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## India's Labour Codes and Labour Trafficking: A Case Study of Karra and Silli Blocks

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### ARTICLE DETAILS

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### ABSTRACT

Labour trafficking in India is being dealt with to a large extent by rescue-and-rehabilitation models that are not addressing underlying economic and regulatory drivers. This paper examines in a critical way whether India's Labour Codes can go beyond victim centric responses to break the network of trafficking at the source. Using the examples of Karra and Silli Blocks in Jharkhand, the research examines the exploitation of local labour within the broader guidelines of global supply chains

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### Research Area

The study gets in its precarious positions fluctuating between labour law, human trafficking, informal labour regulation and global production networks with a regional focus on rural Jharkhand.

### Intent of Research-

- (i) To analyse structural vulnerabilities which facilitate labour trafficking in Karra and Silli Blocks.
- (ii) To investigate the possibilities of the Labour Codes in India with the preventative intention..

### Research Approach & Data Acquisition



The research uses a non-doctrinal approach supported by doctrinal analysis using entirely secondary sources. It reviews labour statutes, policy documents, judicial decisions, government reports to critically analyse the regulatory and structural aspects of labour trafficking.

### **End Up Notes:**

The research observes that successful implementation of labour codes and accountability of the supply chains can make efforts to combat anti-trafficking from being episodic rescue to prevention through structural causes and factors.

### **1 Introduction:**

Labour Trafficking in India has been dealt with primarily through rescue and rehabilitation models of post facto nature, and inadequate to deal with structural economic and regulatory drivers of exploitation. While these approaches play an important role in victim protection, they rarely disrupt trafficking practices that have become routine in informal labour markets & systems. This paper examines crucially if India's Labour Codes have normative and institutional capacity of dealing beyond victim centred response to prevention at the source. Using the examples of Karra and Silli Blocks in Jharkhand, the study puts the experiences of labour exploitation at local level into global supply chains. Drawing on exclusively secondary data, including the legislature (labour legislation), policy documents, judicial pronouncements, reports by parliament, as well as studies by international agencies, the research investigates intersections between structural vulnerabilities (such as distress migration, lack of social security and lack of regulation in labour intermediaries) on the one hand, and weakness of labour governance on the other. The paper suggests that despite introducing mechanisms that are pertinent to prevention of trafficking especially with relation to the regulation of informal labour, migration inter-country and portability of social security, the scope of the Indian Labour Codes is limited due to weak implementation, limited accountability of supply chain actors and lack of integration with rural livelihood frameworks. The research concludes with the observation that effective enforcement of labour standards, as well as accountability of supply chains, all have the potential to radicalise anti-trafficking interventions from an episodic rescue operation to a prevention, structural approach to labour governance.

Labour trafficking is one of the most widespread and yet structurally under recognised forms of labour market exploitation in the modern labour market. In contrast to trafficking of sexual exploitation, which has been the focus of policy, legal and other attention, labour trafficking has often been hidden in the everyday employment relations, particularly in those sectors where informality defines markets,



subcontracting, and seasonal or circular migration. Within the Indian context, this kind of exploitation is often normalised through common phases of recruitment into labour markets that distort the boundary line between willing movement of labour and forcible or manipulative movement of the labour force and thus give way to the disguising of presence of trafficking in the legal economic market.

The development of law and institutional action against trafficking in India has historically been influenced by the law and administration systems on criminal issues and rescue mechanism. The identification, rescue and rehabilitation of trafficked people are availed through statutory mechanisms of identifying, rescuing and rehabilitating trafficked individuals including the IPC, Abolition Act of 1976 and sector-related welfare legislations. Although these interventions cannot be done without to protect victims, they are largely post facto and do not have much when it comes to dealing with an economic and regulatory situation that allows trafficking networks to thrive.

In 2019-2020, the integration of four Labour Codes into the existing labour regulation system was a major reorganisation of the Indian labour administration framework. The Labour Codes, which are being touted as tools of simplification, rationalisation, and universalisation, also cast pertinent doubts to the applicability to prevention of labour trafficking. The paper analyses that the purpose of these Codes is open to question to determine if they can serve as preventive regulatory measures that can interrupt the operations of trafficking at the outset and not be apart in the reality of lives of informal and migrant labour.

## 1.2 Research Area and Context

The study lies between the field of labour law, human trafficking, informal labour regulation and global production networks with the concentration on rural Jharkhand. The state of Jharkhand has always been differentiated as a source state of labour trafficking especially in populations of Scheduled Tribes due to structural deprivation, alienation of land, and the long term insecurity of livelihood. Karra and Silli in Ranchi District and Khunti District are blocks that can demonstrate these weaknesses with the migration rates being extremely high due to the lack of means of livelihood and being trapped in informal labour markets.

