are more likely than non-migrants to be employed on flexible contracts (EHRC 2012). These factors may help to explain low unionisation rates, especially for migrants.

8.5.4 Trade Union Recruitment Issues

When discussing the future role of trade union recruitment, there were perceptions from the data that unions are an important, albeit limited, element of food supply chain oversight:
First of all, I would organise enough people to have a union. I don’t know if it would help them a lot or not, but at least the people working there would know, you know, we’re not alone. You know that they’re not going to treat us like a piece of shit. And more people do it, there is power in people. If it’s just one person, you can sack them and take another. But when you have 50, then it’s a different story.

Marcelina-F-Pol-33

… maybe it’s a job for the trade union as well to just take the information out there and maybe translate their leaflets to different languages. I know that everything like this is costly, but maybe doing a small advert in those countries, a poster or something, so that they could tell them if you want to come to England to work, you can join a trade union who will protect your rights, and this and that. That would be a long-term solution I would think …

Ibrahim-Caseworker-3

Marcelina’s point relates back to the problems associated with unions recruiting (migrant) workers, but suggests that employer influence could be checked with a unionised workforce. Ibrahim proposes the importance of language and translation as one way of encouraging migrant recruitment. Unions have tried to encourage membership by engaging with communities, rather than focusing solely on the workplace (Alberti 2014; Holgate 2005; Yu 2014). For migrant workers who feel indifferent or have reservations about joining a union, community outreach may be a more neutral and constructive setting in which to hear about trade union activities, rather than in the context of intense management surveillance that is associated with food industry work (Potter and Hamilton 2014). Community outreach may help to resolve some of the difficulties associated with migrant workers lacking a workplace community as outlined in section 8.5.3.

While trade union membership can benefit migrant workers if facilitated in a consistent manner, union involvement is not a standalone solution to exploitation and harm. In the context of declining union membership and funding challenges, unions face limitations with recruiting new members and engaging in workplace negotiations. The decline in collective labour movements may mean that individual workers turn to their employers’ complaints processes as a resolution method.
8.5.5 Individual Complaints Processes

Alongside declining trade union and labour movements that emphasise collective workers’ rights and negotiation, there has been a shift towards individual employer-employee relationships and contracts (Fellini et al. 2007: 282; Walters and James 2009). This emphasis on individual workers’ rights means that workplace complaints processes may be the main action that workers feel they can take if they are unhappy with their work conditions. Yet some workers appear unlikely to complain about exploitative labour practices:

I think a big issue is that people just don’t stand up for themselves. If they did, it wouldn’t be like that. This is the problem, I think, the biggest problem, that they’d just rather shut up. How can you change something if you don’t point out the problem? You can’t … just don’t ignore the problem …
Marcelina-F-Pol-33

Whether individual workers complain about harmful labour conditions or not may depend on their personality, culture, or personal circumstances – perhaps a combination of these factors. Participants cited two central reasons as to why workers may not complain about problems with their work:

… some people are scared, really. Some are scared that they’ll lose their job. And some people report it but they don’t get anything, they don’t get answers.
Behrouz-M-Irn-26

I know of a few people who complained, for various problems. But if you complain, they sack you, maybe. The manager comes to you, gives you a letter, he might say, this is a warning, this is your last warning, if you do something like this again, you’ll be sacked. Generally they just won’t do anything if you complain, they won’t do anything to deal with the problem you’re complaining about, but if you’re unlucky they’ll sack you.
Abroon-M-Som-36

Many do not seem to complain due to a fear of job loss, which links into the discussion from Chapter 6.4.2. However, when individual workers do complain, the extracts suggest that management do not necessarily resolve problems. These two factors relate back to the point
that many labourers are employed on casual employment contracts, whereby employers can easily dismiss or not use workers again in the event that they complain or become more demanding (MacKenzie and Forde 2009). This risk of job loss means that many are unlikely to complain about their employers. Following on from this issue of individual complaints, there seems to be a strong feeling that a larger number of workers complaining about the same issue may be more constructive:

... a few clients told me that in order to make a complaint they have to have some other employees to back them up, to have some witnesses ... So this one person that would want to complain, they said that there is no point in complaining because these people that work with me will not back me up. They’ll say everything is fine, they have no problems, so if I am the only one complaining, nobody will pay attention to me. First of all, I will lose my job. Secondly, this complaint will, nobody will notice this complaining, nobody will take action. So it’s a lose-lose situation, why would I complain then?

Elena-Caseworker-2

This ‘lose-lose’ situation begins to explain why some workers do not complain about exploitation and harm. The impression of ‘strength in numbers’ suggests that individual complaints will have less impact when compared to numerous complaints raising the same issue. Clearly this strength in numbers is a key principle of trade union activity, yet membership of unions is problematic as discussed in section 8.4.3. Where migrant workers feel that they cannot complain directly to their managers or employers, some may regard NGOs as a more informal source of support.

8.5.6 Role of NGOs

While most NGOs do not have an official role as part of the UK food regulatory context, some migrants who feel mistreated turn to NGOs if they feel unable to resolve matters by themselves. While migrant workers may discuss exploitative labour practices with NGOs, some workers are reluctant to take further action:
They come to us and sometimes we talk to them and say look, this is really wrong, this is not right, and you should do something about it. We try to convince them that even if you start any kind of action, you won’t lose the job or anything, because there are still places and people to help you.

Angelika-Caseworker-1

Some of them maybe don’t know that they can get help, but they’ll tell you the problem, and they’ll tell you I need help because of this, not knowing how much help is out there … you can only find out by asking questions, finding out what was your previous job, how was it, how much did you earn? … Some of them know and they want you to lead on the case … Some know already, but they don’t want to make any complaint, so you have to encourage them to.

Ibrahim-Caseworker-3

As highlighted in Chapter 7.4.1, NGO caseworkers may find out about exploitation when migrants approach them to discuss unrelated issues. When these practices come to light, NGO caseworkers were clear that they encouraged workers to take action, which ranged from complaining to their employers, finding other work, or in extreme cases contacting the police.

If migrants did not want to proceed, caseworkers respected their decision and maintained confidentiality, which they typically do as standard practice. However, if migrants wanted caseworkers to intervene on their behalf, NGOs can have a positive impact:

… the employer is quite shocked when we call them, or an organisation like us calls them, actually about this client, and they realise, you know, okay, even though they don’t speak English they’re still able to do things. But not many clients would step up, would come to us, and would go forward, so that’s the thing. Many clients just keep quiet, which is good for the employer, because they can still do whatever they like.

Angelika-Caseworker-1

Many employers may not expect that NGOs, as unofficial intermediaries, would contact them about employee grievances, especially if they are not used to workers complaining. NGO actions are an informal means of regulation when compared to direct oversight and statutory powers of organisations such as the GLAA. While NGOs may play a positive role, and appear as an informal alternative to ‘command and control’ organisations such as the police, they are
no substitute for adequately resourced regulatory bodies that have the ability and specialist knowledge to enforce against harmful and illegal labour practices.

8.6 The Policy Framework as a Facilitator of Harm

Based on the discussion so far in this chapter, there are a number of limitations associated with each form of regulatory intervention, which have fundamentally different goals. Command and control style, top-down regulation in the form of criminal or regulatory accountability may be hailed as the ‘gold standard’ of regulation (GLA 2015a), but is difficult to enforce in practice, and may have unforeseen consequences for exploited workers. Although regulatory bodies like the GLAA are accountable to the Home Office and in turn the UK Parliament, recent developments suggest that ‘regulating the regulators’ may distract enforcement bodies by requiring them to consider the impact of their activities on businesses, which consumes already limited resources. This distinction is perhaps best represented by the tension between different government departments such as the Home Office and BEIS, which emphasise crime control and deregulation respectively. These priorities are unlikely to complement each other.

Self-regulation emphasises positive rhetoric on ethical labour practices, whereby companies state that regulating themselves is the optimum approach because they know their internal structures and systems better than any regulator, so are best placed to resolve concerns (HM Government 2015b: 14). Yet it became clear from the data that buyers are willing to tolerate some labour exploitation in their supply chains if they can persuade their suppliers to improve labour practices. This ‘engage and influence’ approach has some precedent in industry practice (New 2015a: 699), whereby the alternative option involves refusing to conduct any business. However, in the long-term, ‘engage and influence’ risks normalising routine and banal labour abuses in the hope of preventing severe abuses, which likely carry greater reputational damage if these incidents come to public light. For example, buyers may be more willing to tolerate some degree of health and safety breaches when these are contrasted with
severe abuses such as physical coercion or confiscation of identity documents. Companies may therefore make ‘trade-offs’ by focusing on severe exploitation at the expense of routine exploitation.

Trade union activity and collective bargaining may sound like a meaningful way to improve labour conditions to reduce the likelihood of routine exploitation. Yet in practice, labour movements are limited by declining trade union membership and increasingly restrictive legislation on union activities. The main priority of unions is to enhance labour standards and ensure fair treatment in the workplace, which may not complement other regulatory priorities, such as establishing criminal accountability or maximising profit levels. More informal means of resolution such as individual worker complaints, NGO and community intervention may be helpful supplementary interventions, but these ‘bottom up’ approaches depend on personal, socio-economic and even geographic factors.

