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POCKETS OF WEAKNESS IN HIGH-CAPACITY STATES

Migrant Labour Exploitation in Sweden

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Abstract

This thesis explores the uneven reach of a high-capacity state over societal actors. Infrastructural power is the aspect of state capacity that determines how far a bureaucracy can reach into a society. The limited reach over certain societal actors illustrates the varied ability of a state's radiating institutions to regulate social relations. The aim is to examine the potential factors causing pockets of weakness in a high-capacity state. In the context of labour exploitation of migrant labour in Sweden the limited ability to reach the perpetrators and victims involved are used as examples of pockets of weakness. Semi-structured interviews are conducted with state agents and stakeholders involved in combating labour exploitation and two stakeholder organisations. The main findings underline that the monitoring capacity of the state is being severely restrained by confidentiality laws. The unwillingness to report to the authorities due to the vulnerability of victims is hampering monitoring and sanction capacities. Inadequate state resources (information, money and human capital) and constraints on policy instruments (financial incentives, sanctions and propaganda) are also impeding the ability to combat labour exploitation. Coordination failure is discounted as a factor, while discretion and adaptability to political decisions appear to be more significant in explaining uneven social reach.

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Abbreviations

Abbreviation	English	Swedish
Assignment on Method Development	Assignment on Method Development for joint agency inspection to counter fraud, rule violations and crime in the workplace (Part of the effort to address 'unfair competition')	Uppdrag om metodutveckling för myndighetsgemensam kontroll för att motverka fusk, regelöverträdelser och brottslighet i arbetslivet
CSE	Confederation of Swedish Enterprise (Employers' association representing 60 000 companies)	Svenskt Näringsliv
EEA	European Economic Area	
EU	European Union	
GEA	Gender Equality Agency (Lead agency of the NMT)	Jämställdhetsmyndigheten
GRETA	Group of Experts on Action against Trafficking in Human Beings, Council of Europe	
HEUNI	European Institute for Crime Prevention and Control, affiliated with the United Nations	
LO	Swedish Trade Union Confederation (Labour union representing 14 member unions of blue collar workers)	Landsorganisationen
MA	Migration Agency (formerly the Migration Board)	Migrationsverket
NMT	National Task Force against Prostitution and Human Trafficking	Nationellt Metodstöd mot prostitution och människohandel
PA	Prosecution Authority	Åklagarmyndigheten
Police	Police Authority	Polismyndigheten
RC	Regional Coordinator (Coordinates anti-trafficking work between social services and the Police)	Regionkoordinator
TA	Tax Agency	Skatteverket
TCN	Third Country National (A citizen from outside the EU, EEA and Switzerland)	Tredjelandssmedborgare
WEA	Work Environment Authority	Arbetsmiljöverket
	Unfair competition	Osund konkurrens

1. Introduction

Indicators measuring state capacity rank Sweden highly (Nistotskaya & D'Arcy 2018). However, despite its apparent strong state capacity, cases of migrant labour exploitation in sectors such as restaurants, car washes, and construction are repeatedly documented in the media and reports on labour exploitation. These weaknesses of state capacity accentuate the inability to uphold public order and punish free-riders in collective action scenarios which is fundamental for a competent state (Lee & Zhang 2016).

Sweden performs well in indicators on fiscal capacity as represented by effective and extensive tax collection (Tilly 1992; Flora & Heidenheimer 1981), tax compliance, information and monitoring capacity (D'Arcy & Nistotskaya 2015, Nistotskaya & D'Arcy 2018), Bureaucratic Professionalism (Dahlström et al 2012), and bureaucratic and administrative capacity (Hendrix 2010). Sweden ranked first place with other Nordic countries in the International Country Risk Guide Indicator of Quality of Government (PRS Group 2014), and ranked eighth in the Bayesian Corruption Index (Standaert 2015). The World Bank's Worldwide Governance Indicators for over 190 countries placed Sweden fourth in perceptions on controlling corruption, eighth in government effectiveness, third in rule of law, and sixth in regulatory quality (The World Bank Group 2014). Perception-based indicators of state capacity consistently rank Sweden highly.

Sweden is usually perceived as a role model country in terms of high institutional quality, robust economy and well functioning labour markets (Woolfson et al 2014). Therefore, the existence of systematic labour exploitation in a country like Sweden presents a conundrum (Woolfson et al 2012). A country with high state capacity should be able to prevent exploitation from occurring, and if it does occur, the state should be able to reach the societal actors who misbehave, punish them accordingly and provide compensation to those who have been exploited.

Infrastructural power is the aspect of state capacity determining how far a bureaucracy can reach into society to exert control and regulate social relations (Mann 1984: 189, Soifer 2008: 234). It accounts for the wide variation of power within states and is usually studied in relation to territorial reach. Closer examination of subnational variation has been identified as a neglected area (Berwick & Christia 2018: 74; Cingolani 2013: 42). In particular, systematic exploration of social reach, the state's ability to exert control over societal actors, has been an under-researched dimension of subnational variation (Soifer

2008: 242). Another gap is the analysis of the micro-determinants of state capacity that have policy implications (Cingolani 2013: 41).

At an aggregate level pockets of weakness in a strong state seems paradoxical, yet the state capacity literature on subnational variation accounts for the heterogeneous power and capabilities of the state resulting in the uneven reach over territory and societal actors (Soifer 2008: 242). State capacity is a multi-dimensional concept where different dimensions require different skills and resources to effectively penetrate diverse territories and actors. For example, territorial reach of the state can be aided (or constrained) by the geographical terrain (Straus 2006). Consequently it is logical to expect variation and to observe weaknesses in areas where state agencies face constraints.

To contribute to the state capacity literature on subnational variation, this thesis aims to examine potential factors causing pockets of weakness in high-capacity states. This will be analysed in the context of labour exploitation in Sweden and where possible focus on non-EU migrant workers, also known as third country nationals (TCNs), on work permits since they are known to the state.

For the purposes of this thesis, a pocket of weakness is defined as societal actors that the state has the limited ability to exert control over. Considering the state has more power over certain societal actors than others indicates the state's social reach is uneven. Activities involving labour exploitation entail withholding of information from the state. In the context of labour exploitation of migrant labour in Sweden the state has demonstrated a limited ability to reach perpetrators and victims of this crime to regulate their social relations. The goal is to understand the causes hampering the state's social reach to regulate these actors.

Political will is discounted as a factor affecting the systematic exploitation of labour migrants. The Swedish state has shown its willingness to tackle labour exploitation and has enacted laws against forced labour connected to trafficking as well as labour exploitation (Socialdepartementet 2018). It is also working towards SDG 8 on decent work, by protecting labour rights and promoting 'safe and secure working environments for all workers, including migrant workers' (Government Offices of Sweden 2015). The Gender Equality Agency coordinates work to combat labour exploitation with nine other agencies including the Police, Migration Agency and Social Services (Socialdepartementet 2018). Financial resources, information and human capital have been made available to combat labour exploitation. Regardless of this fact, isolated areas of low state capacity are reflected in the seemingly commonplace exploitation of migrant workers in Sweden. The reasons

behind these pockets of weakness are what this thesis aims to explore, and therefore asserts that the state has the political will to enforce its laws.

Semi-structured interviews will be conducted with regulatory agencies and stakeholders. A theoretical framework will be developed to explore the potential factors causing pockets of weakness. Based on literature from different fields, these factors will be analysed: limitations on state resources and policy instruments; coordination failure; discretion, a micro-determinant affecting policy implementation; and adaptability to political decisions. The different responsibilities of agencies will be interpreted within the framework of state capacity's policy instruments (incentives, coercion and propaganda) and resources (information, money and human capital) (Lindvall & Teorell 2016).

By using the Swedish case of uneven state capacity as the context the following questions will be explored: What are the factors causing pockets of weakness? What are the deficiencies in state capacity that make systematic labour exploitation possible?

Pinpointing the causal factors of subnational variation in rich, high-capacity states is particularly useful in light of the prevalence of labour exploitation in the EU (EU Agency for Fundamental Rights 2018). It is hoped that the analytical framework and findings will be able to be applied to other states facing similar challenges in combating labour exploitation, and other types of limited social reach.

2. Theoretical Discussion and Framework

2.1 State Capacity

State capacity entails the ability to project power over a territory and population to implement political decisions (Mann 1984: 189). Berwick and Christia (2018: 73) note that the most popular conceptualisations of state capacity are grounded, 'either implicitly or explicitly on Weber's portrayal of the state as an organisation with the ability to make and implement rules.' Two vital characteristics of the Weberian tradition is the essentialness of a state monopolising power and the development of a professional and insulated civil service (Cingolani 2013, Weber 1968).

Michael Mann identified two different types of state power: despotic and infrastructural. Despotic power is described as the range of actions available to the state elite without the need for institutionalised negotiation with civil society (Mann 1984: 188). Infrastructural power is the capacity to penetrate civil society and implement decisions throughout the territory (ibid: 189). Moreover, it is the aspect that determines how far a

bureaucracy can reach into a society (Soifer 2008: 234). It is infrastructural power that is of most relevance to this thesis.

Four elements of the state are: (i) differentiated institutions and personnel personifying (ii) centrality, such that political power radiates outwards from a centre throughout (iii) a territorial area over which it applies (iv) a monopoly of ‘authoritative binding rule-making’ (Mann 1984: 188). These elements are crucial to understanding subnational variation. States cannot exert direct control from the centre but must rely on representatives to act and implement policies on their behalf and endeavour to control and regulate social relations (Soifer 2008: 234-235). Representatives of the state embody the political relations radiating from the centre, reaching from the state elites, to the regulating institutions and finally to local communities (ibid).

Mann (2008), Soifer (2008), Lindvall & Teorell (2016) conceptualise state capacity as a form of power where relationships between different groups are fundamental to understanding power (Berwick & Christia 2018). Lindvall and Teorell assert that it refers to the state’s ability to ‘get things done’ or more fundamentally as ‘the projection and exercise of power’ (2016:5). The authors rely on Robert Dahl’s definition of power (1957) as they wish to conceptualise state capacity in terms of a causal relationship: ‘A has power over B to the extent that he can get B to do something that B would not otherwise do’ (Dahl 1957, 202-203). Lindvall and Teorell posit:

State capacity is defined as the strength of the causal relationship between the policies that governments adopt and the (intended) effects of those policies, and by definition, causal relationships cannot be observed. What can be observed are the resources that states deploy to increase the strength of the effect of policies on outcomes – resources such as money, human capital, and information. Instead of trying to measure state capacity as such, then, our goal should be to measure resources that are known to increase state capacity (2016: 18).