These blocks act as labour-sending locales in both national and transnational supply chains that require low-cost flexible labour which is easily replaced. The introduction of workers in those areas into the multidimensional networks of subcontracting clouds the responsibility and erodes the regulation. A way of understanding labour trafficking in these places of origin hence needs to take us out of individual



victim activates and into the systemic governance failures hidden in labour regulation and supply chain organisation.

### 1.3 Review of Literature

The second line of literature places labour trafficking in the context of wider trend of distress migration and informal labour hiring. Seminal works by Jan Breman (1996, 2013) and A. K. Kundu (2009) are studies of seasonal and circular migration in India that show how agrarian distress, land alienation and uneasy rural employment are forces that have pushed workers into precarious labour. Articles by Neetha N. (2009) and Mazumdar et al. (2013) also involve the use of contractors, middlemen, and informal placement agencies in exploiting workers, especially on construction, brick kilns, garment manufacturing, and household services.

The more recent ethnographic studies such as the one by Lerche (2010) or Phillips (2013) problematise such a strict separation between what is considered to be free and what is considered to be unfree labour exposure, presenting the interplay of consent and coercion in the migration paths. Although this literature is rather sensitive towards workers' agency and vulnerability, it tends to take the labour law as a sideline and more emphasis is on socio-economic factors which determine migration. Consequently, the theory of sufficiency of the regulatory capacity of the labour institutions to bar trafficking is under-theorised.

A third-emerging body of research proposes labour trafficking as a part of the global political economy and supply-chain governance systems. Such a routine of accumulation of capital of capital such as Alpa Shah, Jens Lerche, and Barbara Harriss-White (2013) maintain that the practice of unfree labour in India occurs under neoliberalism. The same is illustrated by Genevieve LeBaron (2014) and Skrivankova (2010) about the transfer of labour risks to informal workers through outsourcing, subcontracting or minimising costs in global supply networks.

On the Indian context, Srivastava (2020) associates forced labour with informality and weak labour inspection regimes. Nevertheless, most political economy studies inadequately address domestic labour law changes, even within their robust structural understandings- especially the consolidation of labour protection of Four Indian Labour Codes. This makes them not evaluate the extent of how dilution or gaps of enforcement of the regulation could actively promote conditions of trafficking.



#### **1.4 Theoretical Underpinning: Labour Trafficking and Structural Vulnerability.**

Labour trafficking should be seen as a process and not as an event. The concept of trafficking as interpreted in the Protocol of Palermo was the acts, means and purposes where the exploitation was based on the abuse of vulnerability. Poverty, landlessness, marginalisation by caste and tribe, combined with the lack of social safety is a structural creation of vulnerability in rural India.

Structural vulnerability theory emphasizes the fact that legal and economic structures put in place a precondition according to which preyness becomes ordinary, but not extraordinary. In this view, the issue of labour trafficking is not the exception, but a natural consequence of lax labour regulation.

#### **1.5. Methodology and Use of Secondary Data:**

The research developed in this study utilizes a non-doctrinal analytical research design that is supported by the doctrinal legal analysis. It is based purely on the sources of secondary sources, such as:

- India census of migration and work Housing census;
- Ministry of Labour and Employment -reports;
- Labour Codes- Parliamentary Standing Committee reports;
- NCRB crime statistics;
- Documents of the ILO, UNODC and NHRC;
- The decision of Supreme Court and High Court;
- Peer-reviewed academic literature

Contextual reference points, which are based on recorded migration and trafficking patterns, are Karra and Silli Blocks.

#### **2.Introduction to the Labour Codes in India and the way they interact with Labour Trafficking.**

The harmonisation of the Indian labour laws into four all-inclusive labour codes was introduced as one of the key reforms to ease the regulation, enhance compliance, and grant labour protection to the fast evolving workforce. Actions of labour trafficking, though, would suggest that such Codes are not only relevant based on the textual delegations that they promise but on how they operate in mitigating the structural vulnerability of informal, migrant, and precarious employees-groups that empirical research has continuously shown as the most vulnerable to trafficking and forced labour. Although the Codes bring some progressive aspects, the general structure still favours formal employment relations and



therefore has limited the ability to address trafficking that is a part of the informal labour markets and distress migration systems.

## **2.1 Wages Code, 2019**

The Wages Code, 2019 marks a kind of a shift in the history of wage regulation where four key enactments are included, and the relevance of minimum wages and timely payment of wages to all workers are reconstituted., regardless of industry or wage limit. Theoretically, such an act of universalisation is especially important to traffic labour, as minimum wages and timely remuneration and wages are core aspects of traffic and forced labour organization. The Code aims to prove a balance between the rightful and unspoken differences between formal and informal workers by removing sectoral exclusions.

