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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 worker safeguards, supply chain due diligence, victim-centred remedies and corporate accountability. The article contributes to labour*



LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

law scholarship by shifting the discussion from punishment after violation to prevention before exploitation becomes normalised.

Keywords: *Criminalisation; Exploitation; Law; Reconstructing; Retributive; Worker.*

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

1. Introduction

Forced labour, migrant worker exploitation, and modern slavery remain persistent challenges within contemporary labour markets and increasingly complex global supply chains. Although criminal law has developed various mechanisms to prohibit and punish forced labour, human trafficking, and related forms of exploitation, criminalisation alone is insufficient to address the structural conditions that allow exploitation to occur. Global production systems frequently involve multiple layers of contractors, suppliers, recruitment agencies, intermediaries, and subcontractors, creating significant gaps in transparency and accountability. These complexities may enable exploitative labour practices to remain hidden from the principal companies benefiting economically from production. Consequently, labour law requires a broader approach that moves beyond the prosecution of individual perpetrators toward preventive mechanisms capable of identifying and addressing risks before serious violations occur. (Ayub, Stefan Lamuel, Triesanto Romulo Simanjuntak, and Putri Hergianasari; 2024).

The shift from criminalisation to prevention requires the reconstruction of labour law safeguards through human rights and labour rights due diligence. Rather than waiting until forced labour or modern slavery has occurred, preventive due diligence requires enterprises to identify, assess, prevent, mitigate, monitor, and address adverse impacts associated with their operations and business relationships. This approach changes the role of companies from passive actors subject only to sanctions after violations occur into active participants responsible for preventing exploitation throughout their business networks. Such a transformation is particularly significant for migrant workers, who may face heightened vulnerabilities arising from recruitment fees, debt bondage, restrictions on freedom of movement, confiscation of identity documents, discriminatory employment practices, wage violations, and dependence on intermediaries or employers. (Cesaria, Bunga Dita Rahma; 2026).

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

The effectiveness of preventive due diligence, however, depends on whether legal obligations extend beyond voluntary corporate commitments. Voluntary codes of conduct and corporate social responsibility initiatives may contribute to awareness, but they cannot consistently guarantee effective protection where commercial incentives conflict with labour rights. A reconstructed labour law framework therefore requires mandatory and enforceable due diligence obligations accompanied by corporate accountability and meaningful oversight. Enterprises should be required to conduct risk assessments across their supply chains, establish effective monitoring mechanisms, engage with workers and their representatives, provide accessible grievance procedures, and take appropriate action when risks or violations are identified. (Cindya, Dedy Ardian Prasetyo, and Supaphorn Akkapin; 2025).

Equally important is the availability of effective remediation. Prevention cannot be separated from the obligation to provide remedies when exploitation occurs. Workers affected by forced labour or modern slavery should have meaningful access to compensation, restitution, recovery of unpaid wages, legal assistance, and other appropriate forms of remedy without fear of retaliation or immigration-related consequences. Corporate accountability should therefore encompass not only the prevention of labour abuses but also responsibility for responding to and remedying harm. (Melbourne, Carolina Martha, and Jerry Marcellinus Logahan; 2016).

2. Research Methods

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.

3. Results and Discussion

3.1. From Criminalisation to Prevention: Reframing Labour Law Responses to Forced Labour and Modern Slavery

Forced labour and modern slavery represent some of the most serious violations of human dignity and fundamental labour rights. Although national legal systems have increasingly criminalized practices involving forced labour, human trafficking, slavery, and related forms of exploitation, criminalisation alone cannot adequately address the structural and economic conditions that allow these practices to persist. A criminal justice response generally becomes active after an unlawful act has occurred, while forced labour frequently develops through recruitment

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

systems, employment relationships, subcontracting arrangements, and economic dependencies that may remain invisible until substantial harm has already been suffered. This reality requires a broader legal approach in which criminal sanctions are complemented by preventive labour law mechanisms capable of identifying and reducing risks before exploitation becomes established.