In some cases, regulatory approaches may combine, which suggests that ‘multi-stakeholder’ initiatives can provide a more nuanced approach towards tackling labour exploitation. The Ethical Trading Initiative (ETI) is one such voluntary body which aims to bring different supply chain stakeholders together and attempt forms of cross-regulation, including businesses and trade unions. However, as with supply chain companies, it seems that some level of exploitation may be tolerated across different types of regulation for the sake of influencing future business actions:

… we ask them to be transparent in their supply chains, again another frustrating conversation, because [company] published their entire supply chain in as much as they knew it, rather regrettably, and I know people in the NGO movement are also holding their head in their hands, thinking why did anyone do that? A number of the NGOs went after them, looking down their supply chain, investigating it, finding problems, and saying, bloody [company]! And it’s like, these guys are the trailblazers, what you need to do is give them a free pass, and then wait for the next few. Like the wilder beast that manages to get across the river before the crocodiles strike. If they eat the first one, the others don’t come in, so they evolve to understand that you let the first few get across, then the whole herd comes in, and then you eat them. So
instead, we still just have [company] with their published supply chain, and everyone else is stuck on the riverbank saying, I'm not going in there.

Mike-TU-Rep

In the context of supply chain transparency, Mike’s assertion here seems to be that NGOs and other stakeholders should not openly criticise exploitative companies until more companies provide details about their supply chains. While this likely means tolerating some degree of labour exploitation in the short term, the underlying hope is that eventually NGOs will be able to hold a larger number of businesses accountable for their supply chain practices. This admission seems to run parallel with the fact that some buyers appear to tolerate some exploitative labour practices from their suppliers. Indeed, Mike hinted that where companies signed up to voluntary programmes such as the ETI, they may be afforded a greater sense of protection if parts of their supply chains turn out to be exploitative:

… some companies still think they can get away with doing the minimum, which means we will continue to get stories of exploitation and abuse filtering through the press … in return for working with us in good faith, in theory, there is some level of protection in that the NGOs and us will not immediately attack them if something is found in their supply chain, because the fundamentals of the ETI are accepting that it is very difficult to eradicate abuse in your supply chain, but what you should be doing is everything possible to make it unlikely. But that means that sometimes things will crop up, it doesn’t mean you aren’t trying. The fact that we found this stuff out is merely an indication of how far you have to go, not that you are in breach fundamentally. Though we do ask, when these things crop up, that they fix them, because they know about them now, so there’s no longer any excuse to not fix them.

Mike-TU-Rep

This input seems to reflect what the buyers said about tolerating exploitation, as discussed in section 8.3.2. In other words, organisations recognise that it is difficult for firms to ensure the absence of labour exploitation in their supply chains, but that once it is uncovered, companies should take remedial action. Some of this exploitation may be more severe than other cases, which relates back to the notion of corporate liability in terms of whether companies, or individuals within those companies, should be doing more to uncover exploitation in their supply chains. The idea that perpetrators of street crime would be treated in such a lenient
manner is questionable, whereas establishing liability in cases of corporate offending is less clear.

Given the numerous regulatory approaches in addressing labour exploitation in the food industry, Braithwaite (2008) refers to an era of ‘regulatory capitalism’. Increasingly, the state does not directly provide public services, but regulates a wide range of actors who do, including businesses and NGOs (Braithwaite 2008). This ‘governance’ refers to a broader scope of control mechanisms than government, since governments increasingly rely on networks and diffusion mechanisms in order to oversee sectors (Lazer 2005). A well-grounded point in discussions of regulation is that regulatory bodies tend to emphasise soft persuasion rather than tough action (Tombs 2016; Vander Beken and Van Daele 2008: 743). Ayres and Braithwaite (1992: 35) conceptualise a regulatory pyramid, which assumes that regulators start at the ‘bottom’ with more restorative and persuasive approaches, and move up to harsher tactics based on deterrence and coercion only when necessary.

This pyramid therefore aims to be inclusive by recognising different perspectives: it accepts that sometimes persuasion works, and sometimes punishment works. Some may be wary of pursuing ‘soft’ approaches towards offending businesses, arguing that events deserving of prosecution and punishment risk being normalised by more lenient options (Muncie 2005: 200). However, starting with less punitive options and becoming more punitive is not solely about encouraging ‘softer’ interventions and saving regulation costs. Braithwaite (2008: 92) asserts that where control based on dialogue does not succeed, then moving on to control based on coercion seems more legitimate. If regulation is seen as legitimate and procedurally fair, then future compliance is more likely (Braithwaite 2008: 92); albeit the risk of punishment remains low, which some offenders will take advantage of. This complex issue of how to approach regulation is reflected in the various food industry regulatory mechanisms discussed in this chapter.
8.7 Conclusion

Although the concept of regulation can be associated with ‘red tape’ and portrayed as stifling economic growth (HM Government 2015), it refers to processes that go beyond direct, top-down ‘command and control’ aspects of oversight. Command and control regulation tends to be hailed as the gold standard of accountability and enforcement (GLA 2015a; NCA 2017), but in some cases, this may unwittingly be harmful to workers. Meta-regulation raises questions around who polices or regulates the regulators, and recent developments with the GLAA and IPCC suggest a stronger emphasis on accountability in this area. Businesses typically advocate self-regulation and CSR as a realistic means of individual company oversight (Gobert and Punch 2003: 323-324), yet this may result in organisations tolerating some exploitation in order to maximise profit levels. Smart regulation such as trade union movements can be effective to address harmful labour practices, but this impact is limited in the context of declining unionisation membership and emphasis on individual employment rights.

Regardless of the advantages and drawbacks of each ‘type’ of regulation, they have fundamentally different goals. The criminal justice system reactively focuses on prosecutions, whereas regulatory bodies emphasise future compliance. Meta-regulators consider whether regulators are acting ‘appropriately’ in relation to established legislation and enforcement principles. Businesses typically prioritise their profits over labour conditions, whereas trade unions advocate collective labour rights at the expense of profit maximisation. These goals, and the means of achieving them, are not usually complementary, which causes tension and may result in less social protection for migrant workers.
Chapter 9: Implications of the Findings

9.1 Introduction

The analysis through Chapters 5 to 8 suggested how routine labour exploitation and harm against migrant workers is embedded within legitimate food supply chain dynamics and fragmented regulatory protections. These chapters discussed why some migrant workers tolerate exploitation and harm, the ways in which corporate harms appear to be unintentional, and how the policy framework can unwittingly facilitate further harm. The chapter discussions collectively suggested how the dynamics of some food supply chains enable harmful labour practices to occur. This chapter firstly relates back to the theoretical notion of harm regarding the consequences of labour abuse, along with the associated challenges of doing so. Secondly, it briefly considers the future use of Greenfield and Paoli’s (2013) harm assessment framework in relation to the data collected. Thirdly, it highlights policy implications based on the analysis and discussion. Finally, the chapter outlines potentially harmful impacts of Brexit in relation to migrant labour and the UK food industry.

9.2 Consequences of Labour Abuse as Corporate Harm

As a means to return to the theoretical concept of harm, the data analysis chapters suggest that there are numerous harmful consequences associated with routine labour exploitation and other abuses. Chapter 5 argued that even where migrant workers in the UK have legal immigration status and some understanding of English, they can still be vulnerable to exploitation and harm. Chapter 6 suggested that migrant workers may consent to exploitative labour conditions, even if they are aware of dubious employer practices. Chapter 7 highlights how interpersonal interactions and decision-making processes can be understood in the context of food supply chain dynamics. As part of this emphasis, supply chain companies do not necessarily intend to harm workers, but harms emerge unintentionally, largely due to market pressures such as demand, as well as socio-economic factors beyond the control of
individual companies. Chapter 8 discussed the notion that not only is the UK regulatory context fragmented, but that it may unwittingly facilitate harms.

9.2.1 Labour Exploitation as Harms and Crimes

The research findings to some extent contradict archetypal depictions of exploitation, and what society may understand as exploitation. As signposted in Chapter 6, these archetypal depictions consist of undocumented (female) migrants who are coerced or deceived into sexual exploitation or forced labour by malicious ‘traffickers’ linked with transnational organised criminal networks. If exploitation is detected, the state ‘rescues’ these victims, and prosecutes offenders through the criminal justice system. The thesis findings do not fit comfortably with most elements of this archetypal depiction, since labour exploitation can be mundane, and may be unintentional products of otherwise well-meaning supply chain actors and legitimate business processes.

From a harm perspective, the consequences of corporate actions or omissions remain an important consideration (Paoli and Greenfield 2015), not just notions of criminal intent as represented by archetypal depictions of exploitation. In light of these issues, it is important to examine whether the harms committed or enabled by companies, and arguably facilitated by the state, can be considered as crimes. Due to the routine and sometimes isolated nature of most labour abuses discussed in this thesis, many resulting harms are not criminalised, so would never be formally labelled as crimes through the criminal justice system. Most of these abuses were not reported to other regulatory bodies, and workers did not initiate litigation due to a lack of resources. Therefore, a distinction begins to emerge between ‘criminal harms’ that have been reported and associated with a successful criminal prosecution, and ‘social harms’ which have been neither reported, investigated nor prosecuted. As Tombs and Whyte (2015: 35-36) note, although corporate harms seem to be routine and widespread, it is problematic to call them crimes in the absence of criminal convictions. The data suggests that exploitative and harmful labour practices are unlikely to be considered criminal in most circumstances.
Even though many exploitative labour practices are not identified as criminal, illegal or non-compliant, this does not mean that their implications are any less important or worthy of attention than criminal harms. Yet disentangling legal and illegal activities within food supply chains can be problematic, since initial criminal intentions and actions can be embedded within the scope of legitimate processes (Vander Beken 2004). However, these processes generate a number of gaps whereby criminal opportunities and harmful consequences result. In other words, there can be an interplay of criminal actions and legitimate supply chain dynamics. In line with the dark figure of crime, only a small number of harmful practices are detected by state agencies, whereas many more are unreported (Wilson 2009). Although the state is an important aspect of detection and regulatory control, it is important to consider how it may facilitate exploitation in conjunction with supply chain dynamics.

