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From Criminalisation to Preventive Due Diligence: Reconstructing Labour Law Safeguards against Forced Labour, Migrant Worker Exploitation, and Modern Slavery in Global Supply Chains

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Abstract. *Forced labour has remained one of the most difficult problems in contemporary labour law. It has not only been found in illegal workplaces or hidden criminal networks. It has also been embedded in ordinary labour relations, recruitment channels, subcontracting systems and cross-border supply chains. The 2021 Global Estimates of Modern Slavery reported that 49.6 million people were living in modern slavery, with 27.6 million people subjected to forced labour. A large part of this exploitation was linked to the private economy, where labour control can be disguised through debt, contract manipulation, withheld wages, excessive overtime and the retention of identity documents. This article examines how labour law safeguards can be reconstructed to prevent forced labour, migrant worker exploitation and modern slavery in global supply chains. A normative and comparative legal approach is used. International labour standards, human rights due diligence instruments, migrant worker protection norms and recent regulatory developments in the European Union are analysed. Particular attention is given to the gap between criminalisation-based protection and preventive labour governance. It is argued that forced labour cannot be effectively addressed where legal protection is activated only after exploitation has already occurred. The article finds that three weaknesses are still visible in many labour protection frameworks. First, recruitment abuse is not always treated as an early legal indicator of forced labour. Second, migrant workers are often protected through fragmented rules that separate labour law, immigration law and anti-trafficking law. Third, corporate responsibility is still too often reduced to voluntary compliance, while forced labour risks usually appear beyond the first layer of employment. Because of this, a preventive model is needed. Such a model should combine fair recruitment regulation, labour inspection, migrant*



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worker safeguards, supply chain due diligence, victim-centred remedies and corporate accountability. The article contributes to labour law scholarship by shifting the discussion from punishment after violation to prevention before exploitation becomes normalised.

Keywords: *Forced labour; Global supply chains; Human rights due diligence; Migrant workers.*

1. Introduction

Forced labour has become a legal problem that is no longer limited to the old image of coercion by physical violence. In contemporary labour markets, coercion is often made less visible. It may be produced through recruitment debt, deceptive contracts, wage withholding, threats of deportation, isolation, excessive working hours and the confiscation of passports or identity papers. These practices may look administrative from the outside. Yet for workers, especially migrant workers, they can remove the real possibility to refuse work or leave employment (David, 2019, p. 45).

The International Labour Organization has explained forced labour through indicators such as abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions and excessive overtime. These indicators show that forced labour is not always created by one single act. It is often produced by several small controls that are placed on workers over time (International Labour Organization [ILO], 2021, p. 12).

The scale of the problem is serious. The Global Estimates of Modern Slavery indicate that 50 million people were living in modern slavery in 2021. Of this number, 28 million were in forced labour and 22 million were in forced marriage (Walk Free Foundation, 2022, p. 18). The estimate also shows an increase compared with the previous global estimate. This increase matters for labour law because it suggests that conventional protection has not been able to keep pace with changing labour markets, outsourcing patterns and migration-dependent industries.

Forced labour is also closely connected with migrant worker exploitation. Migrant workers may enter employment through long and costly recruitment chains. They may borrow money to pay recruitment fees. They may arrive in destination countries with limited information about the real work, wage level,



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legal rights and complaint mechanisms. Their residence status may be attached to one employer or one work permit. In that situation, leaving the job may not be a simple personal choice. It may mean debt, loss of legal status, retaliation or return to the origin country without income (Kauffer, 2020, p. 88).

This vulnerability has been recognised in international labour debates. The ILO has treated recruitment fees and related costs as a serious factor in forced labour risk. Its recent work on recruitment costs shows how debt can become a bridge between migration and coercion (ILO, 2020, p. 34). When workers have to repay large recruitment expenses, the bargaining position of workers becomes weak before the employment relation even begins.

For that reason, forced labour should not be approached only as a criminal offence. Criminalisation remains important, but it is not enough. Criminal law tends to intervene after a violation has been reported or investigated. In many forced labour situations, reporting does not happen quickly. Victims may not recognise their situation as a legal violation. Some may be afraid of losing wages that have not been paid. Others may fear immigration sanctions. This is why a labour law approach is still needed. Labour law can reach the employment structure before the most severe exploitation becomes established (Rumbold, 2022, p. 112).