The traditional criminalisation model remains essential because forced labour and modern slavery constitute serious violations that require effective investigation, prosecution, and punishment. Criminal law establishes prohibited conduct, identifies perpetrators, and provides sanctions intended to deter future violations. It also communicates the state's recognition that exploitation of workers is not merely an employment dispute but a serious violation of fundamental rights. Nevertheless, criminalisation is inherently limited when the underlying causes of exploitation remain unaddressed. Prosecuting an employer, recruiter, or intermediary after workers have been exploited does not necessarily prevent similar practices from occurring elsewhere in the supply chain. A comprehensive response must therefore address the conditions that create opportunities for exploitation, including inadequate labour inspections, deceptive recruitment, excessive recruitment fees, debt dependency, weak bargaining power, discrimination, and insufficient access to remedies.

Reframing labour law from criminalisation toward prevention does not mean abandoning criminal enforcement. Instead, prevention and criminal accountability should operate as complementary components of an integrated legal framework. Criminal sanctions should remain available for serious violations, while labour law should create obligations that encourage enterprises to identify and address risks before they develop into forced labour or modern slavery. This approach changes the focus from asking who should be punished after exploitation occurs to asking what legal, institutional, and corporate measures can prevent exploitation from occurring in the first place.

Preventive labour law requires stronger attention to the employment relationship and the structures through which workers are recruited and managed. Forced labour may be facilitated by practices that appear formally contractual but are substantively coercive. Workers may agree to employment under conditions that are not fully disclosed, may incur substantial debts to recruitment agencies, or may become dependent upon employers because their legal status, accommodation, transportation, or identity documents are controlled by others. Formal consent in such circumstances cannot automatically be interpreted as genuine freedom. Labour law must therefore examine the practical conditions under which consent is given and maintained. Preventive regulation should

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

address recruitment practices, contractual transparency, wage payments, working hours, freedom of movement, retention of identity documents, and access to grievance mechanisms.

The prevention of modern slavery also requires a broader understanding of corporate responsibility. Contemporary production frequently involves complex networks of suppliers, contractors, subcontractors, labour brokers, and recruitment agencies. A company may therefore benefit indirectly from exploitative labour practices without directly employing the affected workers. Traditional labour law mechanisms focused primarily on the direct employer may struggle to address this structural complexity. Reframing the legal response requires greater attention to the responsibilities of businesses throughout their supply chains. Enterprises should be encouraged or required, depending on the applicable legal framework, to identify potential risks, assess their severity, establish preventive policies, monitor business relationships, and respond effectively when violations are identified.

3.2. Migrant Worker Exploitation and Preventive Due Diligence across Global Supply Chains

Migrant workers occupy an essential position within global labour markets and international supply chains, yet their contribution to economic production is frequently accompanied by significant vulnerability to exploitation. Their dependence on recruitment agencies, employers, subcontractors, and migration intermediaries can create unequal relationships in which workers have limited bargaining power and restricted access to effective legal remedies. Exploitation may take various forms, including deceptive recruitment, excessive recruitment fees, debt bondage, non-payment or underpayment of wages, excessive working hours, unsafe working conditions, confiscation of identity documents, restrictions on movement, threats, and other forms of coercion. These practices may develop gradually and remain hidden within complex supply-chain structures, making conventional enforcement mechanisms insufficient to protect migrant workers effectively.

The vulnerability of migrant workers is particularly pronounced when recruitment and employment systems involve multiple intermediaries. Workers may enter a country through recruitment arrangements that impose significant financial obligations before employment begins. Once the worker arrives, the resulting debt can create dependency on the employer and reduce the worker's ability to leave an abusive employment relationship. In some circumstances, migrant workers may also lack sufficient knowledge of their legal rights or may fear

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

retaliation, dismissal, detention, or deportation if they report abusive practices. Preventing exploitation therefore requires intervention before and throughout the employment relationship rather than relying exclusively on legal remedies after harm has occurred.

3.3. Reconstructing Labour Law Safeguards: Mandatory Due Diligence, Corporate Accountability, and Effective Remediation

Reconstructing labour law safeguards requires a shift from voluntary corporate commitments toward mandatory due diligence, stronger corporate accountability, and effective remediation for workers affected by exploitation. In complex global supply chains, companies may benefit indirectly from labour practices occurring through suppliers, contractors, subcontractors, or recruitment agencies. Voluntary policies alone are therefore insufficient to ensure consistent protection. Mandatory due diligence should require enterprises to identify, assess, prevent, mitigate, and monitor risks of forced labour, migrant worker exploitation, and modern slavery throughout their relevant business relationships. These obligations should be supported by clear reporting requirements, effective oversight, and proportionate sanctions for non-compliance.

