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Migration Corridors – Governance at the Systemic Edge

By

Shikha Silliman Bhattacharjee

A dissertation submitted in partial satisfaction of the

requirements for the degree of

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in

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University of California, Berkeley

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Professor Calvin Morrill, Chair

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Abstract

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By

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University of California, Berkeley

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The three papers that comprise this dissertation contribute key building blocks for my analysis of migration corridors as critical spatialities with the potential to significantly rework our approach to global migration governance—including in legal, political, and scholarly discourses. The study is a multi-site ethnographic account of migration corridors—circuits of human mobility within and across national borders that are governed by nation states as well as transnational financial, political, and social forces. It examines governance of migration corridors traversed by migrant agricultural, domestic, and garment workers in relationship to three building blocks: (1) expulsions that propel migration (e.g. national/global patterns of uneven development, environmental devastation, corporate land grabs, and conflict); (2) junctions where disparate migration flows converge and are redirected, including urban production and service hubs, special economic zones (SEZs), and territorial borders; and (3) forces that direct migration flows (e.g. legal regimes, product and labor supply chains, securitization, patriarchal norms, and local processes shaped by women labor migrants, recruitment intermediaries, and kinship and social networks).

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Chapter 1: Introduction

Beyond borders, migration corridors

In 2020, an estimated 272 million people globally migrated internationally, with two-thirds of us migrating for employment (IOM 2020). These staggering figures, moreover, are incomplete since they exclude workers migrating from rural areas to urban centers and production hubs *within* countries, where an estimated 4.1 billion people or 55% of the global population resides (Ritchie and Roser 2019). In our contemporary global economy, uneven development propels migrants within and between countries, toward cities and production hubs where migration and global financial flows converge. As the market for cheap labor is globalized, increasing economic inequality within and across borders drives labor migration, forging migration corridors that traverse the globe. While in the past, migration overwhelmingly traced colonial and other historical links, contemporary migration is increasingly complex due to acceleration of global interconnections in communications, financial markets, technology, transport, and production (Czaika and de Haas 2014; Inda and Rosaldo 2008).

Despite this complexity, in the last thirty years, scholarly and political discourses on migration governance have maintained a near singular focus on borders. Borders have been generally viewed as both territorial limits defining political entities, and socially constructed boundaries establishing symbolic differences (Fassin 2011). This focus has generated powerful insights and political understanding in migration studies and across the social sciences and humanities—honing in on territorial and imagined limits of inclusion and exclusion as key sites of migration governance. When interpellated by either nationalist political agendas on one end of the spectrum; or international geopolitical agendas—such as the United Nations Global Compact on Migration and World Trade Organization—on the other, border-centric political discourses on global migration governance manifest in projections of migration as a threat, or an idealization of temporary labour migration in its most dominant global form as tied fixed term employment (Pécoud 2021). As a result, contemporary state interventions in migration processes overwhelmingly attempt to control, prevent, or repress migration and migrants (Labzaé 2016), while at the same time facilitating access to migrant labor pools. Migration governance lenses that focus on policing the boundaries of the nation state, are, however, myopic. By zooming in on borders, we push other sites of migration governance at best to the periphery, and at worst completely outside of our analytic frame.

Zooming out from the border as our primary site of analysis, and thereby bringing a broader range of forces that govern migration corridors into view, the three papers in this dissertation provide insight into other critical sites of migration governance. These exploratory, iterative case studies provide a foundation for a new empirically grounded theorization of *migration corridors*: circuits of human mobility within and across nation states that are governed by not only border administration, but also legal, financial, political, and social management. In the period between the First and Second World War, the corridor commanded significant attention as an architectural form and became newly visible in fiction of the time. As such, these spatial circulation systems have been theorized in literary and architectural discourses as technologies

that regulate movement and enclosure (Marshall 2013: 12). Despite the relevance of corridors as spatial constructs for understanding circulation, the term “migration corridor” appears only occasionally in social science and policy literature in reference to well-traversed and established geographical and infrastructural migration routes. The migration corridor has yet to be theorized as an assemblage that is carved and governed by the circulation of governing rationalities in the global economy.

Architectural historian, Mark Jarzombek begins his history of the corridor with etymology: “In the fourteenth century, in both Spanish and Italian contexts, a corridor referred not to a space, but to a courier, someone who as the word’s Latin root suggests could run fast.” Building upon Jarzombek’s etymological insight, Kate Marshall (2013) calls for a theorization of the corridor in literature that takes seriously the historically and linguistically embedded relationships between people, material structures, and communications. Extending these insights from architectural and literary theory into the social sciences, *Migration Corridors—Governance at the Systemic Edge* points toward a theory and analysis of migration corridors in relationship to structural features of the global economy, experiences of migrant workers, and the stories and communication pathways that guide their migration journeys.

My approach to studying migration corridors acknowledges the powerful insights and political understanding generated by placing borders at the center of migration studies—and at the same time, heeds warnings against allowing this flattened ontology of power to eclipse other spatialities in migration politics (Walters 2015). Following Paul Gilroy (1993), William Walters (2015) directs attention to the route as a site of political possibility, calling for a focus on routes and their vehicles as stakes in power relations and political actions (9). Thomas Nail (2015) advances a political theory of social motion, or kinopolitics, that describes human mobility in relationship to *flows* as processes; *junctions* as sites that direct flows—either allowing flows to pass through, catch, or face redirection; and *circulations* as the controlled reproduction of movement. For Nail, the border is just one of many junctions that direct and channel migration flows.

Migration corridors and governance at the systemic edge

Migrant workers at the systemic edge

The three papers in this dissertation provide a preliminary empirical grounding for my ongoing engagement in theorizing how migration corridors govern at the systemic edge. Global labor mobility encompasses migration flows that can be distinguished by worker skill level, and comparative wages between sending and receiving states. Winters (2008) marks distinctions between types of flows based upon wage, skill level, and migration trajectory, and the inscription of these distinctions in the WTO framework for Movement of workers to provide services (GATS MODE 4). In Winters’ typology, these include unskilled workers from lower to higher wage countries; and skilled and business professional workers from higher to lower wage countries, lower to higher wage countries, and between countries at roughly equal wage levels. Within this schema, there are marked differences in the experiences of professional and skilled; and low, and unskilled migrant workers. High income countries compete to attract a

comparatively small pool of skilled and highly skilled migrant workers, giving these migrants more choices between destinations—and therefore earnings, rights, and entitlements (Ruhs 2008). At the other end of the spectrum, low-skilled workers who migrate for employment to high-income countries have fewer if any choices. Distinct from skilled and business professional workers, the experiences of low or unskilled migrant workers moving to higher wage contexts are instructive because they present a “systemic edge” (Sassen 2014)—a site of analysis at the margins where techniques of governance are often most visible and most brutal.

More specifically, *Migration Corridors—Governance at the Systemic Edge* includes three extended case studies of migration governance regimes faced by industrial, agricultural, and informal sector workers. These include a global study of the national legal regimes that govern the experiences of migrant agricultural workers on agri-food supply chains (Chapter 2); a study of how migrant women within India find employment as they shift between short-term employment stints in the garment and domestic work sector (Chapter 3); and a study of production hubs within India’s Delhi, National Capital Region (Delhi-NCR) wherein the convergence of flexible planning and employment drive migrant workers into cycles of nomadic migration and condition their access to legal and social protection (Chapter 3). Through a set of extended case studies (Burawoy 1998), I analyze how gender, nationality, race, caste, and sector of employment inform migration governance in the global economy. These papers anticipate my approach to studying migration corridors, a broader project that aims to make at least four interrelated contributions to the scholarly, legal, and political fields of global migration governance.

Studying migration corridors in the wake of COVID 19

Building upon and contributing to this project of activating alternate spatialities in migration politics, my dissertation, *Migration Corridors—Governance at the Systemic Edge*, was designed in 2019 as a multi-site ethnographic account of migration corridors—circuits of human mobility within and across national borders that are governed by nation states as well as transnational financial, political, and social forces. This project aimed to examine governance of migration corridors traversed by migrant women garment and domestic workers in relationship to three building blocks: (1) expulsions that propel migration (e.g. national/global patterns of uneven development, environmental devastation, corporate land grabs, and conflict); (2) junctions where disparate migration flows converge and are redirected, including urban production and service hubs, special economic zones (SEZs), and territorial borders; and (3) forces that direct migration flows (e.g. legal regimes, product and labor supply chains, securitization, patriarchal norms, and local processes shaped by women labor migrants, recruitment intermediaries, and kinship and social networks). I planned to study expulsions, junctions, forces, and flows in corridors from within Bangladesh to Dhaka; from Bangladesh and Syria to Jordan; from within Ethiopia to Addis Ababa; and from Ethiopia to Lebanon and Jordan. These intersecting corridors were selected based upon the growing significance of female labor migration in garment and/or domestic work, which interacts with gendered social governance and legal, financial, and political regimes. My primary data sources were to be ethnographic research, interviews with migrant women, and facilitated discussions with migrants and representatives from migrant organizations, trade unions, collectives, and networks.

At the start of 2020, with support from the National Science Foundation and as a Research Fellow at the New School for Social Research, Zolberg Institute on Migration and Mobility, I was in advanced stages of planning my field research when in response to the global COVID 19 pandemic nation states around the world abruptly shut their borders. Lock downs in New York City where I was living at the time and across the world not only disrupted the prospect of my multi-site ethnographic study of migration corridors, but also reconfigured the very corridors I aimed to study. One year later, at the start of 2021, when borders between the United States and India selectively opened for Overseas Citizens of India, I shifted together with my family to West Bengal, India with the intention of redesigning and beginning my field work in Bangladesh as soon as I was able to gain entry to the country. In late March 2021, within weeks of arriving in Kolkata, I found myself and my not yet two-year-old son in a second urban lock down—India’s deadly Delta wave. Six months later, in Fall 2021, I tried once again to resume fieldwork in Bangladesh. I cleared customs in Kolkata with an invitation from a local Bangladeshi organization to visit and conduct research in Dhaka. I arrived in Dhaka less than an hour later to learn that between the time I had boarded in Kolkata and the time I landed, entry to Bangladesh had been restricted for all travelers with the exception of financial investors.

Two years after my dissertation project had been approved and funded, without the prospect of resuming my multi-site ethnographic field work, I worked with my advisor Calvin Morrill to reimagine this project and resigned myself to revisiting previous data sets I had collected and conducting new legal research in order to develop case studies that would bring elements of migration corridors into focus. Accordingly, the three papers that comprise this dissertation contribute key building blocks for my analysis of migration corridors as critical spatialities with the potential to significantly rework our approach to global migration governance—including in legal, political, and scholarly discourses.

Building the migration corridor analytic

Structured exteriors and fluid interiors

As a unit of analysis, the corridor accommodates two essential dimensions for understanding mobility in the global economy: the power of nation states and global capital to determine the conditions and possibilities for migration; and the role of migrant workers individually and through their collectives in not only navigating but also shaping this terrain. Following Walter Benjamin’s meditation on the passages that traverse the buildings and social centers of Paris in the *Arcades Project* (1982), my empirically grounded theory and analysis of migration corridors considers what I refer to as both the exteriorities and interiorities of migration corridors. Benjamin describes the network of Parisian passages as technologies of transport and sites of mediation—sites that are at once public and private; structured, but with fluid movement within them. Like Benjamin’s passage, the corridor puts structure and fluid mobility within the same framework of analysis. It also makes space for not only conducting power analysis at the levels of the state and capital, but also for considering how these structural features of the global economy articulate in relationship to personal, household, and local processes.

Routes, flows, and junctions

The spatial form of the migration corridor brings routes, flows, and junctions—including borders, urban centers, special economic zones, and work sites—into the same analytic ecosystem. In this formulation, a territorial border may be both a significant junction in redirecting flows, and a mere cross section of a migration corridor encompassing complex flows and distinct routes between a series of junctions. A focus on governance at the borders of sending and destination States, however, takes on different significance if viewed as a primary site of governance, or as a cross section of a corridor.

Chapter 4, *Zones of Compounded Informality—Migrants in the Megacity*, resituates the border as one among many significant junctions in migration governance by shedding light on the relevance of cities and production hubs in governing migration. In this paper, I introduce the term *zones of compounded informality* to demarcate locations wherein regulatory exclusions in distinct domains interact to escalate the impact of exclusions for people who live and work in these areas. Based upon a study of India's Delhi, National Capital Region (Delhi-NCR), I explain how the convergence of flexible planning and employment produces zones of compounded informality. Circular migrant workers in the Delhi-NCR overwhelmingly live and work in these zones, wherein unstable employment and housing perpetuate nomadic migration. Based on ethnographic field work and a survey of 981 workers, I consider how zones of compounded informality in the Delhi-NCR interact with India's *Aadhar* biometric identification system to variegate access to the franchise and India's Targeted Public Distribution System (PDS). The coda explains how zones of compounded informality illuminate the conditions under which millions of internal migrant workers fled India's megacities in the wake of COVID 19. Here, I situate the city and the production hub as critical junctions within migration corridors, and address flexible planning and employment processes as both expulsions catalyzing migration and forces that direct migration flows.

Mobility as a unit of analysis

Whereas borders signal a limit, corridors as sites of passage foreground mobility—both as an object of study and an analytic lens to orient our understanding of migration and related social processes (Salazar 2018). In context of migration, a focus on mobility rather than boundaries breaks new ground by defining a canvas capable of bringing discretely defined types of migration into the same framework of analysis. To date, typologies of migration tend to focus on certain dimensions of migration: internal or international; cyclical, temporary, or permanent; voluntary or involuntary; economically or politically motivated; motivated by 'push' factors in the country of origin or 'pull' factors in the receiving country. These types, however, are difficult if not impossible to isolate. Migrant workers may migrate within their home countries and then pursue further opportunities abroad. Workers may migrate voluntarily, based on personal compulsion, but then end up in living and working in conditions that they did not sign up for. Economic drivers of migration may be politically generated, or economic distress may go hand in hand with political repression (Hamilton and Chinchilla 2001). A focus on mobility makes space for understanding the fluidity between identified types and forms of migration.

Such an emphasis on understanding fluid mobility within and between migration corridors facilitates consideration of internal migrants and displaced people within the same framework of analysis as their international counterparts. This analytic move is important because despite widespread and accelerating internal migration, internal migrants have been afforded significantly less attention than international migrants in both scholarly and political discourses. The same is true for internally displaced people who receive less attention than international refugees, even though internationally displaced people make up the majority of forcibly displaced persons worldwide. Segmentation of international and internal migration, and internally and internationally displaced persons, is particularly tenuous since people, families, and communities themselves shift between these categories, sometimes on a regular and ongoing basis. Chapter 3, *Migrant Labor Supply Chains—Architectures of Mobile Assemblages* and Chapter 4, *Zones of Compounded Informality—Migrants in the Megacity* provide an antidote to this dominant focus on international migration by foregrounding the experiences of internal migrant workers in India.

In addition, Chapter 3, *Migrant Labor Supply Chains—Architecture of Mobile Assemblages* makes inroads into foregrounding mobility as a unit of analysis by exploring the potential for Assemblage Theory to supplement current approaches to studying labor migration and mobility in law and the social sciences. Based upon a study of women's migration for garment and domestic work in India, it lays out the *labor supply chain assemblage* (LSCA) as a framework for understanding how workers find employment across multi-site, dynamic trajectories. Migration into temporary employment requires workers to move between jobs on an ongoing basis. Accordingly, studying labor supply chains as fluid assemblages defined by labor market conditions, component elements, and various agents provides a methodology for analyzing frequent job searches, across recruitment geographies, that include a range of recruitment actors. By accommodating temporal, territorial, and relational analysis, this approach provides insight into how labor migration processes for migrant garment and domestic workers in India articulate with the development of markets, working conditions, and social hierarchies—including on the basis of gender and caste.

Here, understanding global migration processes through the corridor framework facilitates distinct analytic advantages. Significantly, this heuristic encompasses labor migration and displacement processes that take place within nation states, across the territorial boundaries of nation states, and that include both internal and international dimensions. The initial research design for this project sought to understand key linkages between internal migration corridors within South Asian countries, and international migration corridors from South Asia to Jordan for domestic work. The labor supply chains into garment work within India that I lay out in Chapter 3 simultaneously intersect and exist discretely from labor migration for employment to the garment sector in Jordan. For male garment workers, these internal and international labor migration processes are linked because recruitment and placement to the garment sector in Jordan draws from established networks of garment workers in India's garment production hubs. In this case, Indian men first migrate for employment from rural areas to garment production hubs in India, and then again to qualified industrial zones in Jordan—they are first internal migrants, and then international migrants. For women garment workers, by contrast, labor supply chains into garment work in India do not link up with labor supply chains for garment work in Jordan because women workers under 30 are prohibited from migrating for employment to

Jordan, and temporary workers in the garment sector globally, for the most part, age out of garment sector employment by age 35 (Nathan and Silliman Bhattacharjee et. al 2022). This view of migration corridors into garment work, including both domestic and international segments, reveals gender as a site of migration governance, impacting the mobility and livelihood trajectories of women garment workers in India.

In short, while literature on migration focuses attention on movement across political or administrative borders, a focus on migration corridors directs attention to the complex network of linked migration trajectories. Drawing corridors and the structural forces that determine their conditions of possibility into focus directs attention to terrains of mobility—including for internal and international, temporary and long-term, short- or long-distance, voluntary or forced, and seasonal or permanent mobility. Put another way, an ontology of power that views circuits of human mobility as sites of management challenges binaries between forced and voluntary migration, making space instead for empirical analysis of the techniques and rationalities that direct circulations. These include the disciplining and self-disciplining of migrant populations by both state and non-state technologies of power. As pointed out by Mehdi Labzaé, practices of tracing dichotomies between economic migrants, development induced displaced persons, and refugees has more to do with political rhetoric than significant distinctions between the dispositions of these overlapping groups (Labzaé 2016). In South Asia, for instance, population movements include mixed flows of forced migration that challenge neat distinctions between political and economic causes (Manchanda 2004).

Global forms of migration governance

The migration corridor provides a framework for understanding processes of social and political control as spatial, mobile forms that may be anchored in, but also transcend, the boundaries of the national and any particular migration corridor. Following the work of Ong and Collier (2005), the papers that comprise this dissertation seek to identify *global forms* of migration governance and understand how they are *territorialized* within migration corridors. This approach directs attention to governance forms that circulate across migration corridors.

Chapter 2, *Bitter Harvest—Supply Chain Oppression and Legal Exclusion*, details labor rights exclusions facing migrant and other agricultural workers in the laws of 110 countries, distilling a typology of legal exclusion that persists to date across the globe. The systematic exclusion of agricultural workers from labor rights reflects a global history of exploitation that extends into the present. Rooted in the legacy of colonial labor practices and plantation slavery, templates of exclusion have not only been preserved in legislation but also systematically reinforced by deregulation of national labor markets in the late twentieth century. In developing markets in the Global South, these trends have been driven by structural adjustment aimed at facilitating the inflow of foreign direct investment and agri-food multinationals.

In Chapter 2, I argue that the mutually reinforcing economic and social subordination of agricultural workers is lodged in relationship to three forces: labor exploitation at the base of global supply chains, conjugated oppression (Bourgeois 1988; Holmes 2013; Lerche and Shah 2018), and legal exclusion. This analysis contributes to new law-and-political-economy

scholarship (Britton-Purdy, Grewal, Kapczynsky and Rahman 2020) by exposing the inextricable entanglement of global monopsony capitalism (Nathan and Silliman Bhattacharjee et al. 2022; Kumar 2020), on one hand; and race, caste, gender, indigenous, and migration politics, on the other. These economic, political, and social forces are not only bound together as pillars of migrant and worker exploitation in the global economy, but also by their mutual reliance on frameworks of legal exclusion.

Such an understanding of how migration corridors are governed by global forms—including but not limited to supply chains and national governance regimes—also provides insight into how governance on one migration corridor may activate shifts across other corridors. For instance, since the 1990s, the Philippine government has implemented a series of temporary migration bans to the Gulf countries for domestic worker in response to extreme cases of violence against Filipina domestic workers (Hosoda 2020). These temporary bans created gaps in the labor market for domestic work that catalyzed migration from Bangladesh and Ethiopia to the Gulf. As a process of political control, migration bans by sending states not only close migration corridors, but also drive the development of new corridors.