Nonetheless, there is still a limited practical utility of the Code to prevent wage-based exploitation. Also, the system of enforcement still depends on inspections and complaints, which are most likely to be inaccessible to trafficked and heavily exploited workers because of retaliation, debt bondage, and mobility restrictions. Moreover, a clear connection between violation of wages and the signs of trafficking remains missing, and systemic underpayment may be regarded as a regulatory offense, instead of a possible indicator of forced labour and coercion. In informal labour sectors, including construction, domestic, brick kilns and garments construction, minimal wages are often a mere paper formality, which facilitates traffickers and mediators to take advantage of this vulnerability and keep exploiting labour by misleading recruitment and distorting wages.

## **2.2 Industrial Relations Code, 2020**

The Industrial Relations Code, 2020 brings together laws related to trade unions, standing orders and industrial dispute resolutions. The existence of identifiable employer-employee relations, stable institutions and collective bargaining has formed its normative system, but provides little safeguard to those workers meeting through contractors, labour intermediaries or informal networks of recruitment in which labour trafficking is most common.

Anti-trafficking, the narrow conception of industrial relations in the Code locks out large sections of the workforce to any serious voice and every purpose of grievance redress. The fact that informal and migrant workers frequently do not have written contracts or even a clear identification of their employers makes them essentially out of the institutional apparatus of dispute resolution, which makes them vulnerable to exploitation by traffickers. Furthermore, the inability to strike and increased compliance



standards in order to achieve union status can further relegate precarious workers, which, in turn, enables the existence of an environment in which trafficking and forced labour will flourish with barely any oversight.

### **2.3 OSHW Code, 2020**

Occupational Safety, Health and Working Conditions Code, 2020 is particularly applicable with regards to the fact that the trend of labour trafficking takes into account the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. The provisions in the Code involved registration of the establishments and migrant workers, management of the working conditions, and duties of the employers in respect to the welfare and safety that could impose more control to the labour mobility and places of work, which are important points in the trafficking chains.

Nevertheless, the dilution of the degree of compulsory registration requirements and broad discretion provided to the governments in the development of the regulations have defeated the protective aim of the Code. In practice, the majority of migrant workers continue to apply an informal recruitment where the workers are not registered and documented and trailed hence making it very hard to trace the flow of the workers and the exploitative nature of the process. Due to this, it will remain that applicability of the Code to prevent trafficking will remain subject to administrative capacity and political goodwill which may vary across states.

### **2.4 Social Security Code, 2020**

The introduction of unorganised, gig, platform, and migrant workers as beneficiaries of social security schemes is an important change in normativity. It presents the benefit portability concept that applies particularly to migrant workers since their non-coverage by the welfare systems makes them more dependent on their employers and middlemen. Access to social security may serve as the preventive to trafficking by lowering the vulnerability of poverty, illness, and income insecurity.

The Code implementation has however been limited by structural and technological barriers. Digital registration policies, ignorance and documentation deficits preferentially lock out trafficked, informally employed workers, and further weaken dependency instead of empowering the recruitment agents or employers with workers. Thus, although the inclusion of social protection in the Code is symbolic in accepting that workers are at risk of being trafficked, the operationalisation does not represent comprehension of what the actual lives of the workers could be like.



### **3. Jharkhand Labour Trafficking Structural Drivers.**

The state of Jharkhand (eastern India) has continued to be a focus in secondary data and academic literature as being one of the high-risk areas of labour trafficking and exploitative migration. This can hardly be ascribed to chance but it is an attribute of a long-standing structural inequality and socio-economic vulnerability embedded within the political economy of the state. The phenomenon of labour trafficking, which implies the recruitment, transportation, and exploitation of individuals as forced labour, debt bondage, and other manifestations of modern slavery cannot be viewed in any way outside of the context of systematic factors that influence risk and mobility patterns and vulnerabilities in Jharkhand.

### **4. Agrarian Distress and Poverty of Prolonged Durability.**

The issue of Agrarian distress is one of the key structural forces that support mobility and trafficking risk in Jharkhand. Smallholders or landless labourers form much of the rural population, entrenched in vulnerable agrarian bases, with the inability to produce sufficiently, insufficient ecological sustainability and absence of investment limiting agricultural incomes. Most of these villages are characterised by chronic poverty and in this case a crop failure, poor irrigation and market withdrawal keeps the poor in a state of indebtedness and food insecurity. The studies of remote villages in India which bear many similarities with rural Jharkhand reveal that migrants are typically of chronically poor, marginalised communities where migration is a common survival or risk coping mechanism and heavy supply of exploitable labour .

#### **4.1 Migration: A Surviving Strategy:**

Migration is nearly the survival mechanism in situations where there is a lack of local job opportunities. Empirical studies in Jharkhand migration indicate that migration is seasonal, ephemeral and long-term migration patterns, which are connected to labour demand of cities and agricultural seasons. These migration processes are usually facilitated by non formal recruiters and contractors not under the control of a regulator, who provide assurances of work in areas like construction, brick kilns, domestic work and plantations, migration pathways themselves eventually become a source of exploitation, as migrants find themselves in precarious labour markets not having the slightest idea of the dangers they are about to face.