The Protocol of 2014 to the Forced Labour Convention, 1930, confirms this preventive direction. States are required to take effective measures for the identification, release, protection, recovery and rehabilitation of victims of forced or compulsory labour. The Protocol also requires access to appropriate and effective remedies. This shifts the legal discussion from prohibition alone to prevention, protection and remedy (Aleinikoff, 2018, p. 203).

Recent regulatory developments also show that forced labour is increasingly treated as a supply chain problem. The European Union Forced Labour Regulation prohibits products made with forced labour from being placed on, made available in or exported from the Union market. The regulation will apply from 14 December 2027. This framework matters because it does not only look at the direct employment relationship. It also places pressure on companies to understand and address forced labour risks in supply chains (European Commission, 2024, p. 5).

A similar shift has been seen in the development of human rights due diligence. The UN Guiding Principles on Business and Human Rights place responsibility on business enterprises to respect human rights through due diligence (Ruggie, 2011, p. 14). The OECD Due Diligence Guidance also requires companies to identify, prevent, mitigate and account for actual and potential adverse impacts



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in their operations, supply chains and business relationships (Organisation for Economic Co-operation and Development [OECD], 2018, p. 22). These instruments have influenced the movement from voluntary corporate responsibility toward more formal legal accountability.

The European Union Corporate Sustainability Due Diligence Directive has made this issue more urgent. The Directive entered into force on 25 July 2024 and was designed to foster sustainable and responsible corporate behaviour in companies' operations, subsidiaries and global value chains. Although its implementation has been affected by later amendments and political adjustment, its basic direction remains important for labour law scholarship (Buhmann, 2023, p. 77). Forced labour prevention is increasingly being placed inside corporate governance, not only inside workplace inspection.

Several studies have also shown that forced labour in supply chains cannot be fully understood if it is separated from business structure. Research on forced labour in supply chains has argued that exploitation is shaped by commercial pressure, labour market intermediaries and institutional gaps (LeBaron et al., 2019, p. 104). The effectiveness of human rights due diligence has also been debated, especially when due diligence remains procedural and does not create real change for workers.

Based on this background, the central problem addressed in this article is the insufficiency of protection that relies mainly on criminalisation and post-violation enforcement. In many jurisdictions, forced labour is prohibited. Yet workers may still be trapped through debt, document retention, subcontracting and threats linked to migration status. The existence of prohibition does not automatically create prevention. A legal ban may be strong on paper, but weak in daily work relations when inspection, recruitment control and remedy are limited (Fenwick et al., 2017, p. 210).

The research gap is located in three areas. First, previous legal studies have often discussed forced labour through the lens of criminal law, human trafficking or human rights protection. Labour law has not always been placed at the centre of prevention. Second, migrant worker protection has often been discussed separately from modern slavery prevention, even though recruitment abuse and migration dependency are among the strongest pathways into exploitation. Third, due diligence has been widely discussed in business and human rights scholarship, but its integration into labour law safeguards remains underdeveloped.

The novelty of this article lies in the proposed shift from a punishment-centred model to a preventive labour law model. The argument is not that criminalisation



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should be removed. Rather, criminalisation should be supported by earlier legal safeguards. These safeguards should operate from recruitment to placement, from workplace monitoring to supply chain mapping, and from victim identification to compensation. A more complete framework is needed because forced labour is not only a violation committed by one bad employer. It can also be produced by a chain of actors that includes recruiters, brokers, subcontractors, suppliers and lead firms (Phillips, 2021, p. 150).

This article also offers a more integrated view of migrant worker protection. Migrant workers should not be protected only after abuse becomes severe. Protection should be built into recruitment contracts, fee regulation, access to information, complaint channels, residence security and wage protection. When these safeguards are weak, forced labour becomes easier to hide inside ordinary employment arrangements. In this sense, migrant worker protection is not a separate policy field. It is part of forced labour prevention (Piper et al., 2018, p. 95).

2. Research Methods

This article was developed through normative and comparative legal research. The method was selected because the main problem concerns the structure of legal protection rather than the measurement of one local workplace. A doctrinal reading of legal instruments was combined with policy-oriented analysis. The purpose was to examine how existing labour law, migrant worker protection and due diligence frameworks can be used to prevent forced labour.

A comparative approach was also applied. The comparison was not designed to rank countries. It was used to identify different regulatory techniques. International labour standards were used as the normative baseline. European Union instruments were examined because recent developments on forced labour products and corporate due diligence have given stronger legal shape to supply chain responsibility. Selected migration and recruitment standards were also included because migrant worker exploitation often begins before the employment relation is formally performed.