Since the strength of the causal relationships cannot be observed the framework will ask representatives about the resources available to improve their agencies’ effectiveness to combat exploitation.

Three primary ‘policy instruments’ are identified that states use to exert control and govern societal actors and territories it claims to rule: economic incentives, coercion and propaganda. Policy instruments are heavily reliant on the three fundamental state resources to be able to amplify their effects regarding the implementation of political decisions. Policy instruments and resources will be discussed below.

2.1.1 Policy Instruments

There are three broad policy instruments to control territories and populations available under state capacity discussed in the literature: incentives, propaganda and coercion (Lindvall & Teorell 2016). Mann (1984) refers to them as economic, ideological and military power and Bemelmans-Videc et al (1998) as carrots, sermons and sticks.

Table 1. Policy Instruments of the State

Author	Incentives	Propaganda	Coercion
Lindvall & Teorell (2016)	Incentives	Propaganda	Coercion
Mann (1984)	Economic power	Ideological power	Military power
Bemelmans-Videc et al (1998)	Carrots	Sermons	Sticks
Migdal (1988: 25-27)	Incentives	Symbolic configurations	Sanctions

Coercive capacity is said to be a precondition for the state's ability to implement policies (Skocpol 1979). Regulations or 'sticks' are rules and directives that mandate how people should act, and decision makers will choose the least coercive instrument (Bemelmans-Videc et al 1998). The relationship is authoritative, whereby the controlled group is obligated to act in a way formulated by the controllers (Bemelmans-Videc et al 1998: 10). Coercion encompasses physical violence and the threat of violence, as well as subtler forms of punishment including the withdrawal of status and ostracism (Migdal 1998: 26).

Economic policy instruments do not only refer to the ability to distribute material resources to reward the behaviour of citizens obeying regulations, but also the ability to remove material resources to punish free-riding or unwanted behaviour (Bemelmans-Videc et al 1998). Rewards may be even more fundamental to survival such as supporting the ability to earn a livelihood, or protection from external threats (Migdal 1998: 26).

Propaganda or the use of information to influence perception is regarded as a modern form of intervention, 'with an emphasis on prevention of wrong or stimulation of the right conduct by offering insights into consequences of behaviour' (Bemelmans-Videc et al 1998: 11). Evert Vedung defines sermons or exhortation instruments as attempts at influencing people through the transfer of knowledge and reasoned arguments (ibid). Migdal claimed that 'symbolic configurations' assist the state in packaging incentives and

sanctions that provide meaning to people’s behaviour, helping to establish a sphere of group identity and collective action (1988: 26-27). Hence the ‘sermons’ policy instrument is vital to engendering norms avoiding the constant need to wield sticks and carrots.

These policy instruments or capacities are useful in framing the analysis of the instruments available at the agency-level. The methodology section will incorporate an analysis of the type of policy instruments or capacities. The concept of ‘emanation’, the degree to which capacities are directed at a specific outcome (Mahoney 2004: 474), will be used as a basis to analyse both the instruments and resources directed at a specific area of weakness in state capacity.

2.1.2 State Resources

According to Lindvall & Teorell, the three fundamental state resources available to increase the impact of policy instruments are money (government funds), human capital (the quality of the government workforce) and information (2016: 8). Lindvall and Teorell’s framework outlining the relationship between policy instruments, resources and outcomes will be used in the thesis.

Table 2. State Resources

Resource:	Money	Human Capital	Information
Type of Capacity:	Fiscal Capacity, taxation	Education, specialised expertise, training, knowledge of procedures	Information gathering and monitoring

Fiscal capacity is the ability of the state to collect finances through taxing their citizens. Recognising the vital role finances play in exercising power, state capacity has at times been defined purely as the ability of the state to generate tax revenues from the population (Cardenas 2010, Tilly 1975). The resource of money allocated towards a specific outcome, is more relevant to the thesis than the fiscal capacity of collecting the resource.

Apart from financial resources, human capital is necessary in a bureaucracy for public employees to perform their tasks effectively. Training, education, knowledge of procedures and specialised skills are required for state officials to carry out their tasks well (Lindvall & Teorell 2016: 15).

Information is claimed by to be the most important of the different state capacities (Brambor et al 2016). It is argued to be the most vital resource for states to enforce its will over the population and territory. Information about the population is required to assess the amount of taxes owed, and to collect taxes (Soifer 2013, Nistotskaya & D’Arcy 2018). Information collected in censuses (Brambor et al 2016) and cadastral maps (D’Arcy and Nistotskaya 2015) are therefore vital to state capacity, complementing the fiscal capacity arm by enabling the efficient collection of taxes. A state may be interested in different outcomes such as public service delivery, providing military defense for the nation by conscription or surveilling citizens to punish dissent, however all require the systematised collection and storage of information. Brambor, Goenaga, Lindvall and Teorell contend:

Of all the resources that states use when they implement their policies - that is, when they “make and enforce” rules, “carry out” policies, and “control” persons, activities, and resources - information is the most important (2016: 3).

To be able to maintain order and punish behaviour that challenges state power or intended policy outcomes, the state must be able to access information about citizens and their activities. Birth certificates, property registers, (Lee & Zhang 2017) and other information gathering enterprises allow the state to efficiently understand the population, rendering societies ‘legible’ (Scott 1998). To make a society legible, the state requires information on local activities in a standardised format coherent or ‘legible’ to state administrators (Scott 2009). Legibility is therefore essential to ‘resolving the problem of free-riding in collective action settings as it allows the state to effectively monitor private behaviour and enforce rules and regulations’ (Lee & Zhang 2016:118). Once the population is ‘legible’ to the state, the transaction costs of regulating behaviour are decreased.

2.1.3 Gaps in the Literature

A critique of state capacity literature is that common output measures are unable to capture ‘differences in the ways in which power is exercised or potential variation within states’ (Berwick & Christia 2018: 74). Closer examination of subnational bureaucracies in state capacity has been identified as a neglected area (Cingolani 2013: 42). A more nuanced approach to conceptualising state capacity is regarded as necessary by academics and techniques have been developed to explore subnational variation. These include a survey-based approach attempting to measure the territorial reach of the state in Latin America (Luna et al 2017), as well as a study on tax capacity at the municipal level in Ecuador (Harbers 2015).

In Cingolani's literature review on state capacity, the author finds that there has been less focus on the micro-determinants of state capacity, especially those with potential policy implications (Cingolani 2013). An example of this is discretion, which will be considered in more detail in the theoretical framework.

Taken from an international development perspective, Hillel Soifer posited that Mann's concept of state capacity underscored a wide range of power variation among and within states (2008: 244). Infrastructural power determines how far a state's bureaucracy can reach to exercise control and regulate social relations (Soifer 2008: 234). Soifer encourages scholars to utilise Mann's conceptual framework of infrastructural power and identifies three analytical approaches¹. The one most applicable to the thesis is the Subnational Variation Approach. It centres on the uneven reach of the state within a territory and over societal actors conceptualising power based on the varied capabilities of the state. In the footnote, Soifer indicates that social reach has received 'little systematic exploration' as research has tended to focus on the state's autonomy from societal actors rather than its power over them (Soifer 2008: 242). Territorial unevenness of the state has received far more attention. There are no examples of social reach provided in the Subnational Variation Approach, however the conceptualisation of varied state capabilities across society is useful.

In summary the gaps in the literature this thesis is concerned with are the paucity of research on subnational variation related to social reach and micro-determinants affecting policy implementation. It proposes a theoretical framework to study the potential reasons causing variation in the exercise of power over certain societal actors at a detailed level. The framework will be based on the known characteristics of the pocket of weakness. Part of the framework will analyse the micro-determinant of discretion that affects how policy is implemented by street-level bureaucrats.

¹ Firstly, the National Capabilities Approach focuses on the state's institutions of control over society, assessing the resources at the disposal of the state. Soifer points out that resources do not measure 'emanation' (Mahoney 2004: 474), the degree to which capabilities are directed towards an outcome. This discounts the approach from being useful in this thesis. Secondly, the Weight of the State Approach highlights how states are influenced by the societies they regulate, and examines the local institutional manifestations of the state and their impact on society. Since the thesis is not concerned with the extent of an intended effect on society, this analytical approach was also discounted.

2.2 Theoretical Framework

The theoretical framework will examine four potential impediments to social reach at the agency-level: (i) lack of resources or constraints on policy instruments, (ii) coordination failure due to the diffusion of responsibility and goals, (iii) discretion of frontline public servants during implementation of policy, and (iv) adaptability to reforms.

2.2.1 State Resources and Policy Instruments

State resources and policy instruments are concepts established in the state capacity literature. Emanation, as discussed previously is the extent to which state capacities are directed at a specific outcome. In this section the adequacy of state resource allocation as well as type and effectiveness of policy instruments will be studied in relation to the intended outcome. Resources theoretically amplify the effects of policy instruments, so this relationship will be investigated. Another consideration is that resources are not only used to amplify the strength of policy instruments but to generate more resources. For example, monitoring capacities such as surveillance require the resources of information, money and human capital to generate more specific kinds of information. Thus resource allocation and resource allocation towards policy instruments can be examined. The following questions are raised: Do inadequate state resources impede the ability to combat labour exploitation? Are there constraints on policy instruments that lead to ineffective implementation? What are the types of resources lacking in combating labour exploitation?

It is plausible to assume that the lack of legibility of certain societal actors is a primary factor in pockets of weakness. Therefore information and monitoring capacities of state actors deserve extra attention. Specifically the way information is gathered, shared, and stored could be areas of analysis allowing a more detailed study of information capacity at the agency- and street-levels. Depending on the type of information required, monitoring activities require varied levels of expertise and time commitments. A more detailed account of information capacity e.g. high or low level of expertise, and the factors causing obstruction to effective monitoring will be considered.

Human capital is necessary for state officials to undertake their responsibilities effectively. The training and education of staff will be explored in relation to resources allocated to training programmes and whether officials demonstrate that they are trained to respond effectively.

Financial resources dedicated to a specific outcome are adequate. Distinct capacities that are receiving adequate funding can be differentiated from ones that are not. So as not to

confound the two, a shortage of staff will be considered a lack of funding, not as a lack of human capital.

2.2.2 Coordination Failure

Coordination failure is a concept borrowed from the field of development aid. There are multiple agencies involved in combating labour exploitation in Sweden. Theoretically the multitude of uncoordinated agencies involved coupled with the division of responsibility areas for labour migrants could be problematic, resulting in the unsuccessful or hampered implementation of rules and sanctions.