#### **4.2 Indebt and Informal Credit Networks.**

Another common aspect of an agrarian economy in Jharkhand is that it depends on informal credit groups. Moneylenders lend money at high-interest rates to households that often use it to cover the agricultural shortfalls or to purchase items on daily consumption. These debts turn into a form of coercion in cases when families pledge labour or children in collateral which puts them in the situations of bonded labour or exploitative recruiting. The international and national studies concerning child labour and trafficking show that poverty and indebtedness are key factors in the supply of source household labour especially at the weak and inaccessible state of formal credit and social support systems .

#### **4.3 .Woodland Management and Livelihood Exclusion.**

The large forest cover in Jharkhand which used to be a livelihood source of the local population has in recent years been taken over as a government-restrictive area as opposed to a productive one. Strict control over forest resources based on conservation and revenue regimes has limited access to non-timber forest products, grazing and other traditional methods of livelihood to the tribal and forest dependent societies. These limits have corroded local safety nets and in turn households have to rely on seasonal or long distance migration of workers. As studies point out, not having access to forests as a source of livelihood, as well as limited access to land and resources, creates economic insecurity and increases the vulnerability to exploitative labour practices .

#### **4.4. Unformalised Recruitment Networks and Labour Brokers.**

The intermediaries and contractors, informal labour brokers, are very important in the chain of trafficking.. Social networks are prevalent in Jharkhand where local recruits typically operate and misuse information asymmetries in regard to labour opportunities beyond the state. They offer transportation, housing and initial wage advances to prospective migrant workers, although the advances usually come with a debt facility making slaves with exploitative labour contracts like brick kilns or domestic service. These are informal forms of recruitment that are not subject to any form of labour regulation and enforcement, which further reifies the under lift of vulnerable migrants and their frequent deficit of bargaining power .

#### **4.5 Gendered Vulnerabilities**

The marginalised females and female children in the economically disadvantaged families are at increased risks. Through feminisation of migration, where there exists low rates of employment at home



translate into women being ready to take insecure household or care jobs in cities where they are not fully safeguarded by labour laws and are hence vulnerable to exploitation. Female migrant workers in Jharkhand. Evidence on female migrant workers in the state of Jharkhand indicates that systemic gender blindness in labour law regimes, where domestic workers and casual workers (majorly women) are not adequately protected, this forces women to remain dependent on recruiters and dangerous migration pathways .

#### **4.6 Climate Change and Environmental Shocks.**

Recent studies highlight the interaction of climate variability and environmental stressors, e.g. drought, unpredictable rain, and soil degradation, and socio-economic vulnerability to result in greater migration pressure in rural Jharkhand. The gradual nature of the climate disruptions compromises the livelihoods of locals, declines agricultural productivity, and heightens food insecurity, as a result of which more people depend on migration as a source of livelihood and survival. Under such circumstances, families can opt to engage in a type of migration referred to as distress migration, which has a strong relationship with higher risk of being trafficked and forced labour .

The labour trafficking originates in Jharkhand cannot be mitigated to a few instances of recruitment or even criminal agency. It is a combination of profound structural imbalance, such as persistence of agrarian crises and indebtedness, gendered labour markets and environmental stress that causes an unsafe migration environment and labour exploitation. It is important to note that such structural drivers require policy responses that are not merely punitive anti-trafficking policies, but provide solutions to the vulnerability endogenous factors, such as better livelihood access in rural populations, labour protocols, access to lending opportunities, and regular migration pathways under regulatory supervision.

#### **5. Labour Intermediaries & Informal Recruitment Schemes**

Labour intermediaries occupy the very important but discretely screened location in the spectrum of labour trafficking in India. In states like Jharkhand, the recruitment hardly in any case is through formal labour contractor recognised under statutory frameworks. Instead, intermediaries are injected into the fabric of ordinary social relationship - as neighbours, relatives, village acquaintances or informal "placement agents", thus blurring the difference between trust and coercion. Their close proximity of their positions in society enables them to attract workers with a low degree of resistance and often pass migration off as an act of assistance and not one of employment mediation.



That these intermediaries are different from the legally recognised contractors is not only informality, but strategic invisibility. By not having written contracts, not demanding registration and not recognising any connection as "employer-employee relationship", they escape the definition identification of "contractor" under current labour legislations and the Labour Codes. This is creating a serious regulatory vacuum, in which recruitment practices that are coercive in nature are legally untraceable in form. As a result accountability is pushed downwards to workers themselves and intermediaries operate with near impunity.