The state has a role in facilitating harmful corporate practices, albeit it usually does not actively initiate them, unlike state crimes such as genocide. As suggested in Chapter 8, parts of the policy framework may result in conditions worsening for migrant workers. Therefore, the state arguably bears some responsibility for labour exploitation due to a failure to develop and enforce appropriate oversight. In terms of the routine labour abuse discussed, this failure is multi-faceted, but arguably has its roots in the gradual decline of labour conditions along with the rise of post-Fordism, which permits exploitative practices to develop. Legislation during the 1980s significantly weakened trade union activity, and most recently this has been reflected in the Trade Union Act 2016.

Under the provisions of the Trade Union Act 2016, there must now be a 50% turnout of members for industrial action ballots in order for such action to be lawful (Liberty 2017). Since employment tribunal fees were introduced in 2013, this has led to a drop in individual case referrals by over 65% (Pyper and McGuinness 2017: 3). Tribunal fees present a significant barrier for those who cannot afford them, especially as there is a risk of losing the case and
receiving nothing\textsuperscript{12} (France 2016: 8). The increasing prevalence of precarious work such as zero-hours contracts offered through work agencies threatens to replace standard employment relationships as the dominant type of employment, even in high-income countries like the UK (Fudge 2012). These poor labour and workplace conditions may be considered as harms facilitated or permitted by the state that occur “below the radar” (Tombs and Whyte 2015: 54), as opposed to active state crimes such as genocide, which occur “above the radar”.

Therefore, exploitative and embedded labour practices do not occur as isolated incidents, but can be seen as systemic. Part of these systemic factors relate to the wider neoliberal capitalist framework, which in the UK context at least, is associated with a hostile political climate towards migrants (Melossi 2003), deregulation, free market principles, and individual responsibility (Cavadino and Dignan 2006). Chapter 3 suggested that the UK public tend to regard immigration as posing a number of economic and socio-cultural threats to local residents. The Conservative governments of the 1980s oversaw the deregulation of several key economic sectors in order to encourage ‘free enterprise’ and minimal state regulation (Gobert and Punch 2007: 117), which arguably laid the foundations for the various accountability problems associated with today’s labour market. The creation of new regulatory bodies in the 21\textsuperscript{st} century, including the GLAA and Director of Labour Market Enforcement, appears to contradict the principle of minimal regulation often associated with neoliberalism (Braithwaite 2008). Nevertheless, funding concerns and the capacity of regulators to enforce their remit (see: Davies 2016; TUC 2016) imply the appearance of a stronger regulatory framework that may not be reflected in practice.

As discussed in Chapter 2, labour exploitation can be mutually advantageous to employers and workers, since workers may be better off being exploited than having no work at all (Mayer

\textsuperscript{12} In July 2017, the UK Supreme Court ruled that employment tribunal fees were unlawful. It remains to be seen how this ruling will affect future dispute resolution processes and those who have already paid fees since 2013.
Similarly, migrants may tolerate poor working conditions in destination countries when compared to less lucrative opportunities in their home countries. However, exploitation can still be harmful, even where workers appear to benefit. Where harm is defined as a setback to a person’s interests (Greenfield and Paoli 2013: 864), Zwolinski and Wertheimer (2017) note that “exploitation … does not necessarily harm its victim in the sense of making her worse off than she would have been, had the exploiter never interacted with her at all. Rather, it makes its victim worse off than she should have been, had she been treated fairly”. Hence, exploitation can still harm workers’ interests, despite appearing to benefit workers from a baseline of no work.

Chapter 6 in particular identified a range of practices against migrant workers that could be considered exploitative and/or harmful. Referring back to Greenfield and Paoli’s (2013) typology, a number of workers’ interests suffered various setbacks, including functional (i.e. physical and psychological), material, reputational, and privacy. For instance, underpayment resulted in setbacks to material interests, which had ancillary effects on workers regarding their inability to pay bills. Dubious practices that may be considered increasingly ‘normal’ even if they are not illegal, such as zero-hours contracts, or verbal abuse against workers, suggested functional harms regarding immediate and long-term psychological setbacks.

It is recognised in this thesis that where there is no criminal-legal or regulatory accountability, discussing the practices identified in this research as exploitative or harmful may be controversial, especially since many occur within legal business procedures. As Hillyard et al. (2004: 274) assert, discussing harm may reflect moral or political viewpoints. In other words, if criminal-legal investigations do not say that these practices are exploitative or harmful, labelling them as such could lead to accusations of moralising and being overly subjective. For this reason, especially given the routine, banal nature of exploitation and harm discussed in this research, it does not refer to the practices discussed as ‘crimes’. However, using terms
such as exploitation and (corporate) harm in the absence of formal sanctions still requires justification to mitigate potential accusations of moralising.

Even where exploitative and harmful practices are not reported or subject to criminal-legal sanctions, commonly accepted standards stipulate that these practices are unacceptable. Perhaps most obviously, labour organisations such as trade unions (ITUC 2009) and the ILO (2006) establish guidelines for ‘decent work’ which include collective bargaining, fair pay, and fair treatment in the workplace. Regulatory bodies tend to establish more specific guidelines. For instance, the GLAA signpost their licensing standards when conducting inspections of labour providers, including acceptable practice regarding safety, health, pay, and accommodation (GLA 2015b). Governmental bodies seem to endorse these labour ethics principles by developing new policy (BIS 2016b). Importantly in the context of routine labour exploitation, these institutions seem to be increasingly recognising the importance of addressing the full spectrum of exploitative practices, not just severe cases. These repetitive and banal harms that occur are corrosive to ethical statements and standards, since they undermine the credibility of such stances if left unchecked.

Organisations typically have policies that establish acceptable behaviour and workplace practices. Numerous companies adopt the ETI’s (2014) base code on labour ethics into their own policies (see: Morrisons 2016; Tesco 2014). These policies may be cosmetic and to some extent relate to notions of CSR as discussed in Chapters 3 and 8, but they nevertheless establish basic workplace standards. For example, in Chapter 6, one of the migrant participants, Klaudia, referred to a male co-worker who she felt had harassed her. Harassment can be seen as harmful, and potentially setbacks victims’ interests. In Klaudia’s case, the harassment affected her functional integrity due to the psychological effects of how her co-worker treated her. Klaudia did not report this harassment to the factory management, despite being aware that a disciplinary policy existed to deal with such complaints. Nevertheless, even if Klaudia’s co-worker had been found in breach of these standards and dismissed from his
job, it is unlikely that he would have been prosecuted for his behaviour, unless it was accompanied by more severe actions. A company may be able to dismiss its employees for harassment, but facilitating a prosecution is less likely, even though harm may be present.

These examples from labour organisations, regulators, governments, and industry, collectively imply that the full spectrum of labour exploitation is important to address. Such institutions recognise that the consequences of labour exploitation can be harmful, even without formal state sanctions. Therefore, the claims in this thesis relating to exploitation and harm are not based wholly on political judgements or moralising, since these institutions set broader standards against which exploitation and harm occurs. These discussions on harm relate to the issue of which mechanisms are able to address it effectively.

9.2.2 Addressing Exploitative Labour Practices

The dynamics of labour exploitation and harm bring into question which approaches are appropriate for reducing the range of labour abuse understood within the continuum of exploitation. It has been argued in this thesis that portraying exploitation as caused by organised criminal groups and ‘human traffickers’ is overly simplistic, which suggests that existing means of addressing labour exploitation may be limited. Since exploitative labour practices can breach legislation, result in illness or injury, and the mistreatment of workers, it is understandable that many would advocate intervention from the criminal justice system to recognise violations of workplace rights. However, even if criminal prosecutions are possible, they are arguably not desirable in all cases of labour exploitation. Others are more critical of criminal law, ‘victim-centred’ and human rights approaches towards addressing exploitation (Anderson 2015; Haynes 2009; Shamir 2012). This criticism stems not just from the ‘victims, villains, and rescuers’ critique discussed in Chapter 2, but due to weaknesses associated with implementing criminal law and human rights responses to labour exploitation.
The main approach to addressing labour exploitation has traditionally been on disrupting transnational organised crime and emphasising the human rights of victims: factors that are usually associated with severe exploitation. However, these approaches do not necessarily address underlying social and economic relationships that facilitate exploitation. Human rights approaches tend to adopt a somewhat narrow focus that frames abused workers as passive victims who need ‘rescuing’ from exploiters (Thiemann 2016). This focus results in only a small number of individuals being identified, particularly if some victims appear to tolerate exploitation. As highlighted in Chapter 6, focusing solely on severe exploitation risks normalising the harsh daily realities of routine exploitation, but routine exploitation is a larger problem than is usually depicted. In other words, by highlighting severe acts, a human rights framework may unwittingly legitimise and trivialise mundane exploitation. These factors tend to distract policy makers from social, economic and legal factors which actually underpin exploitation (Shamir 2012: 109; Tombs and Whyte 2015).