The analysis was structured around three legal questions. First, what kind of protection is provided before exploitation occurs. Second, what mechanisms are available when forced labour indicators are found. Third, what remedies are accessible after a worker has been harmed. This structure was used because forced labour prevention cannot be examined only through prohibition.



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3. Results and Discussion

3.1. From Prohibition to Prevention

The findings show that forced labour has been strongly prohibited in international labour law. Yet the legal architecture has not always been built around early prevention. This is the main tension found in the study. Forced labour has been named as a serious violation. It has been prohibited. It has also been linked with criminal punishment. Still, many risks are formed before a criminal case can be detected.

The prohibition of forced labour is necessary. It gives legal meaning to coercion and exploitation. It also gives authority to the state to punish employers, recruiters and other actors who are involved in abuse. However, prohibition alone does not always touch the working conditions that slowly produce coercion. Debt, document retention, delayed wages and threats related to migration status can appear as separate administrative problems. If they are handled only as ordinary labour issues, the forced labour risk may be missed.

This is why a preventive reading of labour law should be strengthened. The Protocol of 2014 to the Forced Labour Convention requires measures for prevention, victim protection and access to justice. This legal direction suggests that forced labour should not be treated only after a victim has already been trapped. It should be addressed through earlier safeguards that work before exploitation becomes severe.

A preventive labour law model should therefore be built from the first point of labour market entry. Recruitment, contract verification, wage payment, working time, residence security, inspection and remedy should be treated as one connected chain. When one part is weak, the worker may still be exposed to exploitation. A legal ban will not be enough if the pathway into forced labour remains open.

3.2 Recruitment as the First Legal Site of Protection

The study found that recruitment is one of the earliest spaces where forced labour risk is created. This point is sometimes underestimated. Labour law is often imagined as law that begins when work begins. In migrant labour systems, this is too late. The worker may already have debt. The worker may already have signed a contract that was not fully understood. A broker may already control the information. In this condition, the employment relation has not started equally.



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Recruitment debt should be treated as a legal warning sign. The ILO has linked recruitment fees and related costs with debt bondage and forced labour risk. This is not a small issue. Debt can make a worker accept conditions that would otherwise be refused. It can also make resignation impossible because unpaid debt may be carried by the worker's family.

Fair recruitment should not be placed as a soft ethical recommendation. It should be treated as a labour law safeguard. Fees should be prohibited from being shifted to workers. Contracts should be verified before departure and after arrival. Recruiters should be registered and monitored. Workers should be given information in a language that can be understood. Complaint channels should also be available before departure.

The legal duty should not stop with the recruitment agency. Employers and lead firms should also be required to check whether recruitment fees were charged. If fees were paid by workers, reimbursement should be required. This would move responsibility from a paper-based compliance system to a worker-centred protection system.

3.3 Migrant Worker Protection as Forced Labour Prevention

The findings also show that migrant worker protection should be placed at the centre of forced labour prevention. Migrant workers are not vulnerable because of migration itself. They become vulnerable when migration is managed through dependency. This dependency can be created by debt, employer-tied permits, fear of deportation, language barriers and restricted access to legal support.

A fragmented legal system makes this worse. Labour law may see the issue as an employment dispute. Immigration law may see the worker as a person with irregular status. Criminal law may require evidence that is difficult to provide. In the middle of this fragmentation, the worker may be left without a safe route to complain.

The legal status of migrant workers should therefore be protected during complaint and investigation processes. If workers believe that reporting abuse will lead to deportation, the legal system will become silent. The violation will remain hidden. Temporary residence protection, legal aid and wage recovery mechanisms are needed. These are not additional welfare measures. They are part of enforcement.

A worker who can safely report abuse makes forced labour easier to detect. A worker who cannot report becomes part of the hidden economy. In this sense,



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migrant worker protection is not only a humanitarian concern. It is also an enforcement strategy.

3.4 Reconstructing Labour Inspection

Labour inspection remains one of the most important safeguards. Yet the findings suggest that ordinary inspection may not be enough. Forced labour can be hidden behind documents that look complete. A contract may exist. A payslip may be shown. A dormitory may be presented as acceptable. The actual control may still be found in debt, fear, isolation and unpaid wages.

Inspection should be redesigned as risk-based inspection. Sectors with high migrant labour use, subcontracting, informal recruitment and isolated workplaces should be prioritised. Inspectors should also be trained to read forced labour indicators. Wage withholding, document retention and excessive overtime should not be treated as separated minor violations when they occur together.