Donor coordination or harmonisation and its implications on aid effectiveness provide a relevant example of coordination involving independent stakeholders with different objectives. If there are many donors, their objectives and individual responsibility for success or failure are diffuse. Due to this diffusion, collective action problems are generated that reduce the overall impact of aid (Bigsten 2006). Bigsten and Tengstam find that coordinated allocation of aid reduces transaction costs (2015).

Theoretically, coordination failure could be a factor impairing the efforts against labour exploitation. Different levels of coordination can also be an aspect of exploration. The questions posed from the theory are: Does coordination failure limit the state's power to regulate labour exploitation? Is coordination functioning in some levels but not in others?

2.2.3 Discretion

The third concept, discretion has been studied widely in state capacity and originates from the field of public administration. Michael Lipsky (2010) introduced the notion of discretion, or the freedom that street-level bureaucrats have to interpret the rules when implementing programs. The discretionary actions of public sector employees affect the distribution of government sanctions or benefits, leading to a possible gap between a government's policy intention and local outcomes.

'Street-Level Bureaucracy' claims the exercise of discretion is vital to frontline public servants who interact regularly with citizens (Lipsky 2010). Furthermore that these professions could not be performed at the best decision making standards because public employees are constrained by time, information or other resources. Discretion is directly linked to resource allocation and factors experienced by frontline staff. Stensöta finds an interaction effect between the restrictive or right-leaning political ideology of public employees and the restrictive local community where they work that affect welfare state

outcomes (2012). Does discretion undermine the implementation of policies addressing labour exploitation?

A premise of a well-functioning Weberian bureaucracy is standardised, predictable and uniformly applied decisions. Lipsky notes the paradox of professional bureaucrats who are expected to uphold the rules uniformly, but also apply discretion to be responsive to individual cases (2010). Discretion has been studied in relation to choosing to exert effort or shirk (Lee & Zhang 2017) and in the context of bureaucratic coping behaviour and policy failures (Brans 2003). There are also positive instances of beneficial local outcomes when discretion is exercised (Berwick & Christia 2018: 82, 84). It is possible that discretion of frontline officers is a factor affecting the implementation of measures combating labour exploitation such as victim identification.

2.2.4 Adaptability to Political Decisions

The adaptability of state agencies and agents to implement reforms is grounded on the theories of institutional persistence and path dependence explored in economics and the social sciences. Research on institutions is based on the premise that institutions persist (Acemoglu & Robinson 2008: 287). Persistence and path dependency theories may help to explain why a new policy would fail. As shown in the quality of government literature, major difficulties are encountered when new anti-corruption policies are initiated due to path dependency (Rothstein 2011: 236). Interactions between bureaucrats and societal actors are shaped by the system, and what has been done previously is likely to be repeated. Agents of the state rely on standard operating procedures (SOPs) and these can be hard to alter (Rothstein 2011: 233).

Adaptability refers to the agencies' and agents' capacity to adapt to political directives, acknowledging that there will be a tendency to resist them. At the agency-level, adaptability would affect policy implementation. High adaptability to political decisions demonstrated by raising awareness, training staff or allocating resources would result in higher rates of policy implementation. Agents' adaptability could be examined since resistance or adherence to new directives would affect policy outcomes. Although it is noted that this is related to discretion, signs of resistance will be attributed to adaptability. This leads us to the questions: Is the adaptability of agencies to implement political decisions hampering efforts to combat labour exploitation? Is the adaptability of state agents also hampering these efforts?

3. Context

The first section describes the labour immigration policy reform of 2008. Secondly, the section illustrates the concept of labour exploitation. The final section provides the legislative and bureaucratic context for labour exploitation in Sweden. Since the crime of forced labour was previously inseparable from human trafficking institutional structures to combat labour exploitation were formed around trafficking.

3.1 Swedish Labour Immigration Policy

Legislation allowing non-EU citizens to live and work in Sweden was enacted in 2008 by the centre-right government with support from the Green Party (Bucken-Knapp et al 2016; Boräng 2018). Sweden had previously been closed to nationals outside the EU, EEA and Switzerland, also known as third country nationals (TCNs). The country transformed from having one of the most restrictive labour immigration policies to one of the most liberal in the OECD (OECD 2011: 11).

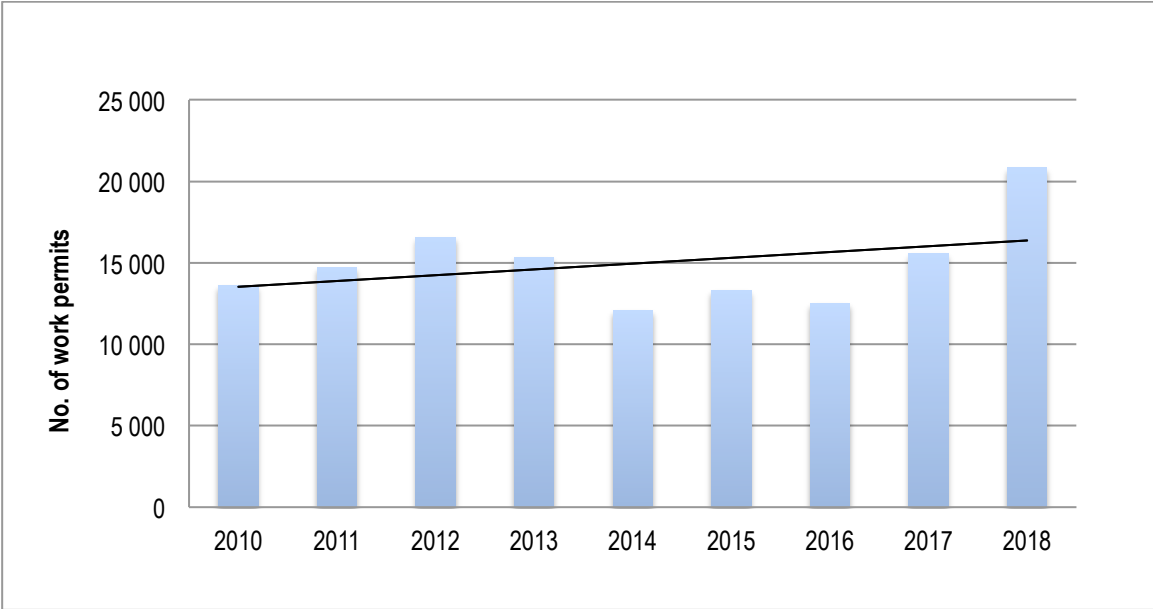
Unlike other countries, Sweden does not impose limits on numbers of a particular profession. The major change was that ‘unskilled’ labour could now enter without any assessment of shortage in the labour market, solely relying on employers to identify labour needs (Woolfson et al 2012: 169). This resulted in an influx of labour to low-skilled and low-paid sectors (Jokinen & Ollus 2013: 19).

To apply for a work permit TCNs require a job offer, with conditions and salary at least at the same level as a collective agreement or what is usually offered in the industry. Salary must be at least SEK 13 000 per month before tax and the employer needs to provide all necessary forms of insurance (Migration Agency 2019a). Once a work permit is granted it lasts for two years and an extension of a further two years can be applied for. After the four-year period, the applicant can apply for permanent residency. Permits are restricted to a job offer from a specific employer in the first two years and a specific occupation during the first four years (Vogiazides & Hedberg 2013: 181). If a permit holder is made redundant or leaves their employment, they have a three-month period to find new employment in the same sector provided the permit is still valid. TCNs on work permits are granted the same employment rights as their Swedish counterparts (Vogiazides & Hedberg 2013: 182).

In 2018 the total work permits granted in 2018 was 20 841, an increase of 5 289 from the previous year at 15 552 granted permits (Migration Agency 2019b) (Figure 1). Between 2010 and 2018, 134 560 work permits were granted. From 2008 onwards the main groups

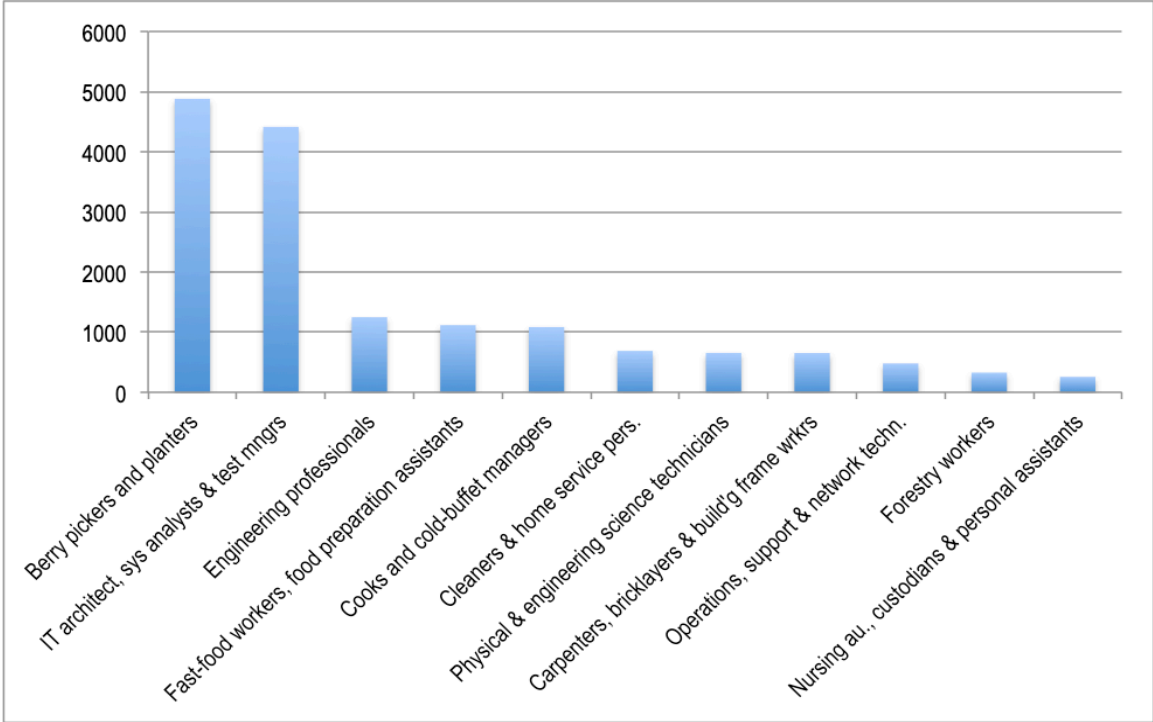
being granted work permits by the Migration Agency were wild berry pickers, IT programmers and data specialists, engineering professionals, and restaurant and hotel workers (Vogiazides & Hedberg 2013, Migration Agency 2019b). The largest low wage occupational groups in 2018 were berry pickers, restaurant workers and cleaners (Figure 2).