In contrast, an approach based on labour movements and labour rights can be seen as an important pillar of preventing labour exploitation. Unlike transnational organised crime and human rights perspectives, a labour approach focuses on a range of socio-economic factors, including labour and employment laws, immigration regimes, and welfare systems. Such a strategy begins by assuming that workers are at risk of exploitation in a market context, whereby solutions include addressing weak bargaining power and substandard working conditions (Shamir 2012): some factors of which are structural as discussed in Chapter 7. Unlike a human rights perspective, which portrays workers as passive victims, a labour approach regards them as agents who are able to change their situation. In practical terms, this difference means that human rights approaches encourage public protection of victims, NGO victim representation, and individual litigation, whereas labour approaches emphasise collective action and representation of workers’ interests.
A comprehensive labour approach has been lacking in many contemporary societies, partially due to a traditional association of exploitation with the sex industry (Chuang 2015; Thiemann 2015). As signposted in Chapter 8, there has been a decline in labour movements and trade union membership since the 1970s, coupled with legislation that has systematically weakened trade unions. Instead, states have adopted the transnational crime framework, as internationally represented by the UN Convention against Transnational Organized Crime (UNTOC), arguably in order to strengthen borders and reinforce sovereignty against criminal networks of ‘human traffickers’.

The emphasis on modern slavery and transnational crime provides opportunities for states to develop immigration enforcement and border controls as part of reinforcing their sovereignty. Prioritising criminal prosecutions and immigration enforcement, rather than labour market reform, may help to explain why instruments such as the Convention on Migrant Workers (CMW) are not adopted when compared to UNTOC (Scott 2017). The former may be significantly more challenging and unpopular for states to adopt, since it would likely require structural and long-term changes to economic and labour migration policies. Put simply, few policy makers and practitioners are likely to argue against tackling modern slavery, but there is less consensus on how to address factors that underpin a wider range of exploitation, including business activity, regulation, immigration and welfare systems.

In practice however, such a labour approach based on CMW principles is unlikely because states seem reluctant to adopt such rhetoric. Migration remains unpopular in the UK, and public opinion suggests that the majority of people favour at least some reduction in UK immigration (Blinder 2014). Modifying economic and labour conditions in favour of stronger workplace rights would likely be portrayed as heavy regulation and ‘anti-business’, which the present Conservative government are unlikely to embrace. Therefore, the rhetoric of a labour approach seems to appeal less to states, despite such approaches being more likely to change factors that make migrant workers vulnerable to exploitation. A labour approach
highlights that the criminal law supported by rehabilitation for victims is insufficient to tackle root causes of exploitation (Shamir 2012), which means that these strategies need to be combined with effective labour migration policies.

In contrast, states may regard human rights approaches as more pragmatic and in line with their emphasis on crime prevention and victim protection. The rhetoric of a human rights and victim strategy is relatively easy for policy makers and the public to understand, since it generates clear boundaries between offenders and victims, even though these are usually more complex in practice. In reflection of this rhetoric, human rights approaches have at least helped to raise awareness in destination countries about forms of exploitation that occur (Shamir 2012).

In summary, human rights approaches towards tackling labour exploitation are individualistic and victim centred, whereby modern slavery is portrayed as an exceptional crime, and the criminal courts are the main response. A labour framework treats exploitation as a continuum, whereby modern slavery is merely the extreme end of the continuum, and collective action is the key response to a wider range of labour exploitation. A labour approach would arguably help to address some issues associated with employer awareness and intent of exploitation, since improved labour standards may reduce the likelihood of exploitative labour practices occurring in the first place.

9.3 Considering a Harm Assessment Framework

As clarified in Chapter 2, the purpose of this thesis was not to conduct a systematic harm assessment by applying Greenfield and Paoli’s (2013) framework to the data. However, it may be possible to discuss harm in a wider supply chain context by considering the impacts of activities on other bearers. Notions of harm can be transferred from an abstract notion into a more systematic tool that can begin to identify, assess and compare harms. For the purpose
of this thesis, the main focus has been on harms that individual migrant workers have experienced in the context of food supply chain processes. A full implementation of the harm framework may have identified other bearers, including supply chain businesses, state institutions, and consumers.

There were some indications of these other bearers experiencing harm in the data. A small number of participants indicated that because they were paid in cash, this may have enabled employers to avoid paying tax or National Insurance (NI) contributions. As isolated incidents, this loss of revenue to HMRC and the state may be minimal, but cumulatively may result in less public money to invest or spend on other areas, which ultimately could have harmful impacts on individuals. The breach of legislation may count as a reputational harm to the government, since it suggests that they are not able to enforce their own laws. In another instance, a worker reported that one of the managers in the chicken factory was privately selling off meat during night shifts to a third party, which would potentially have harmed the business and its employees through reduced revenue. Although the data obtained mostly illustrates individual harm against migrant workers, it is possible for entities to be harmed as a result of food supply chain processes.

9.4 Policy Implications

Given the number of complex issues that relate to the spectrum of labour abuse, there is no single intervention that is likely to significantly reduce the problem of exploitation. However, any policy developments aimed at reducing labour exploitation would almost certainly be implemented through at least one aspect of the regulatory framework discussed in Chapter 8. Different types of regulation each have a role in addressing labour exploitation. To some extent ideological perspectives and practical considerations dictate which forms of oversight take a greater role in addressing labour exploitation. However, from the thesis it is clear that routine labour exploitation is largely excluded from such discussions. This section offers some critical
commentary on recent policy developments and on the thesis analysis chapters in relation to routine exploitation.

As a constructive way forward, it may be a helpful starting point for public discussion to begin emphasising routine, everyday forms of labour exploitation more strongly. When contrasted with severe exploitation, a focus on routine labour exploitation may be unrealistic, especially if it consists of apparently isolated, small scale incidents. Yet recent coverage of poor working conditions indicates greater awareness of routine exploitation (Callaghan and Jahangir 2016; Mason 2016; Taylor 2017). The Taylor Review highlights the growing prominence of the ‘gig economy’, referring to insecure and zero-hours contracts. Part of the report (Taylor 2017: 111) argues that state regulation is limited, and instead advocates more proactive means to address labour exploitation, including “good management and strong employment relations”.

Prior discussion of routine labour exploitation within criminology is minimal, and is framed mostly in conceptual terms (Tombs and Whyte 2015). In other disciplines, empirical issues associated with routine exploitation are usually skimmed over or ignored completely within discussions on severe exploitation (Allain et al. 2013; Scott et al. 2012). Therefore, the concept of routine exploitation lacks both theoretical and empirical input. The results of this thesis provide a basis on which routine labour exploitation can be examined theoretically and empirically in the context of supply chain dynamics, framed through a criminological lens of harm. It is not suggested that harm is the only way to conceptualise labour exploitation from a criminological perspective, but this arguably serves as a starting point for further discussion.

Emphasising routine labour exploitation in public discourse may lead to improvements with how they are addressed in practice. Currently numerous remedial options exist for workers who feel mistreated in the workplace, including individual litigation, regulatory action, as well as trade union and community involvement. However, these responses can be inconsistent and piecemeal, which is hardly surprising given that there is no ‘one size fits all’ approach to
tackling labour abuse. Some UK organisations such as the Labour Exploitation Advisory Group (LEAG) have already called for a systematic support mechanism to assist workers affected by forms of labour abuse that do not meet the strict legal criteria needed for modern slavery (France 2016). Comparatively, the NRM, despite its limitations (Elliott and Garbers 2016; Home Office 2014b), at least offers a systematic means of support for those affected by severe labour abuse, from where bodies such as the police and NGOs can improve their practice.

However, no such equivalent support mechanism exists for routine labour exploitation, which may help to explain the fragmented response to labour exploitation ‘in-between’ decent work and severe exploitation. Such a mechanism would likely require a more complex understanding around notions of consent, since in many cases those affected by routine labour exploitation are not coerced or deceived. The notion of “forced flexibility” (Ollus 2016) or “compulsion by necessity” (Lewis et al. 2015: 9) may be a helpful starting point in order to develop agencies’ understanding of how and why (migrant) workers make decisions in the context of limited alternatives and their future ambitions. Therefore, as Davies (2016) notes, the present UK enforcement system consists of public protection for the most vulnerable victims of exploitation (via the NRM), and individual litigation for those who can afford it (via the civil courts), with very little protection for those ‘in-between’.

As part of developing a stronger focus on routine exploitation, it may be helpful to adopt the approach of Stuart et al. (2016), who discuss with workers in low-skilled employment what ‘decent work’ means to them. For instance, workers tend to prioritise issues such as decent pay and job security over excessive work hours (Stuart et al. 2016: 3). Trying to measure decent work and job quality is problematic due to the contested nature of these terms from worker, business, regulatory and government perspectives (Findlay et al. 2013: 442). Nevertheless, involving workers over what they feel are ‘decent’ work conditions would
complement the ILOs (2006) theoretical notion of decent work by placing workers at the forefront of such debates, and adding empirical data to their efforts.

While it may be possible to consider structural changes to the food industry and labour market, any changes would likely be problematic to deliver and would take time, even if policy makers were favourable to such changes. Some campaigners and researchers may continue to call for improved labour and working conditions in the industry, including a curtailment of zero-hours contracts, subcontracting, and the influence of dominant buyers such as retailers (Allain et al. 2013; EHRC 2012). However, these issues seem to be endemic to food production, and the current UK government preference for minimising business regulation suggests that these issues will not be addressed in the foreseeable future.