Finally, while Chapter 3, *Migrant Labor Supply Chains—Architectures of Mobile Assemblages* and Chapter 4, *Zones of Compounded Informality—Migrants in the Megacity* are both developed from my research in India and therefore do not speak beyond national forms of migration governance, I suggest that both the migrant labor supply chains and zones of compounded informality theorized in these Chapters are forms of migration governance that may be identified and studied in other contexts across the globe.

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Chapter 2: Bitter Harvest—Supply Chain Oppression and Legal Exclusion

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Abstract

Persistent exploitation of farmworkers is a defining problem of our time. An estimated 32 percent of the global population is employed in agriculture. At the base of global food systems, agricultural workers sustain the world’s population while systematically excluded from labor rights protections. Through an analysis of restrictions on labor rights for agricultural workers in 110 countries, this article distills a typology of legal exclusion that persists to date across the globe. These exclusions articulate with labor exploitation at the base of agri-food supply chains, and economic and social hierarchies constructed by race, caste, indigeneity, gender, and migration status. How can we upend this legal architecture of oppression, rooted in racialized and gendered capitalism? The **global** understanding advanced in this article is critical to dismantling legal architectures of oppression. At the national level, it provides a framework for identifying and addressing layered mechanisms of legal exclusion in particular jurisdictions. Moreover, since agricultural supply chains operate globally, it provides important guidance for protecting workers rights on agri-food supply chains, including through binding due diligence legislation in headquarter economies of lead firms, enforceable brand agreements, and inclusion of labor rights in food safety and environmental standards. Finally, due to the structure of monopsony capitalism, in order to raise the floor for agricultural workers worldwide, legal exclusions must be ratcheted up across jurisdictions. Global analysis, then, provides a roadmap for strengthening international standards and global campaigns.

Introduction

An estimated 32 percent of the world’s population is employed in agriculture—and in rural areas, the vast majority of women find work in the agricultural sector.¹ In fact, according to the UN Food and Agriculture Organization (FAO), women make up approximately 43 per cent of the agricultural labor force in developing countries.² Worldwide, migrant and indigenous workers also make up a significant part of the work force in agriculture. Typically employed on a temporary basis with no pathway to stable employment,³ workers in the agricultural sector are routinely subjected to exploitation and labor rights violations, including low wages, extended hours without overtime, and occupational health and safety risks. It is also common for workers to travel long distances in open vehicles to work, and live in subpar housing, posing significant

¹ ILO, *Global employment trends 2014: Risk of a jobless recovery?* 96 (2014); UN Division for the Advancement of Women, Department of Economic and Social Affairs, *Rural women in a changing world: Opportunities and challenges* 9 (2008).

² UN FAO, *Statistical Yearbook 2013: World food and agriculture* 14 (2013).

³ Global Forum on Migration and Development (GFMD), *GMG issues brief No. 2: Improving the labour market outcomes of migration* 3 (2013).

risks to their health and safety.⁴ The UN FAO reports that more than 80% of agricultural workers are excluded from social protection,⁵ including unemployment benefits.

How is nearly one-third of the world's population excluded from labor rights protections? This article provides an answer grounded in analysis of labor rights exclusions facing agricultural workers in the laws of 110 countries, distilling a typology of legal exclusion that persists to date across the globe.⁶ The systematic exclusion of agricultural workers from labor rights reflects a global history of exploitation that extends into the present. Rooted in the legacy of colonial labor practices and plantation slavery,⁷ templates of exclusion have not only been preserved in legislation but also systematically reinforced by deregulation of national labor markets in the late twentieth century. In developing markets in the Global South, these trends have been driven by structural adjustment aimed at facilitating the inflow of foreign direct investment and agri-food multinationals.⁸

Part I, Agricultural workers at the base of economic and social hierarchies, situates the mutually reinforcing economic and social subordination of agricultural workers in relationship to three forces: labor exploitation at the base of global supply chains, conjugated oppression,⁹ and legal

⁴ FAO, ILO, and IUF, *Agricultural Workers and Their Contribution to Sustainable Agriculture and Rural Development* 49-53 (2007).

⁵ FAO, *supra* note 2 at 14.

⁶ This typology draws from the CEACR, Rep. of the CEACR (articles 19, 22 and 35 of the Constitution) to the ILC on its 104th Session, *General Survey concerning the right of association and rural workers' organizations instruments*, Report III (Part 1B), ILC. 104/III/1B. It includes the findings of 110 governments reports on national law and practice related to Convention 11 and other instruments protecting the rights of agricultural workers, and reports from 56 workers' organizations and eight employers' organizations. Initial stages of this research were conducted in close consultation with IUF and GLJ-ILRF and published in an advocacy report to the ILO issued by IUF and GLJ-ILRF. See SHIKHA SILLIMAN BHATTACHARJEE, *100 YEARS OF ADVANCING FREEDOM OF ASSOCIATION: ILO CONVENTION 11'S ROLE IN PROMOTING RIGHTS FOR AGRICULTURAL WORKERS* (2021).

⁷ SILLIMAN BHATTACHARJEE, *supra* note 6 at 13 (explaining that in the framing of the ILO Right Association (Agriculture) Convention, 1921 (No.11) delegates from countries that had been colonized linked the exploitation and systematic legal exclusion of agricultural workers from labor rights protections to colonial labor practices and a widespread failure to distribute land in the aftermath of independence struggles); and at 59 (linking the exclusion of farmworkers from the United States National Labor Relations Act, 1935 to the history of plantation slavery: "Reflecting the legacy of plantation slavery, agricultural work remained at the core of the Southern economy. Most of the era's agricultural workers and domestic workers were African American, and maintaining racialized exclusion from labor laws was crucial to weakening their position as workers in order to increase the profits of white Southern landholders and employers").

⁸ Joonkoo Lee, Gary Gereffi, and Janet Beauvais, *Global value chains and agrifood standards: Challenges and possibilities for smallholders in developing countries*, 109(31) *PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES* 12326 (2012).

⁹ Conjugated oppression is the co-constitution of class-based relations and oppression along the lines of race, ethnicity, gender, caste, tribe, and migration status. See Philippe Bourgois, *Conjugated Oppression: Class and Ethnicity among Guyami and Kuna Banana Workers*. 15(2) *AMERICAN ETHNOLOGIST* 328-348 (1988) (introducing this terminology in his ethnography of a Central American banana plantation). See also SETH HOLMES, *Hierarchies at Work* in *FRESH FRUIT, BROKEN BODIES: MIGRANT FARMWORKERS IN THE UNITED STATES* (2013) (applying this concept to Mexican migrant agricultural workers on a

exclusion. This analysis contributes to new law-and-political-economy scholarship¹⁰ by exposing the inextricable entanglement of global monopsony capitalism,¹¹ on one hand; and race, caste, gender, indigenous, and migration politics, on the other. These economic, political, and social forces are not only bound together as pillars of worker exploitation in the global economy, but also by their mutual reliance on frameworks of legal exclusion.

The first force, labor exploitation at the base of agri-food supply chains, is a product of how global supply chains are structured in contemporary capitalism. Large transnational corporations—for the most part, retailers and supermarket chains—determine where our food comes from, how it is produced, and where and in what forms we can buy it.¹² Unilaterally setting prices and delivery schedules, and capturing an overwhelming share of the financial gains of agri-food value chains, lead firms maximize their profits by forcing downstream producers to cut costs. Producers, in turn, meet these demands by paying agricultural workers exceedingly low wages for extended hours of grueling physical labor without providing employment or social security. The systematic exploitation of agricultural workers at the base of supply chains is a form of structural violence¹³ that takes a heavy toll on the health and wellbeing of agricultural workers and their families.

The second force, multifaceted discrimination or “conjugated oppression,”¹⁴ organizes the agricultural workforce hierarchically, reflecting and reinforcing social discrimination on the basis of race, caste, gender, indigeneity, and migration status. Since the structural exploitation of farm workers maps onto the broader social structure of inequality, their exploitation is

strawberry farm in the United States), and Jens Lerche and Alpah Shah, *Conjugated Oppression within Contemporary Capitalism: Class, Caste, Tribe and Agrarian Change in India*, 45(5-6) J. PEASANT STUD. 927, 928 (2018) (extending this analysis to encompass caste in the Indian context).

¹⁰ See Jedediah Britton-Purdy, David Singh Grewal, Amy Kapczynski, and K. Sabbeel Rahman, *Building a Law-and-Political-Economy Framework: Beyond the Twentieth-Century Synthesis*, 129 Yale L. J. 1784 (2020).

¹¹ Monopsony capitalism: In the literature on global supply chains, the term monopsony capitalism has been used to refer to relationships where a few lead firms hold varying degrees of monopoly on the product market and can therefore choose between myriad downstream suppliers within and across borders. See NATHAN AND SILLIMAN BHATTACHARJEE ET AL. *supra* note 11 at 3; ASHOK KUMAR, MONOPSONY CAPITALISM: POWER AND PRODUCTION IN THE TWILIGHT OF THE SWEATSHOP AGE 2020.

¹² Gary Gereffi, Joonkoo Lee, and Michelle Christian, *US-Based Food and Agricultural Value Chains and Their Relevance to Healthy Diets*, 4 J. HUNGER AND ENV. NUTRITION 357 (2009).

¹³ Structural violence: Here, structural violence refers to the working conditions at the base of agri-food supply chains, configured by unequal bargaining power on supply chains, that causes physical and mental harm to agricultural workers and their families. See SETH HOLMES, *The Violence of Migrant Farmwork*, in FRESH FRUIT, BROKEN BODIES: MIGRANT FARMWORKERS IN THE UNITED STATES (2013) (Grounding his use of the terminology in anthropological literature on violence, he explains: “In order to avoid conflating different forms of violence, I use the phrase narrowly, staying close to Johan Galtung’s (1969) as well as Scheper-Hughes and Bourgois’s (2003) focus on political economic domination. The effects of structural domination are thus analyzed separately from, among other phenomenon, everyday physical violence, armed political violence, and symbolic violence enacted with the complicity of the dominated). See also Johan Galtung, *Violence, Peace, and Research*, 6 J. PEACE RESEARCH 167-191; Nancy Scheper Huges and Phillippe Bourgois, *Making Sense of Violence*, in VIOLENCE IN WAR AND PEACE: AN ANTHOLOGY. 1-31 (ed. Nancy Scheper Hughes and Philippe Bourgois).

¹⁴ See conjugated oppression, *supra* note 9.

naturalized and entrenched—an interaction between unequal social structures and perception that has been referred to as symbolic violence.¹⁵ The exploitation of workers at the base of agri-food supply chains across the globe directs attention to how systems of social hierarchy are reproduced and maintained in relationship to supply chains and transnational circuits of labor migration. This is because in locally specific ways, global supply chains rely on hierarchical social relations to ensure access to a low wage work force, and to exert control over this workforce.

Building upon and linking the robust literatures documenting conjugated oppression in agricultural establishments and on global supply chains, this paper contributes an analysis of how nation states facilitate labor exploitation and conjugated oppression. The third force, legal exclusion of agricultural workers from labor rights, or the withdrawal of the protection of the state, not only leaves the structural violence of supply chain exploitation unchecked, but also enacts symbolic violence by reinforcing the status of agricultural workers as unworthy of legal protection.

Parts II and III, then, turn to laying out these legal forms of exclusion. Part II, Freedom of association as a cornerstone right for agricultural workers, explains my methodological decision to focus on exclusion from freedom of association as a key benchmark for labor rights exclusion. Given the critical role of freedom of association in upending both structural and symbolic violence at work, systematic legal exclusion of agricultural workers from freedom of association works to hold labor exploitation and conjugated oppression intact. Accordingly, denial of freedom of association functions as a bellwether of other forms of labor rights exclusion and workplace abuse.

Part III, Legal architecture of exclusion from labor law protections, lays out my findings on the varied types of national laws that exclude agricultural workers from protection across 110 ILO member countries. It presents two broad categories of exclusion with corresponding subcategories: first, specific exclusion of agricultural workers from labor rights—including sector-wide exclusions, exclusion of self-employed and own-account farmworkers, and exclusions based on farm size; and second, general exclusions from labor rights that have a significant impact upon agricultural workers—including short-term employment exclusions, exclusion of self-employed workers, and migration-status based exclusions. I present this typology in a table, and then discuss each type of exclusion in turn, grounding my analysis in specific national examples that illustrate how labor law exclusions reinforce the position of agricultural workers at the base of economic and social hierarchies.

Part IV, Upending architectures of oppression, explains why understanding global patterns of exclusion is fundamental to dismantling legal exclusion and supply chain oppression. First, at the national level, understanding the varied ways in which exclusion of agricultural workers has and can be enacted in law provides a framework for identifying and addressing layered mechanisms of legal exclusion in a particular jurisdictions. I demonstrate the potential of this approach by

¹⁵ Symbolic violence: The term “symbolic violence,” originating with Pierre Bourdieu, refers to the way in which social structures of inequality inform our perceptions, leading us to perceive hierarchical relationships of domination that reflect entrenched social hierarchies as natural. *See* PIERRE BOURDIEU, PASCALIAN MEDITATIONS (1997) and MASCULINE DOMINATION (2001).

identifying the layered exclusions from freedom of association facing agricultural workers in the United States, and laying out a pathway forward to expand rights protection and address conjugated oppression in the agricultural sector.

Second, global analysis of legal exclusion provides insight into addressing supply chain practices of extracting maximum profits on the backs of low wage agricultural workers. Here, I distill key learnings from this research for advancing meaningful corporate accountability—including implications for emerging supply chain due diligence legislation in headquarter economies of lead firms, enforceable brand agreements, and inclusion of labor rights in food safety and quality standards. Finally, the ability of lead firms on agricultural supply chains to choose between engagement with a vast number of suppliers across the world provides incentives for states to pursue deregulation, including in the arena of labor standards; and downstream enterprises on agri-food supply chains to reduce costs by driving down working conditions.¹⁶ Accordingly, in order to raise the floor for agricultural workers worldwide, legal exclusions must be addressed across jurisdictions. Here, analysis of the global legal architecture of exclusion facing agricultural workers is instructive in strengthening international standards and global campaigns, including campaigns by trade unions, consumers, and civil society organizations.

Part V, Law-and-global-political economy, situates this article at the important nexus of new law-and-political-economy scholarship, sociological engagement with global value chains, and the anthropology and history of violence and conjugated oppression. I argue that situating the study of national legal exclusions in global economic and social context is critical to forging new law and *global*-political-economy frameworks. As global interconnections intensify, legal scholarship that seeks to truly engage with structural inequality must understand national legal systems in global economic context.

I. Agricultural workers at the base of economic and social hierarchies

This section situates the mutually reinforcing economic and social subordination of agricultural workers in the interaction of three forces: labor exploitation at the base of global supply chains, conjugated oppression,¹⁷ and legal exclusion as a driver of both structural and symbolic violence. This analysis demonstrates the inextricable entanglement of global monopsony capitalism—the dominant form of contemporary capitalism¹⁸; and race, caste, gender, indigenous, and migration politics. These forces are not only bound together as pillars of worker exploitation in the global economy, but also by their relationship to frameworks of legal exclusion.

¹⁶ Nathan and Silliman Bhattacharjee *supra* note 11 at 1-3 (explaining the organization of GVCs in monopsony capitalism, leading to “relations of dominance and value capture” between brands or lead firms from the Global North and suppliers in the Global South).

¹⁷ See Conjugated oppression, *supra* note 9.

¹⁸ NATHAN AND SILLIMAN BHATTACHARJEE *supra* note 11 at 1 (explaining that global value chains are the characteristic form of 21st century global capitalism, which is monopsony capitalism).

Here, the concept of “articulation,”¹⁹ is helpful in understanding the relationship between labor exploitation, conjugated oppression, and legal exclusion. An articulation is a connection or link that is sustained by specific processes. Accordingly, these connections can be renewed, overthrown, or re-articulated.²⁰ Therefore, to say that labor exploitation, conjugated oppression, and legal exclusion co-articulate in the social and economic subordination of agricultural workers is to say that we can observe how these forces co-occur, link, and combine in our investigation of exploitative working conditions in the agricultural sector. As a framework for analysis, articulation helps us to move beyond mere causal determinism, and to instead understand labor exploitation, conjugated oppression, and legal exclusion as mutually generative. Moreover, the specific manner in which these forces interrelate can vary over time and geographies—making articulation a particularly useful mode of understanding how global phenomena interact with local practices and processes.²¹ Perhaps most importantly, an articulation “is not . . . a law or fact of life.”²² The articulation of labor exploitation, conjugated oppression, and legal exclusion is not fixed or given—once exposed and made visible, these forces and their relationships can be dismantled and overthrown.

Labor exploitation at the base of global supply chains

In the mid-1960s, United States companies began slicing and segmenting their supply chains, and incorporating low-cost suppliers offshore. For the most part, this remained limited to product component manufacturing and assembly, leading scholars in the field to describe these supply chains as “producer-driven” supply chains. By the 1970s and 1980s, however, this model had been adopted more widely to include not only manufacturing but also energy, food production,

¹⁹ The concept of “articulation” was used in 1980 by Harold Wolpe in context of his investigation of South African national subsidies in mining. As a mode of analysis, articulation provided Wolpe with a way of conceiving a “concrete object of investigation” as structured by a “combination of modes.” See HAROLD WOLPE, *THE ARTICULATION OF MODES OF PRODUCTION* (1980). The term was explained more fully in Stuart Hall, *Signification, Representation, Ideology: Althusser and the Post-Structuralist Debate*, in 2(2) *Critical Stud. In Mass Comm*, 91-114 (1985). While the term has been used extensively across the social sciences in the last three decades, its application to understanding power relations on global value chains is of particular relevance to this study. See Nathan and Silliman Bhattacharjee, *supra* note 11 at 8-10 (considering the relationship between spheres of social reproduction and the environment with global value chains); Barrientos 2019 (analyzing the interrelation of gender and GVCs); and Gereffi, Humphrey and Sturgeon 2005 (describing the relationships between lead firms and suppliers on GVCs).

²⁰ See Hall *supra* note 19 at 113-14 (“By the term, ‘articulation’, I mean a connection or link which is not necessarily given in all cases, as a law or fact of life, but which requires particular conditions of existence to appear at all, which has to be positively sustained by specific processes, which is not ‘eternal’ but has constantly to be renewed, which can under some circumstances, disappear or be overthrown, leading to the old linkages being dissolved and new connections—re-articulations—being forged. It is also important that an articulation between different practices does not mean that they become identical or that one is dissolved into the other. However, once an articulation is made, the two practices can function together as ‘distinctions within a unity.’”)

²¹ See e.g., AIHWA ONG AND STEPHEN J. COLLIER, *GLOBAL ASSEMBLAGES: TECHNOLOGY, POLITICS, AND ETHICS AS ANTHROPOLOGICAL PROBLEMS* (2005) for a series of essays that draw attention to the interaction between local contexts and *global forms*, defined as technological, legal, or other patterns of capable of “decontextualization and recontextualization, abstractability and movement, across diverse social and cultural situations” (p. 11).

²² See Hall, *supra* note 19.

and services.²³ Today, global value chains are a defining characteristic of global capitalism, with the World Trade Organization estimating that at least 70 per cent of global trade is accounted for by GVC trade.²⁴

In line with these global industrial processes, since the 1990s, agriculture and agri-food production have become increasingly industrialized and globalized.²⁵ Together, liberalized international trade, foreign direct investment, and advances in technology and transport facilitate the global movement of fresh, processed, and frozen agri-food products across borders.²⁶ Leading these vast production networks, agri-food multinationals direct and coordinate supply chains linking consumers in grocery stores to agricultural workers across the globe.²⁷

Agri-food value chains operate through the interaction between global and local value chains.²⁸ Most value chain segments are orchestrated by a small number of powerful lead firms with well established brands, consolidated retail power, extensive processing capacity, and large buying power.²⁹ These lead firms include large supermarket chains and food processors, in line with the global proliferation of packaged and prepared foods.³⁰ They run on tight schedules designed for maximum utilization of capital-intensive facilities.³¹ In exporting countries, large local agri-food exporters capable of meeting the requirements of retailers and supermarkets dominate the market.³² At the same time, since small farmers are largely unable to meet the terms and standards set by lead firms, transnational agri-food firms systematically integrate small growers into global sourcing networks.³³ As a result, producers on agri-food supply chains include both industrialized large-scale production units and small-holders integrated into global sourcing

²³ Gary Gereffi and Joonkoo Lee, *Why the World Suddenly Cares About Supply Chains*, 48 J. OF SUPPLY CHAIN MANAGEMENT 24, 25 (2012)(citing Geri Gereffi., J. Humphrey, R. Kaplinsky, and T.J. Sturgeon “Introduction: Globalisation, Value Chains and Development,” 32:3 IDS Bulletin 1-8 (2001). (citing P. Engardio, A. Bernstein, and M. Kripalani. *Is Your Job Next?*, BUSINESS WEEK, February 3, 2003; P. Engardio, and B. Einhorn. *Outsourcing Innovation*, BUSINESS WEEK, March 21, 2005; V. Wadhwa, U.K. De Vitton, and G. Gereffi. *How the Disciple Became the Guru: Workforce Development in India’s R&D Labs*, Rep. to the Ewing Marion Kauffman Foundation (2008).