Figure 1. Total Work Permits Granted Annually 2010-2018



(Source: Migration Agency 2019b)

Figure 2. Work Permits Granted by Occupational Group 2018



(Source: Migration Agency 2019b)

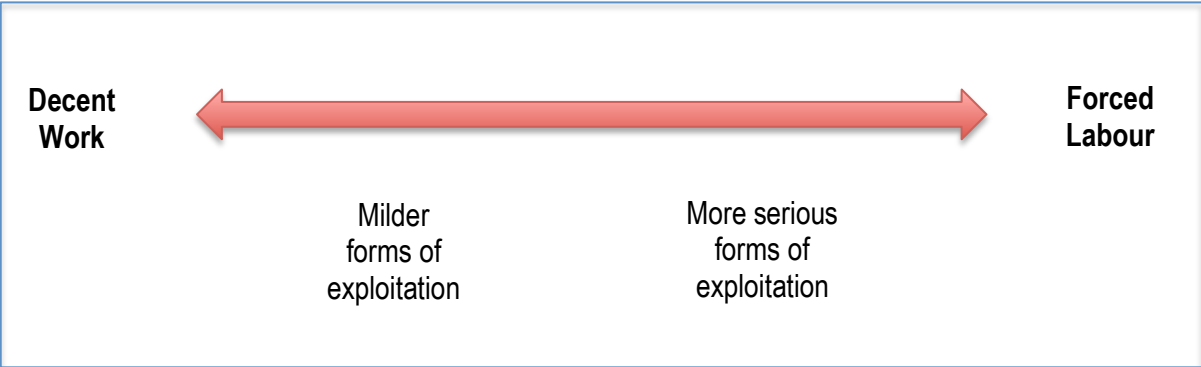
After persistent cases of exploitation in the wild berry industry the Migration Board introduced stricter requirements in 2011 in an attempt to improve compliance of labour laws (Woolfson et al 2012: 171). The changes meant that the berry pickers were offered wage and conditions of employment comparable to Swedish collective agreements. In 2012 the Migration Board extended these requirements to other sectors determined to be prone to similar labour exploitation practices (Vogiazides & Hedberg 2013: 184). Sectors include cleaning, construction, agriculture and forestry, hotel and restaurant and automobile repair. During the permit application process employers must provide additional documentation including balance sheets, bank and income statements (ibid).

The foundations of the Swedish model of industrial relations are neo-corporatist, based on a strong working-class trade union movement and a centralised private employers’ association (Neergaard & Woolfson 2017). After the decorporatisation of public administration boards, declining union membership and the end of the alliance with high-skilled unions, the working-class union’s influence has declined (Boräng & Cerna 2017: 138). Consequently their influence on labour immigration policy has waned.

3.2 Concept of Labour Exploitation

Labour exploitation can be viewed as a continuum with cases ranging from the fulfilment of the ILO’s definition of ‘decent work’ on one end, to forced labour on the opposite end (Figure 1) (Davies 2018, Andrees 2008). Trafficking can be connected to varying degrees of labour exploitation on the continuum, commonly affecting migrant workers (Vogiazides & Hedberg 2013).

Figure 1. Continuum of Labour Exploitation



(Adapted from Vogiazides & Hedberg 2013: 173)

This thesis will examine labour exploitation of migrants from a broad perspective but where possible focus on exploitation of migrants on legal work permits. Cases of labour exploitation of TCNs on legal work permits is particularly intriguing since the state receives information on the applicant and employer, such as workplace, intended work activities and income in the visa application. As outlined in the theoretical framework section, information received about these actors renders them 'legible' to the state, in contrast to people working illegally.

Substandard employment conditions such as low wages or no social protection provided by the employer can constitute milder forms of exploitation (Vogiazides & Hedberg 2013: 173, ILO 2009). More subtle forms of coercion can pre-empt more serious forms of exploitation and create the conditions for labour trafficking. In many cases, exploitation of migrant labour is intentional and systematic in nature. Exploitative employers seem to be motivated primarily by economic concerns based on profit making (Jokinen & Ollus 2013: 23)

The ILO operational indicators of human trafficking form six dimensions: deceptive recruitment, coercive recruitment, recruitment by abuse of vulnerability, exploitative work conditions, coercion at destination and abuse of vulnerability at destination (2009). Assessment of a potential victim of trafficking is based on a combination of the number and ratings of the indicators and has been developed for use by social workers and other frontline staff (ILO 2009, Vogiazides & Hedberg 2013).

3.3 Swedish Framework on Labour Exploitation

Swedish legislation on human trafficking for sexual purposes was first introduced in 2002. Forced labour and labour exploitation had previously received less policy and legislative attention in Sweden compared to sexual exploitation (Woolfson et al 2011: 2). There appears to be a focus on trafficking for sexual exploitation, an area that Sweden has expertise in combating (ibid, GRETA 2018: 5). In 2004 the law on trafficking was amended to include other purposes such as forced labour, the removal of organs, military service or other activities causing a person distress.

Between 2004 and 2018, the most serious form of labour exploitation, forced labour, was not a distinct crime but could only be sentenced in connection with human trafficking. Hence the state agency framework combating labour exploitation is inextricably linked to human trafficking. The National Task Force against Prostitution and Human Trafficking

(NMT) is tasked with strengthening collaboration in the agencies to combat all forms of human trafficking, including for the purposes of labour exploitation (GEA 2018).

Labour exploitation was not made a distinct criminal offense until July 2018 under the human exploitation law (Riksdagen 2019). The penalty for human exploitation is a maximum of four years prison. As of writing there are no current cases related to the new labour exploitation law on trial.

Proving the crime of trafficking in Sweden requires a high burden of proof including demonstrating the purpose or intent to traffic victims (Vogiazides & Hedberg 2013). A government inquiry expressed concern that a low number of trafficking investigations led to convictions indicating that legislative changes were needed to improve the situation (European Commission 2018).

Since 2018 NMT² is led by the Gender Equality Agency (GEA), and consists of the Police Authority, the Migration Agency, the Prosecution Authority, Work Environment Authority (WEA) and Tax Agency (NMT 2019). In the same year the WEA has been responsible for coordinating the activities of the ‘Assignment on Method Development for joint agency inspection to counter fraud, rule violations and crime in the workplace’. This two-year assignment is part of a raft of assignments addressing ‘unfair competition’ (Ministry of Employment 2017). Instead of tackling labour exploitation via trafficking, the discourse on this assignment is about levelling the playing field between legitimate companies and those that violate the work environment regulations in order to obtain a competitive advantage (Ministry of Employment 2016: 14). There are eight agencies working on ‘unfair competition’³.

In the Police Authority’s latest annual report on human trafficking for sexual and other purposes published in October 2018, figures for 2017 show an increase of reported numbers of trafficking for non-sexual purposes. In 2017, 132 cases were reported compared to 116 cases in 2016 (Police Authority 2018).⁴ Forced labour accounted for 39 cases or 19 percent of the total. Victims are from countries mostly outside the EU such as Afghanistan, Bangladesh, Moldova and Somalia.

² See Appendix 1 for more information

³ The GEA, Migration Agency, Police, Tax Agency and WEA are involved in both the NMT and unfair competition assignments.

⁴ Figures on non-sexual purposes include trafficking for the purpose of forced labour, harvesting of human organs, military service, or any other activity where the victim is exposed to conditions contrary to human dignity, e.g. forced begging.

The trafficking report mentions that specifying the extent of non-sexual human trafficking to, through and within Sweden is difficult (Police Authority 2018: 37).⁵

One of the reasons is that the crime is rarely reported and can be hard to detect. The lack of reporting can be due to the public's lack of awareness of the victims' situation, the victims' fear of reprisals and that the victims sometimes feel grateful to the perpetrators because they are marginally better off in Sweden than in their home country, despite their difficult circumstances here (ibid, translated from Swedish).

The Migration Agency internally reported 161 cases indicating trafficking for forced labour in 2017, compared with 102 in 2016 (Police Authority 2018: 37). Risk sectors that are known to by the authorities to exploit migrant workers include car washes, tyre companies, cleaning, personal carers, construction, hotel and restaurant, and forestry. (Police Authority 2018: 36, Migration Agency 2018).

Incidences of migrant labour exploitation in Sweden have been described in reports by Council of Baltic Sea States, Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA 2018), HEUNI, LO, and the Swedish and international media. The Migration Agency found that for the first time the proportion exploited for labour purposes is greater than the proportion used for sexual purposes (GP 2019). Media have repeatedly featured articles on payment for work permits of up to SEK 200 000⁶ (SVT Nyheter 2019a, Aftonbladet 2016a) as well as payment for fake jobs (Expressen 2016).

The Swedish Trade Union Confederation (LO) claim that their visits at workplaces with employees on work permits indicate that employers seldom report if an employee never came to work, or were employed for a short period of time and subsequently disappeared (2013). LO alleges it is likely more than half of all work permits are mediated against payment (2013). TCNs may be unaware or aware that Swedish work permits should not cost money, however they could be pressured by their socio-economic situation to take employment opportunities or consider it a reasonable investment for the possibility to earn more in Sweden, or for the possibility to obtain permanent residency in an EU member state (SVT Nyheter 2019b). The initial payment for the work permit to the employer or middleman usually involves the applicant loaning money from family, friends or other

⁵ These figures do not show if victims were TCNs on work permits or working illegally. The number of trafficking for non-sexual purposes cases for 2017 should be considered with caution since certain crimes are noted in the report to be incorrectly coded e.g. People smuggling was included in the figures for human trafficking for non-sexual purposes.

⁶ SEK 200 000 is approx. EUR 18 600 or USD 20 000.

parties in their home country. This in turn increases their motivation to keep working to pay off the debts despite poor conditions (Vogiazides & Hedberg 2013: 213).

Due to various factors including not being able to speak the language, being unaware of their labour rights, and being bound to one employer on the work permit, migrants are heavily dependent on their employer making these populations particularly vulnerable to exploitation (Woolfson et al 2014: 699, 702; Vogiazides & Hedberg: 215). Other vulnerability factors include being from a poor economic background and having low educational attainment. These vulnerability factors also increase a worker's dependence on their employer and make them more willing to accept poor working conditions to remain on a permit that could lead to permit residency (Vogiazides & Hedberg: 207).

