

Title: Unfree Labor

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Abstract

The persistence and reproduction of unfree labor challenges our understanding of labor relations under capitalism. Some of those concerned with this phenomenon label it “new slavery,” but this implies that it had ended and has since returned. An analysis which instead takes into account different mechanisms by which unfreedom can be imposed in labor relations reveals otherwise. Unfreedom in labor relations, understood as an exercise of power, has taken a variety of forms which vary over time and space. This entry discusses the definitions of unfree labor, forced labor, new slavery and trafficking. It reviews debates around each of these within policy-oriented literature, the new slavery school of thought, Marxian perspectives and a new *critical studies of unfree labor* school of thought. It notes that there is room for labor geography to bring additional insights to the study of unfree labor and unfreedom in labor relations.

Main Text

Introduction

As of 2012, the International Labor Organization (ILO) estimates that there are 20.9 million people in some form of forced labor worldwide. Since in the early 2000s, advocacy around so-called “new slavery” has burgeoned alongside private and public anti-trafficking initiatives, contributing to renewed interest in understanding how and why unfree labor plays a role in contemporary economic dynamics. To date, the topic has not been widely studied within labor geography but some geographers are beginning to insist that it is in fact central to the questions that labor geography is concerned with (Strauss 2012).

With respect to contemporary labor relations, three of the terms used above - “new slavery,” forced labor and unfree labor – are used as broad, overarching categories. These terms

overlap in many respects, and empirical examples may fit the criteria for more than one category. Yet it is important to distinguish among them and their respective definitions.

Firstly, for Bales (1999), the term new slavery denotes a relationship constituted by three elements: exploitation, violence (or its threat) and loss of free will. New slavery is thus not limited to institutions such as chattel slavery. Rather, it encompasses a range of relations and is therefore closely aligned with concepts such as unfree and forced labor. Those in the new slavery school of thought tend to align with the work of Bales and the above definition of new slavery. While the literature on new slavery has arguably helped draw attention to the issue, it has also been faulted for describing a wide range of contemporary practices through the use of a term (slavery) normally associated with a much narrower set of historical practices.

Secondly, forced labor is mainly used as a politico-juridical term, a key reference for which is ILO Convention No. 29 (1930). The convention sets out two elements of forced labor: involuntariness (or a lack of consent) and the menace of a penalty. The ILO has interpreted initial consent as nullified, however, in instances of fraud, deception, or retention of identity documents. In 2012, the ILO published a set of indicators as guidance for interpreting the two elements in practice. (ILO publications on the topic are listed here: <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>.)

Finally, the term unfree labor is generally used by those, including but not limited to Marxist scholars, seeking to understand its role within the wider economy. Unfree labor is understood to involve labor which: a) is used by someone other than the person providing it – i.e., an employer; but b) is obtained without allowing workers the type of “free” choice they are believed to exercise in “normal” labor markets. From a Marxian perspective, unfree labor within the context of capitalism is therefore doubly dispossessed: workers in unfree labor have neither access to the means of production nor the ability to personally commodify their own labor power.

Marxist theorization of unfree labor

Marxian scholarship theorizing unfree labor pre-dates the interest in the topic that has emerged over the past decade. Marxists interpret the “freedom” to participate in a labor market as masking the fact that workers are forced to sell their labor in the first place, having been dispossessed or “freed” of the means of (re-)production. Understood in this way, “free” labor has been central to Marxist understandings of capitalism as a class system. The fact that unfree labor, lacking even the opportunity to participate in a labor market, continues to exist under capitalism has been thus been contentious. The primacy of “free” labor as the core feature of capitalism has led to numerous debates among Marxists from the 1970s onwards, hinging on the extent to which the existence of unfree labor indicates a non-capitalist mode of production.

One Marxian explanation of unfree labor in the context of capitalism lies in theories of primitive accumulation. These posit unfree labor as part of the process of dispossession that

paves the way for capitalism. Another explanation is semi-feudalism, which treats unfree labor as evidence that a transition to capitalism is still underway. Both explanations have been challenged as over-reaching by Marxists who argue that unfree labor appears to be compatible with or even produced out of the dynamics of capitalism. While it may be possible to understand primitive accumulation as an *ongoing* process resulting from capitalism's continued *expansion*, semi-feudalism appears to have few proponents today.

Miles' work takes a slightly different approach. He examines how forms of unfree labor – indenture, slavery, convict labor, forced indigenous labor, domestic servitude and labor in the apartheid system – may be *articulated* to a capitalist mode of production, or connected to it through economic relations. According to Miles, unfree labor may be reproduced as a means of maintaining the conditions for capitalism to function. Miles points to historical contingency, racism as a relation of production, and the state's role in mobilizing labor within these articulations (1987). Finally, Brass' theory of deproletarianization sees unfree labor as emerging from class struggle – in which those seeking to exploit labor impose unfreedom as a means of curtailing the development of class consciousness and resistance among workers (1999).