²⁴ Nathan and Silliman Bhattacharjee *supra* note 11 at 2.

²⁵ John Humphrey, Policy Implications of Trends in Agribusiness Value Chains, 18 EUROPEAN J. DEV. RES. 572-592 (2006).

²⁶ Lee, *supra* note 8 at 12326.

²⁷ Gary Gereffi and Joonkoo Lee, A GLOBAL VALUE CHAIN APPROACH TO FOOD SAFETY AND QUALITY STANDARDS, Rep. to Global Health Diplomacy for Chronic Disease Prevention Working Paper Series 1 (2009).

²⁸ *Ibid* at 5, 6 (providing a description and diagram of the interaction between global and local food value chains).

²⁹ *Ibid* at 4.

³⁰ *Ibid* at 3.

³¹ *Ibid*.

³² See e.g., Catherine Dolan and John Humphry, Changing Governance Patterns in the Trade in Fresh Vegetables between Africa and the United Kingdom, 36 ENV. AND PLANNING 491-509; and Miet Maertens and Johan Swinnen, Trade, Standards, and Poverty: Evidence from Senegal, 37 WORLD DEV.161-178.

³³ Lee, *supra* note 8 at 12326.

networks.³⁴ The agency of local suppliers in exporting countries varies in relationship to the capabilities of the supplier firm, their competition, and their regulatory environment.³⁵

With dominant positions on agricultural supply chains, retailers and supermarkets pursue global sourcing strategies, using their buying power to set prices, schedules, and food safety and quality standards.³⁶ These relationships—where a few lead firms hold varying degrees of monopoly on the product market, and therefore can choose between downstream suppliers within and across borders—are referred to in the literature on value chains as “global monopsony capitalism.”³⁷ Lead firms in monopsony capitalism exert a tremendous influence over how agri-foods are produced, distributed, and marketed.³⁸

This value chain structure dictates working conditions for agricultural workers at the base of global supply chains. Due to the increasing power of retailers over producers and unequal distribution of economic gains, the last decade has seen growing concern across the globe that engagement with global supply chains does not translate into good jobs or stable employment.³⁹ As lead firms exert downward pressure on producers to rapidly produce low-cost goods, downstream suppliers must cut costs in order to survive.⁴⁰ As laid out by Seth Holmes in his analysis of the United States agricultural industry, “[i]n the multilayered gray zone of temporary U.S. agriculture, even ethical growers, in their fight for survival, are forced by an increasingly harsh market to participate in a system of labor that perpetuates [worker] suffering.”⁴¹ Accordingly, global supply chains are often linked to a significant deterioration of labor conditions, referred to in literature on global value chains as social downgrading,⁴² and in the anthropology of labor as “structural violence”—“violence committed by configurations of social inequalities that, in the end, ha[ve] injurious effects on [the] bodies” of agricultural workers and their families.⁴³

In much of the world, agricultural workers and their families form a significant part of the core rural poor, earning the lowest wages in the rural sector, and living below the poverty line. In return, they work long hours completing physically demanding work in one of the three most hazardous industries in the world where they routinely work with dangerous machinery, unsafe electrical wiring, exposure to toxic pesticides, and the risk of falling from heights.⁴⁴ Earning wages below what they require to meet the needs of their families, the prevalence of child labor in the sector is exceedingly high: according to 2019 global estimates, 112 million children—70%

³⁴ *Ibid.* at 12327.

³⁵ Gereffi and Lee, *supra* note 27 at 5.

³⁶ *Ibid.*,

³⁷ See Nathan and Silliman Bhattacharjee et al. *supra* note 11 at 3; Ashok Kumar, *Monopsony Capitalism: Power and Production in the Twilight of the Sweatshop Age 2020*.

³⁸ Gereffi and Lee, *supra* note 27 at 5.

³⁹ Gereffi *supra* note 23 at 25

⁴⁰ See e.g., Silliman Bhattacharjee, S., Purushottam Kumar, and Shahid Ullah, *Women Workers in the Asian Seafood Processing Industry: Case Studies from Bangladesh and India* (2022).

⁴¹ SETH HOLMES *supra* note 9,

⁴² Gereffi *supra* note 23 at 25 (citing Barrientos 2011)

⁴³ SETH HOLMES *supra* note 13. See also, structural violence *supra* note 13.

⁴⁴ FAO, IUF, ILO *supra* note 4 at 32.

of all children in child labor—are in agriculture, including children as young as five years old.⁴⁵ Agricultural workers living and working on isolated farms in rural areas are also more subject to forced labor than other categories of workers.⁴⁶

Conjugated oppression

Within agricultural establishments, labor is structured hierarchically. For instance, in his analysis of an American strawberry farm in the Skagit Valley in northwestern Washington, Seth Holmes describes the “intricated structuring of labor on the farm into a complicated hierarchy” that is “both determined by the asymmetries in society at large—specifically around race, class, and citizenship—and reinforces those larger inequalities.”⁴⁷ In his account of ethnic-labor hierarchy on the strawberry farm, hourly and contract field workers—mostly mestizo Mexican and Triqui (indigenous) men, women, and teenagers—are at the bottom of the hierarchy, where the depth of structural vulnerability is highest.⁴⁸ At the base, Triqui workers hold relatively less status than mestizo Mexicans, a pecking order that Holmes understands in terms of perceived indigeneity.⁴⁹

In Holmes’ ethnography, at the intersection of class, race, and citizenship, Mexican and Triqui workers experience “conjugated oppression,” the co-constitution of class-based relations and oppression along the lines of race, ethnicity, gender, caste, tribe, or migration status.⁵⁰ Conjugated oppression has been widely documented in the agricultural sector, from Philippe Bourgois’ study of Central American banana plantations where the term originated, to Jens Lerche and Alpah Shah’s more recent study of the agrarian sector in India, where the 18.5% of the rural population belonging to landless Dalit castes forms the core of the agricultural workforce.⁵¹

These studies of conjugated oppression in particular national contexts correspond with global trends. As producers on agri-food supply chains across the world respond to the pressure from

⁴⁵ ILO and UNICEF, *Child Labour—Global Estimates 2020, Trends and the Road Forward* 8 (2021).

⁴⁶ FAO, IUF, ILO *supra* note 4 at 32.

⁴⁷ SETH HOLMES, *The Tanaka Brothers Farm, Field Workers Paid by Hour, and Field Workers Paid by Weight* in *FRESH FRUIT, BROKEN BODIES: MIGRANT FARMWORKERS IN THE UNITED STATES* (2013).

⁴⁸ SETH HOLMES, *supra* note 9.

⁴⁹ SETH HOLMES, *supra* note 13.

⁵⁰ See Philippe Bourgois, *Conjugated Oppression: Class and Ethnicity among Guyami and Kuna Banana Workers*, 15(2) *AMERICAN ETHNOLOGIST* 328-348 (1988) (introducing this terminology in his ethnography of a Central American banana plantation). See also SETH HOLMES *supra* note 9 (applying this concept to Mexican migrant agricultural workers on a strawberry farm in the United States), and Jens Lerche and Alpah Shah, *Conjugated Oppression within Contemporary Capitalism: Class, Caste, Tribe and Agrarian Change in India*, 45(5-6) *J. PEASANT STUD.* 927, 928 (2018) (extending this analysis to encompass caste in the Indian context); C.J. ROBINSON, *BLACK MARXISM: THE MAKING OF THE BLACK RADICAL TRADITION* (1983,2021); D. Camfield, *Elements of a Historical-materialist Theory of Racism*,” 24(1) *HISTORICAL MATERIALISM* 31-70; W.E.B. DU BOIS, *BLACK RECONSTRUCTION IN AMERICA 1860-1880* (1935); Stuart Hall 10(5) *Gramsci’s Relevance for the Study of Race and Ethnicity*, *J. Comm. Inquiry*, 5-27; D. McNally, *The Dialectics of Unity and Difference in the Constitution of Wage-labour: On Internal Relations and Working-Class Formation*, 39(1) *Capital and Class*, 131-146.

⁵¹ See Bourgois *supra* note BP and Lerche and Shah *supra* note ACI. See also O.C. COX, *CASTE, CLASS, AND RACE: A STUDY IN SOCIAL DYNAMICS* (1948).

lead firms to decrease costs, they rely increasingly on migrant labor since these low paying and physically demanding jobs are not attractive to the local or even national workforce.⁵² Indigenous agricultural workers who have been forced off their own lands also often end up finding work in the agricultural sector, both within their native countries and as migrants in destination countries.⁵³

Notably, across the world, women make up an increasing share of the agricultural workforce, with women workers now accounting for an estimated 20-30% of agricultural wage workers. The feminization of the workforce has been explained by the greater tendency among male workers to migrate for higher paying employment in non-agriculture work, leaving women to replace them; and a preference for hiring women workers among employers since they can be paid less and are considered to be a more “docile and dependent” workforce.⁵⁴ At the intersection of class, gender, and racialized oppression, the average personal income of female crop workers in the United States is less than 70% of the income of male crop workers.⁵⁵ Women in the agricultural sector are also routinely subjected to sexual harassment and violence.⁵⁶

Conjugated oppression has also been well documented on global supply chains more generally, including along the lines of class, gender, caste, and migration status.⁵⁷ On garment supply chains in Asia, for instance, conjugated oppression along the lines of gender and class includes the earlier expulsion of women than men from factory employment, gender-based violence and harassment as a form of supervision, wages for women workers that can be up to 25 per cent less than their male counterparts, and concentration of women workers in the most insecure forms of employment. The conjugation of caste, indigeneity, and migration status with gender and class further depresses wages, and brings entrenched structures of social discrimination onto the shop floor—including in the forms of caste-denigration, concentration in hazardous jobs, and accentuation of wage depression.⁵⁸ It is important to note that the conjugation of class with gender, caste, indigeneity, migration status, and other categories of social discrimination described above manifest in similar structures of exploitation across production hubs, including in Bangladesh, Cambodia, India, Indonesia, Pakistan, and Sri Lanka.⁵⁹

⁵² FAO, IUF, ILO *supra* note 4 at 25.

⁵³ *Ibid.*

⁵⁴ *Ibid* at 38.

⁵⁵ SOUTHERN POVERTY LAW CENTER (SPLC), *INJUSTICE ON OUR PLATES* (2010) (comparing the average wages of female workers [USD 11,250] and male crop workers [USD 16,250] in 2010).

⁵⁶ *Ibid* at 41-52.

⁵⁷ Nathan and Silliman Bhattacharjee, *supra* note 11 at 14.

⁵⁸ *Ibid* at 15. *See also* Shikha Silliman Bhattacharjee and Alysha Khambay, *Unbearable Harassment: The Fashion Industry and Widespread Abuse of Female Garment Workers in Indian Factories* (2022).

⁵⁹ *Id.* *See also* Alessandra Mezzadri, *The Sweatshop Regime: Labouring Bodies, Exploitation, and Garments Made in India* (2017); Dev Nathan, Meenu Tewari, and Sandip Sarkar, *Labour in Global Value Chains in Asia* (2016); Shikha Silliman Bhattacharjee, *Fast Fashion, Production Targets, and Gender-Based Violence in Asian Garment Supply Chains*, in *Labor, Global Supply Chains, and the Garment Industry in South Asia: Bangladesh after Rana Plaza* (ed. Sanchita Saxena) (2020); Shikha Silliman Bhattacharjee, *Advancing Gender Justice on Asian Fast Fashion Supply Chains Post COVID-19* (2020); Shikha Silliman Bhattacharjee, *Gender Based Violence in the Gap Garment Supply Chain* (2018); Shikha Silliman Bhattacharjee, *Gender Based Violence in the H&M Garment Supply Chain* (2018); Shikha Silliman Bhattacharjee, *Gender Based Violence in the Walmart Garment Supply Chain* (2018); Shikha

The iteration of structures of exploitation across global supply chains directs attention to how across the globe, systems of social hierarchy are reproduced and maintained in relationship to global supply chains and transnational circuits of labor migration. This is because in locally specific ways, global supply chains rely on hierarchical social relations to ensure access to a low wage work force, and to exert control over this workforce.⁶⁰ This practice of leveraging social hierarchy to access highly flexible, inexpensive, and easily disciplined workers is not new—these practices were refined through chattel slavery,⁶¹ caste-designated labour,⁶² colonial extraction,⁶³ and workforce recruitment, segmentation, and discipline practices dating back to the industrial revolution.⁶⁴ What is new? More than ever before, the segmented labor pool upon which global monopsony capitalism depends encompasses the entire globe.

Silliman Bhattacharjee, *Precarious Work in the H&M Global Value Chain* (2016); Shikha Silliman Bhattacharjee, *Precarious Work in the Gap Global Value Chain* (2016); Shikha Silliman Bhattacharjee, *Precarious Work in the Walmart Global Value Chain* (2016); Shikha Silliman Bhattacharjee and Vaibhav Raaj, *Precarious Work in the Asian Seafood Global Value Chain* (2016).

⁶⁰ Cf. Mary Beth Mills, *Gender and Inequality in the Global Labor Force* 32 *Ann. Rev. Anthropol.* 41, 42 (Explaining how systems of labor mobilization and capital accumulation rely on gendered social hierarchy to access and discipline low wage workers: “Around the globe, gender hierarchies are produced and maintained in relation to transnational circuits of labor mobilization and capital accumulation. In varied and often locally specific ways international capital relies on gendered ideologies and social relations to recruit and discipline workers, to reproduce and cheapen segmented labor forces within and across national borders”).

⁶¹ Christopher Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580-1865* (2010); Orlando Patterson, *Slavery and Social Death—A Comparative Study* (1990); Jacqueline Jones, *Labor of Love, Labor of Sorrow: Black Women, Work, and the Family from Slavery to Present* (2009); Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household* (2008); Ira Berlin, *Generations of Captivity: A History of Afro-American Slaves* (2003); Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (2013); Alex Lichtenstein, *Twice the Work of Free Labor: the Political Economy of Convict Labor in the New South* (1996); David Oshinsky, *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (1997); Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (1997); Paul E. Lovejoy, *Transformations in Slavery* (1982); Seth Rockman, *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore* (2009); Thomas Morris, *Southern Slavery and the Law* (1996); Eugene Genovese, *Roll, Jordan, Roll* (1974); Walter Johnson, *Soul by Soul* (1999).

⁶² See e.g., SHIKHA SILLIMAN BHATTACHARJEE, *CLEANING HUMAN WASTE: MANUAL SCAVENGING, CASTE, AND DISCRIMINATION* (2014) (laying out the architecture of caste-based discrimination impacting women at the base of the caste hierarchy in India); Shikha Silliman Bhattacharjee, “Forced and bonded labour” in *Practices of Change, Addressing Equity and Inclusion for Dalits in South Asia* (2014) (providing a brief overview of the the *haliya* practice—an agrarian system of bonded labour prevalent in western Nepal that was outlawed in 2008).

⁶³ See Gunther Peck, *Reinventing Free Labor: Padrones and Immigrant Workers in the North American West, 1880–1930* (2000); Andres Resendez, *The Other Slavery: The Uncovered Story of Indian Enslavement in America* (2017); Aziz Rana, *The Two Faces of American Freedom* (2014); Nicholas Dirks, *Castes of Mind* (2001).

⁶⁴ See Karen Orr, *Belated Feudalism: Labor, the Law, and Liberal Development in the United States* (1991); Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (1998); Robert J. Steinfield, *Coercion, Contract, and Free Labor in Nineteenth Century America* (2001); Kunal Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600-2000* (2015); Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern*

Conjugated oppression both relies upon and produces “symbolic violence,” a term originating with the French Sociologist Pierre Bourdieu explaining how social structures of inequality inform our perceptions, leading us to perceive hierarchical relationships of power that reflect our social reality as natural. Drawing on Bourdieu, Holmes explains: “Symbolic violence works through the perceptions of the ‘dominating’ and the ‘dominated’... Each group understands not only itself but also the other to belong naturally in their positions in the social hierarchy.”⁶⁵

For example, on routine shopping trips to supermarkets, we may believe that we deserve access to food products from across the globe at low prices—perhaps exhibited in our frustration if a product we commonly purchase is out of stock, and we may even believe that the workers who produce these product are lucky to have jobs at the base of agri-food supply chains, regardless of their working conditions, because in the end, they need these jobs in order to address family financial needs that they have brought upon themselves. It may be a similar line of reasoning that leads national legislators in production countries to roll back labor rights, because in the end, low wage unprotected work is better than no work at all. This type of reasoning justifies and perpetuates work that falls below decent work standards. It is a form of symbolic violence rooted in a resignation or naturalization of exploitative labor as a core feature of the global economy.

Legal exclusion and violence

Building upon and linking the robust literatures documenting conjugated oppression in agricultural establishments and on global supply chains, this paper contributes an analysis of how nation states facilitate the labor exploitation and conjugated oppression of agricultural workers by systematically excluding them from labor rights protections. On one hand, the exclusion of agricultural workers from labor rights is rooted in the legacy of colonial labor practices and plantation slavery.⁶⁶ On the other, these exclusions have been systematically reinforced by deregulation of national labor markets in the late twentieth century—which in developing

America (2004); Erika Lee, *At America's Gates: Chinese Immigration During the Exclusion Era, 1882-1943* (2003); Lucy Salyer, *Laws Harsh As Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (1995).

⁶⁵ See Seth Holmes *supra* note 13 (citing Philippe Bourgois, *IN SEARCH OF RESPECT: SELLING CRACK IN EL BARRIO* (1995); Philippe Bourgois, *The Power of Violence in War and Peace: Post-Cold War Lessons from El Salvador* 2(1) *ETHNOGRAPHY* 5-34; Nancy Scheper Hughes and Philippe Bourgois, *Making Sense of Violence*, in *VIOLENCE IN WAR AND PEACE: AN ANTHOLOGY* 1-31 (Ed. Nancy Scheper-Hughes and Phillippe Bourgois); Eric Klinenberg, *Denaturalizing Disaster: A Social Autopsy of the 1995 Chicago Heat Wave*, 28 *THEORY AND SOC.* 239-95.

⁶⁶ SILLIMAN BHATTACHARJEE, *supra* note 6 at 13 (explaining that in the framing of the ILO Right Association (Agriculture) Convention, 1921 (No.11) delegates from countries that had been colonized linked the exploitation and systematic legal exclusion of agricultural workers from labor rights protections to colonial labor practices and a widespread failure to distribute land in the aftermath of independence struggles); and at 59 (linking the exclusion of farmworkers from the United States National Labor Relations Act, 1935 to the history of plantation slavery: “Reflecting the legacy of plantation slavery, agricultural work remained at the core of the Southern economy. Most of the era’s agricultural workers and domestic workers were African American, and maintaining racialized exclusion from labor laws was crucial to weakening their position as workers in order to increase the profits of white Southern landholders and employers”).

markets in the Global South has been driven by structural adjustment aimed at facilitating the inflow of foreign direct investment and agri-food multinationals.⁶⁷

Systematic legal exclusion of agricultural workers from labor rights reinforces both the structural violence of supply chain exploitation, and the conjugated oppression that reproduces social hierarchy on farms and fields across the globe. As explained by Seth Holmes, exploitation of agricultural workers takes place at the nexus of structural and symbolic violence. “Structural violence—with its pernicious effects on health—and symbolic violence—with its subtle naturalization of inequalities on the farm, in the clinic, and in the media—form the nexus of violence and suffering through which the phenomenon of migrant labor in North America is produced.”⁶⁸ In short, legal exclusion, or the withdrawal of the protection of the state, not only leaves the structural violence of supply chain exploitation unchecked, but also enacts symbolic violence by reinforcing the status of agricultural workers as unworthy of legal protection.