Common forms of exploitation include non-payment or partial payment of wages, renegeing of wage agreements, poor or unsafe work conditions, and mandatory overtime work without compensation (Jokinen & Ollus 2013:18). Unscrupulous employers often demand payment of inflated fees for services in-country such as accommodation/rent, bills and transportation to the worksite. Payment of these fees results in workers becoming indebted to the employer or middleman (ibid).

Psychological means of control, negative repercussions, physical threats and violence may be used to coerce a victim not to report exploitative conditions or prevent them from leaving employment (Vogiazides & Hedberg 2013: 174).

4. Methodology

Data for this thesis was collected through interviews, reports, research papers, media articles, and governmental and NGO websites. Nine semi-structured interviews were conducted in total: Seven interviews with representatives of governmental agencies involved in combating labour exploitation and trafficking in the NMT, and two interviews with the major union and employer association.

The qualitative technique of semi-structured interviews provides structure as well as the flexibility to ask in-depth questions providing insights into factors and variables. The interviews included a set of standard questions, with additional specific questions depending on whether the organisation undertook assessments of work permits, monitoring or judicial activities. Tailored questions were also added depending on the expertise of the person interviewed. Interviewees were asked to respond in relation to their tasks related to but not necessarily directly involved with labour migration and labour exploitation. They

were also informed that the focus of the questions on labour migration would regard TCNs on work permits, however other types of migrants were also discussed.

Questions were developed around the following themes:

- The role of the person in regard to labour immigration and/or labour exploitation
- The organisation type, goals, policy instruments and resources available (constraints on information, money and/or human capital)
- Identifying the causes of systematic labour exploitation in relation to frontline officials (coordination failure, adaptability and discretion).

The aim of the interviews is to understand the parameters facing officials in implementing agency policies. The people interviewed will remain anonymous and be referred to by their organisation name or abbreviation.

Sweden is chosen as an example of a high-capacity state and societal actors involved in labour exploitation are identified as pockets of weakness underlining the existence of subnational variation. Where possible, TCNs with work permits are focussed on since they are granted the legal right to work making them ‘legible’ to the Swedish state as opposed to other migrants who work in Sweden illegally, and therefore ‘illegible’ or unknown to the Swedish state. Focussing on migrants working legally in Sweden highlights the capacity of the state to uphold the law and protect the rights of a population invited onto its territory, even if they are not citizens.

An expert on labour migration, labour exploitation and trafficking or related issues from each organisation was interviewed between April and May 2019 either face-to-face or by phone: Gender Equality Agency (GEA); Migration Agency (MA); Police Authority (Police)⁷; Prosecution Authority (PA), National Unit against Organised Crime; Regional Coordinator (RC)⁸, the coordinator has a background in Social Services and coordinates work against trafficking between agencies at a regional level; Tax Agency (TA)⁹; Work Environment Authority (WEA); Swedish Trade Union Confederation (LO, labour union representing 14 member unions of blue collar workers); Confederation of Swedish Enterprise (CSE, employers’ association). Locations of workplaces are not disclosed since this information could reveal the identity of those interviewed.

GEA leads the NMT, which consists of the Police, MA, PA, TA and WEA. The WEA is responsible for coordinating the activities of the ‘Assignment on Method Development’.

⁷ Translated from Swedish.

⁸ Translated from Swedish.

⁹ Some parts of the interview translated from Swedish.

Police investigations against trafficking are conducted primarily at the regional level and trafficking in human beings is part of one of the four main operational areas regarding international organized crime (Police Authority 2018: 59).

The WEA carry out joint workplace inspections with the Police and TA, but their mandate is only in relation to whether the workplace follows Swedish occupational safety and health laws and regulations. The Tax Agency is mandated to inspect taxation-related matters to ensure the correct amount of tax is being paid (Vogiazides & Hedberg 2013: 179). The Migration Agency is responsible for assessing and issuing work permits (MA Interview 2019). Trade unions are requested to examine work permit applications and express an opinion in relation to whether the terms and conditions, particularly salary, are equal to the ones in the collective agreement (Vogiazides & Hedberg 2013: 179). The unions' opinions are consultative and do not determine the final decision on the granting of the work permit. The CSE has no formal role in labour migration per se, however individual employers identify labour needs in the work permit system.

First-level identification of victims can be done by anyone (EU 2018), however formal identification of victims can only be undertaken by the Police and the Prosecution Authority. The Prosecution Authority's National Unit against Organised Crime has specialised competence in handling human trafficking cases.¹⁰

5. Analysis

Combating labour exploitation in Sweden is characterised by multiple responsible agencies, resource intensive workplace inspections, time-consuming and specialised surveillance and investigation, vulnerable societal actors, coordination of diffuse agencies and diverse goals, reliance on the discretionary behaviour of frontline officers to identify, report and process possible victims, as well as being routinely less of a focal area than sexual exploitation. Even for a high-capacity state these factors can challenge the implementation of political decisions over societal actors.

Every agency representative interviewed expressed their concern regarding the phenomenon of labour exploitation and most recognised it as a serious and growing problem. Below, the potential factors creating implementation gaps as outlined in the

¹⁰ The International Public Prosecution Office Stockholm was previously in charge of human trafficking cases until it was merged with two other offices in January 2018 to form the National Unit against Organised Crime.

theoretical framework will be analysed: limited state resources and policy instruments, coordination failure, discretion and adaptability to political directives.

5.1 State Resources and Policy Instruments

Information

A fundamental state resource which agencies collect is information however the rules regarding the management of information follow strict confidentiality laws (Sekretesslagen) therefore limiting information sharing between agencies. The Migration Agency, Police and Tax Agency representatives emphasised that this was the main reason preventing the authorities from sharing information to combat crimes such as labour exploitation. Government agencies are currently in discussions on how to improve information sharing to be better able to combat exploitation and unfair competition (GEA, MA, Police, WEA Interviews 2019).

Confidentiality and privacy laws such as the EU General Data Protection Regulation (GDPR) constrain the ability of agencies to not only share information but also to store it. The Migration Agency is not allowed to save information about a company or its work permit applications after 17 months (MA Interview 2019). Furthermore it is illegal for MA staff to collect information systematically on companies such as recording a 'blacklist' of disreputable companies for instance, that have been known to exploit workers or break rules relating to work permits.

The MA representative indicated that officers informally discuss certain known misbehaving companies if they remember the name or details, in relation to new work permit applications, but they are officially not allowed to save information on the companies. Likewise, the Police representative revealed that exchanging information with Social Services on cases can rely on personal contacts.

When we have a personal contact then it runs smoothly because then you trust each other.

"The information I get from you I treat with kid gloves [very carefully] and you do the same with that information from me" (Police Interview 2019).

A change in the confidentiality laws or improvement in information sharing between authorities was described as critical. Meanwhile state agents are evidently using personal contacts or informal routes to obtain information required to perform their tasks relating to combating labour exploitation.

Discrepancies indicating possible labour exploitation are not allowed to be shared between agencies. Using the information already available to agencies to create risk

indicators and the ability to save information on disreputable companies was deemed critical (TA Interview 2019).

‘The Migration Agency only sees what the employer has originally sent. So even if the Tax Agency discovers many incorrectly reported salaries we aren’t allowed to talk about it. It’s mad’ (TA Interview 2019).

More checks and monitoring by the Migration Agency especially in the phase after the applicant has entered the country was suggested as a way to address labour exploitation (LO Interview 2019). The unions do not often come into contact with exploited labour migrants because they ‘don’t want to be found’. This excludes the unions as viable channels of information to the authorities.

The Police representative emphasised that the anti-trafficking units’ investigations are based on tip-offs, leading to monitoring and information gathering (Police Interview 2019). Tip-offs came from the public and police in other countries, but surprisingly the Police representative could not recall tip-offs being received from other agencies (Police Interview 2019). The number of investigations or victim identifications could increase if more tip-offs were referred by the other agencies to the Police, or generated by the Police by checking readily available data from other agencies (Police Interview 2019). Currently this is not possible due to the confidentiality laws.

Information from victims of trafficking for forced labour is difficult to obtain since the victims generally do not want the crimes to be detected or because they may not perceive themselves as victims (PA Interview 2019, Vogaziades & Hedberg 2013). This was identified as the main problem by the Prosecution Authority in carrying out their duties, as well as instances of victims siding with the defendant (PA Interview 2019). Victims may think it was acceptable to pay for the work permits because they are marginally better off in comparison to their previous situation (PA Interview 2019, Police Authority 2018). They can be afraid of or be dependent on their exploiters, since they owe money for travel, room and board, making it difficult for them to report to the authorities (RC Coordinator 2019). Since TCNs with work permits who experience labour exploitation need to be employed to remain in Sweden, they are not willing to risk being unemployed and subsequently deported. People in low-skill employment ‘are not protected by their competence or skills’ (LO Interview 2019). The vulnerability of the victims and their indebtedness to their exploitative employers results in an unwillingness to provide witness testimony (RC Interview 2019).

Prosecutors reach a decision to prosecute based on information in a case dossier that contains all the evidence the police has gathered (PA Interview 2019). Witness interviews, bank account statements, phone tapping transcripts and other documents are included. Although the police are usually perceived as part of the coercion arm of policy instruments, it is clear from their investigation activities that they are primarily involved in highly specialised monitoring and information gathering.

The state agencies' information capacity for sharing, storing and retrieving information is compromised due to the stringent confidentiality laws. There seems to be a trade-off between citizens' right to privacy and the monitoring capacity of the state to detect criminal behaviour. Monitoring capacity has been severely curtailed limiting the institutions' social reach over unscrupulous employers and victims of exploitation.

Despite Sweden having high information capacity, it does not have the specific capacity to obtain the pertinent kinds of information on labour exploitation. The great power imbalance between unscrupulous employers and vulnerable people means vulnerable actors can be easily controlled. The employer's strength is a challenge to the state's monopoly of power and limits the state's social reach over these actors. Criminal activities are predictably clandestine, and the unwillingness by the victims to report to the authorities due to their vulnerability is a major factor affecting the identification of crimes and cases proceeding to trial. Even with better information sharing, this issue will continue to hamper monitoring and prosecution efforts.

After reviewing the interviews and information on labour exploitation, it appears as if the descriptions of resource areas could be more detailed in state capacity research. For example, the concept of 'information' as a resource is sweeping. It could be public or private, gained voluntarily through a census or involuntarily through a wiretap. These diverse types of information require different skills and vary in level of difficulty to obtain. Future research could map out information by type and create a framework useful to state capacity analysis.