Facilitating structural changes in elements of some global supply chains is even more problematic. Not only can labour exploitation be difficult to detect and address across borders and over large geographic areas, but socio-economic conditions in some regions mean that a commitment to reducing exploitation is lukewarm. Factors such as female workers’ rights and the undermining of trade unions means that addressing these issues is likely to take time and cannot be achieved purely by legislation or individual companies. Given the variety of historical and cultural factors that influence current practices in global chains, only some of which emerged from the data collection, it is helpful that these remain a current focus of empirical research (see: Gold et al. 2015; LeBaron et al. 2017).

Under the terms of the Immigration Act 2016, the newly established GLAA seems like it could play a meaningful role in not just the food industry, but across the entire UK labour market. However, as signposted in Chapter 8, the GLAAs new remit contains many of the old problems associated with the Gangmasters Licensing Authority (GLA), and likely introduces some new ones. Most obviously is the issue of resources, whereby some have noted concerns that the GLAA will not have sufficient funds or personnel to cover all UK economic sectors, which may
reduce its efficacy (Davies 2016; TUC 2016). In other words, the breadth of the new GLAA may replace its existing depth. The issue of resources was a concern even when the GLAAs remit covered only the food industry, so this issue may become more significant moving forwards.

Part of the Immigration Act 2016 involves the provision for a new Director of Labour Market Enforcement (hereafter ‘the Director’). The Director’s role is to mediate between three agencies: the GLAA, Employment Agency Standards Inspectorate (EASI), and the minimum wage compliance team within HMRC. His three central responsibilities are to facilitate an intelligence hub between the three agencies, establish a collective enforcement strategy across the agencies, and to calculate a budget between them (Davies 2016). At face value, the Director’s role seems to facilitate multi-agency co-operation.

However, there are a number of concerns with the Director’s functions. First, the Director may prove to be an extra layer of bureaucracy associated with the UK regulatory context; albeit the government believes that this position will save resources in the long-term, and is an alternative to a future merger (Davies 2016: 3). Second, as the Director’s role involves allocating resources between three agencies, this may encourage competition and some degree of conflict rather than the co-operation intended (TUC 2016). Third, the Director’s strategy is not independent, but will be subject to ministerial approval (BIS 2016b): while this may provide extra accountability, the Director will need to navigate political tensions between regulation and business growth. Fourth, although the legislation theoretically encourages co-operation between three agencies, this is far from comprehensive given the range of agencies and perspectives involved on labour exploitation. For instance, it is not clear how interactions between other bodies such as the police and Anti-Slavery Commissioner will work. Therefore, the Director’s position contains several evolving challenges.
Importantly, the Immigration Act 2016 includes the provision for Labour Market Enforcement (LME) orders (BIS 2016b, 2015). LME orders represent a system of improvement notices with criminal penalties for breaching these. This criminal penalty allows enforcers to sidestep the somewhat problematic notion of proving intent and the employer's motivation behind initial wrongdoing. It will theoretically be easier to prove that an LME order has been breached, regardless of the underlying intent or motivation. The maximum sentence for breaching LME orders is two years' imprisonment (Davies 2016). Initially, the GLAA, EASI, or NMW team identify a ‘trigger’ offence, whereby they ‘invite’ the offender to rectify the problem. If the offending company does not resolve the problem, the agencies can obtain an LME order from the courts, which is granted based on civil standards of proof.

However, LME orders do not provide any redress to workers who have been harmed. The orders may prove difficult for falsely accused employers, since they have a choice between accepting the orders along with any negative publicity, or appealing the matter in court, which costs them resources (Davies 2016). Yet some employers may prefer the LME route if the alternative is a criminal prosecution, which risks removing the hard accountability that a criminal prosecution would bring. Therefore, LME orders sound like a way to address exploitation and harm, but may have little impact on improving workers’ rights, and seem to be another example of civil and criminal sanctions being applied on a reactionary basis.

While the Immigration Act 2016 contains provisions for labour market enforcement, it also includes new approaches for immigration control. For instance, there is a new criminal offence for illegal working, whereby the earnings of irregular migrants could be confiscated and treated as proceeds of crime (BIS 2016b). This development is important because the legislation begins to conflate labour market regulation with immigration enforcement, and does little to advance the social protection of migrants. Instead, the legislation seems to criminalise the most vulnerable migrants by threatening to remove tangible benefits of working, in this case their earnings. Therefore, this criminalisation of migrants may result in a focus on crime
prevention at the expense of improved labour rights. It is possible that undocumented migrants will experience further harm due to policy intervention by having their earnings confiscated. Since the Director of Labour Market Enforcement, the new GLAA, and LME orders are relatively new developments, it is not yet clear what long-term impact they will have on exploitation and regulation. However, these developments are likely to be important aspects of future research and policy discussion.

UK labour migration policy more widely is unlikely to embrace further social protection for migrants and migrant workers in the foreseeable future. The impacts on EU migrants will be discussed in section 9.5 regarding Brexit, but it is worth noting here that non-EU migrants currently face fewer options for working in the UK, largely due to the UK’s tiered immigration system. Currently the tiered system favours migrants who are able to fill highly skilled occupations, whereas it is difficult for low-skilled occupations to be filled by those from outside the EU. The restrictions on legal means of entry for non-EU citizens encourage some to enter the UK illegally and work under the radar (Vickers 2015). These undocumented migrants will continue to be among the most vulnerable to labour exploitation, and the criminalisation provisions within the Immigration Act 2016 may deter some migrants from reporting exploitative employers.

As discussed in Chapters 3 and 8, the Modern Slavery Act 2015 contains a transparency in supply chains clause for large companies (HM Government 2015a), but this principle does not extend to smaller companies and for less severe exploitation. Simply transposing the requirements imposed on large companies under the current legislation to smaller companies may be ineffective, since the provisions were intended for large companies, who have the resources to develop and enforce transparency statements. It may be feasible to develop an equivalent requirement for smaller supply chain businesses, so that they can publicly discuss their supply chain activities in a manner that is not overly burdensome. Regardless of which policy interventions and priorities emerge in future, it is clear that a ‘one size fits all’ approach
towards tackling labour exploitation will not work. Instead, policies need to be tailored towards
countries, sectors and employers in order to reflect the diverse range of existing practices
(Shamir 2012), as well as broader socio-economic conditions within which migrant workers
operate.

9.5 Harmful Impacts of Brexit on Migrant Labour Exploitation

There are several implications for migrant labour exploitation regarding the UK’s decision to
leave the EU: commonly named ‘Brexit’. France (2017) identifies several issues that may
expose migrant workers to further exploitation and harm due to Brexit, including: uncertainty
of immigration status; increases in hate crime and discrimination; workers’ rights and access
to justice; demand for migrant labour post-Brexit; and an increased need for labour market
enforcement. It should be noted that most data collection for this research occurred before the
2016 referendum. Therefore, examining the impact of Brexit on labour migration, regulation,
and exploitation in the UK was not a central aim of this thesis. Nevertheless, having just
discussed future policy implications, it would be short sighted to ignore these potential impacts,
especially since Brexit negotiations are ongoing at the time of writing. Assuming that the UK
formally leaves the EU in 2019, there will likely be some legal and institutional ‘residue’ to be
disentangled in the following years (Netto and Craig 2017). Key documents concerning Brexit
in relation to labour migration, the food industry, and exploitation have already been published
(see: Environment, Food and Rural Affairs Committee 2017; FDF 2017b; France 2017).
Nevertheless, this section is partially speculative, since the political, economic, legal and
socio-cultural implications of Brexit will not be fully clear for a number of years.

A key implication of Brexit in relation to migrant labour involves the free movement of people
across EU countries. In 2010, the UK Conservative Party (2010: 21) committed to reduce net
migration to the UK from the hundreds of thousands to the tens of thousands. Reducing
immigration has a basis of public support, since the majority of UK residents seem to favour
some reduction in numbers (Blinder 2014; Ceobanu 2011). This goal has met with little success during the last seven years, which seems partially due to the UK being unable to significantly control levels of immigration from within the EU (Rienzo and Vargas-Silva 2015). Nevertheless, reducing immigration remains on the policy agenda (Conservative Party 2017: 54), and at the time of writing, the most recent net migration figures indicate a substantial reduction in numbers, from +327,000 in year ending March 2016, to +246,000 in March 2017 (ONS 2017: 7). EU migrants account for over half of this reduction (ONS 2017: 8), which suggests that Brexit has had an impact on some migration decisions.

Brexit raises the possibility of significant changes to current UK labour migration policy. Nearly 75% of EU migrants in the UK are primarily here for the purpose of working (Sumption 2017: 4). However, the shape of UK labour migration policy after Brexit remains unclear, with a recent preliminary policy document suggesting that the UK government will aim to reduce opportunities for EU migrants to fill low-skilled work (Hopkins and Travis 2017). One option for labour migration policy is to rely less on migrant labour and instead encourage more British workers to enter the food industry. At face value, this option moves towards the government’s goal of increasing work opportunities for British workers (Sumption 2017). Indeed, there have been indications from the UK government that it will encourage more British workers to “engage with countryside matters” by working in food industry jobs that migrants currently dominate (Osborne 2016).