As explained by Bourdieu, the “force of law” has a determining power in society,⁶⁹ functioning in close relation with the exercise of power in other social realms and through other mechanisms.⁷⁰ The social power of the law—its legitimacy and ability to gain consent—are linked to the legal processes of formalizing and codifying the juridical order.⁷¹ Just as conjugated oppression enacts symbolic violence, Bourdieu identifies a symbolic violence that takes place when principles of division—in this case the exclusion of agricultural workers from labor rights—are imposed upon agricultural workers who have no choice but to accept their legally imposed status as unprotected workers.⁷² The authority of the state disseminates and reproduces legal principles of exclusion, rendering relationships of exploitation legitimate, and reproducing conditions of social and economic subordination.⁷³

II. Freedom of association as a cornerstone right for agricultural workers

In conducting my legal analysis of labor rights exclusions, presented in Part III, I used legal exclusion from freedom of association as both a signal for broader labor rights exclusions, and a benchmark for exclusion. There are a few reasons for this methodological decision.

First, freedom of association is a cornerstone right because it creates the conditions for trade unions and workers movements to intervene in structural violence by advancing, defending, and enforcing all other labor rights. In short, it allows workers through their trade unions to intervene in structural violence. In the arena of legislation and policy, trade unions have the capacity to impact labor standards beyond the capacity of any individual worker. For instance, where social protection floors exist—nationally defined guarantees of essential health care and income

⁶⁷ Lee, *supra* note 8 at 12326.

⁶⁸ SETH HOLMES *supra* note 13.

⁶⁹ Pierre Bourdieu, *The Force of Law: Toward a Sociology of the Juridical Field*, 38 HASTINGS L.J. 805, 807 (1987).

⁷⁰ *Ibid* at 808.

⁷¹ *Ibid* at 809-10.

⁷² *Ibid* at 812.

⁷³ *Ibid* at 813.

security⁷⁴— they were won through protracted struggles by trade unions and trade union engagement in social dialogue.⁷⁵

In August 2020, farmers in India embarked on what would become the longest and most sustained agrarian protest since the 1950s. The farmer protests called for the repeal of three national laws governing the sale, pricing, and storage of farm produce that they argued would leave farmers vulnerable to exploitation by large companies. While most farmers had previously sold their produce at government-controlled wholesale markets that guaranteed them minimum support prices, the new laws would allow farmers to sell directly to agri-businesses, supermarket chains, and online grocers—exposing them to market forces, including downward pressure on prices from lead firms on agri-food supply chains. In late November 2020, farmers from Punjab, Haryana, and Uttar Pradesh marched to the capital in Delhi. Denied entry to the city, they set up large protest camps. Thousands of farmers remained camped at the border of the capital—braving the heat, cold, and COVID-19 pandemic that took the lives of dozens. On December 9, 2021, farmers ended their protest after the government agreed to repeal the agricultural reforms.⁷⁶ The protests were led by the *All India Kisan Sabha* (AIKS) (All India Farmers Union), the farmers wing of the Communist Party of India. Critical to the success of the protests was the ability to bring together farmers from across caste, class, and religious divides—including *Dalit* and *Adivasi* (tribal) workers, Muslim farmers, small scale producers, and commercial farmers in an alliance aimed at protecting their livelihoods in the face of market deregulation and facilitated, unmediated entry of global finance capital, agribusiness, and agri-food supply chains.⁷⁷

Within hierarchical workplaces, trade unions are also instrumental in negotiating collective bargaining agreements that advance worker rights, and supporting workers to seek relief in cases of rights violations. For instance, according to a January 2021 study of working conditions on banana plantations in Guatemala, the third largest banana exporting country in the world, workers on unionized plantations in the north of the country experience clear gains associated

⁷⁴ See ILO, *Thematic Area 22. Social Protection Floor*, ILO Decent work for sustainable development (DW4SD) Resource Platform (Jan. 31, 2022, 12:42 pm), <https://www.ilo.org/global/topics/dw4sd/themes/sp-floor/lang--en/index.htm>. See also SILLIMAN BHATTACHARJEE *supra* note 6 at 37 (explaining the status of social protection in international law and its contemporary urgency, especially in light of COVID-19 impacts on working people: “Social protection and the right to social security have been integral elements of the ILO mandate since its creation in 1919. The right to social security has been articulated in the Social Security (Minimum Standards) Convention, 1952 (No. 102) and the more recent Social Floors Recommendation, 2012 (No. 202). These longstanding commitments are particularly urgent in our contemporary context of rising global inequality and in the aftermath of COVID-19. They have also gained increasing traction in global initiatives including the Sustainable Development Goals (SDGs) and the ILO Future of Work, which emphasizes the importance of investing in people’s capabilities, including by strengthening social protection”).

⁷⁵ See Silliman Bhattacharjee *supra* note 6 at 37 (citing ILO, *Social Protection: What workers and trade unions should know* (ed. Manuel Simpn Velasco) 2000/4 No. 121, p. I-IV.)

⁷⁶ “Farm laws: India farmers end protest after government accepts demands,” BBC NEWS, 9 Dec. 2021, accessed Feb. 3, 2022, <https://www.bbc.com/news/world-asia-india-59566157>.

⁷⁷ See Jens Lerche, *The farm laws struggle 2020-2021: class-caste alliances and bypassed agrarian transition in neoliberal India*, 48:7 J. PEASANT STUD. 1380-1396 (2021) (providing an analysis of class-caste alliances in India’s farmer struggles).

with union membership when compared to workers in the south where union repression is more widespread. Unionized banana workers earn USD 586 per month (USD 2.52 per hour) in the north compared to USD 308 (USD 1.05 per hour) in the south. Workers in the north also work 54 hours per week, compared to 68 hours in the south (a 25.9% difference), have a 60-minute lunch break compared to a 20-minute lunch break, and report safer work places, including reduced incidents of sexual harassment and verbal abuse.⁷⁸ Notably, these gains were achieved in Guatemala despite a long history of violent union oppression that extends to date, with 101 trade unionists murdered between 2004 and 2008.⁷⁹

Moreover, the ability for workers to bargain at the enterprise and sectoral levels has the potential to facilitate widespread transformation on agri-food supply chains. Issues that can be collectively bargained at the workplace and sectoral level include “wages, contracts of employment, labor contracting, maternity rights, health benefits, hours of work, leave, occupational health, safety and environment, housing conditions, grievance procedures, transport of workers, elimination of child labor, measures to counter HIV/AIDS, and COVID-19 relief and recovery.”⁸⁰

Second, freedom of association provides a powerful antidote to the symbolic violence of naturalized worker exploitation. In exercising the right to freedom of association, workers refute the symbolic violence of inadequate labor standards and labor rights exclusions, rendering relationships of exploitation illegitimate and challenging the reproduction of economic and social subordination. As such, the importance of freedom of association and collective bargaining is heightened for historically excluded workers. Given the importance of freedom of association in addressing both structural and symbolic violence, the denial of freedom of association represents a padlock on the hinge joining labor exploitation and conjugated oppression—reinforcing the economic and social subordination of agricultural workers.

The critical role of freedom of association and collective bargaining in advancing, defending, and enforcing labor rights is well established in national and international law.⁸¹ The right to freedom of association is recognized in every international and regional human rights instrument, including the Universal Declaration of Human Rights (UDHR), international covenants, regional human rights charters, and governing documents of international organizations. Freedom of association is also guaranteed in most national constitutions.⁸² Despite global recognition of freedom of association as a fundamental right, however, agricultural workers remain systematically excluded from freedom of association, making the structure and circumstances of these exclusions a particularly rich site of investigation.

⁷⁸ Mark Anner, *What Difference Does a Union Make? Banana Plantations in the North and South of Guatemala* (2021),

⁷⁹ See SILLIMAN BHATTACHARJEE *supra* note 6 at 15 (situating the findings of Anner *supra* note 76 in context of high levels of union repression).

⁸⁰ See SILLIMAN BHATTACHARJEE *supra* note 6 at 37(citing and adding to FAO, ILO, and IUF *supra* note 4 at 49-53).

⁸¹ ILO, *Declaration on Social Justice for a Fair Globalization*, adopted by the International Labour Conference at its 97th Session, Geneva, 10 June 2008.

⁸² CEACR, *supra* note 6 at ¶ 275.

In fact, the systematic exclusion of agricultural workers from freedom of association and other labor rights was identified by the international community as an important cite of intervention more than 100 years ago. Accordingly, in 1921, ILO member states passed the Right of Association (Agriculture) Convention, 1921 (No. 11),⁸³ calling for member states to protect the same rights of association for agricultural workers as industrial workers, and eliminate laws and practices restricting the rights of agricultural workers.⁸⁴ Delegates at the third session of the International Labor Conference in 1921 saw Convention 11 as necessary to protect agricultural workers who were systematically excluded from the labor rights afforded industrial workers.⁸⁵ The Convention broke new ground in addressing the systematic exclusion of agricultural workers from labor rights across the world. To date, 123 ILO member states have ratified Convention 11, committing to protect freedom of association for their agricultural workforces.⁸⁶

Finally, in deciding to study the exclusion of agricultural workers from labor rights through a freedom of association lens, my research engages in network-based rights mobilization as a research practice.⁸⁷ This approach seeks to use positions of power in knowledge generation to address imbalances in information and power—in particular, by producing research that strengthens advocacy to advance labor rights for agricultural workers through networks of trade unions, workers organizations, and other civil society organizations and campaigns. This approach joins a line of scholarship committed to “pragmatic solidarity,” not only perceiving social inequalities but also seeking to challenge and transform inequalities of power.⁸⁸ Accordingly, my initial legal analysis⁸⁹ was designed in collaboration with the IUF⁹⁰ and GLJ-ILRF⁹¹ and been used in advocacy at the Civil Society and Indigenous People Mechanism

⁸³ ILO, C011 – Right of Association (Agriculture) Convention, 1921 (No. 11) (Convention 11 advances the principle that all those engaged in agriculture are entitled to the same freedom of association rights as other workers, and calls for states to repeal any laws and policies curtailing agricultural workers’ rights. These protections are guaranteed to “all those engaged in agriculture”—including agricultural workers across the full spectrum of national circumstances and employment relationships. Convention 11 calls for states to repeal any statutory or other provisions restricting rights to freedom of association for any worker engaged in agriculture. Freedom of association protections under Convention 11 apply to any organization that facilitates a strong, independent, and effective collective voice for agricultural workers).

⁸⁴ League of Nations, ILC Third Session, Vol. I – First and Second Parts, ILC, (1921), pp. 28-29.

⁸⁵ SILLIMAN BHATTACHARJEE, *supra* note 6 (citing League of Nations, *supra* note 82 at pp. 28-29).

⁸⁶ ILO, Normlex, Ratifications of C011 - Right of Association (Agriculture) Convention, 1921 (No. 11), accessed April 3, 2021.

⁸⁷ See NATHAN AND SILLIMAN BHATTACHARJEE ET AL. *supra* note 11 at 3 (defining network-based rights mobilization and its application in studying the experiences of women garment workers on Asian fast-fashion supply chains).

⁸⁸ See e.g., Paul Farmer, *Pathologies of Power: Health, Human Rights, and the New War on the Poor* (2003); Seth Holmes, *supra* note*; Angana Chatterji, *Conflicted Democracies and Gendered Violence: The Right to Heal* (2015).

⁸⁹ Silliman Bhattacharjee, *supra* note 6.

⁹⁰ International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), founded in 1920, is an international trade union federation made up of 423 affiliated trade unions in 127 countries representing over 10 million workers. The IUF Rules stipulate that unions representing workers in agriculture, plantations and rural areas are eligible to be members of the IUF. See *The food, farm, hotels and more global union*, IUF, (Jan. 29, 2022), <https://www.iuf.org>.

⁹¹ Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), is a new merged organization bringing strategic capacity to cross-sectoral work on global value chains and labor migration corridors.

(CSM) counter-mobilization to the UN Food Systems Summit, and in ongoing IUF advocacy with the ILO Standards Review Mechanism Tripartite Working Group (SRMTWG) as Convention 11 comes under review.⁹²

III. Global legal architecture of exclusion from labor law protections

Despite global commitments to protect freedom of association for agricultural workers, their exclusion from freedom of association and other labor rights takes place around the world, rooted in a global history of exploitation that extends into the present. This section lays out a typology of legal exclusions from across national jurisdictions that deny labor rights to agricultural workers. As explained in Part II, in analyzing labor rights for agricultural workers in 110 ILO member countries, I focused on exclusion from freedom of association as a bellwether for other labor rights exclusions and workplace abuse.⁹³

My research revealed two broad categories of exclusion: (1) specific exclusion of agricultural workers from labor rights—including sector-wide exclusions, exclusion of self-employed and own-account farmworkers, and exclusions based on farm size; and (2) general exclusions from labor rights that have a significant impact upon agricultural workers—including short-term employment exclusions, exclusion of self-employed workers, and migration-status based exclusions (Table 1).⁹⁴

GLJ-ILRF holds corporations accountable for labor rights violations in their supply chains; advances policies and laws that protect decent work and just migration; and strengthens freedom of association, new forms of bargaining, and worker organizations.

⁹² ILO, Standards Reviews—Decisions on Status, C011 Right of Association (Agriculture) Convention, 1921 (No.

11), Instrument with interim status [As determined by the Governing Body upon recommendation of the *Cartier Working Party*], To be examined by SRM TWG at a later date yet to be determined.

⁹³ In conducting this analysis, I have drawn from the *General Survey concerning the right of association and rural workers' organizations and instruments*, conducted in 2014 and released in 2015. See CEACR *supra* note 6 at ¶¶ 4,7 (explaining that in 2012, the International Labour Office expressed renewed concern that agricultural workers were still persistently excluded from the right to associate and bargain collectively, catalyzing a General Survey process wherein 110 governments reported on national law and practice related to Convention 11 and other instruments protecting the rights of agricultural workers and 56 workers' organizations and eight employers' organizations also provided information and observations). See also ILC, Rep. to the International Labour Conference on its 101st Session, 2012, *Fundamental principles and rights at work: From commitment to action*, Report VI, ILC. 101/VI, ¶¶ 43, 106, 110.

⁹⁴ This Table draws from and updates the typology of labor law exclusions presented in SILLIMAN BHATTACHARJEE, *supra* note 6. Notably, while the table in the cited resource lays out broad categories of exclusions for the purpose of ILO advocacy, Table 1 in this text subdivides these exclusions into the categories of specific and general exclusions and significantly redefines these categories of exclusion in order to facilitate more specific analysis for an audience of legal practitioners, policy makers, and scholars.

Table 1: Typology of legal exclusions facing agricultural workers with global examples

Type of exclusion	Specific legal exclusion	Global examples
Category 1: Specific exclusion of agricultural workers from protection		
Sector-wide exclusions	Exclusion of all agricultural workers from labor rights protecting freedom of association and collective bargaining	Bolivia ⁹⁵ , United States ⁹⁶
Exclusion of self-employed and own account farmworkers	Exclusion of independent agricultural workers, small farmers, and workers employed on estates as out-growers from freedom of association	Pakistan ⁹⁷ , Sri Lanka ⁹⁸
Farm-size exclusions	Exclusion based upon the number of employees or size of farms	Bangladesh ⁹⁹ , Honduras ¹⁰⁰ , Italy ¹⁰¹ , Turkey ¹⁰² , Saudi Arabia ¹⁰³

⁹⁵ Bolivia: General Law on Labour §1 (8 Dec. 1942) and Reg. on the General Labour Law Supreme Act No. 224 (23 Aug. 1943). *See also* CEACR, Right to Organise and Collective Bargaining Convention, 1949 (No. 98)-Bolivia (Plurinational State of)(Ratification: 1973), Obs. adopted 2019, published 109th ILC Session 2021 (“the need to guarantee the right to collective bargaining of . . . agricultural workers [the Constitution already does so, but the General Labour Act has not been amended accordingly]”).

⁹⁶ United States: Labor Management Relations, 29 USC § 152(3)(1964) (exempting from the Act’s coverage “any individual employed as an agricultural laborer”).

⁹⁷ Pakistan: CEACR, Observation (CEACR)- adopted 2012, published 102nd ILC Session (2013), Right to Organise and Collective Bargaining Convention, 1949 (No. 98) – Pakistan (Ratification: 1952) (noting that §1(3) of the Industrial Relations Act, Balochistan Industrial Relations Act, Khyber-Pakhtoonkha Industrial Relations Act, Punjab Industrial Relations Act, and Sindh Industrial Relations Act exclude independent agricultural workers from freedom of association. However, as discussed in part III(C) of this paper, in 2019, the Sindh Provincial Assembly amended the Industrial Relations Act of 2010, extending protection—including freedom of association—to workers in the agriculture and fisheries sectors.

⁹⁸ Sri Lanka: workers without an employer-employee relationship such as small owner-occupiers and share croppers are not covered by the Trade Union Ordinances of (No. 14 of 1935). These workers are permitted to form other organizations under the Agrarian Services (Amendment) Act No, 4, 1991, but they remain excluded from the right to bargain collectively.

⁹⁹ Bangladesh: Bangladesh Labour Act 2006 amended by section 2(c)(i) of the Bangladesh Labour (Amendment) Act, 2013, § 1(4)(n) does not apply to agricultural farms where less than five workers are normally employed. *See* CEACR, Observation (CEACR) – adopted. 2019, published 109th ILC Session (2021), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) – Bangladesh (Ratification: 1972)(noting that the BLA is only applicable to agricultural workers engaged in commercial agricultural farms where at least five workers are employed).

¹⁰⁰ Honduras: Labour Code, Decree No. 189, 1959 (last amended in 2015), §2(1)(excluding workers from freedom of association in agricultural and stock-raising enterprises which do not permanently employ more than ten workers). *See also* CEACR, Observation (CEACR) – adopted 2020, published 109th ILCC session (2021), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) – Honduras (Ratification 1956).

¹⁰¹ Italy: Law No. 300 of 20 May 1970 (the Workers’ Statute), Art. 18 (protecting freedom of association, collective bargaining, and other trade union activities only in industrial and commercial agricultural establishments that employ five or more workers)

¹⁰² Turkey: Labour Act of Turkey, Law No. 4857 of 2003, enacted 22.05.2003 and published in the Official Gazette on 10 June 2003, Art. 4.

¹⁰³ Saudi Arabia: Royal Decree No. M/51 of 2005, Arts. 5(4), (5) and (6), and 7(4).

Category 2: General exclusion from protection with significant impact for agricultural workers		
Short-term employment exclusions	Exclusion of temporary, seasonal, and casual workers	Brazil ¹⁰⁴ , Chile ¹⁰⁵ , China ¹⁰⁶ , Nicaragua ¹⁰⁷ , Qatar ¹⁰⁸ , Syrian Arab Republic ¹⁰⁹ , Turkey ¹¹⁰
Exclusion of self-employed workers	Exclusion of self-employed workers from freedom of association and collective bargaining that impact self-employed and own-account agricultural workers	Central African Republic ¹¹¹ , Japan ¹¹² , United States ¹¹³
Migration status-based exclusions	Restrictions for migrant or foreign workers that impact agricultural workers	Algeria ¹¹⁴ , Central African Republic ¹¹⁵

¹⁰⁴ Brazil: CEACR *supra* note 6. p. 40, ¶ 128, note 26 (citing *Brazil* – CEACR, Convention No. 141, observation, published in 2012).

¹⁰⁵ Chile: CEACR *supra* note 6 p. 40, ¶ 128, note 25 (citing *Chile* – CEACR, Convention No. 87, observation, published in 2010).

¹⁰⁶ China: CEACR *supra* note 6 p. 40, ¶ 128, note 26 (citing *China* – CEACR, Convention No. 11, observation, published in 1948).

¹⁰⁷ Nicaragua: CEACR *supra* note 6 p. 40, ¶ 128, note 26 (citing *Nicaragua* – CEACR, Convention No. 11, observation, published in 1962).

¹⁰⁸ Qatar: CEACR *supra* note 6. p. 40, ¶ 128, note 25 (citing Qatar Law No. 14 of 2004, article 3(3) excluding casual workers from labor law protections).

¹⁰⁹ Syrian Arab Republic: CEACR *supra* note 6 p. 40, ¶ 128, note 25 (citing Labour Code 2010, article 5(a)(6) excludes casual workers from labour law protections).

¹¹⁰ Turkey: CEACR *supra* note 6 p. 40, ¶ 129, note 28 (citing CEACR, Convention No. 87, general observation, published in 2009 and explaining that the Government of *Turkey* indicated that as temporary, seasonal and casual workers were generally employed in the informal economy, they could not benefit from the right to organize).