Critical studies of unfree labor

Some recent work on the topic cannot be placed neatly into either the Marxist framework or the “new slavery” school and has therefore been referred to as constituting a new school of thought: *critical studies of unfree labor* (McGrath and Strauss forthcoming). Many scholars associated with this school have questioned binary approaches to policy and analysis which place concepts such as “new slavery,” forced labor and unfree labor in opposition to “free” labor. Such binaries are seen as firstly, depending upon a liberal notion of contract and secondly, treating unfreedom as an exception. According to this critique, widespread forms of exploitation, precarity, and degrading conditions of work are therefore portrayed as less pressing, rationalized through market ideologies in which workers are seen to have “chosen” this work. While the figure of 20.9 million workers in forced labor is shocking, for example, the vast majority of workers are, by virtue of their exclusion from this category, presumed to be “free.”

Marxian analyses of unfree labor are not equally subject to the above critiques, but the free/unfree binary may still be limiting. Social reproductive work involving unpaid labor provided by members of families and communities, for example, is integral to the capitalist economy but not commodified. It therefore does not fit neatly into either the “free” or “unfree” categories according to the definitions used above. Rather, the extent and nature of unfreedom within these forms of labor would need to be assessed through measures other than the degree of commodification.

While some scholars therefore reject terms such as forced, unfree or “slave” labor altogether, many hold that unfree labor represents one end of a spectrum of exploitation (see Lerche 2007). Building on this, a multidimensional view may allow for an assessment of

different types of (un)freedom as well as different conditions of work (McGrath 2013a). Moving beyond binary approaches means that all forms of labor relations can potentially be subject to scrutiny in terms of the extent and types of (un)freedom that characterize them and how this in turn structures the negotiation over conditions of work. Such an approach would necessitate a challenge to two key ideas which inform much popular understanding and also underpinning a considerable amount of academic analysis: first, the idea that chattel slavery is the ideal-type of unfree labor against which all other forms of labor are measured; and second, that workers in forced labor, unfree labor, and new slavery are entirely lacking in agency.

“New World” slavery and unfreedom over time

In the Western imagination, chattel slavery is generally seen as not only the most egregious form of unfree labor, but also as the “classic” form against which others should be measured. Chattel slavery was of course a critical institution in the development of colonialism and post-colonialism in the Americas. It can be understood as the institutionalized ownership of one person by another, in which this fictitious ownership is violently enforced and thus made real through what Patterson (1982) terms “social death.” (Other forms of slavery have existed which are not structured around property rights.) Historically, of course, chattel slavery in the Americas depended on forced migration of African peoples, and racialization was an explicit and core aspect of this system.

Seeing chattel slavery in the Americas as the ideal-type of unfree labor, though, engenders a somewhat ahistoric view which fails to recognize the variety of forms of unfreedom in labor relations. It is not uncommon for media reports on contemporary manifestations of unfreedom in labor relations to include phrases such as “slavery is back” or has “re-emerged.” Yet varieties of unfreedom can be identified before, during and after the period of institutionalized chattel slavery in the Americas, in the “New World” and elsewhere. In the UK and many former British colonies, for example, Master and Servant laws still structured labor relations in the 19th century, while vagrancy laws were used in many countries as a way to force people to stay in one place and work. “Free” labor as normally understood was therefore more the exception than the rule. And in addition to chattel slavery, colonial regimes also imposed penal transportation, facilitated indentured labor migration, depended upon bonded labor, and imposed forced labor for economic development projects. Nor were all of these practices immediately eradicated with the inauguration of post-colonial regimes. Across the aforementioned labor relations, there were different forms and degrees of choice over who workers would work for and where, how long they would work for them, where they could go and what relationships they could maintain “outside” of work.

This emphasis on chattel slavery also tends to be accompanied by abolitionist narratives (perpetuated through fictionalized historical portrayals, commemorations, and museum exhibits) which frequently downplay resistance and rebellions by enslaved people, instead emphasizing the actions of enlightened non-enslaved individuals who were involved in either abolitionist

movements or in national governments. The abolition of slavery is therefore commonly portrayed as part of a march of progress. Yet in many cases when chattel slavery was legally abolished, the expansion of free labor did not immediately follow. In much of the British Empire, legal provisions for “apprenticeships” effectively prolonged enslavement after the legal date of abolition. In the US, the convict leasing system that emerged in the South meant that former slaves were frequently imprisoned (often on groundless charges) and offered as cheap labor to local employers while dispossession also led to sharecropping arrangements for many former slaves. New or expanded systems of indentured labor emerged in many parts of the world after slavery was legally abolished, and practices of bonded labor continued. Albeit recognizing moment of sudden and dramatic change, some scholars seek to uncover historical continuities and evolutions as well, thereby countering the oversimplified notion that slavery ended and has since re-emerged (Quirk 2011; Kothari [2013](#)).