Socio-legal examinations of migrant labour have shown that at times intermediaries fund advance to make the trip or loans for subsistence that later are the instruments of control<sup>4</sup>. Workers recruited through such networks have often arrived in destination worksites and will already be in debt, which potentially limits their ability to get out of exploitative conditions. This type of debt-mediated recruitment does not necessarily include the element of deception, in the more cases is this recruitment perpetuated by unequal power-bearing and lack of access to meaningful alternative at the point of origin. Consequently, trafficking appears on the other hand, not as isolated criminal activity, but structurally normalised labour practice.

The Labour Codes in spite of their avowed objective to simplify and consolidate, fail to adequately deal with this reality. Their focus on more formal employer-employee relations assumes the existence of identifiable contracting entities, which cuts out the informal networks by which the neediest of workers are recruited. As a result of this omission, a significant part of the trafficking economy is legally unintelligible.

## **6. Labour Trafficking and Global Supply Chains:**

Contemporary labour trafficking has to be understood in the context of the structure of global and national supply chains, in which subcontracting and labour flexibilisation is a key organising principle. Production processes-Especially in construction, garments, brick kilns, mining and domestic work-are getting more and more fragmented through more levels of contractors and sub-contractors. Such fragmentation enables the main employers to distance themselves with labour conditions on the lowest part of the supply chain, and be able to still reap the economic benefits.

Global supply chain governance is focused on cost efficiency, speed and flexibility and work is often sacrificed in favour of labour protections. Within such systems, rather than being anomalous, there is something absorbable about trafficked labour, but rather is structurally absorbable. Because



responsibility for wages, working conditions and recruitment is spread out amongst various layers of intermediaries, exploiting facts are hard to attribute to any one legal entity. This diffusion of responsibility is, in effect, an externalisation of labour costs, and thus places the burden of the risk on the workers for whom there is neither visibility, nor voice.

The researcher have recognised the fact that trafficking within supply chains is often not a case of being physically confined or being subject to overt violence. Instead, it employs subtle forms of compulsion - by withholding one's wage, restricting one's mobility through debt or through threatening one with dismissal without receiving wages. These practices thrive precisely because supply chain governance frameworks are concerned with the compliance of contracts, rather than the reality of labour on the ground. Even structures of corporate social responsibility lean towards models that value audit-based programmes that do not take account of the informal recruitment or undocumented labour structure.

In the Indian context this problem is made worse due to weak enforcement of labour standards and exclusion of the informal workers from proper legal remedy. The fact that strong due diligence requirements for lead companies do not exist allows the possibility of including exploited by trafficked labour in processes without the immediate liability of the companies which employ them. As a result of this, trafficking is made structurally invisible, although it is of economic indispensable.

## **7. Judicial Interaction on Exploitation of Labour**

Indian constitutional jurisprudence has done a great deal in widening the conceptual ambit of forced labour and trafficking. Article 23 of the Constitution that outlaws traffic in human beings and forced labour has been construed by the Supreme court to mean not just a negative injunction, but an obligation of state positive in nature. In *People's Union for Democratic Rights v UOI*, the Court refused to accept categorically a restricted conceptualization of force by stating that labour extracted by taking the workers under the conditions of economic compulsion amounts to forced labour within the meaning of Article .

This interpretation had led to a jurisprudential move in recognising coercion does not have to be physical or overt per se. Poverty, unemployment and lack of alternatives were recognised as conditions which could vitiate consent. Subsequent decision like *Bandhua Mukti Morcha vs Union of India* again reiterated upon this facet and has stated that the constitutional protections go way ahead of it from the social realities and cannot be restricted to formal contract.



Woefully, in spite of this progressive jurisprudence, there is a serious gap which exists between the ideals of the constitution and the implantation of the ideal on the ground. Judicial interventions are in most cases public interest litigation and episodic rather than systematic institutional reform. Cases of labour trafficking are still scattered in the criminal law, labour law and welfare frameworks causing ambiguity of jurisdiction and poor enforcement. Thus, despite very solid normational foundation for recognition of labour exploitation as violation of the Constitution by Indian courts, lack of harmonised machinery for their enforcement does limit the transformative potential of this jurisprudence.

## **8. Critical Review of Labour Codes from an Anti-Trafficking Perspective**

The recent consolidation of India's labour legislation under the singular banner of the quartet of Labour Codes have been rationalised, to a considerable degree, on the imperatives of business facilitation and regulatory efficiency. Viewed through the prism of anti-trafficking, however, this reform seems to amount to some kind of recalibration of normative priorities in which the facilitation of the market becomes an ever more evident auxiliary to the protection of the workforce. The Codes insofar as they conceptualise labour relations are largely framed through the lens of formal employment and identifiable contractual arrangements; thus, unquestionably there is an implicit marginalisation of informal and intermediary driven mechanisms of recruitment which are most often used in the mobilisation of trafficked labour.