However, if this option translates into policy, it may be difficult to implement given that many British workers have long avoided low paid work in the food industry (Anderson and Ruhs 2012; Glennie and Pennington 2013). If work conditions in the food industry were improved, it is possible that more British workers would apply. However, this extra interest seems unlikely, since issues affecting the food industry are systemic and would require a significant amount of restructuring in order to resolve, which does not fit well with the current neoliberal trend of driving down work standards alongside limited regulatory oversight.
Assuming that more British workers do not seek employment in the food industry post-Brexit, the government could adopt a labour migration policy that maintains some degree of free movement for EU workers. Alternatively, it could introduce a work permit system (Sumption 2017). Under a work permit system, the government would need to decide which jobs, workers, and employers would be eligible, as well as impose conditions such as how long workers would be able to stay in the UK. The government would face a choice over whether to tailor work permits to particular sectors or businesses, which would further complicate the immigration system and require more policing of these conditions. Such a tailored approach contrasts with simpler and less specific permit systems, which would be easier to manage and enforce, although this looser approach would be less likely to address the government’s aim of reducing immigration. The UK currently uses work permit systems for occupations such as domestic work (Anderson 2015), and until 2013 had a Seasonal Agricultural Workers Scheme (SAWS) (MAC 2013a), so it is possible that similar schemes could be (re)introduced in other sectors (Environment, Food and Rural Affairs Committee 2017).

A risk attached to some work permits is that they restrict workers’ employment options. Domestic worker visas, for instance, do not permit workers to change employers, who risk deportation if they do (Anderson 2015). These restrictions mean that workers are more vulnerable to exploitation from their employers, due to the increased dependence on them. If work permits are tailored to particular sectors, the government may impose annual quotas on how many workers can enter the UK (Sumption 2017). If this quota is met early but more labour is needed, then it reduces the legal opportunities that employers have to hire labour, which may result in illegal employment methods – an issue that Ruhs and Anderson (2010) highlighted before the 2004 EU expansion.

Regarding workplace rights post-Brexit, the EU arguably has a mixed record on safeguarding workers’ rights (Scott 2017: 180-181), but are nevertheless concerned that Brexit will result in
a “bonfire of regulations” (Coulter and Hancké 2016) whereby workers’ rights are eroded. Others are keen to assert that the UK labour movements of the late 19th and early 20th centuries achieved more for workers’ rights before the UK joined the EEC\textsuperscript{13} in 1973; albeit these movements and labour conditions have deteriorated since the 1980s (Turner et al. 2014). The UK government has emphasised that it will not erode workers’ rights post-Brexit, as evidenced by their commitment to transpose existing EU law into UK law through the Repeal Bill (HM Government 2017). However, the government’s continued allowance of zero-hours contracts and its somewhat hesitant approach towards state regulation of the labour market suggests a more limited implementation of workers’ rights in practice.

Brexit has resulted in significant concerns for food industry businesses. The Food and Drink Federation (FDF) (2017b: 2) indicates that many employers in food supply chains currently struggle to recruit local and temporary workers, with some claiming that their businesses would become unviable if they cannot access EU migrant labour post-Brexit. Fewer seasonal workers appear to be entering the UK to work on farms, which means that some farms do not have enough workers to harvest fruit and vegetables during busier periods (FDF 2017: 25). This reduction could result in food shortages with some products, and/or many crops being wasted if insufficient labour is available.

Rather than maintaining higher levels of immigration post-Brexit in order to conduct the labour-intensive work that is necessary for many aspects of food production, the government could decide to import more food. Increasing imports may be necessary if the government decides to source less labour from EU countries, and if it cannot encourage more British workers to enter the food industry. The UK already relies on food imports to a large extent, since it imports over 50% of its current food and feed (de Ruiter et al. 2016). For example, approximately 70% of its fresh vegetables are imports from Spain and the Netherlands (DEFRA 2016: 95). Yet

\textsuperscript{13} The EEC (European Economic Community) was the forerunner for what eventually became the EU.
post-Brexit, up to 40% of UK retailers may increase their imports from African and Asian countries (Barclays 2016), especially if there are changes to EU tariffs and further falls in the value of sterling.

However, importing food from beyond the EU poses increased risks in relation to exploitation and harm. For example, farm workers in South Africa have been described as among the most vulnerable in the country, whereby workers’ rights are frequently ignored, their housing is inadequate, and they face intense working hours (Visser and Ferrer 2015). Similarly, Kenya still uses child labour in many of their economic sectors, including agriculture and food (US Department of Labor 2017), yet both these countries may export further produce to the UK if British businesses look beyond the EU for imports. Given the rhetoric that many companies dedicate to CSR and other labour ethics policies, they may need to encourage suppliers to improve their labour standards. Alternatively, as with many CSR principles, companies may try to continue doing business and claim ignorance of exploitation occurring, which is relatively easy due to sometimes complex layers of subcontracting (Allain et al. 2013; Tombs and Whyte 2015). Some have critiqued the UK’s reliance on imports as a “‘soft’ food imperialism” (Schoen and Lang 2015: 3), since it relies on the land and labour of other countries, while agriculture in the UK uses a significant amount of imported migrant labour.

Aside from exploitative labour practices, more food imports may be difficult for the UK government to justify politically, given their rhetoric on local food produce and supporting British farmers (Schoen and Lang 2015: 15). The issue of ‘food security’ is a concern in terms of the UK trying to increase its own food output without over relying on imports (Rodionova 2017). Lengthy product and labour supply chains that extend over numerous countries may generate further risk and opportunities for harm; albeit such risk is present within national and local chains anyway. The issues highlighted by Brexit, including labour migration policy, workplace regulation, and the food industry, are likely to be the focus of intense and complex discussion for some years. The future of migrant labour in various UK economic sectors,
including agriculture and food, will undoubtedly remain an important area of research in the foreseeable future.

9.6 Conclusion

From the discussion in this chapter, many exploitative labour practices are not and would not be labelled as crimes due to their routine and banal nature; even if such harms were reported, it is likely that civil courts or regulatory bodies would investigate them rather than the criminal justice system. Since many migrant workers usually make relative gains from labour exploitation when compared to having no work at all, this brings into question whether the exploitation can be considered harmful. However, when assessed from some notion of ‘fairness’, the harm is found where exploited workers are worse off than they should have been, had they been treated ‘fairly’. In any event, when addressing exploitation and harm, approaches that combine reactive elements of criminal justice and human rights can be unhelpful when contrasted to a pro-active labour rights approach; albeit criminal intervention arguably remains important for establishing accountability. Conceptualising exploitation and harm through Greenfield and Paoli’s (2013) harm assessment framework may be an important feature of future research. There are a number of potentially harmful implications regarding ongoing policy developments, including new UK legislation and impacts of Brexit on migrant labour exploitation. Given the current neoliberal stances on free market enterprise and limited levels of labour market regulation, the challenges of routine labour exploitation and lack of social protection for migrant workers are likely to persist in the long-term.
Chapter 10: Conclusion

This thesis aimed to address the primary research question of ‘how do the dynamics of some food supply chains result in exploitative and harmful employment practices for migrant workers in the UK food industry?’. To answer this question, the contributions of this research can be summarised under four headings: (i) developing a more rigorous analysis of ‘routine’ labour exploitation and harm against migrant workers; (ii) understanding how legitimate food supply chain dynamics can facilitate exploitative and harmful labour practices; (iii) asserting that regulatory interventions are limited and can facilitate further harm to migrant workers; and (iv) acknowledging the complexity of the relationship between immigration status and labour exploitation. One of the most important findings from this thesis is the mundane or ‘routine’ nature of labour exploitation that is typically overlooked and so normalised when compared to severe exploitation. These contributions are framed through a criminological lens of harm in relation to labour exploitation. By emphasising the full spectrum of labour exploitation, it is possible to work towards full ‘labour justice’ (Skrivankova 2010: 9) that incorporates a wider range of harms beyond the narrower categories of ‘crimes’ and ‘criminal justice’. Therefore, the thesis discusses numerous unreported ‘non-criminal’ and social harms instead of just the most severe ‘criminal harms’.

10.1 Routine Labour Exploitation and Harm

Most previous research across various disciplines focuses on severe labour exploitation, including modern slavery, forced labour, and human trafficking (Allain et al. 2013; Anderson 2015; LeBaron et al. 2017). This severe exploitation is a significant problem, and is rightly a policy and research priority in many countries. However, a key research finding of this thesis is that a stronger emphasis is needed on ‘banal’, routine, everyday forms of labour exploitation that are not as severe as modern slavery. If labour exploitation is regarded as a continuum of practices that can result in harm, whereby ‘decent work’ and modern slavery represent both extremes, there is a range of labour abuse and victims ‘in-between’ who risk being neglected
Indeed, many forms of labour exploitation do not necessarily breach legislation and so remain lawful (EHRC 2010; TUC 2008).

This research, as evidenced primarily with Chapter 6, suggests that banal labour exploitation appears to be widespread, routine, and shares a complex relationship with migrant workers’ consent to these practices. Yet routine labour exploitation is unlikely to receive attention from the media, policy makers and researchers when contrasted to severe exploitation (Scott 2017; Tombs and Whyte 2015). Some routine labour exploitation would appear to be illegal if it were reported, such as underpayment and poor safety conditions. With other practices, it is more difficult to draw clear lines between legal and illegal activities. Practices that are inherent to food supply chains, such as long working hours, working in extreme temperatures, and intense repetitive work, may be ‘legal’ aspects of production, but can have exploitative dynamics and harmful consequences for workers.