The question of agency and debates around trafficking

Underlying many of the debates around the terms and concepts described above and about the question of binaries, spectrums, or dimensions is another issue: the question of any agency (see Rogaly 2008). Much of the writing on forced labor and “new slavery” treats workers as lacking agency altogether – sometimes explicitly so. This lends credence to policy responses which are apolitical and isolated from wider issues of power and regulation. These solutions are often framed in terms of “punishment, protection, and prevention” but fail to account for the rights, needs and aspirations of workers. As a result, there is a poor record of progress in most of the world relative to the amount of resources dedicated to such efforts. Labor geography may have more to contribute here, as it is squarely focused on workers’ agency. Challenges to the idea that unfreedom equates to an absence of agency have been growing. Workers’ trajectories include various moments in which they exercise agency. Workers may initially seek work and/or migrate in an attempt to improve their social and economic circumstances, experience unfreedom, but then engage in struggles which result in improvements. These improvements may appear minor but nonetheless be significant. For example, workers may be earning incredibly low wages but may exercise agency in demanding some degree of health and safety protections.

Questions of agency and representations of “victims” as in need of rescue are particularly vexed in discussions of “sex trafficking.” Human trafficking has become a key policy concern since the early 2000s, particularly in the Global North, where it is frequently equated with contemporary “slavery” – overtly so by the US government. The ILO estimated in 2005 that (only) 20% of forced labor results from trafficking. As of 2012, they estimate that 68% of those in forced labor are working in the private economy in a range of activities *not* related to sexual exploitation, including construction, manufacturing, agriculture, and domestic work, with 22% in “forced sexual exploitation” and 10% in “state-imposed” forced labor. Nonetheless, trafficking garners more attention than other forms of forced or unfree labor, and there is disproportionate

attention given to the sex industry in particular. This is both reflected in and reinforced by the emphasis the media gives to trafficking, particularly sex trafficking.

The United Nations (UN) *Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* defines trafficking as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

According to the Protocol, trafficking may result in forced labor, slavery and “practices similar to slavery.” However, it also includes an ambiguous reference to “exploitation of the prostitution of others” as well as going beyond forced labor to include the practice of organ trafficking. Trafficking is generally understood to involve movement and/or a labor market intermediary and may involve workers crossing (or being transported across) national borders. It is frequently conflated with smuggling and unauthorized labor migration. But even where the definition is used precisely, discussions around trafficking are, in most countries, inextricably linked with debates around immigration. While some see restrictions on labor migration (within the context of contemporary neoliberal capitalism) as the principal reason that migrant workers are made vulnerable to unfreedom, political responses frequently start from the premise that reducing migration will reduce trafficking, and therefore promote even greater legal restrictions on labor migration.

The over-emphasis on trafficking – especially “sex trafficking” – over other forms of forced or unfree labor also creates a perception that trafficking, and by extension forced labor, affects mainly “women and children.” The coherence of placing women and children into a single category has been challenged (Anderson and O’Connell Davidson 2002). The ILO instead disaggregates by sex and estimates that 45% (11.4 million) of those in forced labor are men and boys, and have highlighted the issue in their 2014 report on the economics of forced labor. It has been pointed out that many stereotypes of women as helpless and in need of rescue are reproduced through the trafficking discourse (and to some extent through discourses on forced and unfree labor more widely). The degree to which the image of a stereotypical “victim” can be used to gain attention and resources is reflected in recent revelations that high-profile “victims” such as Somaly Mam’s stories were largely fabricated. Further, and echoing historical concerns over “white slavery”, there have been heated debates over whether all prostitution is “forced” (Doezema 2010). The US government, for example, positions itself as a global leader in the fight against trafficking through its annual Trafficking in Persons report and through distributing hundreds of millions of dollars in anti-trafficking funds worldwide since 2001. It requires recipients of these funds (and HIV/AIDS prevention funds) to take a stance against prostitution.

Thanks to a Supreme Court decision in 2013, the requirement no longer applies to US-based organizations but can be applied abroad.

In additions to laws, policies and government programs, an anti-trafficking industry has been spawned in which new or existing non-governmental organizations aim to raise awareness, prevent trafficking and/or provide services to those who have experienced trafficking. For many scholars, activists, and advocates, the resources and attention that have been mobilized under the guise of fighting trafficking in recent years have largely failed to prevent labor abuses or to advance migrants' rights. In fact, many argue that more harm than good has been done. This is based on the contention that anti-immigrant policy is more easily justified where governments are able to claim they have addressed concerns about trafficking. As anti-trafficking policy in particular often prioritizes prosecution over the needs of "victims", those identified as trafficked often receive little assistance and in some cases may even experience harm as a result of anti-trafficking efforts – e.g., as a result of police raids on brothels.