Money

The Migration Agency and Prosecution Authority representatives considered the level of financial and human resources adequate to carrying out their tasks related to combat labour exploitation. Unsurprisingly, given their crucial role in collecting finances for the state, the Tax Agency representative also regarded the amount of financial resources available as adequate.

In contrast the WEA representative argued that more designated financial and human resources to enable joint workplace inspections were needed (WEA 2019). The Police representative suggested that dedicated resources for anti-trafficking surveillance and investigations would make them more effective (Police Interview 2019). There are approximately only 300 WEA workplace inspectors in Sweden and several police officers dedicated to anti-trafficking in each police region with larger metropolitan areas (Police & WEA Interviews 2019). A lack of police resources also affects the number of joint workplace inspections, where the police provide protection for officers from other agencies and have the authority to physically stop people from leaving the workplace that other inspectors do not have (WEA Interview 2019). A lack of resources for specific monitoring and inspection purposes has emerged as an issue.

The Regional Coordinator interviewed stated that it has worked so far but there is a lot to do when you are alone in the position. On the positive side, 'I think I get quite a lot of space from my managers to act. I think this is pretty good. It's rare that I can't put the resources where I want' (RC Interview 2019). An area lacking in resources were crisis accommodation since there are a lot of men falling victim to labour exploitation.

We do not have many in Sweden today. We have quite a lot of accommodation for women who are exposed to violence but not for so many other target groups. So it's something lacking (RC Interview 2019).

The Migration Agency representative mentioned that resources had been redirected to asylum seekers in previous years, but in the past year they received 'a lot more resources' to manage work permits. Similarly the GEA, PA, Police and RC indicated that police resources are often allocated to other crimes especially shootings. A police anti-trafficking unit was completely reassigned to work on shooting cases involving gangs.

A few years ago they completely interrupted our work. So we didn't work against human trafficking for two years (Police Interview 2019).

The representatives' responses underscore the extent to which the political context and other prioritised crimes influence decisions on resource allocation.

Another issue related to financial resources are strategic priorities. The Police Representative considered that the different priorities competing for their attention was constraining their ability to address cases of labour exploitation (Police Interview 2019). In addition the anti-trafficking unit was regularly assigned to combat organised crime such as narcotics, weapons and violence. Not only is labour exploitation 'competing' against other

trafficking priorities such as sexual exploitation and begging, but also all trafficking crimes can be neglected if higher priority crimes need attention.

Although the unions are not a government agency, they are requested to submit an opinion regarding the offer of employment attached to all work permits. Unions are not recompensed for undertaking what is essentially a task performed for a public entity (LO Interview 2019). Furthermore because of the historical Swedish industrial relations model, unions are considered to be the organisation responsible for upholding worker rights. Unions have tried to engage in the issue by campaigning for Swedish conditions for foreign workers, however the LO representative highlighted that labour exploitation is also a societal and governmental issue.

For certain agencies, financial resources could be used to hire more personnel to undertake more monitoring and inspection activities. The Migration Agency and the Police in particular are subject to political circumstances of the day and competing priorities that can siphon away financial resources from combating labour exploitation. Part of the question on whether resources are ‘adequate’ should also address whether resources are solely dedicated to a particular outcome. For example, there are anti-trafficking units in many regions, but none seem to have dedicated funding to only that specific task.

Human Capital

There was a concern expressed by the GEA representative that workplace inspections by government agencies were not identifying any human trafficking crimes.

‘Actually when they have these checks it’s kind of depressing when they say, “Oh, we’ve had a good inspection this week and there wasn’t a single crime of human trafficking, any case at all.” And that is simply not true because they don’t know, they can’t really identify what it is’ (GEA Interview 2019).

This statement emphasises that human capital, or basic training on how to process trafficking victims is a factor that impacts the discretion of frontline staff. If an officer does not possess the knowledge or training to identify a victim of trafficking then the person will not be offered assistance and an investigation of the crime can never be started.

When workplace inspectors such as police officers are not aware of what they can do practically then they are inclined to ignore potential victims or deport them instead of identifying and providing victim support (GEA Interview 2019). A similar problem in Social Services is that if a victim is from another country social workers do not routinely provide support because they are not Swedish, even if they are mandated to support victims

of crime from other countries (GEA Interview 2019). These examples underscore the importance of human capital, or training and specialised knowledge in handling victims of labour exploitation.

The next example is of Police officers who deported potential victims of human trafficking according to the Aliens Act. The concern for the GEA was that victims of crime were not being identified or supported in the appropriate manner. Training was subsequently provided to the officers on their duty to inform potential victims of trafficking about the possibility of being granted temporary residency for 30 days as a reflection period to decide whether they wanted to assist the Swedish authorities investigating the crime (GEA Interview 2019, County Administrative Board of Stockholm 2016). As a result, the same officers later referred victims of trafficking to Social Services. Although this example was in relation to sexual exploitation, the referral system guidelines are applied to all victims of human trafficking.

The GEA and Police representatives identified the lack of information and training that frontline officers in the Police and Social Services had on the practicalities of identifying or processing a victim.

Maybe we get a girl or beggar "in the knee" [someone who is dependent on the police] on some matters that have to move quickly. And then we have to talk to the Emergency Social Services. So you call them and then they are like question marks. They don't know anything. So they need a lot of information. They really need to train in this and they need more knowledge. Region Coordinators know what to do, they are really good. But those who work in the field don't know (Police Interview 2019).

The Police representative described that part of the anti-trafficking tasks was providing education and raising awareness on trafficking to other police officers. It was also asserted that the Police did not have the knowledge to be able to investigate labour exploitation crimes. To help address this issue the National Referral Mechanism manual was developed to assist frontline agents in identifying and assisting victims of exploitation (GEA Interview 2019). The information includes a step-by-step guide from victim identification, assistance and protection, social inclusion, support for voluntary return to criminal proceedings (County Administrative Board of Stockholm 2016). Human capacity is therefore a state resource lacking in this area.

Training and education of street-level bureaucrats on how to identify and process victims of labour exploitation is pointed to as critical. Frontline social workers and police

officers are generally not knowledgeable about procedures dealing with labour exploitation victims leading to the underreporting of cases.

Policy Instruments – Carrots, Sticks and Sermons

Representatives from the GEA, Police and RC asserted that there is a lack of knowledge about human trafficking in the general public. According to the PA representative, disinterestedness of the public was a factor contributing to labour exploitation. Other actors that use the services of disreputable companies or ‘grey’ companies include public entities such as municipalities and county councils, private companies and consumers (GEA and TA Interviews 2019). Raising awareness, or using ‘sermons’ on the issue among the general public was determined to be a vital method in tackling labour exploitation (GEA and RC Interviews 2019).

Disreputable employers who exploit migrants break the law, but if their crimes are detected it is their employees who are deported because their work permit conditions have been breached (MA Interview 2019). ‘So as we see it, in most cases it’s not the correct person who is being punished and I think that’s a problem that we all face’ (MA Interview 2019). Sanctions in the form of withdrawal of work permits and deportation are used by the state however they are misdirected at punishing the victim instead of the perpetrator.

Financial disincentives and sanctions can be imposed on the employer regarding occupational health and safety regulations to improve the situation of victims:

Even if one can’t persuade someone to report exploitation, one can still improve the work situation by having inspected all of it. They [the employer] receive a directive on how to improve their business and this in turn can improve working conditions for those who work there (RC Interview 2019).

Although they are not a state agency, it is interesting to note that the CSE can expel member companies that do not adhere to the relevant collective bargaining agreement. Transgressions must be obvious and intentional cases of breaking the rules and the sanction ‘must be proportionate’ (CSE Interview 2019). This illustrates a sanction that can be imposed on CSE’s own members.

The LO representative suggested a system to spread risk since the employee assumes all the risk when they travel to Sweden on a work permit. For example, financial disincentives in the form of fines could be imposed on unscrupulous employers by a public agency. The fines could then be used to finance compensation to victims of labour

exploitation. This was provided as a possible example to strengthen the position of labour migrants, however the ‘whole system’ needed to be discussed (LO Interview 2019).

Considering the low rate of prosecutions, sanctions are not being used often to punish perpetrators of trafficking for forced labour. Propaganda or the use of information to influence perception is proposed to raise the public’s awareness of the problem, however it is not being used currently. Financial disincentives and sanctions can be used by the WEA but only in relation to occupational health and safety issues.

Research questions: Do inadequate state resources impede the ability to combat labour exploitation? Are there constraints on policy instruments that lead to ineffective implementation? What are the types of resources lacking in combating labour exploitation?

In response to the research questions, the empirical evidence indicates that inadequate information, financial resources and human capital is impeding the ability to combat labour exploitation. There are severe constraints imposed by the confidentiality and privacy laws on the state’s monitoring capacity. The restraints on the policy instruments are the lack of the information resource such as witness testimony impacting the ability to sanction and enforce financial disincentives like fines on perpetrators. Sermons have not been used to inform the public due to limited financial resources. Labour exploitation is a priority area among many priorities, so not all capacities are directed at this specific outcome.

5.2 Coordination Failure

All agency representatives agreed that the coordination between agencies in the different assignments is working well. The CSE and LO representatives did not express any problems with coordination at the agencies.

The GEA is tasked with coordinating NMT’s anti-trafficking work nationally across relevant stakeholder agencies. The level of coordination, although functioning well at NMT was expressed as a concern since the topics of discussion are at a strategic level (GEA Interview 2019). The GEA representative stated that the coordination may need to come down to the ‘street level’ of practical organisation. This suggests that the frontline issues are affecting policy implementation.

In contrast the WEA representative described the practical joint workplace inspections with the Police and Tax Agency as working well, while the higher-level coordination for the Assignment on Methodology Development was more challenging since a change in laws that could be required was time-consuming.

Region Coordinators concentrate on assisting the victims of human trafficking with Social Services and the Police (GEA Interview 2019). They provide methodological support and practical advice to frontline officers in Social Services and the Police, coordinating the NMT effort at a regional level.

GEA's ownership of labour exploitation has been questioned since their main objective is to highlight men's violence against women (GEA Interview 2019). Alignment of the GEA's goals to combat sexual exploitation is clear, however the agency's alignment to fight labour exploitation is less so. Due to the aforementioned legal history, forced labour was added as a purpose under the human trafficking law originally enacted to address trafficking for the purposes of sexual exploitation. Even if the GEA is focused on gender issues that does not infer they do not have the capacity to coordinate the assignment against labour exploitation. What is concerning is that either due to the structure of the law addressing sexual exploitation first, or perhaps the later addition of forced labour already reflected pre-existing views that labour issues are a secondary priority, labour exploitation appears to be less of a priority to frontline officers.