A salient weakness of the Labour Codes is that they do not expressly provide for anti-trafficking obligations imposed upon the employers, contractors or the principal employers. Although the Codes bring together the law relating to wages, social security and industrial relations, they remain conspicuously silent on the issues relating to recruitment - stage abuses, debt - based hiring and intermediary mediated coercion. These lacunae are further obscured by the erosion of inspection regimes in the context of risk-based assessment models and mechanisms for self-certification - an approach that practically destroys and weakens the ability of the State to proactively enforce compliance. In sectors with the typical features of layered subcontracting and pervasive informality, exploitation is not easily detectable by means of documentary non-compliance with the Labour Codes, and so the ability of the Codes to prevent exploitation is substantially weakened, with intervention usually taking place long after the damage has already been done.

### **8.1.Accountability Deficits in Supply Chains**



It is a well-established conclusion in secondary scholarship that contemporary supply chains are wracked by a particularly acute lack of accountability, especially when labour exploitation occurs within subcontracted or informal production units. Leaders of such supply chains exert significant economic control over both pricing and production timelines, as well as quality standards, but they are legally insulated from responsibility for violations committed by suppliers or labour contractors. This bifurcating relations between economic power and legal responsibility enables principal enterprises to externalise risk, while retaining profits to normalise the practices of exploitation on labour.

Current labour regulatory frameworks, domestic and transnational, are based primarily on a direct employer-employee relationship and, as a result, are unfit to address the fragmented models of production that have nowadays become prevailing. As a result, workers from the bottom of supply chains, especially migrant, informal and women workers, are left without any means of redress against the very firms that exploit their labour. This regulatory vacuum is, however, far from a mere incidental flaw of this system, but is an active strategy that facilitates labour trafficking through the possibility of recruitment via intermediaries that escape control and be almost totally imputative.

In the absence of binding obligations such as mandatory human rights due diligence CSR initiatives are for the most part voluntary and unenforceable, less about mechanisms of accountability and more about reputational shields. This is why trafficking continues to occur, not only because of weak local enforcement, but also because the systemic design of global and domestic supply chains bury responsibility and diffuse legal culpability.

## **8.2 .Policy and Institutional Issues**

One of the most persistent issues of labour exploitation and trafficking is the inter-departmental fragmentation in labour, migration, home affairs and social welfare institutions. These bodies are routinely silos that lead to overlapping mandates, lack of clarity of jurisdiction and delayed responses in combatting cases involving migrant and trafficked workers. Lack of coordinated institutional framework affects the efforts of prevention and rehabilitation especially along the high risk migration corridors.

Compounding this problem is the severely limited capacity of labour inspectorates, characterised by chronic understaffing, inadequate training, and territorial reach. Inspectors are also all too often bound to monitoring vast, complex networks of subcontracting schemes, with no access to reliable data on the methods of labour recruitment and on interstate migration flows. This deficit is particularly acute in



industries based on informal labour, in which inspection is sporadic, and in which violations regularly go unrecorded.

Equally important is the absence of coherent data systems that can trace the movement of workers across states and sectors. Migration data, rescue data, and labour inspection data are kept by different agencies with incompatible formats, and prevent the tracking of trafficking patterns and repeat offenders. Without interoperable data bases and real time data sharing, policy responses remain reactive, rather than being proactive for deterring, preventing, and cracking down on the re-emergence of exploitative labour relations values after rescues or interventions by the labour inspection machinery.

Collectively, these failures of policy and institutional neglect to engage with the problems of labour governance point not only to the manifested inefficiencies of administration; rather, they reflect a more fundamental structural failure of neglect to labour's issues, a deficit that runs throughout the very fabric of market-driven development. Unless such systemic gaps are filled in by better coordinated governance, increased enforcement capacity, and accountability mechanisms that reach all the way to lead firms, efforts to combat trafficking will remain fragmented and ineffective.

## **9. Comparative and International Operations**

A comparative look into international labour governance frameworks shows a significant re-orientation of the conceptualisation and policy response to labour exploitation and labour trafficking. Rather than as a criminal aberration to be rectified retrospectively, the prevention of forced labour and shared responsibility and due diligence amongst supply chains has become more prominent in contemporary international instruments. Key frameworks including the ILO Forced Labour Protocol, 2014 and the UN Guiding Principles on Business and Human Rights (UNGPs) reflect the shift and place forced labour within the normal operation of labour markets and address the economic, institutional and governance conditions that allow exploitative practices to continue.