Confidential worker interviews should be used more often. Interviews in front of employers are not enough. Translation support should be available. Housing conditions should be inspected. Wage records should be checked against worker testimony. Referral systems should be prepared before an inspection is carried out. Without referral options, detection may not lead to protection.

This approach is consistent with the ILO indicator-based understanding of forced labour. Coercion may be built through several indicators that operate together. When inspection is too formal, these indicators may not be seen.

3.5 Human Rights Due Diligence as a Labour Law Safeguard

Human rights due diligence has become a major regulatory development in business and human rights. It requires companies to identify, prevent, mitigate and account for adverse impacts. The OECD Guidance frames due diligence as a process that should be carried out by enterprises to address actual and potential impacts connected with their operations, supply chains and business relationships.

For forced labour prevention, due diligence is useful because responsibility can be extended beyond the direct employer. This is important in global supply chains. A lead firm may not directly employ migrant workers in a lower-tier supplier. Still, its purchasing model may influence wages, overtime and the use of informal labour brokers. If only the direct employer is examined, the wider commercial pressure may be missed.



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The European Union Forced Labour Regulation has strengthened this supply chain direction. Products made with forced labour will be prohibited from being sold on the EU market. The ban applies to imported products and products produced within the EU. The rules are scheduled to apply from 14 December 2027.

The Corporate Sustainability Due Diligence Directive also shows a stronger legal movement toward mandatory corporate responsibility. The Directive entered into force on 25 July 2024. It was designed to promote responsible corporate conduct in operations, subsidiaries and global value chains. Later amendments have adjusted the implementation timeline, but the main direction remains clear. Corporate responsibility is being made more legal and less voluntary.

Still, due diligence should not be allowed to become a paperwork system. Policies, codes of conduct and audit reports may look strong. They do not always change the reality of workers. A due diligence system should be measured through outcomes. The questions should be practical. Were recruitment fees paid by workers. Were documents retained. Were wages paid fully. Were complaints handled safely. Was compensation given when harm occurred.

The integration of due diligence into labour law can be shown through the following framework.

Protection layer	Main legal function	Expected worker-level outcome
Fair recruitment	Recruitment fees, contracts and brokers are regulated	Workers enter employment without debt-based dependency
Migrant worker safeguards	Residence security and safe complaint routes are provided	Workers can report abuse without fear
Risk-based labour inspection	Forced labour indicators are checked in workplaces	Coercion is detected earlier
Human rights due diligence	Supply chain risk is identified and corrected	Responsibility reaches beyond direct employers
Remedy and accountability	Wage recovery, compensation and sanctions are provided	Harm is repaired and future abuse is discouraged

This model should be understood as an integrated framework. Each layer has a different function. Yet the layers are connected. Fair recruitment reduces debt. Migrant worker safeguards reduce silence. Inspection identifies coercion. Due diligence expands responsibility. Remedy gives meaning to justice.

3.6 Remedy as the Missing Centre

Remedy is often mentioned in legal instruments. In practice, it remains one of the weakest parts of protection. Victims may escape forced labour but still lose wages, documents, housing, legal status and health. If only the employer is



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punished, the worker may still be left with debt and unpaid income. This is incomplete justice.

A remedy-centred model should include unpaid wages, compensation, legal aid, safe shelter, medical support and protection from retaliation. For migrant workers, temporary residence during proceedings is also important. Without it, the worker may be removed from the country before a claim is completed. This weakens both justice and enforcement.

The Protocol of 2014 supports this wider approach by requiring protection, recovery, rehabilitation and access to effective remedies. This confirms that remedy is not separate from forced labour prevention. It is part of the legal response itself.

Remedy also has a preventive effect. If workers receive compensation and employers face real financial consequences, the cost of exploitation increases. If workers do not receive remedy, forced labour may remain profitable even when some punishment exists.

3.7. Theoretical Contribution

This article contributes to labour law scholarship in three ways. First, forced labour has been repositioned as a labour law problem, not only as a criminal law or human rights problem. This shift matters because many indicators of forced labour are found inside ordinary labour regulation. Wage withholding, excessive overtime, document retention and recruitment debt can be read as early signs of coercion.

Second, migrant worker protection has been placed as a core part of anti-forced labour law. Migrant workers are often discussed in migration policy. In this article, their protection is treated as part of labour law prevention. The argument is simple but often missed. A worker who cannot leave, complain or refuse because of migration dependency is already in a legally dangerous position.