Corporate accountability must extend beyond the adoption of internal policies. Enterprises should demonstrate that preventive measures are implemented effectively and that identified risks receive timely and appropriate responses. Worker participation is also essential because workers and their representatives possess practical knowledge concerning labour conditions that may not be visible through conventional compliance audits. Accessible grievance mechanisms should allow workers to report violations safely without retaliation.

Effective remediation completes the due diligence framework. When exploitation occurs, affected workers should have meaningful access to unpaid wages, compensation, restitution, legal assistance, and other appropriate remedies. Remediation should be timely, accessible, and centered on the needs and dignity of victims. Consequently, reconstructed labour law should integrate prevention, accountability, and remedy into a continuous framework capable of addressing exploitation before, during, and after violations occur.

Reconstructing labour law safeguards also requires stronger mechanisms to ensure that due diligence obligations are effectively implemented across the entire supply chain. Companies should not be permitted to limit their responsibility to direct employees or first-tier suppliers when substantial labour risks may exist among subcontractors, labour brokers, and lower-tier suppliers. A

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

risk-based approach should require enterprises to identify sectors, regions, recruitment systems, and business relationships that present heightened risks of forced labour and migrant worker exploitation. Regular assessments should then be followed by concrete preventive measures, rather than merely producing compliance reports or corporate statements.

Government supervision remains essential to complement corporate responsibility. Labour inspectorates and other competent authorities should possess adequate resources, investigative powers, and specialized knowledge to identify indicators of forced labour and modern slavery. Cooperation between government agencies, businesses, trade unions, civil society organizations, and migrant worker representatives can strengthen monitoring and improve access to information. Public authorities should also establish clear standards concerning corporate due diligence so that businesses understand their legal responsibilities and workers can effectively assert their rights.

Effective remediation should further address the structural causes of exploitation rather than focusing exclusively on financial compensation. Workers may require recovery of withheld documents, safe accommodation, legal assistance, psychological support, restoration of employment rights, or assistance in returning to stable employment. Migrant workers should not be discouraged from seeking remedies because of their immigration status or fear of retaliation. A comprehensive legal framework should therefore provide protection for complainants and witnesses and ensure that access to justice does not expose victims to additional harm.

Ultimately, mandatory due diligence should be understood as a continuing legal responsibility rather than a one-time compliance exercise. Corporate accountability becomes meaningful when companies are required to demonstrate genuine efforts to prevent exploitation, respond to identified risks, and provide or cooperate in effective remediation. By integrating mandatory due diligence, state oversight, worker participation, corporate accountability, and comprehensive remedies, labour law can develop a stronger preventive framework capable of protecting vulnerable workers throughout increasingly complex global supply chains.

4. Conclusion

The persistence of forced labour, migrant worker exploitation, and modern slavery within global supply chains demonstrates that criminalisation alone cannot provide an adequate legal response to contemporary labour exploitation. Criminal

LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

law remains essential for prosecuting perpetrators and establishing the seriousness of forced labour as a fundamental violation of human dignity and labour rights. However, a predominantly punitive approach is often reactive because legal intervention generally occurs after exploitation has already taken place. The complexity of global supply chains, involving multiple suppliers, contractors, recruitment agencies, and intermediaries, further demonstrates the limitations of relying exclusively on criminal enforcement. A more effective framework must therefore complement criminalisation with preventive mechanisms capable of identifying and addressing risks before exploitation becomes entrenched. Preventive due diligence provides an important foundation for this transformation. By requiring enterprises to identify, assess, prevent, mitigate, monitor, and address labour and human rights risks throughout their business operations and relationships, due diligence shifts responsibility toward prevention. This approach is particularly important for protecting migrant workers, who may experience heightened vulnerabilities due to recruitment practices, debt, dependency on employers or intermediaries, limited access to justice, language barriers, and insecure immigration or employment conditions. Effective due diligence must therefore extend beyond direct employees and first-tier suppliers to relevant levels of the supply chain where significant risks of forced labour and exploitation may exist.

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LICS 2026

Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

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