¹¹¹ Central African Republic: CEACR, Direct Request (CEACR) – adopted 2020, published 109th ILC session (2021), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) – Central African Republic (Ratification: 1960) (“requesting the Government to indicate the legislative provisions that protect the right of self-employed workers to freely establish and join organizations of their own choosing, given their exclusion from the scope of application of the current Labour Code §. 2”).

¹¹² Under Japan’s Labour Union Law, 1949, a worker is a person who maintains their livelihood by the income derived from wages, salaries, or other remuneration regardless of their occupation (Article 3). Self-employed workers do not have the same rights of association as industrial workers covered under the Labour Union Law. *See* Labour Union Law (Law No. 174 of 1 June 1949), NATLEX Database of national labour, social security and related human rights legislation, accessed Jan. 31, 2022, https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=27190&p_country=JPN&p_count=851&p_classification=02&p_classcount=14. The Agricultural Cooperatives Law, 1947, allows self-employed workers in agriculture to form farmers’ cooperative organizations. These organizations do not, however, have the rights to collective bargaining afforded to industrial workers. *See* Agricultural Cooperatives Law of Japan, Art. 3 ECOLEX, accessed Jan. 31, 2022, <https://www.ecolex.org/details/legislation/agricultural-cooperative-law-of-japan-lex-faoc163836/>.

¹¹³ NLRA, 1935, §152(3)

¹¹⁴ Algeria: CEACR *supra* note 6 p. 41, ¶ 130, note 30 (citing *Algeria* – CEACR, Convention No. 87, observation, published in 2014 (section 6 of Act No. 90-14 of 2 June 1990).

¹¹⁵ Central African Republic: CEACR *supra* note 6 p. 41, ¶ 130, note 29 (citing *Central African Republic* – CEACR, Convention No. 87, observation, published in 2014 (article 17 of the Labour Code).

In Parts A and B below, I discuss each of these categories and types of exclusion in turn, grounding my analysis in specific national examples. I also discuss the role of these exclusions in reinforcing the position of agricultural workers at the base of economic and social hierarchies. While my analysis focused on exclusion at the national level, I found that national laws governing labor rights for agricultural workers interact with subnational exclusions (and inclusions). Accordingly, in Section C, I discuss cases of reduced protection at the sub-national level, distinct protections between provinces and states, and increased protections at the state level.

A. Specific exclusion of agricultural workers from labor rights

Specific exclusion refers to national legislation that restricts freedom of association and other labor rights for agricultural workers on the basis of their status as agricultural workers. This type of exclusion manifests as sector-wide exclusions, exclusion of self-employed and own account farm workers, and farm size exclusions.

1. Sector-wide exclusion of agricultural workers

Despite widespread global acceptance of the right to freedom of association for agricultural workers, national laws excluding all agricultural workers from the right to freedom of association persist. In the United States, the National Labor Relations Act (NLRA), 1935 establishes rights and obligations regarding union representation and collective bargaining but denies protection to agricultural workers.¹¹⁶ In Bolivia, agricultural workers are entirely excluded from the scope of the Bolivian General Labour Act, 1942.¹¹⁷

In the United States and South Africa, contemporary sector-wide exclusion is rooted in entrenched histories of racialized exploitation. In the United States, exclusion of agricultural workers from the National Labor Relations Act, 1935 (NLRA) and Fair Labor Standards Act, 1938 (FLSA) functioned to maintain a racialized low wage workforce in agriculture and domestic work, reinforcing social hierarchies of plantation slavery. Capitalizing on exclusion of agricultural workers from protection under the NLRA, the composition of the United States workforce has shifted to include significant numbers of migrant workers from Mexico and Central America, and small but growing numbers of convict workers that are not only excluded from freedom of association, but are also subject to control by the state on the basis of their immigration or convict status. As demonstrated by the South African experience, even in national contexts where legal exclusion of agricultural workers has been rolled back, the legacies of racist institutions continue to undermine freedom of association and decent work.

Race and sector-wide exclusion of agricultural workers—United States

¹¹⁶ Labor Management Relations, 29 USC § 152(3), *supra* note 94.

¹¹⁷ Bolivia, *supra* note 93.

In the United States, the blanket exclusion of all agricultural workers from freedom of association is rooted in the sordid national history of racialized oppression, dating back to plantation slavery. When the NLRA was signed into law in 1935, it gave employees the right, under Section 7 to form and join unions; and obligated employers to bargain collectively with unions selected by a majority of employees in a bargaining unit. At the time, agricultural and domestic workers who were mostly Black were excluded from protection under the NLRA in order to meet conditions of Southern politicians whose votes were required to pass the law and who sought to maintain a racialized low wage workforce in agriculture and domestic work and thereby uphold a racialized social and economic order. Democrats at the time passed separate legislation to promote racial equality, splitting issues of class and race into two sets of legal frameworks, neither of which had enough authority to integrate the labor movement.¹¹⁸ Thus, implicitly racialized exclusions that reflected the social patterns of slavery were written into US law, with many of these exclusions remaining on the books. Today, agricultural workers—mostly migrant workers from the Southern US, Mexico, and Central America, and also Black workers—still live with this racist legacy as every labor reform since then has continued to omit them from protection.

Race and exclusion in the framing of the FLSA and NLRA

The foundation for the current framework for labor rights was developed in the 1930s in response to a wave of massive strikes among industrial workers, including calls for economic justice by Black agricultural workers in the American South and industrial workers across the nation.¹¹⁹ The first of these laws included the NLRA, 1935 intended to encourage collective bargaining; and the Fair Labor Standards Act (FLSA), 1938 which mandated minimum labor standards.

At the time of its passage, although the NLRA covered workers in most industries, agricultural workers were entirely excluded from protection. This exclusion reflected the compromise with Southern Democrats known as Dixiecrats who made the racialized exclusion of agricultural and domestic workers a condition of their support. Reflecting the legacy of plantation slavery, agricultural work remained at the core of the Southern economy. Most of the era's agricultural workers and domestic workers were Black, and maintaining racialized exclusion from labor law protections was crucial to weakening their position as workers in order to increase the profits of white Southern landholders and employers.¹²⁰

NLRA exclusions were re-institutionalized in the Fair Labor Standards Act (FLSA). On the heels of the NLRA, the FLSA established federal standards for minimum wage and overtime pay, but excluded millions of domestic and agriculture workers who were overwhelmingly people of color. While the FLSA has been extended to apply minimum wage and recordkeeping provisions

¹¹⁸ Paul Frymer, *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party* (2007).

¹¹⁹ Lisa R. Goluboff, *The Lost Promise of Civil Rights*, Cambridge (2010).

¹²⁰ Excluded Workers Congress, *Expanding the Right to Organize to Win Human Rights at Work* (2010).

to most agricultural workers and employers, workers remain unprotected by the Act's overtime pay provisions.¹²¹

Race, migration, and exclusion in the contemporary agricultural sector

Over time, the United States agricultural industry required a new low wage work force excluded from labor rights protections. Capitalizing on exclusion of agricultural workers from the scope of the NLRA, the composition of the United States workforce has shifted to include significant numbers of migrant workers from Mexico and Central America that are not only excluded from freedom of association but are also subject to control by the state on the basis of their immigration status. There are an estimated 2 to 3 million migratory and seasonal agricultural workers employed in the United States.¹²² Migrant status—whether temporary guest worker or undocumented status—adds an additional category of contingency for many workers that creates obstacles for enforcing workplace rights.

More recently, although Federal and State laws prohibited convict leasing for most of the 20th Century, due to a spike in border enforcement and anti-immigration policies leading to a diminishing supply of agricultural workers, growers in states including Arizona, Idaho, and Washington have begun employing incarcerated workers from prisons.¹²³ Not only excluded from freedom of association on the basis of their status as agricultural workers, incarcerated people working in agricultural establishments are also particularly vulnerable to abuse on the basis of their incarceration, with some workers making as little as ten cents (USD .10) per hour.¹²⁴

United States sectoral exclusion as a global aberration

It is important to note that blanket sectoral exclusion of workers employed in agriculture from labor rights is not the norm—with the United States coming in as a significant outlier, together with Bolivia. In fact, freedom of association for agricultural workers is protected by law across ILO member states, with a majority of member States confirming that rights of rural and agricultural workers to bargain collectively are guaranteed by legislation in force in their

¹²¹ “US Labor Law for Farmworkers,” FARMWORKER JUSTICE, accessed Feb. 1, 2022, <https://www.farmworkerjustice.org/advocacy-and-programs/us-labor-law-farmworkers>.

¹²² FACTS ABOUT AGRICULTURAL WORKERS, NATIONAL CENTER FOR FARMWORKER HEALTH, accessed Feb. 1, 2022, <http://www.ncfh.org/facts-about-agricultural-workers.html>

¹²³ Rebecca McCray, A Disturbing Trend in Agriculture: Prisoner-Picked Vegetables – Some states are turning to their prisons to make up for farmworker shortages, TAKEPART, April 14, 2014, accessed Feb. 1, 2022, <http://www.takepart.com/article/2014/04/14/prison-ag-labor>; Dan Wheat, Grower turns to prison for apple harvest help, CAPITAL PRESS, Dec. 13, 2018, https://www.capitalpress.com/state/washington/grower-turns-to-prison-for-apple-harvest-help/article_f623bacc-1d7d-5787-b748-0123b5947ca9.html; Lauren Castle and Maria Polletta, Some prisoners in Arizona make 10 cents per hour –should they get a \$3 minimum wage, ARIZONA REPUBLIC, February 7, 2020, <https://www.azcentral.com/story/news/local/arizona/2020/02/07/arizona-lawmaker-proposes-3-per-hour-minimum-wage-prisoners/4681453002/>.

¹²⁴ See Castle and Polletta, *supra* note 121.

countries. States that confirmed specific legislation protecting the rights to freedom of association and collective bargaining for rural and agricultural workers include Antigua and Barbuda, Australia, Belarus, Bulgaria, Czech Republic, Finland, France, Iceland, Israel, Italy, Kyrgyzstan, Malta, Republic of Moldova, Namibia, Slovakia, Sweden, the former Yugoslav Republic of Macedonia, Ukraine, United Kingdom, and Uzbekistan.¹²⁵

Legacies of institutionalized racial exclusion—South Africa

Even in national contexts where sector-wide exclusion of agricultural workers has been rolled back, the legacy of institutionalized exclusion continues to undermine freedom of association and decent work. For instance, in South Africa, hierarchical relationships between commercial farmers and agricultural workers find their roots in seventeenth century racialized ‘master-slave’ relationships. Apartheid era legal exclusions included the Natives Land Act, 1913 and the Native Trust and Land Act, 1936, promulgated to ensure that Blacks were prohibited from land ownership outside areas reserved for Africans; racialised employment laws such as the Industrial Conciliation Act, 1956 (renamed Labour Relations Act 28 of 1956); and classification of farm work in South Africa as a pre-industrial sector, excluding workers from coverage by the national labor relations framework. On geographically isolated farms, rights violations have long been unchecked. This regime excluded agricultural workers from freedom of association, collective bargaining, and labor rights enforcement until the fall of apartheid in 1994.¹²⁶

With the fall of apartheid came a raft of progressive legislation conferring economic, social, cultural, civil, and political rights to all South Africans.¹²⁷ The laws and policies protecting farm workers in South Africa, however, are in stark contrast with the persistent exclusion of farmworkers from freedom of association and decent work. Decent work for South African agricultural workers, in line with this new legal architecture, have faced considerable opposition from farming bodies at the level of drawing up and implementing these laws. Moreover, this raft of progressive legislation was passed in tandem with trade reforms and liberalisation in the 1990s

¹²⁵ CEACR *supra* note 6, ¶¶ 4,7.

¹²⁶ See SILLIMAN BHATTACHARJEE *supra* note 6 at 52-56 (providing a case study of this history of legal exclusion and limited implementation of laws protecting farm workers).

¹²⁷ *Ibid* at 52 (for a listing and discussion of these laws, including the Agricultural Labour Act, 147 of 1993, applying the Labour Relations Act, 1956 and the Basic Conditions of Employment Act, 1983 to agricultural activities; Occupational Health and Safety Act, No. 85 of 1993, amended by the Occupational Health and Safety Amendment Act, No. 181 of 1993; Compensation for Occupational Injury and Disease Act, 130 of 1993, amended by the Compensation of Occupational Injuries and Diseases Amendment Act, No 61 of 1997; Labour Relations Act, No. 66, of 1995; Land Reform (Labour Tenants) Act, No. 3 of 1996; Extension of Security of Tenure Act (No. 62 of 1997); Basic Conditions of Employment Act, No. 75 of 1997 (the BCEA); Housing Act, No. 107 of 1997; Skills Development Act, No. 97 of 1998; Employment Equity Act, No. 55 of 1998; Unemployment Insurance Act, No 63 of 2001, amended by the Unemployment Insurance Amendment Act, No 32 of 2003; and Unemployment Insurance Contribution Act, No 4 of 2002; Sectoral Determination 13 for Agriculture of 2002, an extension to the BCEA prescribing minimum wages for labour in the agricultural sector; Agricultural Broad Economic Empowerment (AgriBEE) Sector Code, finalised on 28 December 2012, in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, (Act No. 53 of 2003); and National Minimum Wage Act, No. 9 of 2018).

that led to decreased protection and subsidies in the sector.¹²⁸ For instance, six of the fifteen control boards which regulated pricing and marketing were abolished.¹²⁹

As a result, employers routinely violate freedom of association and other labor rights, directly and indirectly. Farms continue to represent zones of localised sovereign power and the legal frameworks and policy hold less sway than informal modes of operation defined by asymmetric power and social relations.¹³⁰ Consistent with global patterns of conjugated oppression, the relationship between farm workers and their employers continues to be characterized by the hierarchy coded in social relations, paternalism, repression, and exploitation. The government of South Africa has systematically failed to enforce protective measures, and trade unions struggle to hold farmers and the government accountable.¹³¹ As a result, farm workers remain among the poorest people in South Africa, earning far below other workers.

In short, where the law has been extended to include labor rights for agricultural workers, entrenched power relationships, barriers to enforcement, new legal loop holes, and industrial adaptations maintain the subordination of agricultural workers. Not only are farms in South African practically exempt, for the most part, from labor rights enforcement due to the challenges in reaching these far flung and isolated properties, but this isolation presents challenges for trade union representatives in organizing and advocating for agricultural workers. Without access to trade unions to provide labor rights education and support, workers lack understanding of workplace rights and are largely unable to access representation in labor disputes. Legally, the subordination of agricultural workers is kept in-tact by minimum wage exemptions and exclusionary thresholds for worker protections—including thresholds for participation in workplace committees and land reform policies. The agricultural industry has also adapted to maintain access to a low wage workforce subject to employer control by hiring workers for piece rates and engaging a growing number of casual and migrant workers employed through labor brokers.¹³²

Reviving exclusion by dismantling protective institutions—United Kingdom

Sector-wide exclusion of agricultural workers from labor rights can also manifest in repeal of laws and institutions designed to protect their rights. For instance, in 2013, the Conservative-led government in England and Wales abolished the Agricultural Wage Board (AWB)¹³³—an

¹²⁸ Nicolas Pons-Vignon and Ward Anseeuw, *Great Expectations: Working Conditions in South Africa since the end of Apartheid*, 35(4) J. OF SOUTHERN AFRICAN STUD. 883-899 (2009).

¹²⁹ See SILLIMAN BHATTACHARJEE *supra* note 6 at 52-56 (providing a case study of this history of legal exclusion and limited implementation of laws protecting farm workers).

¹³⁰ Blair Rutherford, *An unsettled belonging: Zimbabwean farm workers in Limpopo Province, South Africa*, 26(4) J. CONT. AFRICAN STUD. 401-415 (2008).

¹³¹ Stephen Devereux, *Violations of farm workers' labour rights in post-apartheid South Africa*, 37:3 DEV. SOUTHERN AFRICA, 382-404 (2020).

¹³² See SILLIMAN BHATTACHARJEE *supra* note 6 at 52-56 (providing a case study of this history of legal exclusion and limited implementation of laws protecting farm workers).

¹³³ Department for Environment, Food, & Rural Affairs (Defra), *Defra announces changes to arm's length bodies*, UK Government Web Archive, accessed Feb. 1, 2022,

organization with policy operation and implementation authority, empowered and funded but not run by the government, and tasked with regulating relations between farm owners (employers) and farm workers (employees). In particular, the AWB focused on wages under the Agricultural Wages Act, 1948 and implementation of annual Agricultural Wages (England and Wales) Orders.¹³⁴

The trade union UNITE estimates that with the abolition of the AWB, over a period of 10 years, 258.8 million GBP will be lost by workers and translate into gains by employer farm owners. The abolition of the AWB re-enacts the repeated exclusion of agricultural and horticultural workers, resulting in the loss of legal protection for around 150,000 low paid agricultural and horticultural workers.¹³⁵

2. Exclusion of self-employed and own-account agricultural workers

The ILO defines own-account workers as “those workers who, working on their own account or with one or more partners, hold the type of job defined as a self-employed job.”¹³⁶ In context of agriculture, this category includes small farmers, independent agricultural workers outside stable employment relationships, out-growers, and sharecroppers—agricultural workers with the status of tenants who are allowed to use the land in exchange for providing the landholder a share of the crop. Employers may also treat a worker who does in fact have an employment relationship as though they are a self-employed worker, including through practices of imposing false self-employment, false subcontracting, establishment of pseudo-cooperatives, and false company restructuring.¹³⁷

The exclusion of self-employed and own account workers from protection runs contrary to international labor standards. The agricultural sector has long been run by hiring practices that rely on flexible pools of workers. Therefore, to protect freedom of association regardless of employment status, the worker representatives that participated in framing Convention 11 emphasized inclusion of non-wage workers, including peasants, farm hands, and tenant farmers.¹³⁸ As a result of their advocacy, Convention 11 guarantees the right to association and protection from legal exclusion to “all those engaged in agriculture” (Art. 1). In interpreting and applying Convention 11, the ILO Committee of Experts has clearly established that the Right of Association (Agriculture) Convention, 1921 (No.11) applies to self-employed farmers, small holders, and other non-wage-earning agricultural workers.¹³⁹ Nonetheless, self-employed and

<https://webarchive.nationalarchives.gov.uk/20130123170255/http://www.defra.gov.uk/news/2010/07/22/arms-length-bodies/>.

¹³⁴ See SILLIMAN BHATTACHARJEE *supra* note 6 at 57-58 (providing a case study of Agricultural Wage Boards in England and Wales, including their establishment, role in protecting wages for agricultural workers, and the impact of their dissolution).

¹³⁵ See SILLIMAN BHATTACHARJEE *supra* note 6 at 58 (describing the negative impacts of abolishing the AWB).

¹³⁶ ILO, Resolutions Concerning International Classification of Status in Employment Adopted by the 15th International Conference of Labour Statisticians, January 1993, ¶ 10.

¹³⁷ See FAO, IUF, ILO, *supra* note 4 at p. 31 (explaining employment relationships in the agricultural sector).

¹³⁸ League of Nations *supra* note 82 at p. 140.

¹³⁹ CEACR *supra* note 6 p. 21-22, ¶¶ 62-66.

own-account agricultural workers are specifically denied freedom of association on par with industrial workers in countries that have ratified Convention 11, including in Pakistan, and Sri Lanka.

Supply chain subcontracting and exclusion of independent small farmers—Kenya

On agricultural supply chains, the distinction between own-account and wage workers is complicated by subcontracting practices where lead firms both hire waged workers on company plantations to grow raw materials, and purchase raw materials from small farmers. In such cases, wage and own-account workers engage in the same work producing raw materials, but only wage workers are protected under labor law. Legal exclusions that deny the ability of self-employed workers to join unions and bargain collectively with wage workers on agri-food supply chains splinter the bargaining power of all agricultural workers on the supply chain, further consolidating the authority of lead firms and multinational enterprises (MNEs) to dictate and capitalize on subpar working conditions.