This research demonstrates a more complex understanding of how migrant workers make decisions and appear to tolerate exploitation and harm, which contrasts with overly simplistic portrayals of ‘ideal victims’. Many depictions of severe exploitation tend to portray workers as passive victims, whereby ‘human traffickers’ and organised criminal networks have coerced or deceived them into exploitation and so need ‘rescuing’ by the state (Anderson 2015; O’Connell Davidson 2005). These depictions mean that a narrow group of individuals are portrayed as ideal victims, due to their decisions and circumstances being ‘blameless’ (Christie 1986), whereas in practice these issues are more nuanced. This research suggests that many migrant workers compare their circumstances in the UK to opportunities in their home country, and conclude that they are better off in the UK, even if they risk labour abuse. While migrant workers are unlikely to be coerced or deceived into accepting routine exploitative conditions, they may feel that carrying on in exploitative work is the best option for them in the absence of alternative options. In other words, many migrants continue working due to a “compulsion of necessity” (Lewis et al. 2015: 9).
Only severe exploitation is likely to attract intervention from the criminal justice system. Despite increased focus on modern slavery over the last 10 years, detection rates for severe exploitation remain low (Balch 2012; Scott 2017). However, even when severe labour exploitation is reported or detected, this does not necessarily protect victims and result in criminal prosecutions for offenders. The DJ Houghton case demonstrates limitations of the National Referral Mechanism (NRM), which means that victims may have to resort to individual litigation in the civil courts, rather than criminal trials. Hence, criminal-legal frameworks by themselves are limited as a response to labour exploitation.

If severe cases of labour exploitation do not result in support for victims and criminal accountability for perpetrators, then routine labour exploitation is even less likely to receive attention. Routine exploitation, if reported, is unlikely to be investigated and criminally prosecuted. Many practices are legal but still have harmful consequences for workers, a notion that Passas (2005) refers to as “lawful but awful”. More widely, routine labour exploitation is likely to be treated as civil or regulatory breaches, which means that calling these labour abuses ‘crimes’ becomes problematic.

Labour exploitation has received little criminological attention, both in theoretical and empirical terms. Yet a criminological discussion of routine labour exploitation complements existing debates on the concept of harm. Paoli and Greenfield (2015) call for researchers to “start at the end” by emphasising the harms and consequences of crime. Their harm assessment framework begins to empirically assess, compare and prioritise harms, whereby they refer to less severe harms as “low hanging fruit” (Paoli and Greenfield 2015: 94). This conception of low hanging fruit can be problematic in the context of labour exploitation, because routine or apparently ‘less severe’ harms may be more difficult to identify, detect and enforce against. Related to this notion of low hanging fruit is the idea that workers may benefit in some way from exploitative conditions.
In the context of exploitation, workers are likely to make relative gains from their employment, which means that exploitation can be mutually advantageous to employers and workers. Employers unfairly gain at their workers’ expense; however, workers are usually better off in relative terms when compared to having no work at all (Mayer 2007a). Crucially, harm can still develop here, because although workers seem better off being exploited when compared to a baseline of no work at all, they are worse off than they should have been, had they been treated with the ‘fairness’ they deserve. While the notion of fairness is contested, workers experience various harmful consequences of exploitation, whether these be functional (physical or psychological), material, reputational, or privacy-related.

In practice, the complex dynamics between harm and exploitation can blur the boundaries between victims and offenders, especially where workers appear to tolerate routine labour exploitation. Therefore, this ‘low hanging fruit’ may prove more difficult to grasp than initially implied. Yet these routine harms are precisely what researchers and policy makers should be giving more attention to. Not only does routine exploitation appear to be more frequent than severe abuses (France 2016; Shamir 2012), but it can result in conditions deteriorating further, and normalises exploitative practices. However, it is important to understand these exploitative transactions not just at an interpersonal level, but within the context of legitimate business activities and supply chain processes.

10.2 Harmful Consequences of Food Supply Chain Dynamics

Labour exploitation has traditionally been portrayed as a distinct ‘criminal sector’ problem, whereby individual ‘human traffickers’ and organised criminal networks were seen as the main drivers of exploitation (Scott 2017; Wilkinson 2012). Therefore, most assertions of how legitimate business practices and socio-economic factors such as immigration policy, labour market regulation and the welfare system may facilitate exploitation, tended to be on the
fringes of discussion. This neo-slavery perspective is succinctly put by Bales and Soodalter (2010: 3), who assert “we know that slavery is a bad thing, perpetrated by bad people”. While some individual perpetrators are undoubtedly malicious and intend to cause harm to their victims, this is a limited representation, and generates an easy-to-follow discourse of ‘victims and villains’. In addition, the state is portrayed as a neutral or benign actor that ‘rescues’ victims, which downplays its role in facilitating exploitative labour practices through limited regulatory oversight and restrictive immigration policy (LeBaron 2015: 2). While the focus of policy makers and researchers has shifted to some extent, and now recognises the role of supply chain dynamics in facilitating exploitation (Allain et al. 2013; GLA 2015a; New 2015), in empirical terms these dynamics remain under-researched, especially in relation to routine exploitation.

This research provides a critical discussion on the role of legitimate businesses and food supply chain processes, particularly in Chapter 7. The key finding was that exploitation tends to emerge as an unintentional product of supply chain dynamics. These unintended consequences suggest that supply chain actors such as buyers and labour intermediaries do not act maliciously with criminal intentions, but respond rationally to legitimate business problems. Despite these rational approaches, and in many cases well-meaning supply chain actors, the demand for products and labour generates a series of pressures and tensions which are passed down supply chains and can have harmful impacts on workers. These tensions are endemic to supply chains, since the demand for products and labour remains a key catalyst (TUC 2008), regardless of how individual actors respond. A lack of criminal intent in such cases does not justify exploitative practices, but begins to explain why they occur in a more critical manner.

Supply chain pressures and resulting harm can be associated with the organisation of product supply chains, the notion of ‘labour supply chains’, and socio-economic factors beyond the workplace that interlink with business practices. As Lord et al. (2017) assert, a focus on the
‘organisation’ of illegal and harmful activities is important, not just the narrower category of organised crime. In the food industry, the isolated and non-public locations of food production sites such as agricultural fields may generate opportunities for employers to exercise control over their workforce and so take unfair advantage of workers. In turn, migrants working in rural isolated areas cannot easily access support mechanisms which tend to be based in urban locations, and may lack the language skills or understanding of employment rights to report exploitative practices. Extreme weather conditions and intense, repetitive work may result in short-term and long-term injuries or illnesses, yet these tasks are a key part of food production.

This thesis discusses how cost pressures resulting from organisational goals can result in dominant supply chain actors such as buyers demanding low-cost, high quality, ‘just-in-time’ products from suppliers. Suppliers may turn to labour intermediaries and outsource their labour costs to ensure they meet orders while minimising expenses. Although such processes are legitimate aspects of production, and arguably essential for supply chains to function effectively, there can be numerous harmful consequences. Outsourcing labour costs is typically associated with precarious employment, including zero-hours contracts, low pay, and insecure work – Allain et al. (2013: 5) refer to the informality associated with subcontracting as the “gateway to forced labour”. While this research identified few severe incidents of exploitation, participants highlighted that a range of ‘minor’ labour abuses can and do occur in these contexts.

Routine labour exploitation seems to be endemic to food supply chains, and this research portrays how it becomes normalised as part of routine and bureaucratic procedures. As evidenced from the data and previous discussion (see: Bauman 1989), supply chain actors have their own roles and responsibilities to fulfil on a daily basis, so may be detached or unaware of what impacts their decisions have elsewhere in supply chains. This ‘compartmentalisation’ or division of labour means that supply chain actors become focused on their daily tasks, such as meeting orders or managing labour supply, while losing sight of
the ‘wider picture’ which might involve workers being exploited. In other words, supply chain actors can claim plausible deniability while they unwittingly reinforce exploitative supply chain dynamics such as cost pressures, intense work and casualised labour. From these developments, the thesis contains discussion on why exploitation and harm is able to occur, and importantly how to prevent it, which involved examining the status of existing regulatory protections.

10.3 Regulatory Interventions and Harm

Previous work highlights that regulatory interventions from the criminal justice system (Scott 2017; Slapper and Tombs 1999), state regulatory bodies (Gobert and Punch 2003; Snider and Bittle 2014), companies (Fauset 2006; New 2015), and trade unions (Foster et al. 2015; Turner et al. 2014) towards labour exploitation each have limitations associated with them. These limitations not only result in a fragmented regulatory framework and so limits social protections for migrant workers, but may unwittingly facilitate further labour exploitation or harm. Regulators’ focus on severe labour exploitation may result in more subtle exploitative conditions continuing or deteriorating elsewhere. Less formal means of oversight, including the role of local communities and NGOs can be helpful alternatives to state regulation, but this is not assured and can be somewhat piecemeal.