Third, human rights due diligence has been reconstructed as a labour law safeguard. Due diligence is not treated only as corporate governance or sustainability management. It is connected with worker protection. This gives due diligence a more concrete meaning. It must be judged by whether forced labour risks are reduced for workers, not only by whether companies have produced reports.

The proposed framework also contributes conceptually by linking five areas that are often discussed separately. These areas are recruitment, migration,



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workplace inspection, supply chain responsibility and remedy. The article argues that forced labour prevention will remain weak when these areas are kept apart.

3.8. Policy Implications

The findings lead to several policy implications. First, fair recruitment regulation should be strengthened. Worker-paid recruitment fees should be prohibited. Where fees have already been paid, reimbursement should be required. Recruiters should be licensed, monitored and sanctioned when deception or illegal fees are found.

Second, contract verification should be made more serious. Contracts should be checked before departure and after arrival. Contract substitution should be treated as a forced labour risk when it places the worker in a worse position. Information should be given in a language that workers understand.

Third, migrant workers should be protected from retaliation. Complaint mechanisms will not work if workers fear deportation. Temporary residence protection, legal aid and safe reporting channels should be provided during investigation and remedy processes.

Fourth, labour inspection should be redesigned. Inspection should be risk-based and indicator-based. Inspectors should be trained to identify forced labour indicators. Confidential interviews should be used. Wage records, housing conditions and document control should be checked together.

Fifth, due diligence should be made outcome-based. Companies should not only publish policies. They should be required to show that forced labour risks have been identified and corrected. Worker voice should be included in risk assessment. Independent complaint channels should be available.

Sixth, remedy should be made accessible. Wage recovery, compensation, document return, medical support and legal aid should be available without excessive procedural barriers. Victims should not be forced to choose between safety and justice.

Seventh, supply chain accountability should be connected with purchasing practices. If lead firms demand low prices and short deadlines, suppliers may pass pressure to workers. Due diligence should therefore include pricing, order changes and production deadlines. Forced labour prevention cannot be separated from commercial behaviour.



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3.9. Limitations and Future Research

This article has several limitations. The analysis was based on legal instruments, institutional reports and peer-reviewed literature. Direct interviews with workers, inspectors, recruiters or corporate compliance officers were not conducted. Because of this, the article does not claim to describe the full lived experience of victims. The focus was placed on legal design and institutional protection.

The comparative element was also limited. The study did not provide a full country-by-country legal comparison. International standards and selected regulatory developments were used to identify legal techniques. A deeper jurisdictional comparison would require separate analysis.

Another limitation concerns supply chain visibility. Lower-tier suppliers and informal labour brokers are difficult to trace through public documents. This means that the discussion of due diligence remains focused on legal responsibility and regulatory structure. The actual behaviour of companies may vary.

Future research should include empirical fieldwork with migrant workers and labour inspectors. It would also be useful to examine how recruitment fee bans are enforced in specific migration corridors. More research is also needed on whether mandatory due diligence laws produce real worker-level outcomes. The main question should not only be whether companies comply on paper. It should be whether workers become less exposed to debt, coercion and retaliation.

4. Conclusion

Forced labour has remained a serious problem in contemporary labour markets because it is often hidden inside ordinary work arrangements. It may appear through recruitment debt, contract deception, document retention, wage withholding, excessive overtime, isolation and threats related to migration status. These practices can make work unfree even when an employment contract exists. The article has argued that criminalisation is necessary but insufficient. Punishment should remain part of the legal response. Yet it should not be the centre of the whole system. A protection model that reacts only after exploitation has occurred will always arrive late. The law must move earlier. The findings show that forced labour prevention should begin with fair recruitment. It should continue through migrant worker safeguards and risk-based labour inspection. It should be extended through human rights due diligence in supply chains. It should be completed by effective remedy and accountability. These elements should not be treated as separate policy tools. They should be



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connected as one preventive labour law framework. The proposed model shifts the legal focus from criminalisation to prevention. It does not weaken the role of criminal law. It gives criminal law a better structure around it. Recruitment control, wage protection, document protection, safe complaint channels, corporate due diligence and remedy can reduce the conditions that allow forced labour to grow. In the end, forced labour is not only a matter of illegal employers. It is also a matter of how labour markets are organised and how responsibility is distributed. When recruitment is costly, when migration status is insecure, when inspection is weak and when supply chains are opaque, exploitation becomes easier. Labour law should therefore be reconstructed to prevent these conditions before they become normal. This is where a more serious and more humane legal framework is needed.

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