For example, in Kenya's plantation sector, it is a common practice to employ both wage workers and self-employed workers within sugar and other supply chains. An ILO case study documented the practices of one MNE that both managed a sugar plantation and processing facility, and bought processed sugar from a network of out-growers. On the plantation, the company employed 3,200 permanent workers, and it bought processed sugar from a network of 65,000 small farmers or out-growers grouped under their own independent company. While the agricultural workers on the plantation and within the out-grower network performed similar labor at the base of an agri-food supply chain led by a common lead firm, less than 5% of these workers held permanent status.¹⁴⁰

In most countries, national legislation protects the rights of workers to join cooperatives and organizations, including out-grower networks like the one described in Kenya.¹⁴¹ Worker rights to form such agricultural organizations facilitates MNE practices of contracting and purchasing from networks of self-employed agricultural workers. These workers do not, however, have the right to bargain collectively or together with wage workers on the supply chain because trade unions and cooperatives are distinct types of organizations that serve complementary roles. A trade union is a democratic organization run by workers wherein members contribute fees and act through bargaining with employers to advance collective demands. By contrast, cooperatives are jointly owned enterprises wherein members hold shares and act through shared economic management of the enterprise.¹⁴²

¹⁴⁰ ILO MULTINATIONAL ENTERPRISES AND SOCIAL POLICY SECTION, Kenya: Facing the challenge of Africa's integration in the global economy—The role of multinational enterprises in the plantation sector, Working Paper 91, p. 48 (2002).

¹⁴¹ CEACR *supra* note 6 p. 30, ¶ 98.

¹⁴² See SILLIMAN BHATTACHARJEE *supra* note 6 at 14 (describing key distinctions between trade unions and cooperatives).

Out-grower systems and exclusion from collective wage agreements—Sri Lanka

In Sri Lanka's tea industry, the exclusion of own-account workers from labor rights has been used to exclude workers from wage agreements negotiated by Sri Lankan trade unions. While the tea industry in Sri Lanka was long dominated by the plantation system, this system is now in decline at an annual rate of 10-20% per year, and is instead being replaced by an out-grower system. Under the out-grower system, a plot of land on the tea estate is allocated to a worker family. The family is provided with fertilizer and technical assistance to manage the land, and the company pays the worker family for the green leaf supplied to the factory at a price set by the company. This arrangement disrupts the direct employer-employee relationship between estate owners and tea workers, and tea workers instead become small owner-occupiers and share croppers.¹⁴³

As small owner-occupiers and sharecroppers, however, tea estate workers are not covered by the Trade Union Ordinance, 1935 and therefore cannot join plantation trade unions. They are not, therefore, protected by the collective agreements increasing wages that were negotiated by major Sri Lankan trade unions in 2006 and 2007, including the Ceylon Workers' Congress (CWC), Lanka Jathika Estate Workers' Union, and the Joint Plantation Trade Union Center. The result: workers on small holder tea gardens are often paid less than those on large estates. The company also avoids paying into the Employee Provident Fund and providing maternity benefits. While small hold farmers can form other organizations under the Agrarian Services (Amendment) Act No, 4, 1991, the 1991 Act excludes these organizations from the right to bargain collectively.¹⁴⁴

3. Farm size exclusions

Due to seasonal workforce expansion and contraction, and the common use of contract labor during harvest and other peak periods,¹⁴⁵ the number of workers in agricultural enterprises fluctuates regularly—including in plantations, commercial agricultural farms, small farms and industrial agricultural establishments. Nonetheless, in some countries, labor rights for agricultural workers are determined by the size of the farm.

Farm-size exclusions that deny freedom of association and other labor rights further undermine the ability of workers on agri-food supply chains to advance their rights. Across the world, small farms are integrated in agricultural supply chains, either through direct contracts with lead firms; or more commonly through subcontracts with larger farms or through growers' associations. Where farm-size exclusions persist, workers on these farms are left both unprotected and unable to collectivize.

In some countries, labor rights depend on not only the number of workers on the farm, but also the number of permanent workers. The Labor Code of Honduras, 1959, for instance, does not

¹⁴³ Sanne Van der Wal, *Sustainability Issues in the Tea Sector: A Comparative Analysis of Six Leading Producing Countries*, pp 8, 95-103 (2008).

¹⁴⁴ VAN DER WAL *supra* note 141.

¹⁴⁵ FAO, ILO, and IUF, *supra* note 4 at 27 (citing ILO Multinational Enterprises and Social Policy Section, *Kenya: Facing the challenge of Africa's integration in the global economy: The role of multinational enterprises in the plantations sector*, Working Paper 91, p. 48 (2002)

protect workers in agricultural or stock-raising enterprises unless the enterprise employs ten or more permanent workers.¹⁴⁶ In Italy, freedom of association, collective bargaining, and other trade union activities are only protected in industrial and commercial agricultural establishments that employ five or more workers. Notably, Italian labor law protects trade union activities in establishments that employ more than five workers in the same municipality, permitting workers to organize across farms, processing, and production units owned by the same commercial companies.¹⁴⁷

While farm size exclusions in Honduras and Italy date back to the late 1950s and early 1970s respectively, this mode of legal exclusion persists in more contemporary labor codes. Farm size exclusions with particularly high thresholds for inclusion may exclude the vast majority of agricultural workers in a country from labor rights. The Labour Act of Turkey, 2003, for instance, only protects workers employed in agricultural and forestry establishments and enterprises that employ 50 or more workers. Workers employed in establishments or enterprises with less than 50 workers are excluded from both labor law and social security protections, functionally excluding the vast majority of agricultural and forestry workers in Turkey from protection. Accordingly, neither trade union organizers nor labor inspectors¹⁴⁸ have regular access to these establishments and enterprises—leaving even the most severe labor practices like child labor and forced labor practices almost entirely unchecked. Other twentieth-century farm size exclusions include exclusions in Bangladesh¹⁴⁹ and Saudi Arabia¹⁵⁰—albeit with lower thresholds for inclusion at five and ten workers respectively.

B. General exclusions impacting agricultural workers

General exclusion of agricultural workers refers to national legislation that restricts freedom of association and other labor rights for a broad category of workers, with a significant impact on agricultural workers due to the demographics of this workforce. This type of exclusion includes short-term employment exclusions, general exclusion of self-employed workers from protection, and migration-status based exclusions.

1. Short-term employment exclusions

Agriculture is seasonal. Accordingly, plantations, commercial agricultural farms, and small farms all hire workers in response to seasonal needs. In order to facilitate regular workforce expansion and contraction, hiring practices in the agricultural sector rely on nonstandard forms of employment—including hiring workers daily, seasonally, or for other fixed durations. Exclusion of temporary workers from freedom of association and other labor rights is widespread across the global economy. While not specific to the agricultural sector, exclusion of

¹⁴⁶ See Honduras *supra* note 98

¹⁴⁷ See Italy *supra* note 99.

¹⁴⁸ See Turkey *supra* note 100.

¹⁴⁹ See Bangladesh *supra* note 97.

¹⁵⁰ See Saudi Arabia *supra* note 101 (excluding agricultural workers from protection in undertakings with 10 or less workers and in firms that process their own products, but extending protection to permanent workers who operate or repair agricultural machinery).

short-term workers from protection has a significant impact on agricultural workers—a workforce overwhelmingly employed on a temporary, seasonal, or casual basis.¹⁵¹

Hiring through contractors is a common practice, allowing employers to hire only a small number of workers directly, and easily access additional temporary workers through labor contractors according to their needs during peak periods, including harvests.¹⁵² Large contractors create the paradox of regularized recruitment structures that function to channel workers into temporary employment gigs. They facilitate consistent access to a flexible low wage workforce for growers and producers, regular temporary gigs for workers, but short circuit access to employment benefits and wage increases that come with permanent positions. Trade union representatives and union affiliated workers have described the negative implications of large subcontractors on freedom of association: the ready availability of a pool of contract workers makes it easier for establishments to blacklist workers who attempt to unionize. By undermining freedom of association and collective bargaining, contractors contribute to foreclosing opportunities for worker governance on global supply chains,¹⁵³ including agri-food supply chains.

This widespread use of flexible hiring practices allows lead firms and their downstream suppliers on agri-food supply chains to displace both environmental and industrial uncertainty onto low wage workers. It is common for employers to hire agricultural workers on a daily or seasonal basis, and pay them piece rates—a system that provides workers with an incentive to engage in demanding labor for long hours, while requiring employers to pay only for completed work. Under temporary, piece-rate working arrangements, employers are not responsible for providing social security, unemployment benefits, holidays, or medical or maternity leave. Even in cases where workers are employed continuously, it is common practice in the agricultural sector to deny them benefits associated with permanent employment by rotating workers between positions and thereby classifying jobs as temporary.¹⁵⁴

For the most part, agricultural workers are excluded from protection due to their status as temporary workers under general legislation excluding all temporary workers from protection—including in Brazil¹⁵⁵, Chile,¹⁵⁶ China,¹⁵⁷ Nicaragua,¹⁵⁸ Qatar,¹⁵⁹ the Syrian Arab Republic,¹⁶⁰

¹⁵¹ Casual work refers to those employed and paid at the end of each day worked or on a task basis. Temporary work refers to those employed for a specific but limited period of time. FAO, ILO, and IUF, *supra* note 4 at 24.

¹⁵² FAO, ILO, and IUF, *supra* note 4 at 27 (citing ILO Multinational Enterprises and Social Policy Section, *Kenya: Facing the challenge of Africa's integration in the global economy: The role of multinational enterprises in the plantations sector*, Working Paper 91, p. 48 (2002)

¹⁵³ Shikha Silliman Bhattacharjee, *Migrant Labor Supply Chains: Architectures of Mobile Assemblages*, SOCIAL AND LEGAL STUDIES (forthcoming)[Note: This article has been accepted for publication, additional details are pending].

¹⁵⁴ FAO, ILO, and IUF, *supra* note 4 at 23-24.

¹⁵⁵ Brazil *supra* note 102.

¹⁵⁶ Chile *supra* note 103.

¹⁵⁷ China *supra* note 104.

¹⁵⁸ Nicaragua *supra* note 105.

¹⁵⁹ Qatar *supra* note 106.

¹⁶⁰ Syrian Arab Republic *supra* note 107.

and Turkey.¹⁶¹ This widespread practice of excluding temporary workers from freedom of association and other labor rights has been recognized as a violation of international legal standards by the ILO Committee of Experts since 1948—including in Belgium, the Belgian Congo and Ruanda-Urundi (1959), Brazil (2012), Chile (2010), China (1948), and Nicaragua (1962).¹⁶²

Addressing the widespread practice of excluding seasonal workers from labor rights protections, in 2014 the European Union passed Directive 2014/36 on the conditions of entry and stay of third-country nationals for employment as seasonal workers. The directive protects the right to equal treatment for seasonal workers, including minimum working ages, working conditions, hours, leave, holidays, and workplace safety (Art. 23). The directive also explicitly protects freedom of association, collective bargaining, and the right to strike (Art. 23).¹⁶³

Currently in force, Directive 2014/36 has had a significant impact in addressing the legal exclusion of seasonal workers from labor rights protections. For instance, since 1959, the ILO Committee of Experts on the Application of Conventions and Recommendations has called upon Belgium to address the exclusion of seasonal workers from freedom of association.¹⁶⁴ Due to EU compliance measures, in 2018, Belgium initiated implementation of Directive 2014/36, including taking steps to include equal treatment of seasonal workers.¹⁶⁵

Laws excluding temporary workers from labor rights protections have also been struck down by national courts on the grounds that they violate the human rights of farm workers. For instance, in March 2013, the Superior Court of Quebec confirmed the right of seasonal agricultural workers to unionize. The decision struck down provisions of the Labour Code that required not only that farm workers be hired on a permanent basis, but also that three or more farmworkers be hired on a permanent basis in order for them to be eligible for protection as employees. The Superior Court found the law unconstitutional on the grounds that it violated the right to freedom of association, which is protected by the Quebec Charter of Human Rights and Freedoms.¹⁶⁶

2. Migration status-based exclusions

Agricultural workers include foreign and internal migrants who are prepared to accept low pay for strenuous work that is not attractive to the national or local workforce. In order to secure access to a low wage workforce, labor migration systems seek to ensure that migrant workers are unable to challenge their subordination to the employer and other parts of the labor force. As explained by Seth Holmes, “legal, political, and symbolic separations produce the maximal

¹⁶¹ Turkey *supra* note 108.

¹⁶² CEACR, *supra* note 6 40 ¶ 128, notes 25, 26.

¹⁶³ Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers.

¹⁶⁴ CEACR, *supra* note 6 at p. 22 ¶ 65, note 15 (citing *Belgium (Belgian Congo and Ruanda-Urundi)* – CEACR, Convention No. 11, observation, published in 1959).

¹⁶⁵ Natali Afsar and Jo Antoons, *Attracting and protecting the rights of seasonal workers in Belgium* (2021).

¹⁶⁶ CEACR, *supra* note 6 at p. 40 ¶ 128, note 27.

extraction of labor”.¹⁶⁷ Migration status-based exclusions are a legal mechanism of enforcing the subordinate status of migrant workers. Like short-term employment exclusions, migration-status based exclusions from labor rights protections are not specific to agricultural workers. However, due to the concentration of migrants in agricultural work, large segments of the workforce experience exclusions on the basis of migration status.¹⁶⁸

Migrant workers excluded from freedom of association and other labor rights protections are extremely vulnerable to abuse. Employers are able to exert coercive control over migrant workers based on their migration status, and physical and social isolation on remote farms where many live in employer-controlled housing. Where migrant workers speak a different language than the populations where they are employed, it is difficult for them to access relief and even information.¹⁶⁹

Residency requirements

Restrictions on migrant workers establishing or joining trade unions may come in the form of residency requirements. In Algeria, for instance, workers must be Algerian by birth or have held Algerian nationality for ten years or more in order to establish a trade union.¹⁷⁰ In the Central African Republic (CAR), foreign migrants just establish legal residence for at least two years before they can join a trade union. Freedom of association in the CAR is reserved, however, for migrants from countries of origin that also extend the right to freedom of association to CAR nationals.¹⁷¹

Migration status, industry practices, and exclusion from labor rights protections—United States

There are between two and three million migratory and seasonal agricultural workers employed in the United States.¹⁷² At least 60% of farm workers are undocumented migrants, and farms also employ migrant workers on H-2A and H-2B visas. In short, the vast majority of farm workers in the United States are migrants.¹⁷³ While federal employment legislation directed at addressing the rights of migrant workers in agriculture partially address their exclusion from the NLRA and FLSA, in practice, employers, contractors and recruiters have structured the industry in a way that makes these protections difficult to enforce.

¹⁶⁷ Seth Holmes, *Externalization and Extraction*, in *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States* (2013).

¹⁶⁸ CEACR, *supra* note 6 at ¶ 233.

¹⁶⁹ *Ibid* at ¶ 2246.

¹⁷⁰ See Algeria *supra* note 112.

¹⁷¹ See Central African Republic *supra* note 113.

¹⁷² See National Center for Farmworker Health *supra* note 120.

¹⁷³ SPLC *supra* note 54.

The Migrant and Seasonal Agricultural Worker Protection Act, 1983 (MSPA)¹⁷⁴ addresses labor rights and working conditions for migrant workers under federal law. Under the Act, employers must disclose terms of employment at the time of recruitment and comply with those terms, have registered and licensed farm labor contractors, and meet federal and local housing and transportation standards. The law also adopts a broad definition of employment relationship so that most agricultural workers are considered “employees” under the law, enforced by the Department of Labor’s Wage and Hour Division. The MSPA does not, however, protect freedom of association and collective bargaining, re-inscribing the historical exclusion of agricultural workers from these cornerstone rights required to advance and implement all other labor rights.

In practice, moreover, employers, contractors and recruiters have structured the industry in a way that makes these protections difficult to enforce. For instance, it is difficult for workers to establish their employment relationship due to the many intermediaries involved in determining working conditions, transporting workers, recruiting and hiring workers, supervising workers on the fields, and contracting. Migrant status—whether temporary guest worker or undocumented status—adds an additional category of contingency for many workers that creates obstacles for enforcing workplace rights.¹⁷⁵ As such, protections under the MSPA are not sufficient, to promote safe and dignified working conditions for farm workers.

3. Exclusion of self-employed workers

General exclusion of all self-employed workers from freedom of association and other labor rights functions in much the same way as specific-exclusion of self-employed or own account agricultural workers—impacting small farmers, independent agricultural workers outside stable employment relationships, out-growers, and sharecroppers. These exclusions also stand to impact agricultural workers who are treated as self-employed workers through unscrupulous employment practices including practices of imposing false self-employment, false subcontracting, establishment of pseudo-cooperatives, and false company restructuring.¹⁷⁶ Like specific-exclusion of self-employed or own account agricultural workers, these exclusions run contrary to international labor standards guaranteeing the right to freedom of association to all workers engaged in agriculture.¹⁷⁷

C. Subnational exclusions (and inclusions)

1. Reduced labor protections at the sub-national level—Canada

In countries where freedom of association is protected at the national level, protections may not apply or may apply differentially at the sub-national level. In Canada, for instance, farm and

¹⁷⁴ Migrant and Seasonal Agricultural Worker Protection Act (AWPA or MSPA) (public law 97-470) (January 14, 1983), codified at 29 U.S.C. §§ 1801-1872.

¹⁷⁵ Shikha Silliman Bhattacharjee, *Raising the Floor for Supply Chain Workers: Perspective from Seafood Supply Chains* (2016).

¹⁷⁶ See FAO, IUF, ILO, *supra note 4* at p. 31 (explaining employment relationships in the agricultural sector).

¹⁷⁷ See Convention 11 *supra* 81, Art. 1.

ranch workers in Alberta are denied the right to freedom of association and collective bargaining; and agricultural and horticultural workers in Ontario also do not receive labor rights protections on par with other workers.¹⁷⁸

2. Distinct protections in different national provinces and states—Pakistan

In countries where labor standards are established at the provincial or state level, some provinces and states may protect freedom of association while others may not. In Pakistan, for instance, the Industrial Relations Act, 2012 and the Baluchistan, Khyber Pakhtunkhwa, and Punjab Industrial Relations Acts of 2010 all exclude independent agricultural workers from protection.¹⁷⁹

In 2019, however, the Sindh Provincial Assembly amended the Industrial Relations Act of 2010, extending protection—including freedom of association—to workers in the agriculture and fisheries sectors. At the same time, the Assembly also broke new ground by specifically addressing the rights of women workers in the Sindh Women Agricultural Workers Act No. 5 of 2020. The 2020 Act explicitly aims to address not only the rights of women workers, but also their role in workplace decision-making, their health and nutrition, and the health and nutrition of their children.¹⁸⁰

3. Increased protections at the state level—United States

In Federal systems where the national law fails to protect labor rights for agricultural workers, states have made advances in extending their rights. In California, for instance, the California Agricultural Labor Relations Act, 1975 (CALRA) broke new ground by making California the first state to establish the rights to freedom of association and collective bargaining for agricultural workers. Notably, these labor rights protections were won by the farm labor movement led by the United Farm Workers (UFW).¹⁸¹

More recently, in *Hernandez v. Flores*,¹⁸² the New York Supreme Court held that farm workers have the same right to bargain collectively as all other employees under the state constitution, ruling their exclusion from freedom of association unconstitutional.¹⁸³ This judgment came on the heels of years of worker action and organizing.¹⁸⁴ This case, combined with worker organizing, resulted in landmark New York legislation. In 2019, the New York State Legislature

¹⁷⁸ CEACR *supra* note 6 at p. 38 ¶123 notes 14 and 15.

¹⁷⁹ See Pakistan *supra* note 95.

¹⁸⁰ The Sindh Women Agricultural Workers' Act, 2019, Sindh Act No. V of 2020.

¹⁸¹ See Susan Feriss, Ricardo Sandoval, and Diana Hembree, *The Fight in the Fields: Cesar Chavez and the Farmworkers Movement* (1998).

¹⁸² *Hernandez v Flores* 2018 NY Slip Op 50017(U) Decided on January 9, 2018 Supreme Court, New York County Reed, J. Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.

¹⁸³ *Id.*

¹⁸⁴ Jenny Braun, "Today's News & Commentary – May 21, 2018," ON LABOR. 21 May 2018, accessed Feb. 2, 2022, <https://onlabor.org/todays-news-commentary-may-21-2018/>.

signed the Farm Laborers Fair Labor Practices Act into law.¹⁸⁵ The Act grants farm workers the right to collective bargaining, workers compensation, unemployment benefits, and overtime pay. It also mandates rest times, and sanitary codes for all farm laborers in the state.