Rather than imagining situations in which workers' agency is entirely absent, then, it has been argued that a more useful starting point is to see unfreedom (and freedom) in labor relations as an exercise of power (McGrath and Strauss forthcoming). Restricting workers' options and mobility is in essence exercising control over labor (whether this is aimed at increasing the rate of exploitation, ensuring labor is available when needed at a low cost, or other reasons). The mechanisms through which this power is exercised vary across time and space. Further, no one moment is decisive: whether workers are able to participate in a labor market is not the only moment at which the balance between freedom and unfreedom will be determined. The exercise of power in labor relations is not just a matter of how individuals treat each other, for these dynamics are situated within wider political economic contexts.

Mechanisms of unfreedom in contemporary labor relations

The particular forms of unfreedom which are produced and reproduced in labor relations today are constructed out of contemporary socio-economic dynamics, not least processes of neoliberalization (LeBaron & Ayers 2013) and the fragmented and dispersed processes that characterize contemporary globalized and globalizing capital (McGrath 2013b). Exclusions from or weakening of labor regulations can create an environment in which unfreedom is more easily imposed. Labor migration resulting in part from economic change is generally matched with restrictions on workers' rights to employment if they migrate across national borders. And the power dynamics created through outsourcing and subcontracting in many global production networks can result in pressure on suppliers to reduce costs or improve productivity and flexibility while also partially shielding the most profitable firms from responsibility for the results in cases where workers endure unfreedoms and degrading conditions of work. Thus the dominant policy approach, which suggests reducing workers' vulnerability through education and anti-poverty interventions along with government implementation of legal initiatives that

target “slavery” and trafficking in isolation from the wider context of labor rights and labor regulations, is clearly inadequate.

While the aspects of neoliberalization and globalizing capital are one key aspect in producing and reproducing unfreedom in contemporary labor relations, the mechanisms through which this is achieved vary. Trafficking, bonded labor, and other categories seek to define particular *systems* of unfree labor associated, respectively, with a particular set of mechanisms by which unfreedom is imposed. Debt is a key mechanism, perhaps even the most common mechanism used today, and such debt is often clearly induced. Yet, in South Asia bonded labor is further intertwined with the caste system and caste discrimination. Processes of racialization which mark certain bodies as suited for more difficult or dangerous conditions of work and able to sustain themselves with lower levels of compensation play a role in justifying unfreedom in many contexts. In the case of trafficking, debt (often induced) also tends to play a key role, but so too does migration status (in itself racialized). And it is not just undocumented or unauthorized workers who face unfreedom in labor relations. In many cases, workers’ “legal” status ties them to an individual employer in that they are not allowed to change jobs under the terms of their visas. The *kafala* system in the Gulf States, Jordan and Lebanon is the prime example of this but some guestworker schemes and domestic worker visas in the UK, the US and elsewhere tie workers to their employers. This highlights the role of the state and the threat of state violence in structuring relations of unfreedom. Interpersonal violence and other forms of abuse by employers or labor market intermediaries are mechanisms by which unfreedom is enforced in some cases, but contrary to some analyses they are not the hallmark of unfreedom. Restrictions on physical mobility, sometimes independent of migration status (or residency status in the case of China’s *hukou* system), also facilitate unfreedom. Isolation, as a feature of some remote workplaces or as an intentional strategy, can contribute to restricted mobility. Threats may be used as well, and/or identity documents may be retained. But restrictions on mobility also include arrangements in which workers are housed in employer-provided accommodation.

A number of other forms of unfree labor exist today. The penal system may be the context for unfree labor. Child soldiers are generally considered to be unfree labor. Religious beliefs may be manipulated as a mechanism of imposing unfree labor. The *restavek* system in Haiti and similar systems elsewhere rely on (and manipulate) traditions in which extended family members would take in children of families who were struggling to meet their needs. The socio-cultural, economic, legal and institutional contexts therefore matter in terms of which mechanisms of unfreedom (and freedom) are available and to what extent. For this reason, different categories of unfree labor are constructed in particular moments and places, and systems of unfreedom in labor relations have changed over time. A number of scholars have described forms of “neo-bondage” in India today, for example, in which relations are less personalized than had previously been the case. There is, then, considerable space to further the study of unfreedom in labor relations from a perspective that is sensitive to temporality, space and place, and the relationships between movement and mobility.

SEE ALSO:

Labor Geography; Precarious Work; Rights, Labor; Labor Migration; Social Reproduction, Regulation/Deregulation; Gender, Work, Employment; Migrant Labor

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