The ‘hard treatment’ typically associated with police and criminal law intervention may make some workers worse off if state authorities detect labour exploitation and arrest perpetrators. Since workers usually make relative gains from being exploited (Feinberg 1990; Mayer 2007a), they may become worse off if they no longer have employment or accommodation that employers formerly provided. The data suggests that buyers and even trade unions are willing to tolerate some level of labour exploitation in the hope that they can ‘engage and influence’ businesses that have exploitation in their supply chains. While this attitude may facilitate positive results in the long-term, it means that in the short-term at least, buyers and
unions are likely to tolerate banal labour exploitation if companies address more severe abuse. From a business perspective, this ‘engage and influence’ approach seems preferable to terminating business relationships or reporting exploitative practices, but may unwittingly result in trade-offs, where routine exploitation is accepted and normalised.

The policy framework is geared towards protecting only the most vulnerable workers who experience severe labour exploitation. Namely, the NRM provides a means of public systematic support for those identified as victims of modern slavery. Alternatively, workers are able to initiate court proceedings against their employers, or can submit a case to employment tribunals if they are abused or neglected in the workplace. However, those who cannot afford the fees associated with these actions are unlikely to have access to remedial processes. This inconsistency seems to set a dangerous precedent by detaching the state from its obligations to protect workers, and instead encourages individual responsibility and action.

Many labourers ‘in between’ this public protection afforded to workers affected by severe exploitation, and those able to afford individual litigation, risk being overlooked. In addition, law enforcement is unlikely to show significant interest in routine labour exploitation (France 2016). Scott (2017: 188) argues that maintaining a focus on modern slavery along with associated criminal and immigration enforcement is relatively easy and allows the state to claim the moral high ground. Yet simultaneously undermining labour standards and doing little to alter structural labour market conditions allows the state to appear pro-business. This difference between the treatment of severe and routine exploitation contributes to the emphasis on rescuing victims of severe exploitation, rather than a broader focus on workers across the continuum of exploitation (Scott 2017: 188-189). Since the findings from this research portray a range of routine labour abuses, it suggests that a more systematic means of redress could be helpful, whereby workers ‘in between’ decent work and modern slavery can lodge their grievances of exploitative and harmful labour practices. However, pro-active approaches such as trade unionisation and collective bargaining are important, even though
this remains unlikely in the context of declining membership rates and the undermining of labour conditions.

10.4 Migration and Labour Exploitation

Previous work has documented migration decision making processes (Jaeger et al. 2007; Williams and Baláž 2012), migration journeys (IOM 2014), and a range of labour abuses that migrant workers subsequently experience in the UK food industry (Scott 2017; Potter and Hamilton 2014; Scott et al. 2012). English language was cited as an important skill in order to understand workplace rights and speak out against abusive work conditions. Yet many migrants were reluctant to speak out for fear of losing work and sometimes being ineligible to claim welfare benefits, especially newer migrants. Common depictions of exploited migrant labour include those who travel and enter destination countries through irregular means, whereby migrants work illegally and are afraid to report their ‘employers’ for fear of deportation. Hence, irregular immigration status is frequently associated with exploitative labour practices (Pajnik 2016). This research helps to establish that ‘regular’ migrants in the UK can still be vulnerable to exploitation, even if they have some understanding of English and their employment rights. From the data, employers seemed reluctant to hire labour illegally, which suggests that exploitation and harm is easier to embed in legitimate processes, whereas employing undocumented migrants carries additional risks of detection.

There is significant policy discussion on the future role of regulation and governance, both in the labour market and wider society (BIS 2016; Drahos 2017; Tombs 2016; Tombs and Whyte 2015). The Grenfell fire incident in 2017, where approximately 80 people died after a block of flats caught fire, may act as a check on future deregulation, at least in the short term. Early discussions on Grenfell suggest that faulty wiring, flammable wall cladding, a lack of water sprinklers and fire exits were contributing factors (Millward 2017). There are suggestions that successive governments have neglected these safety issues over a number of years, despite
warnings from official reports (Building Research Establishment (BRE) 2016; Select Committee on Environment, Transport and Regional Affairs 2000). This incident may discourage further deregulation in other industries, especially given the public outrage and government appearing keen to take action in order to minimise the risk of similar incidents occurring in future.

10.5 Future Work

While this thesis examines routine labour exploitation and harm from a criminological perspective, the range of abuses in between ‘decent work’ and modern slavery remain an under-researched area. With the unresolved status of labour migration policy and employment regulation following Brexit, routine labour exploitation is likely to require more attention in future research. Linked to Brexit, if levels of net migration from the EU continue to decline, this may lead to a shortage of labour in the UK food industry. While unlikely, it is possible that more British workers may help to plug this gap. In these circumstances, it would become increasingly important to give further attention to British workers in low-skilled and precarious occupations – as Stuart et al. (2016) have recently done in the Scottish labour market.

While the issue of harm is increasingly gaining attention in criminology and the emerging discipline of social harm (Scott 2017; Paoli and Greenfield 2015; Pemberton 2015; Tombs and Whyte 2015), this remains an under-researched theme, especially in empirical terms and in relation to labour exploitation. As the limitations of criminal law and the criminal justice system become clearer when addressing labour abuse, a harm based approach towards understanding the nature, organisation and control of exploitation is likely to be useful across a range of disciplines and policy areas.

Regarding the potential future use of Greenfield and Paoli’s (2013) harm assessment framework, a full assessment of harms occurring in food supply chains might include other
bearers and types of harm. For instance, non-migrant workers, private and public entities, as well as harms associated with food fraud, treatment of animals, and the physical environment could all be focal points of analysis. Greenfield and Paoli’s (2013) applications of their framework to date have focused on ‘criminal harms’ only. A full assessment that aims to include ‘non-criminal’ or social harms has not yet been completed, but such an assessment would likely help to shed light on a wider range of labour exploitation and other harmful practices in the food industry.

The findings from this research arguably have implications beyond the food industry. Given the way in which routine labour exploitation becomes normalised in the context of legitimate food supply chain practices, it seems reasonable to argue that similar practices are common in other sectors and supply chains. Indeed, existing literature suggests that routine labour exploitation and harm is prevalent in the cleaning industry (EHRC 2014; Ollus 2016), construction (Rosewarne 2013), and hand car washes (Clark and Colling 2016). As with food industry research, this routine exploitation is frequently implicit or skimmed over completely in discussions focused on other sectors, yet deserves more explicit theoretical and empirical focus from researchers and policy makers. Ongoing policy developments such as the expanding remit of the GLAA into other sectors of the labour market are likely to help reveal the nature and extent of routine labour exploitation beyond the food industry. Early reports indicate that the GLAAs caseload has almost doubled since their remit has widened beyond the food industry (Butler 2017). Labour exploitation is already a significant issue in traditionally unregulated sectors such as construction (Green 2015), so the functions of the new GLAA should prove to be an important area of research in the foreseeable future.

Beyond the UK context, labour exploitation remains widespread throughout global supply chains (Barrientos et al. 2013; Stringer et al. 2016; Visser and Ferrer 2015). The regulatory framework in the UK, despite its limitations, is relatively strong in comparison to many developing countries, although is weak when compared to some European frameworks
Food production in developing countries is typically at the lower end of global supply chains, which tend to contain more opportunities for exploitation and harm. Aside from labour exploitation, there have been reports of residents in developing countries being harmed, since farmers export large amounts of food to developed countries, which limits the availability of produce to local residents (Global Policy Forum 2017). However, as with the UK, severe labour abuses seem to dominate the global research and policy agenda (ILO 2016a, 2016b; LeBaron et al. 2017), whereby routine labour abuse is obscured. This thesis raises the issue of to what extent UK buyers may tolerate exploitative labour practices across their global chains, especially if labour audits uncover evidence of harmful workplace practices.

10.6 Concluding Summary

This thesis contributes a more rigorous understanding of routine labour exploitation that occurs within the context of legitimate food supply chain dynamics, which is enabled by business and state actions or omissions. The research moves forward the focus on labour exploitation beyond severe ‘criminal’ cases to a range of other abuses that are usually not reported, detected or investigated through regulatory or criminal-legal frameworks. Therefore, this thesis contains implications for the nature, organisation, and control of exploitative labour practices against migrant workers in food supply chains. The findings and analysis contrast in some ways with common portrayals of labour exploitation involving irregular migrants and modern slavery, but this is a key strength of the project, rather than a limitation. The terms ‘routine’ and ‘banal’ exploitation have been adopted in this thesis to refer to practices that are not as ‘severe’ as more extreme forms of exploitation. Arendt (1963) refers to the “banality of evil”, just as Bauman’s (1989) work provides a basis for understanding how organisational routine can normalise harmful practices.
However, routine exploitation is collectively a serious issue, because it becomes denied by workers, employers, regulatory bodies, and police, who may associate exploitation with severe practices only. These routine practices have resonances with totalitarian regimes that use such practices and normalise them (Arendt 1963). Therefore, the burden is on the state to ensure that such practices are not tolerated and that routine exploitation is as important as ensuring that modern slavery is addressed. The findings from this research suggest that there is a collective toleration of exploitative practices, albeit not the ones that are likely to generate headlines. It is important to examine the full spectrum of exploitative labour practices and responses to them, which this thesis does in theoretical and empirical terms through a criminological portrayal of harm. Only by considering the full continuum of exploitation will it be possible to move beyond limited notions of ‘criminal justice’ and achieve full ‘labour justice’ (Skrivankova 2010: 9). Since labour exploitation is increasingly likely to dominate public agendas and have cross-cutting impacts on migration, workers, businesses and governments in future, it is important to develop a strong focus on the banal as well as the brutal practices.
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