IV. Upending architectures of oppression

The legal exclusions laid out in the previous section are not discrete. Instead, within national legal systems, they overlay and interact to maintain the economic and social subordination of agricultural workers. Accordingly, in acting to secure freedom of association and other labor rights for agricultural workers, it is not sufficient to address particular legal exclusions in isolation. Instead, legal advances and supply chain accountability measures need to address the full range of legal exclusions impacting agricultural workers. In this final section, I apply insight from this global analysis to the project of addressing national legal exclusions in the United States, and advancing labor rights on agri-food supply chains. This final section in no way aims to be a full analysis of the political economy of transformation, but rather some initial forays into the types of actions that can be taken by actors at various levels to upend legal exclusion and supply chain oppression.

A. Addressing legal exclusions at the national level—United States

Protecting freedom of association

The spectrum of legal exclusions that deny agricultural workers freedom of association around the world, as presented in this article, provides an important framework for advancing labor rights at the national level. For instance, in the United States, repealing sector-wide exclusion of agricultural workers is necessary but not sufficient to secure freedom of association for all agricultural workers. Even if sector-wide exclusions were eliminated, general exclusions would continue to undermine freedom of association for some agricultural workers (Table 2). These include additional exclusions under the NLRA, and the limited rights protections afforded H-2A foreign seasonal agricultural workers.

First, the exclusion of independent contractors from freedom of association under §152(3) of the NLRA, 1935 undermines freedom of association for self-employed and own-account agricultural workers, including small farmers, independent agricultural workers outside stable employment relationships, out-growers, and sharecroppers. These exclusions also create a legal loophole that can be exploited by employers to exclude workers from protection—including by practices of imposing false self-employment, false subcontracting, establishment of pseudo-cooperatives, and false company restructuring.¹⁸⁶ Accordingly, this avenue for exclusion should be explicitly addressed by legislators seeking to secure the right to freedom of association for all agricultural workers.

¹⁸⁵ Farm Laborers Fair Labor Practices Act, S.6578/A8419, Sponsored by Senator Jessica Ramos. 19 June 2019.

¹⁸⁶ See FAO, IUF, ILO, *supra note 4* at p. 31 (explaining employment relationships in the agricultural sector).

Second, while H-2A foreign seasonal agricultural workers are not specifically excluded from freedom of association, they are provided with only a limited set of labor law protections. They have the right to written disclosure of their wages, hours, working conditions and benefits of employment; wage protections, including regular pay, written statements of earnings, and guaranteed employment of 75% of contractually promised hours; access to no cost transportation and housing; workers compensation; freedom from discrimination and retaliation; and protection from recruitment fees. This limited slate of protections does not include freedom of association. Accordingly, affirmative protection of freedom of association and collective bargaining for H-2A workers should be explicitly addressed by legislators seeking to secure the right to freedom of association for all agricultural workers.

Table 2: Typology of legal exclusions facing agricultural workers with examples from US law

Type of exclusion	Specific legal exclusion	US legislation
Category 1: Specific exclusion of agricultural workers from protection		
Sector-wide exclusions	Exclusion of all agricultural workers from labor rights protecting freedom of association and collective bargaining	<ul style="list-style-type: none"> Exclusion of all agricultural workers from freedom of association (NLRA, 1935, §152(3))
Exclusion of self-employed and own account farmworkers	Exclusion of independent agricultural workers, small farmers, and workers employed on estates as out-growers from freedom of association protections	
Farm-size exclusions	Exclusion based upon the number of employees or size of farms	
Category 2: General exclusion with significant impact for agricultural workers		
Short-term employment exclusions	Exclusion of temporary, seasonal, and casual workers	<ul style="list-style-type: none"> Limited labor law protections for H-2A seasonal agricultural workers¹⁸⁷
Exclusion of self-employed workers	Exclusion of self-employed workers from freedom of association and collective bargaining that impact self-employed and own-account agricultural workers	<ul style="list-style-type: none"> Exclusion of independent contractors from freedom of association (NLRA, 1935, §152(3))
Migration status-based exclusions	Restrictions for migrant or foreign workers that impact agricultural workers	<ul style="list-style-type: none"> Limited protections for H-2A seasonal agricultural workers¹⁸⁸

¹⁸⁷ See United States Department of Labor Wage and Hour Division, Employee Rights Under the H-2A Program.

¹⁸⁸ Ibid.

B. Justice for agricultural workers

The preceding analysis demonstrated how national legislators may use the typology of legal exclusions presented in this article to address multifaceted structures of labor rights exclusion. While my discussion of advancing labor rights in the United States focused on freedom of association, the typology of legal exclusions presented in this article can be used to identify layers of exclusion from other labor rights as well.

In fact, addressing conjugated oppression and advancing justice for agricultural workers requires a set of core labor rights protections. Building upon fundamental principles and rights at work identified by the ILO; and adding living wages, employment security, and incorporation of gendered domestic care work in the calculation of wages, in *Reverse Subsidies: Gender, Labour, and Environmental Justice in Garment Global Value Chains*, we have argued for the following minimum labor standards as a benchmark for economic justice on global supply chains:

- Abolition of all forms of forced labor
- Abolition of child labor
- Non-discrimination in employment, including on the basis of race, caste, gender, indigeneity, migration status, and disability
- Freedom of association
- Living wages as minimum wages
- Incorporation of domestic care work in calculations of living wages
- Employment security
- Protection of bodily integrity, including protecting from occupational health and safety risks, and freedom from all forms of workplace violence, including GBVH.¹⁸⁹

The typology of labor rights exclusions laid out in Part III of this article could be used to systematically investigate legal exclusion from any of the rights in the forgoing set. While the typology was developed in relationship to exclusions facing agricultural workers, it could also be used as a springboard for analyzing the structure of legal exclusions in other sectors. In using this framework to analyze other labor rights exclusions facing agricultural workers, or exclusions in other sectors, I encourage researchers to treat the typology presented here as a springboard, maintaining openness to identifying other forms of legal exclusion.

C. Protecting worker rights on agri-food supply chains

The relationships between supermarkets and retailers that lead agri-food supply chains, their suppliers, and, in turn, agricultural workers are not fixed—instead, they are structures that can evolve based on a shift in the choices made by lead firms in relationship to how they interact with their suppliers.¹⁹⁰ This approach makes space for policy interventions to influence the choices made by lead firms and producers on agricultural supply chains.

¹⁸⁹ See Nathan and Silliman Bhattacharjee, *supra* note 11 at 33-35.

¹⁹⁰ Cf. NATHAN AND SILLIMAN BHATTACHARJEE, *supra* note 11 at 9 (arguing that lead firms choose their relationships with suppliers in relationship in context of garment supply chains).

Binding due diligence

Human Rights Due Diligence refers to the requirement that companies identify, prevent, mitigate, and communicate risks to human rights. Binding due diligence, then, refers to legal regulation in the home country of lead firms that requires corporations to take these steps. While to date, transparency focused laws have been limited in their impact, new legislation with more robust due diligence standards is emerging in Europe, including in France, Germany, and the European Union.¹⁹¹ As argued by Rachel Chambers and Anil Yilmaz Vastardis, however, these mechanisms will only be effective if states take an active role in oversight and enforcement—including by establishing regulatory mechanisms to ensure that human rights disclosures and due diligence processes are undertaken in good faith, imposing sanctions for compliance failures,¹⁹² and holding lead firms liable for downstream rights violations.

The first step in using binding human rights due diligence frameworks to advance freedom of association and other labor rights for workers on global supply chains is, of course, to establish robust due diligence laws in the home countries of lead firms—and this is no small task. However, once established, it will be important to set up robust protocols and standards for conducting human and labor rights due diligence—including identifying, preventing, mitigating, and communicating risks to human rights.

Here, the typology of legal exclusions presented in this article is particularly instructive. First, any legal provisions denying freedom of association to agricultural workers in force in countries on agri-food supply chains should be identified as a risk factor that opens the door to a cascade of rights abuses. Second, in order to prevent the human and labor rights violations that attend the exclusion of agricultural workers from freedom of association, lead firms should make it a contractually established condition of business engagement that their suppliers respect freedom of association and collective bargaining on their farms and establishments. In order to mitigate harms associated with legal exclusion of agriculture workers from freedom of association protections, agri-food lead firms should take proactive measures to advance freedom of association on their supply chains, including through proactive engagement with the IUF—an international trade union federation that represents workers in the agricultural sector, made up of 423 affiliated trade unions in 127 countries representing over 10 million workers. Mitigation by agri-food supply chains should also include giving special preferences to suppliers in countries and production zones that uphold freedom of association for agricultural workers. Linking labor rights protections to preferred business engagement status would provide a powerful corrective to current market incentives that drive deregulation in the arena of labor rights and industrial relations.

Enforceable brand agreements

¹⁹¹ See Rachel Chambers and Anil Yilmaz Vastardis, *Human Rights Disclosure and Due Diligence Laws: The Role of Regulatory Oversight in Ensuring Corporate Accountability*, 21(2) CHICAGO J. INT. L. (2021).

¹⁹² *Ibid.*

An increasingly important mechanism through which trade unions, labor rights NGOs, and global corporations have sought to establish labor rights accountability on global supply chains has been the negotiation of legally binding, enforceable agreements between lead firms and trade unions that cover labor rights in the operations of downstream suppliers. These “enforceable brand agreements” or “EBAs” are an avenue to raise the bar for labor rights protection in agri-food and other supply chains. They are an important corrective to voluntary corporate social responsibility (“CSR”) programs, whose private audit systems have consistently failed to end abuses in supply chains,¹⁹³ replacing voluntary compliance and private audits with legally enforceable obligations and independent factory monitoring.

Recent examples of EBAs addressing labor rights on supply chains have included initiatives in agri-food and garment sectors. In the agri-food sector, the Coalition of Immokalee Workers (CIW), Fair Food Program (FFP)—referred to as Worker-driven Social Responsibility (WSR)—includes a combination of monitoring tools and enforcement strategies to address labor and human rights violations in Florida’s tomato industry. The FFP has binding commitments from 14 major food retailers to purchase produce exclusively from growers that implement a human rights-based code of conduct that covers labor rights conditions for 35,000 farmworkers in the United States. The initiative has successfully combated widespread gender-based violence, sexual harassment, and forced labor on produce farms.¹⁹⁴

EBAs have also made inroads in addressing labor rights abuses in the garment industry. In 2013, the binding Bangladesh Accord on Fire and Building Safety, for instance, was established between Global Union Federations, Bangladeshi unions, labor rights NGOs, and more than 200 brands. Independent factory inspections under the accord have identified over 144,000 fire, electrical, and structural hazards across 1,600 garment factories—and more than 90% of these hazards have been remediated. Under the Accord, over 1.7 million garment workers were also trained on workplace safety, and 359 safety and rights complaints have been resolved.¹⁹⁵ More recently, in 2019, agreements addressing gender-based violence and harassment (GBVH) in Lesotho’s garment sector—covering 10,000 workers across five factories—have been negotiated between brands, labor unions, labor rights NGOs, women’s rights organizations, and apparel suppliers. These agreements establish a training program and complaint mechanism to prevent and address GBVH.¹⁹⁶

¹⁹³ Cf. Clean Clothes Campaign, Fig Leaf for Fashion. How social auditing protects brands and fails workers (2019) (explaining in context of garment supply chains how voluntary brand programs rely on private audit systems and for-profit social certifications that for the most part fail to prevent labor rights abuses).

¹⁹⁴ See FAIR FOOD PROGRAM, accessed Feb. 2, 2022. See also Greg Asbed and Steve Hitov, Preventing Forced Labor in Corporate Supply Chains: The Fair Food Program and Worker-Driven Social Responsibility, 52 Wake Forest L.R. 498.

¹⁹⁵ See Accord on Fire and Building Safety in Bangladesh, accessed Feb. 2, 2022, <https://bangladeshaccord.org/resources>.

¹⁹⁶ “Landmark Agreements to Combat Gender-based Violence and Harassment in Lesotho’s Garment Industry,” Worker Rights Consortium, accessed Feb. 2, 2022, <https://www.workersrights.org/commentary/landmark-agreements-to-combat-gender-based-violence-and-harassment-in-lesothos-garment-industry/>.

For EBAs to intervene in conjugated oppression, however, they must take conscious measures to disrupt hierarchical power relationships at the intersection of class, race, caste, gender, and indigeneity. Here, initiatives for racial justice in the United States provide an instructive model for addressing conjugated oppression. In California, AFSCME 3299—a union of 24,000 patient care and service worker on University of California campuses—took proactive measures to address attacks facing their members based on race and nationality. Notably, half of AFSCME 3299’s members are Latinex. The union formed a racial justice working group where workers shared their own experiences with racism and police violence. The racial justice working group raised the visibility of racial injustice in the workplace and community, leading to demands for an end to labor outsourcing, improved job security, benefits, increased wages, and training programs to improve working conditions for people of color. AFSCME 3299’s approach in addressing racial injustice head on lends insight into the importance of positioning workers through their trade unions at the center of negotiating EBAS.¹⁹⁷

Inclusion of labor rights in food safety standards

The industrialization and globalization of agri-food supply chains has led to the proliferation of food safety and quality standards, designed to address the range of safety risks to consumers associated with elongated and fragmented supply chains where food products are exposed to possible contamination at multiple stages.¹⁹⁸ Consumer protection initiatives gain force through non-tariff trade regulations. These include controls on product standards, sanitary measures and phytosanitary measures (SPS), import licensing, and origin and conformity assessments. Lead firms also use quality standards as a key mechanism of supply chain governance, differentiating their products through quality standards in diverse and competitive markets. Upholding quality standards on complex supply chains requires lead firms to coordinate closely with downstream suppliers and producers.¹⁹⁹

The high level of contact between lead and downstream firms differentiates agri-food supply chains from other product supply chains less subject to national and firm level quality standard control. In agri-food chains, large food manufacturers and supermarkets typically work with a small group of preferred, generally large-scale suppliers capable of meeting their requirements.²⁰⁰ These comparatively stable supplier relationships can be leveraged by lead firms to include labor rights standards alongside food safety and quality standards.

Moreover, the COVID 19 pandemic not only laid bare the vulnerability of production and logistics, but also accelerated technological integration on agri-food value chains. Leveraging technological integration to advance enforceable labor standards for agri-food workers is a promising site of engagement. In particular, additional research is required on strategies for infusing product traceability aimed at consumer safety and supply chain management with

¹⁹⁷ See Shikha Silliman Bhattacharjee *supra* note 58 at 222 (citing JOBS WITH JUSTICE, EXPANDING THE FRONTIERS OF BARGAINING: BUILDING POWER IN THE 21ST CENTURY (2018) and L. Howard, Maricruz Manzanarez, and Seth Newton Patel, “How we’re resetting our contract bargaining tables to advance racial justice,” LABOR NOTES, March 15, 2017).

¹⁹⁸ Gereffi and Lee, *supra* note 27 at 6.

¹⁹⁹ Gereffi, *supra* note 23 at 28.

²⁰⁰ Gereffi, *supra* note 23 at 28.

enforceable labor rights protections. Work in this area would prove particularly timely given the accelerated development and rollout of agri-tech to address COVID 19 supply chain and labor force disruptions—including technological advances in remotely monitoring crops, weather, and soil quality; connecting farmers and buyers across markets; streamlining supply chains; and advancing food traceability.

Leveraging international standards and mechanisms

The ability of lead firms on agricultural supply chains to choose between engagement with a vast number of suppliers across the world provides incentives for states to diminish labor standards protections; and downstream agricultural enterprises to reduce costs by driving down labor standards. Accordingly, in order to raise the floor for agricultural workers worldwide, legal exclusions must be addressed across jurisdictions—providing an important role for international labor standards and enforcement mechanisms in ratcheting up labor standards and supporting their enforcement.

Ratify and implement ILO Convention 11

Currently under review by the ILO Standards Review Mechanism Tripartite Working Group (SRM TWG), Convention 11 is a simple and powerful call to action for governments to address legal exclusion of agricultural workers from freedom of association and other labor rights. States that have not already ratified Convention 11 can act to raise national standards in line with global benchmarks by first ratifying and then implementing Convention 11.

In order to implement Convention 11, states should adopt an inclusive definition of agricultural work in national legislation, covering all types of agricultural work relevant in national context. States should also ensure that national legislation defends freedom of association, including to sub-contracted, seasonal, temporary, migrant, and other relevant categories of workers. This should include removing minimum membership requirements establishing trade unions and workers organizations.²⁰¹

Engage the ILO Committee on Freedom of Association

In 1951, the ILO set up the Committee on Freedom of Association (CFA) to examine freedom of association violations. The CFA is a ten-person ILO Governing Body committee—including a chairperson, and three representatives from government, employers, and workers—that is tasked with engaging in constructive tripartite dialogue (workers, employers, and states) to promote freedom of association. Complaints to the CFA against an ILO member state for violations of freedom of association can be brought by either a workers' or employers' organization, or a non-governmental organization with consultative status at the ILO. If the CFA decides to receive the case, it establishes if there has been a violation of freedom of association standards, makes

²⁰¹ See SILLIMAN BHATTACHARJEE *supra* note 6 at 42 (providing detailed recommendations for implementing Convention 11).

recommendations on remediation, and can work with government officials and social partners to ensure timely and appropriate action.²⁰²

The ILO CFA has safeguarded the right to freedom of association for agricultural workers in a slate of precedents, including by upholding the right of entry of trade union officials into plantations for the purpose of carrying out lawful trade union activities (Sri Lanka)²⁰³; confirming that the criterion for the right to freedom of association is not based on an employment relationship for agricultural workers and self-employed workers in general (National Trade Union Coordinating Body, Chile)²⁰⁴; determining that agricultural activities do not constitute essential services in the strict sense of the term that precludes the right to strike (Ceylon Federation of Labour, Sri Lanka)²⁰⁵; concluding that literacy requirements for trade union recognition are inconsistent with the fundamental right to freedom of association (Confederation of Workers of Latin America, Guatemala)²⁰⁶; and determining that agricultural unions have the right to affiliate with workers engaged in different occupations and industries (Confederation of Workers of Latin America, Guatemala).²⁰⁷

Law and global-political-economy

²⁰² See SILLIMAN BHATTACHARJEE *supra* note 6 at 63 (laying out the process for engaging the ILO Committee on Freedom of Association (CFA) in Appendix 3.

²⁰³ ILO, Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, Third Edition, Geneva, 1986, para. 220; ILO: Definitive Report – Report No. 4 1953, Case No 34 (Sri Lanka) – Complaint date: 28 -AUG -51 – Closed, available online https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2898078.

²⁰⁴ ILO, Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, Fourth Edition, Geneva, 1996, para 235; ILO: Definitive Report – Report No 241, November 1985, Case No 1285 (Chile) – Complaint date: 07-May- 84- Closed, available online https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2901275.

²⁰⁵ ILO, Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, Fourth Edition, Geneva, 1996, para 545; ILO: Report in which the committee requests to be kept informed of development – Report No 230, November 1983, Case No 988 (Sri Lanka) – Complaint date: 29- JUL – 80 – Closed, available online https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2900336

²⁰⁶ ILO, Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, Third Edition, Geneva, 1986, paras 512, 517; ILO: Interim Report – Report No 27, 1958, Case No. 144 (Guatemala) -Complaint date: 02-May-56-Closed, available online https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2898229#.

²⁰⁷ ILO: FREEDOM OF ASSOCIATION: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, Third Edition, Geneva, 195, para 219; ILO: Interim Report – Report NO 27, 1958, Case No 144 (Guatemala) – Complaint date: 02 – May – 56 – Closed, available online https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2898229.

In *Building a Law-and-Political-Economy-Framework: Beyond the Twentieth-Century Synthesis*, the co-founders of the Law & Political Economy Project call for legal scholarship that engages with the global crises of economic inequality, democracy, and climate change. In building a new law and political economy framework, they call out the “Twentieth-Century-Synthesis” in the legal academy: the simultaneous reorientation of legal subfields around economic efficiency, and inadequate attention to structural inequality. If left intact, they argue, the “Twentieth-Century-Synthesis” will continue to fundamentally inhibit a true reckoning with economic equality, precarity,²⁰⁸ (and here I add conjugated oppression).

As a methodological antidote to the Twentieth-Century-Synthesis, this article draws together the study of national legal frameworks at a global scale, sociological literature on global value chains, anthropological studies of violence and conjugated oppression, and analysis of international legal frameworks. As with all studies of conjugated oppression, I could not ignore histories of chattel slavery, colonial extraction, and workforce segmentation practices. Perhaps most importantly, this project takes its pulse from workers movements for justice on agri-food supply chains. This interdisciplinary perspective, considering the global economic and social context of national exclusions, is critical to forging new law and *global-political-economy* frameworks. As the complex of global interconnections traversing the globe intensifies, accelerating the movement of people, commodities, capital, and concepts,²⁰⁹ legal scholarship that seeks to truly engage with the crisis of structural inequality must understand national legal systems in global economic context.