The ILO Forced Labour Protocol, 2014, goes beyond the traditional obligation to criminalise forced labour by giving equal importance to the preventive governance. It requires States to reinforce labour inspection systems, to control recruitment practices and to ensure certain protection of migrant workers, recognising that forced labour often occurs within formally lawful labour markets. This understanding is especially important in situations where the structure of employment relationships is through subcontracting and mediated through informal labour intermediaries. In countries like India where labour brokerage and a fragmented system of production are an integral part of labour market



organisation, the preventive orientation of the Protocol constitutes an important corrective against enforcement strategies that focus largely on rescue and prosecution.

A similar concentration on structural accountability is shown by the UN's Guiding Principles on Business and Human Rights, which provide an expression of the corporate duty to respect human rights through robust (or double) diligence. The UNGPs go beyond the duties of direct employment relationships with direct employees to also include subcontractors, suppliers and labour intermediaries running along the supply chain. Although not legally binding, the UNGPs have had a significant normative influence on domestic legal systems, most notably through the adoption of mandatory legislation on human rights due diligence in jurisdictions including France and Germany. The developments underpin the increasing understanding that labour governance cannot be limited to enterprise level compliance or territorially circumscribed regulation, especially in economies which are so deeply embedded in global and domestic production networks.

For Indian labour governance these comparative and international developments have important implications. They raise awareness of the shortcomings of the existing fragmented labour regulation and call for a more interconnected regulatory framework connecting labour law, rendering migration governance and social protection. More fundamentally, they question the tendency to understand trafficking as a criminal phenomenon that is exceptional rather than situated in labour markets of informality, precarity and diffuse accountability. This reframing lends support to the need to move towards anticipatory and preventive versions of labour regulation, institutions based on attempting to address exploitation at its structural roots, rather than dealing with it only after violations have taken place.

## **10. Reimagining Labour Law as anti-Trafficking Law**

This part strengthens the argument that labour law needs to be reconceptualised as a frontline anti-trafficking mechanism, rather than considered to be a neutral instrument for regulating economic exchange of Comparative & International Operations. Instruments such as the ILO Forced Labour Protocol (2014/24) and the UN Guiding Principles on Business and Human Rights (2008) put prevention, due diligence and risk minimization in systemic approach to the issue of forced labour at the centre of labour markets. These frameworks intentionally direct the analytic focus away from retrospective post hoc examination of victim centred. Model of a discrimination failure focused on shifting nouns and verbs to a future perspective while making their content future-oriented in a pragmatic imperative designed to question and change the structural conditions in which forced labour occurs.



Reimagining labour law from an anti-trafficking perspective requires moving power, vulnerability, and structural coercion to the foreground as key regulatory concerns. This would involve bringing the issue of labour governance upstream at the recruitment point, tightening the regulation of labour intermediaries, and making trafficking prevention a routine part of labour inspection and compliance mechanisms. Labour protections would thus function not simply as welfare entitlements but preferably as labour privileges against unfree labour relations.

A reconceptualisation of this kind has significant institutional implications. It entails greater integration between labour departments, anti-trafficking units and migration governance structures and moving away from (compartmentalised) legal responses. Importantly this is in line with the jurisprudence of the Constitution of India under Article 23 which recognises exploitation due to economic compulsion as a violation of Fundamental Rights. Viewing labour law as anti-trafficking law thus does not introduce a foreign normative agenda but is what operationalises existing constitutional commitments, in everyday regulatory practice.

## **11. Redefining Labour Law as Anti Trafficking Law**

This section enlarges this argument by arguing that labour law must be reconceptualised as a frontline anti-trafficking mechanism, rather than being treated as a neutral mechanism for regulating wages and conditions. Traditional labour regulation has often subordinated its protective and redistributive roles in favour of economic efficiency and industrial peace. In the context of high levels of informality, this limited conception introduces the problem that labour law is in a position to respond to the problem of severe forms of exploitation which fall below criminal thresholds but involve coercion, deception and dependency.

Trafficking, especially for labour exploitation, often takes its form in proper lawful work agreements - advance payments, bound housing, long working hours, wage withholding - none of which is inherently unlawful by itself. It is only together, through a labour law framework sensitive to asymmetries in power relations, that their coercive nature becomes apparent. This highlights how important it is that labour regulation be seen not as bullet-pointed economic regulation, but as a rights-based regulation which has the potential to interrupt exploitative labour relationships before they crystallize into trafficking.

Reimagining labour law in this way entails bringing the protective function of labour standards to the fore especially for migrant and informal workers who are structurally excluded from collective



bargaining and legal remedies. It means also recognising labour inspectors, welfare boards and local institutions of governance as key actors on the frontlines of anti-trafficking, and not just deferring trafficking to the domain of criminal law enforcement.

## 12. Conclusions & Recommendations

This doctoral inquiry provides the basis for determining that labour trafficking in India cannot be understood meaningfully and successfully through a narrow criminal law lens. Drawing on a non-doctrinal analytical research design, supported by doctrinal legal analysis and extensive reliance on secondary data, the study will demonstrate how encountering new realities, trading in the Karra and Silli Blocks of Jharkhand is the product of a convergence of structural socio-economic vulnerabilities, migration driven by distress and regulatory absences within labour governance. Rather than functioning as an aberration, trafficking is seen to be a predictable result of labour markets shaped by informality, asymmetrical bargaining power and feeble state oversight.