Research questions: Does coordination failure limit the state's power to regulate labour exploitation? Is coordination functioning in some levels but not in others?

Coordination failure does not seem to be the cause of weaknesses in state policy implementation according to the information gathered in the interviews. NMT's level of coordination at the street-level of practical organisation was pointed out as an area that required improvement, but higher-level strategic coordination was running smoothly. However according to the WEA the coordination of the joint workplace inspections was working well.

5.3 Discretion

The GEA representative described the procedure of formally identifying a victim of trafficking as a 'Catch 22'. Victims of trafficking or other crimes who are not Swedish can be granted temporary residence and a reflection period of 30 days, if they have been a witness to a crime (GEA Interview 2019). The application has to come from the Police or the Prosecution Authority. If the person identifying a potential victim is a social worker, in an NGO, or anyone else, then they must ask the Police to apply for the reflection period for the victim. This is problematic because the Police have to start an investigation and they are not keen on doing this. Region Coordinators find it easier to coordinate this request with

the Police, but it is a problem that occurs in other parts of the country (GEA Interview 2019, RC Interview 2019).

GEA and Police representatives noted that many frontline Police officers were unaware of what they should do in a situation where a person may be a victim of labour or other kind of exploitation. It is the GEA's responsibility to increase awareness in all responsible agencies regarding the tools available and the correct procedures to follow. A tailored guide on the Police intranet is also available for officers, although the only constraint is following the guide 'as much as one can cope'¹¹ (Police Interview 2019). This affirms the importance of discretion of frontline staff in identifying victims. Officers have a multitude of competing tasks that means they are constrained and may choose to ignore a task as a coping mechanism.

The discretion of regional or middle managers in the Police also affected which cases were being prioritised. Strategic decisions are made initially at the National Police Board, then budgeting decisions are made at the police regions. Staff in coordination or management positions must then decide how to handle the cases.

For coordinators, managers, it is easier to prioritise a drug case where you work for maybe six weeks, and then you lock away the suspects for 8 to 10 years compared to a [trafficking] case where we may have to work for four months, conducting a lot of interrogations. It is so much more work to end up with a punishment of maybe four years in prison (Police Interview 2019).

It is apparent that due to the financial resource restrictions limiting the number of officers available, discretion plays a key role in deciding what crimes to allocate resources to. In this case it is understandably an efficiency issue, choosing the option that generates greater results at far less cost. The quote also accentuates the protracted nature of trafficking investigations compared to other types of criminal investigations.

Discretion was also used to adjust responses to the situation. In relation to finding accommodation to victims of labour exploitation, the RC would 'have to look little extra to find good solutions.' The ability to use discretion to choose the correct kind of accommodation needed depending on the threat level to the victim was necessary to be responsive to their work responsibilities (RC Interview 2019).

¹¹ In relation to the guide on trafficking and victim identification, the Police representative stated that it was good, comprehensive and an easy way to work. 'Det är bara att följa dem så mycket man orkar,' in Swedish means, 'It is just following them as much as one can (cope or is capable of)'.

The GEA representative acknowledged there is a lot more to do for the Social Services and the Police if a victim of crime is identified. When asked a follow-up question on whether frontline officers who were informed of the right procedures could still choose the option that required less work, i.e. deporting a potential victim or organising a flight back to their country of origin, the representative responded,

Hopefully not but that is the problem. They have the ability to choose. They have what they see and what they don't see. And that is also according to the Border Police because they know it's a hell of a lot more work for them. So it comes down to a lot of easy, very practical things like that (GEA Interview 2019).

Training and education on labour exploitation would need to be provided to frontline staff to be able to gauge whether officials actually chose to ignore a victim. If officers are not trained to identify victims, then they might choose to deport someone because they didn't know about the procedure rather than choosing to intentionally shirk. Not being trained is a human capital issue rather than an issue of discretion.

Research question: Does discretion undermine the implementation of policies addressing labour exploitation?

Discretionary behaviour has the ability to support and undermine efforts to combat labour exploitation. Once resource allocations and strategic priorities are decided, discretion is used by frontline officers and coordinators to respond to their work limitations. Frontline officers have time constraints, competing priorities and large workloads. Given the interview responses provided, it seems like rational, understandable decisions based on resource constraints are being made at the regional and frontline levels that are possibly leading to the non-identification of victims of labour exploitation. Since discretion is a reaction and assessment of one's environment, the amount of resources available to an agent would influence how discretion is used.

5.4 Adaptability to Political Decisions

Sexual exploitation had previously been the main focus but now labour exploitation is a new area of responsibility (GEA & Police Interviews 2019). The GEA representative did not agree that the newness of the laws was a problem and explained that the challenges of combating labour exploitation have occurred since the introduction of laws against human trafficking. This seems to indicate that adaptability to political decisions is a factor in combating labour exploitation even relating to the implementation of the older law on trafficking.

Upon being asked about labour exploitation, the Police representative said that, 'it's the first time now in the last two or three years that we have looked with that perspective. We have worked very much against [trafficking for] sexual purposes' (Police Interview 2019). In relation to the new law on human exploitation: 'I believe in that law. I think it will be used more and more. It's just that we have to work with it' (ibid). The RC expressed a similar sentiment saying, 'It feels a bit like it's this law is a starting point. It is absolutely great that it was made' (RC Interview 2019). Adaptability to policy directives seems to be high among those who are experts on trafficking and labour exploitation.

Reluctance to implement new procedures at a practical level was a possible factor in why victims of labour exploitation and trafficking generally were not being identified or processed (GEA Interview 2019).

Social Services are used to [people] suffering from drug addiction and alcohol, but when there's something new that we don't really know about then there's a reluctance (ibid).

When they come across people that are foreigners the reaction is to practise an emergency assessment, which is essentially a ticket back home. Training could be needed for frontline staff to address the resistance to new policies.

There was also an example of outright resistance even of staff trained to handle cases of trafficking and labour exploitation:

Right now they don't seem to want to work with the new labour exploitation law, and this is something you simply can't resist because it's within the social welfare law. They want to work [against] other purposes like sexual exploitation and begging, but they don't want to really get too much involved in this because they say they don't have resources for it. But it will come to them anyway (GEA Interview 2019).

They were in effect turning a blind eye to cases of labour exploitation (GEA Interview 2019). This reluctance indicates resistance to change and low adaptability.

Research questions: Is the adaptability of agencies to implement political decisions hampering efforts to combat labour exploitation? Is the adaptability of state agents also hampering these efforts?

At the agency level there was no evidence of mass staff training or other activities related to disseminating procedures on the new human exploitation law. This indicates that the adaptability of agencies is hampering efforts to combat labour exploitation. When a new policy is implemented it seems that there is a tendency for employees with a new mandate and responsibilities to carry on with their previous tasks. Adaptability of certain staff was high, while others reacted by refusing to work with the new law.

5.5 Other considerations

According to LO, labour exploitation is viewed as a problem created by the current industrial relations system and ‘neo-liberal discourse’. Blue-collar workers are recruited into low qualified jobs not facing a shortage. The representative indicated that a reinstatement of the labour market testing system could address labour exploitation (LO Interview 2019). It was also noted this was not possible due to the political situation (ibid).

The CSE representative stated that, ‘all companies should adhere to the rules and laws that are binding. Our view is that most of the companies hiring TCNs do that with a true and genuine need for the labour.’ Rules and laws to prohibit labour exploitation were in place and the best way to address this is with closer inspections, and for the police and courts to prioritise the existing laws (CSE Interview 2019).

Writing on migrant precarity and challenges to Swedish labour standards, Woolfson et al (2014) posit that the Laval judgement in 2007 by the European Court of Justice has limited the Swedish trade unions’ ability to uphold labour standards. The Swedish industrial relations model’s historical reliance on unions to be a de facto enforcer of labour regulations should not affect whether the state can adequately monitor or regulate social relations using its own capacities. The state is aware that labour exploitation is occurring, has displayed political will to address it and has far more resources and the authority to combat exploitative behaviour, which the unions do not have.

6. Conclusion

Pockets of weak capacity in a high-capacity state highlight the variation of power over civil society. Societal actors who the state cannot regulate reflect the limited reach of the state’s radiating institutions. Cases of systematic labour exploitation in Sweden suggest that the state’s ability to regulate social relations over these societal actors is impeded.

The thesis aimed to examine potential factors causing pockets of weakness in a high-capacity state. It contributes to research on subnational variation related to social reach and on a micro-determinant affecting policy implementation. A novel theoretical framework was developed to study the potential causes of heterogeneous social reach based on the traits of the weakness. Four dimensions were used, sourced from state capacity, development aid, quality of government, social science and economics literature.

What are the factors causing pockets of weakness? What are the deficiencies in state capacity that make systematic labour exploitation possible?

Constraints on the governmental institutions to share information appears to be a significant factor in explaining how particular societal actors can remain 'illegible' to the state. Confidentiality and privacy laws are causing considerable impediments to monitoring capacity, resulting in the inability to identify cases of labour exploitation. Most agency representatives considered the inability to share information as the biggest impediment to tackling labour exploitation. Even if this were solved, the reluctance of victims to come forward would remain an obstacle in increasing the number of identifications and convictions.

Descriptions of resources in state capacity literature are sometimes made at a very general level. However the analysis of state capacity in relation to these resources could be enriched by more detail. Due to the diverse types of information gathered by the state a framework for analysing whether it is public or private, obtained voluntarily or involuntarily, among other variables, was recommended for future research.

Financial resource allocation to workplace inspections and police units combating trafficking for labour exploitation appears to be inadequate. In particular, dedicated financing to anti-trafficking units was suggested to tackle labour exploitation meaningfully. Allocation of money to the anti-trafficking units was found to be at the whim of other crimes like shootings, appropriating resources away from combating labour exploitation.

Human capital resources need to be improved by educating frontline staff on how to handle victims of labour exploitation. Although agents can be trained on what should be done, this does not mean it will be. Discretion is shown as a key micro-determinant affecting policy implementation. It has the ability to provide improved responsiveness or can also mean tasks are ignored due to resource limitations. State agents including coordinators, not only frontline staff, are faced with constraints and discretion is used as a coping mechanism to rationally weigh options.

Coordination failure was not perceived as a problem by the interviewees, with all responses recording a productive collaboration. However improvements could be made at the practical street-level.