In terms of the first research objective, the study finds structural vulnerability as the main enabling situation for labour trafficking. Based on evidence derived from the Census of India migration data, NCRB crime statistics, and reports of the Ministry of Labour and Employment, per read together with documentation created by the International Labour Organization (ILO), the United Nations Office on Drugs and Crime (UNODC), and the National Human Rights Commission (NHRC), it appears that labour trafficking is deeply embedded in the normal processes of labour recruitment and mobility. The extent to which recruitment through informal social networks takes place (which often occurs through relatives or neighbours) blurs the legal difference between consensual migration and coercion, and in the process, exposes the limitations of rescue-focused anti-trafficking responses.

Judicial interventions of Supreme Court of India and different High Courts especially with regards to bonded labour, minimum wages, and protection of migrant workers re-interfacial the constitutional obligation of the State to protect labour dignity under Article 21 and Article 23 of the Constitution of India. However, such interventions often remain isolated from standard processes and labour administration, reinforcing a structure that acts only on trafficking as an exceptional criminal transgression and not as an expression of the failure of governance at the systemic level.

With regard to the second research objective, the study establishes the fact that there are significant but under-utilised preventive mechanisms in India's Labour Codes: the Code on Wages, the Occupational Safety, Health and Working Conditions Code, and the Code on Social Security. Provisions



relating to the registration of establishments, regulation of contractors and inter-State migrant workers, universalisation and portability of social security and inspection and enforcement powers have the potential to act as ex ante safeguards against trafficking. However, examination of Parliamentary Standing Committee reports reveal persistent concerns that relate to implementation deficit, diluted inspection regimes and poor inter-departmental coordination.

Methodologically, the use of secondary sources in the study, which includes statutory texts, parliamentary resources, judicial decisions and international instruments, is favourable to the study of a triangulated, socio-legal analysis. When the concept of domestic labour control is established within the framework of international regulations, such as the ILO Forced Labour Protocol, and the UN Guiding Principles on Business and Human Rights the study shows that the forced labour control in the supply chain lacks binding property in the labour governance system in India..

In conclusion, this study argues that unless labour law in India is reconceptualised as a frontline instrument of trafficking prevention, anti-trafficking interventions will remain in a reactive mode of operation instead of conducting structural interventions. The empirical and legal realities of the Karra and Silli Blocks make clear that in order to make prevention effective, robust enforcement, worker-centred governance and seamless integration of labour regulation with supply chain accountability mechanisms must take place. Reimagining labour law in this way is not just a normative statement but is also a legal and institutional imperative for dealing with forms of exploitation of labour in present-day India.

## **12.1 Recommendations:**

### **1. Introduce Explicit Anti- Trafficking Duties within Labour Legislation**

Labour statutes should include express prohibitions and obligations concerning practices that resemble trafficking, such as debt bondage, recruitment deception, and forced retention of labour. Inclusion of obligations of this sort within labour legislation would allow for earlier intervention and would stem reliance on criminal prosecutions while also increasing some access to civil remedies for aggrieved workers.

### **2. Require the Registration and Regulation for Labour Intermediaries**

The systematic regulation of labour intermediaries is an important step to breaking the chain of exploitation based on recruitment. Requirements of mandatory registration, licensing and disclosure would increase transparency and enable the authorities to track recruitment chains that now operate



beyond regulatory control. These actions are in line with international best practices and ILO standards on fair recruitment.

### 3, Enhance Social Security Portability

Lack of access to social security entitlements that can be brought around with the migrant aggravates the vulnerability of migrant workers by raising their dependence on employers and contractors. Inter-State portability of benefits like health insurance, food security and accident compensation would lessen the availability of coercive pressures that facilitate trafficking.

### 4.Private Conduct: Improve Supply Chain Due Diligence Obligations

Legal frameworks should create binding supply chain due diligence obligations for lead firms, including identifying, preventing and rectifying labour exploitation across subcontracting networks. Such obligations, however, would bring Indian law in line with standards emerging in countries around the world and solving the gaps in accountability inherent to fissured workplaces. Smart Arguments proposal outlines steps for using a smart arguments model to "assess incentives for labour exploitation in the Indian apparel sector".

### 5..Improve Labour Inspection and Enforcement at the Local Level

Finally, labour inspection systems need to be strengthened by adequate staffing, specialised training and decentralised mechanisms of enforcement. Empowering local institutions, such as panchayats and urban local bodies, can help improve detection of exploitative practices in workplaces that are invisible in centralised models of enforcement.

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