Adaptability to political decisions seemed to be very low at the agency-level since no information campaigns or evidence of activities indicating policy adoption was provided. Specific agents expressed high levels of adaptability and commitment to the new

exploitation law, while others expressed very low levels, choosing to resist implementing the law.

The findings and framework developed on social reach could be used in other states experiencing labour exploitation. Since it has been developed for a high-capacity state, it was envisioned for use by other similar states trying to pinpoint causes for exploitation or other pockets of weakness. However there is no reason why it could not be used to test subnational variation of social reach on dissimilar states. The framework can be used to analyse pockets of weakness or strength related to social reach.

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Interviews

CSE (2019) Confederation of Swedish Enterprise, 15 May 2019

GEA (2019) Gender Equality Agency, 4 April 2019

LO (2019) Swedish Trade Union Confederation, 26 April 2019

MA (2019) Migration Agency, 24 April 2019

Police (2019) Policy Authority, 13 May 2019

PA (2019) Prosecution Authority, National Unit against Organised Crime, 15 April 2019

RC (2019) Regional Coordinator, NMT, 3 May 2019

TA (2019) Tax Agency, 25 April 2019

WEA (2019) Work Environment Authority, 16 April 2019

Appendix 1.

Supplementary Information on the Swedish Framework on Labour Exploitation

The Police Authority has been the National Rapporteur on human trafficking since 1998 (Police Authority 2018). Human trafficking is stated under the Penal Code on crimes against liberty and peace (Police Authority 2018).

Since 2018 NMT is led by the Gender Equality Agency (GEA), and consists of the Police Authority, the Migration Agency, the Prosecution Authority, Work Environment Authority and Tax Agency (NMT 2019). Regional Coordinators provide support and information to actors such as Social Services and Police officers regionally and locally. The GEA assumed the coordinating responsibility of NMT from the Stockholm County Administration Board on 1 January 2018 (GEA 2018). Future funding of the GEA, and therefore the coordination of NMT, is not secured after 31 December 2019 (SVT News 2018).

NMT's mission is outlined in the Action Plan Against Prostitution and Human Trafficking released by the Swedish Government in February 2018 (Socialdepartementet 2018). The first national action plan was introduced in 2008 with a budget of SEK 213 million over three years (European Commission 2018). The 2018 action plan did not receive earmarked funding and incorporates central principles including gender equality, ending violence against women, ensuring equal opportunities for women and men, and their right to bodily integrity, in the development and implementation of the action plan. It has eight priority areas:

1. Strengthened collaboration between public agencies and other actors
2. Strengthened preventative work
3. Increased capacity to discover prostitution and human trafficking
4. Legislative measures
5. Stronger protection and assistance to victims
6. More effective law enforcement
7. Strengthened knowledge and methodology development
8. Increased international cooperation (European Commission 2018).

Under the Penal Code section 1a, the crime of human trafficking is described as use of unlawful coercion, deception, exploitation of someone's vulnerable situation, or other such improper means that severely restricts the person's options, recruits, transports, transfers, houses or receives a person with the aim of exploiting the person for sexual purposes, removal of organs, war service, forced labour or other activity causing the vulnerable person distress (Riksdagen 2019). The sentence is prison for at least two and at most ten years.

The crime of human exploitation is described as anyone, through unlawful coercion, deception or exploitation of someone's position of dependency, defencelessness or difficult situation, exploits a person in forced labour, work under obviously unreasonable conditions or begging. The conditions may, for example, concern unpaid work or unacceptable safety risks.

The agencies led by the WEA on of the ‘Assignment on Method Development for joint agency inspection to counter fraud, rule violations and crime in the workplace’ are the Swedish national employment agency (Arbetsförmedlingen), the Economic Crime Authority, the Tax Agency, the Social Insurance Agency, the Migration Agency, the Police and GEA.

The aims of the Assignment on Method Development are:

- Mapping and analysing how the authorities can contribute to joint inspections based on the respective mission, purpose and tools.
- Develop interfaces, working methods and routines for a well-functioning joint interagency inspection, at both the national and regional level.
- Provide support to the authorities regarding opportunities for information exchange, within the framework of the applicable confidentiality legislation.
- Develop criteria that are helpful in assessing when it is appropriate to carry out joint inspections by the authorities, which authorities should participate and how.
- Ensure that the developed methods are integrated into the authorities’ activities so that the cooperation between authorities works well after 2020.

The Police are separated into seven regions nationally. In five of the seven regions actions plans have been developed to combat human trafficking.

Appendix 2. Interview Questions

Question	Answer in terms of the research question
1. Could you please state your name, job title and organisation?	1. Bureaucracy, government or civil society
2. How is your organisation involved in labour migration?	2. Type of SC power: financial incentives, coercion or propaganda (carrots, sticks, sermons), or Resource: money, information, human capacity
3. What are your organisation's areas of responsibility in relation to labour migration?	3. Mandate in terms of SC power: Incentives, Coercion or Propaganda (carrots, sticks, sermons), or Resource: Finances, Information, Human Capacity e.g. Monitoring (information), coordination, etc.
4. Can you describe the tasks involved?	4. Type of SC power: Incentives, Coercion or Propaganda (carrots, sticks, sermons), &/or Resource: Finances, Information, Human Capacity
5. What works smoothly in relation to your responsibilities?	5. Areas of SC that do <u>not</u> need to be improved.
6. Does your organisation face any problems related to your area(s) of responsibility?	6. Areas of SC that need to be improved. Can ask about resource restraints here. (limitations on time, money or staff capacity)
7. What in your organisation's view should be done to address these problems?	7. Type of SC power or resource required to better fulfil their responsibilities.
<p><i>Cases of exploitation of labour migrants including payment for work permits, working for less than expected income to no income to pay off 'debts' incurred to the employer, working very long work hours, etc. have been documented in Sweden.</i></p> <p>8. What do you consider as the main reasons why exploitation of labour migrants can occur? (The reasons do not have to be related to your areas of responsibility.)</p>	<p>8. Reasons why exploitation can occur according to the organisation.</p> <p>Legislation, coordination, interpretation, vulnerability and power imbalance, sector, lack of willingness to report, etc.</p> <p>Type of power or resource restraints (limitations) the organisation experiences. e.g. finance, human capital, information, legislation impossible to enforce, wording or interpretation creating loopholes for exploitation, etc.</p>
9. What are the other agencies your organisation works with in relation to combating the exploitation of labour migrants?	9. How many agencies are responsible for the different aspects of migrant labour; high or low diffusion of responsibility

<p>a) How does your organisation view the coordination between multiple agencies and stakeholders?</p> <p>b) What could be done to improve coordination?</p>	<p>a) Is coordination between agencies to protect labour migrants functioning?</p> <p>b) Areas of SC that need to be improved.</p>
<p>10. Has your organisation been involved with information campaigns in relation to migrant labour exploitation? e.g. aimed at potential work permit applicants overseas, potential employers of labour migrants, or your own staff to increase awareness of exploitation and the tools available to address it</p>	<p>10. To see whether the policy instrument of 'propaganda' is used to inform migrants or engender norms in employers or agency staff to combat exploitation. i.e. preventative measures</p>
<p>If your organisation undertakes assessment activities of work permits</p> <p>A1. How often are checks of applications undertaken?</p> <p>A2. How are work permits assessed? i.e. what sort of rules, strategies or procedures do your officers use to assess the permits, other organisations involved in assessment</p> <p>A3. What sort of information does your organisation have access to that allows your staff to reach a decision?</p> <p>A4. If your employees suspect that the work permit application is made on false grounds, what procedures do they need to follow?</p>	<p>Assessment of work permit: Migrationsverket and possibly unions</p> <p>A1. Frequency of checks. Highlights limitations on resources</p> <p>A2. Degree of discretion of staff in assessment, targeting of specific 'risk' sectors, companies, or countries, checklists, prioritising salary level, identification of responsible organisations</p> <p>A3. Types of information available to state to enable monitoring activities</p> <p>A4. Degree of discretion of staff in assessment, link between monitoring ('eyes') and punishment ('teeth').</p>
<p>If your organisation undertakes monitoring activities of work permits or workplaces</p> <p>M1. How often are inspections undertaken?</p> <p>M2. How is the need to undertake an inspection reached? i.e. what sort of rules, strategies or procedures do your officers use to assess the need</p> <p>M3. What sort of information does your organisation have access to that allows your</p>	<p>Aimed at unions, Arbetsmiljöverket, Skatteverket, etc.</p> <p>M1. Frequency of checks. Highlights limitations on resources. Follow up question on whether they think the level is adequate.</p> <p>M2. Degree of discretion in assessment, checklist, targeting of specific sectors or companies, red flags like dozens of work permit applications from a small company, tip off</p> <p>M3. Types of information available to state to enable monitoring activities</p>

<p>staff to reach a decision on whether an inspection is required?</p> <p>M4. During an inspection, what is the procedure for finding out if laws or regulations are being broken? i.e. how do you collect information, who do you ask, what do you ask for</p> <p>M5. During an inspection if your employees suspect someone is not abiding by the laws or regulations your organisation is responsible for, what is the procedure they follow?</p> <p>M6. During an inspection if your employees suspect that labour migrants are being exploited, what is the procedure they follow?</p>	<p>M4. Processes around information gathering and sources i.e. what are the steps taken during an inspection, interviews, checking the accounts</p> <p>M5. Degree of discretion of staff in assessment, link between monitoring ('eyes') and punishment ('teeth'). Follow-up: Who decides the penalty and how much?</p> <p>M6. Degree of discretion of staff in assessment, link between monitoring ('eyes') and punishment ('teeth') of exploitation.</p>
<p>If your organisation undertakes judicial activities</p> <p>J1. How often do cases related to migrant labour exploitation go to trial?</p> <p>a. How many lead to sentences?</p> <p>J2. How is the decision to prosecute reached?</p> <p>J3. What sort of information does your organisation have access to that allows your staff to reach a decision to prosecute?</p> <p>J4. What are the main challenges in making a case against the defendant?</p>	<p>Aimed at Åklagarmyndigheten and migration lawyers</p> <p>J1. Frequency of coercion apparatus to punish free-riders</p> <p>J2. Degree of discretion in assessment, interpretation of law, other considerations such as whether they can win the case, previous judgements, testing relatively new laws on trafficking or forced labour</p> <p>J3. Types of information available to state to enable punishment</p> <p>J4. Identifying weaknesses in coercion apparatus. e.g. Proving intent to traffic for forced labour, judges interpreting law in a restrictive fashion, working conditions compared to home country of victims and not Sweden, lack of evidence, lack of witness testimony</p>