²⁰⁸ See Britton-Purdy, Singh Grewal, Kapczynsky, and Rahman *supra* note 10.

²⁰⁹ Jonathan Xavier Inda and Renato Rosaldo, *Anthropology of Globalization* 7-8 (2008).

Chapter 3: Migrant Labor Supply Chains – Architectures of Mobile Assemblages

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Abstract

This paper explores the potential for Assemblage Theory to supplement current approaches to studying labor migration in law and the social sciences. Based upon a study of women’s migration for garment and domestic work in India, I lay out the *labor supply chain assemblage* (LSCA) as a framework for understanding how workers find employment across multi-site, dynamic trajectories. Migration into temporary employment requires workers to move between jobs on an ongoing basis. Accordingly, studying labor supply chains as fluid assemblages defined by labor market conditions, component elements, and various agents provides a methodology for analyzing frequent job searches, across recruitment geographies, that include a range of recruitment actors. By accommodating temporal, territorial, and relational analysis, this approach provides insight into how labor migration processes for migrant garment and domestic workers in India articulate with the development of markets, working conditions, and social hierarchies—including on the basis of gender and caste.

Introduction

Across the globe, migrant workers are increasingly concentrated in temporary employment – including contract, short-term, and contingent work. This rise in temporary work among migrants and other workers has received significant scholarly attention (Valenzuela 2003, Kalleberg 2000, Beard & Edwards 1995), with taxonomies of temporary work, classified by duration, location, and number and types of employers (Feldman 2006). Relatedly, research on informal labor markets highlights the significance of hiring practices in developing markets and determining labor conditions (Valenzuela 2003; Portes 1995). Lines of foregoing research on temporary employment and hiring practices raise but do not answer myriad questions. How do migrant workers move between temporary jobs? How can we identify multi-site, dynamic labor migration processes? How are networked recruitment practices governed, including in the absence of state regulation? To address these questions, this study develops an approach to studying labor supply chains as assemblages (Deleuze and Parnet 1987; Nail 2017), an empirically grounded methodology for understanding complex labor migration processes that cross, link, and co-exist within geographies and markets. This framework fills a gap in the literature on labor migration by revealing interrelated sites and modes of governance that shape employment outcomes for migrant workers.

My analysis of labor supply chain assemblages (LSCAs) is rooted in empirical investigation of how migrant women workers from Bihar, Chhattisgarh, and Jharkhand, India move between temporary jobs in garment and domestic work in Delhi and Mumbai. It is based on 254

interviews and 63 focus group discussions with migrant women and recruitment intermediaries across five states. By focusing on the experiences of migrant women from Scheduled Castes and Tribes, I direct attention to how gender and social identity structure labor supply chains. My focus on India provides insight into labor supply chains in a context shaped by high levels of internal migration into temporary employment; and this comparative study of placement in garment and domestic work develops the relevance of LSCAs for studying deregulated industrial and unregulated contexts. I found that in this highly informal context, employment insecurity is managed by elaborate networks of recruitment intermediaries between geographies, markets, and roles. I inductively identified labor supply chains as mobile and fluid sets of material and relational practices that can be well studied through the lens of assemblage theory.

Although they are always evolving, the defining features of assemblages include their conditions, elements, and agents (Deleuze and Guattari 2008; Nail 2017). I identify three defining features of LSCAs into temporary work. The first, *frequency*, is a condition that refers to repeated engagement with a labor supply chain assemblage. The second, *iteration*, directs attention to repetition with variation between successive labor supply chain engagements between workers, locations, recruitment intermediaries, and employers. The third, *segmentation*, describes discrete but linked elements of LSCAs, including processes that support migration across geographies, mobility within markets, and promotion. Frequency is a temporal condition, whereas iteration and segmentation are relational and territorial conditions. As such, studying labor supply chains as assemblages facilitates analysis that is at once temporal, territorial, and relational.

Frequency, segmentation, and iteration, in turn, direct attention to various sites of recruitment governance. These include structures of work within industries and sectors, labor supply and demand, migration trajectories, social relationships, and systems of seniority and access—including those maintained by gender, class, caste, race, nationality, and other systems of hierarchical differentiation. By bringing labor market, territorial, and social governance structures into the same analytic framework, this approach resonates with approaches to studying law and society that recognize social fields as semi-autonomous, describing the presence of multiple ordering structures within a field (Moore 1973). The study of labor supply chains as assemblages also sheds light on the range of forces that govern worker mobility in contexts that are not controlled, or incompletely controlled, by state laws and regulations. This empirically grounded methodology has the potential to support interdisciplinary, cross-regional, and inter-sectoral scholarship aimed at understanding the recruitment processes that facilitate global employment.

Labor Supply Chains as Mobile Assemblages

Mobility is an object of study and an analytic lens to reorient our understanding of social processes (Salazar 2018). My study of labor supply chains as mobile assemblages builds upon and contributes to scholarship on mobility that attends to the route as a unit of analysis (Gilroy. 1993, Walters 2015). At the intersection of temporary labor markets and migration, I consider how labor supply chains define migration routes, and encompass a range of material and relational processes that facilitate worker mobility.

Labor supply chains facilitate worker mobility between *junctions*, including territorial, market, and work junctions (Nail 2015). A city is a political junction, a production zone is a market junction, a work site is an employment junction, and so forth. In my account of labor supply chains, I am concerned with flows of temporary workers between junctions at various levels, including rural high migration sending areas and urban industrial hubs; production clusters and service hubs; and mobility between jobs, including promotions.

What units of analysis and theoretical frameworks facilitate understanding of how migrant workers move between temporary employment gigs across these varied junctions? A robust theoretical framework for understanding labor supply chains must have sufficient elasticity to encompass worker mobility between jobs, sectors, and geographies, as well as shifting practices. Therefore, I study labor supply chains as assemblages, referencing a concept that originated with Deleuze and Guattari's (1987) experiment in social theory that sought to overcome static social theoretical models by emphasizing movement and heterogeneity. An assemblage, by definition, accommodates a contingent, open set of actors, sites, institutions, and practices that constitutes in diverse configurations (Deleuze and Parnet 1987; Nail 2017). For Deleuze and Guattari, assemblages facilitate understanding of fragmented mechanisms comprised of independent components—what Deleuze calls *singularities*—that can be combined and recombined. As such, researchers have found this concept useful in addressing problems that cannot be well accommodated within standard units of analysis (Ong and Collier 2005; Schuilenburg 2015; Sassen 2008). Assemblages are constantly evolving within social and historical processes. They cannot be pinned down, but they can be defined by contextually contingent features (Deleuze 2001: 191).

What is a contextually contingent feature? For Deleuze and Guattari, assemblages are composed of heterogeneous elements and processes, but they can still be defined by three features (Nail 2017). The first feature, *conditions*, refers to networks of specific external relations that hold the assemblage together. I argue that a defining condition of LSCAs into temporary work is repeat engagement by temporary workers as they move between employment gigs, and I refer to this condition as frequency. The second feature shared by assemblages is that they are composed of concrete *elements*. In the context of LSCAs, I refer to these elements as *segments*. Labor supply chain segments operate between locations and within labor markets, aligning in distinct combinations for migrant workers seeking employment. The third feature of an assemblage is its *agents*. Agents do not control the architecture of an assemblage, but instead occupy mobile positions within it. Temporary workers navigate labor supply chains as agents seeking employment on a regular basis. They also engage in repeat interactions with other agents, including other workers, recruitment intermediaries, and employers as they return to familiar locations to find work. As such, I direct attention to *iteration*—a relational concept marking repetition with variation.

LSCAs *articulate* in relationship to labor market conditions. Here, I draw from Stuart Hall's (1985) conception of *articulation* as a connection which is positively sustained by particular processes, renewed, or alternately dissolved to make way for new connections or *rearticulations*. In other words, LSCAs are sustained by labor market conditions, and evolve in relationship to shifts in these conditions. Accordingly, studying labor supply chains through the analytic building blocks of frequency, segmentation and iteration facilitates research into how recruitment

and placement evolves over time; how market shifts impact recruitment and placement within distinct sectors; and how shifts in recruitment trajectories evolve to encompass new frontiers for labor migration. I demonstrate the potential of this framework to support comparative analysis through my attention to LSCAs in both garment and domestic work.

Table 1: General features of assemblages and their particular form in LSCAs

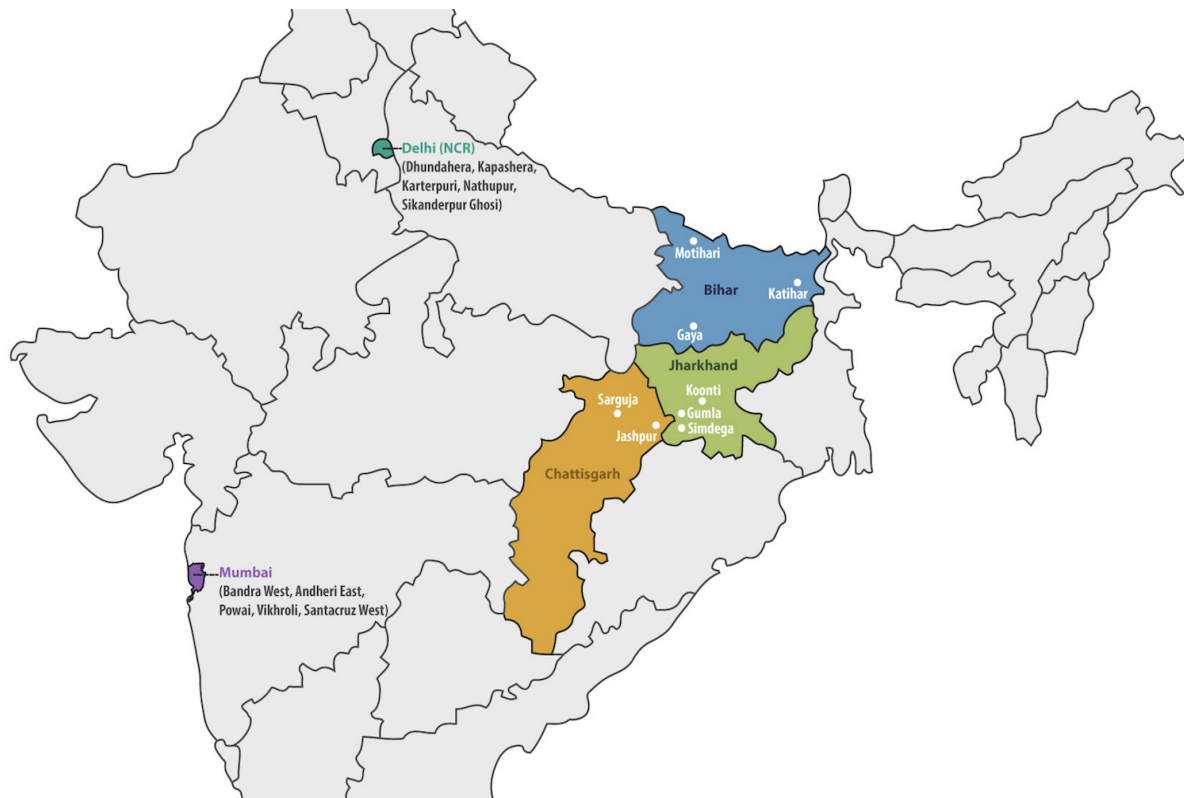
General features of assemblages (Nail 2017)	<u>Conditions</u> - networks of external relations that holds an assemblage together	<u>Elements</u> - component parts embodying the assemblage	<u>Agents</u> – the subjects that operate the assemblage
Defining features of LSCAs	<u>Frequency</u> – the condition of repeat engagement with LSCAs as workers move through temporary employment gigs	<u>Segments</u> - discrete but linked components of an LSCA that align in distinct combinations to facilitate employment across locations and within markets	<u>Iteration</u> – repeat interactions between temporary workers, LSCA segments, employers, and recruitment intermediaries

Methodology

I developed my analysis of labor supply chains as assemblages by researching women’s migration from Bihar, Chhattisgarh, and Jharkhand to the Delhi-NCR and Mumbai (Figure 1). I selected these locations due to high rates of migration in garment and domestic work, specifically among Dalit (Scheduled Caste) and Adivasi (Scheduled Tribe) communities.²¹⁰

²¹⁰ “Scheduled Caste” and “Scheduled Tribe” are Government of India classifications, based on social, cultural and material status rooted in entrenched practices of discrimination and rigid social hierarchies along caste and tribal lines.

Figure 1: Primary data collection sites in India



My research included a first phase of 254 semi-structured interviews with migrant women and 63 focus group discussions (FGDs) including migrant women and recruitment intermediaries (Table 2); and a second phase of unstructured interviews, case studies on well-established labor migration routes, and interactive observation. Data collection was anchored at the Society for Labour and Development (SLD), Delhi, from August 2015–November 2016, during my time as Research Director. Our team included 15 researchers.²¹¹ We selected migrant women respondents based on three sets of criteria: migration from target districts in Bihar, Chhattisgarh, and Jharkhand to the Delhi-NCR and Mumbai— sampling on territorial junctions; employment in garment or domestic work in Delhi-NCR or Mumbai—sampling on labor market junctions; and migration for employment between 2010 and 2015—sampling on a temporal band.

²¹¹ Field research was conducted by Jallalludin Ansari, Ananya Basu, Indira Gartenberg, Amar Kharate, Degree Prasad Chouhan, Falak Jalali, Sumita Kerketta, Aloka Kujur, Abhinandan Kumar, Hare Ram Mishra, Nafisha Naaz, Babli Paikra, Swati P. Tapase, Neha Verma and Surendra G. Waghmare.

Table 2: Interview and FGD respondents by location and occupation

State	District	Sector		Interviews	FGDs
		Domestic work	Garment		
Bihar	Motihari	9	9	18	5
	Gaya	6	12	18	5
	Katihar	7	11	18	5
	State totals	22	32	54	15
Jharkhand	Khunti	18	0	18	10
	Gumla	10	9	19	8
	Simdega	7	3	10	2
	State totals	35	12	47	20
Chhattisgarh	Jaspur	19	2	21	23
	Sarguja	28	0	28	0
	State totals	47	2	49	23
Delhi-NCR	Area total	26	24	50	4
Mumbai	Area total	26	28	54	1
Study totals		156	98	254	63

I designed the first phase of data collection with an understanding that workers engage in recruitment processes at various intervals on literal journeys. In order to capture these processes across time and location, I used a semi-structured interview format to elicit information on engagement with labor supply chains at six stages. This approach supported aggregated analysis of highly varied individual experiences, and allowed me to hone in on unifying and distinguishing features of labor supply chains.

FGDs with migrant women and recruitment intermediaries, including between 3 and 8 participants, focused on cycles of seasonal migration and experiences of recruitment and placement in garment or domestic work—including positive and negative experiences, and the role of migrant diaspora communities in facilitating employment. FGDs also facilitated access to information in contexts where it was difficult to engage women in interviews due to stigma associated with migration and extended working hours. In these cases, we worked with local organizations to facilitate engagement, holding meetings at All India Democratic Women’s Association (AIDWA) offices in Mumbai and SLD offices in Gurgaon. Women who felt unable to speak freely within their communities agreed to participate in confidential discussions outside the community.

To identify how social identity affects recruitment practices, we invited respondents to self-identify as members of Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs)—three official legal classifications laid out in the Constitution of India and used by the Government to identify individuals and communities from social groups that are educationally or socially disadvantaged based upon historical legacies of discrimination and

social and economic exclusion. Approximately 87% of women workers engaged in this study self-identified as SC, ST, or OBC (Table 3).

Table 3: Respondents from Scheduled Castes, Scheduled Tribes, and Other Backward Classes

	Delhi-NCR	Jharkhand	Bihar	Mumbai	Chhattisgarh	Total
Other Backward Class	11	1	21	17	4	54
Scheduled Caste	23	0	22	10	2	56
Scheduled Tribe, including women who identify as Tribal Christian	11	40	0	0	39	90
Other	5	1	6	10	0	22
No response	0	5	5	17	3	32
Total	50	47	54	54	49	254

Note: This distribution reflects self-identification by study respondents.

I analyzed these materials by hand in order to identify key features of recruitment processes, as well as significant gaps in our understanding of labor migration trajectories. Notably, across sites, migrant women had difficulty recalling names and identities of employers and recruitment intermediaries. In almost all cases, workers were unable to produce documents related to either recruitment or employment. Some were reluctant to identify recruitment intermediaries since they continued to engage with them and/or related agents.

Accordingly, in order to zoom in on sometimes-fragmented snapshots of labor migration processes collected through interviews and FGDs, I directed field investigators to conduct extended unstructured interviews, develop case studies, and engage in interactive observation. For instance, researchers in Mumbai identified a public park where young women and men from Jharkhand, Chhattisgarh, Orissa, and West Bengal congregate on Sunday afternoons. Here, participant observation and unstructured engagement provided insight into labor supply chains in full time domestic work. In the garment sector, follow up investigations based upon the initial round of hand-coding included unstructured interviews with supervisors, trade union representatives, community organizers, and senior workers. Researchers, some of whom were from migrant communities and had previously been employed as garment workers, visited training centers to develop case studies.

Due to challenges in engaging recruitment intermediaries in the field, I conducted two workshops in the Delhi-NCR, co-hosted with the ILO and SLD to facilitate participation. Participants shared recruitment practices, challenges, and opportunities for advancing effective state regulations. The workshop with domestic work placement agencies included 17 participants, representing 9 agencies. The workshop with recruitment intermediaries in the garment sector had 6 participants, including a supervisor, a quality control manager, representatives from a women's empowerment platform, and an NGO that specializes in recruitment, training, and placement.

Once fieldwork was complete, I used data analysis software to hand code interviews, FGD and workshop transcripts, and investigative case studies. I tagged data sources with codes identifying the sector and type of employment in order to create data clusters: the experiences of women garment workers formed one cluster; and experiences of domestic workers formed another two clusters, divided into seeking full-time and part-time domestic work. I then coded each cluster to identify key features of labor supply chains, using the six stages laid out in the semi-structured interview as an analytic framework to identify people involved in recruitment and placement, and sites of engagement with agents and employers (particular villages, cities, towns, and locations within these territorial junctions).

In coding this rich data set, I identified labor supply chains as fragmented, shifting material and relational practices. Accordingly, I began to analyze these mobile formations as assemblages, using frameworks from Nail's (2017) exposition of Deleuze and Guattari, and sought to identify defining conditions, elements, and agents. As I worked to understand the architecture of these mobile assemblages, I reviewed the data across clusters associated with garment and domestic work in order to identify cross-cutting characteristic features of these assemblages. From this analysis, I developed the three conceptual dimensions that organize the findings section of this paper: frequency, iteration, and segmentation.

Labor Supply Chain Architecture

The LSCAs in this study link territorial junctions, as women workers migrate from rural Bihar, Chhattisgarh and Jharkhand to the megacities of Delhi and Mumbai; and specific workplaces within cities and industrial hubs as they move between jobs within the garment and domestic work sectors. These LSCAs intersect, link, and nest in diverse configurations, crossing geographies, anchoring flexible labor markets, and conditioning movement between jobs.

My analysis attends to contextually defined features particular to LSCAs—the *frequency* of worker engagement with recruitment intermediaries, *segmentation* of the recruitment process, and *iteration* or repeat interactions with locations and people involved in recruitment and placement. Analysis of each of these features—*frequency, iteration, and segmentation*—reveals structures, sites, and relationships that govern experiences and outcomes for migrant women workers (Table 4). These include the structure of work within the garment and domestic work sectors, labor surplus and demand, and social networks and relationships that govern access to employment—including hierarchical social relationships anchored by gender, class, caste and tribal status.

Since LSCAs articulate in relationship to labor market conditions, attention to key features of these assemblages directs attention to how they articulate with unregulated and deregulated labor market conditions in India. In bringing labor market, territorial, and social governance structures into the same framework for analysis, the LSCA is particularly well suited to grasp the range of forces that govern worker mobility in contexts that are not controlled, or incompletely controlled, by state laws and regulations.

Table 4: LSCAs: features, units of analysis, and associated sites of governance

General features of assemblages (Nail 2017)	Defining features of LSCAs	Unit of analysis	Associated sites of governance
Conditions	Frequency	Rate of engagement between worker and LSCA	<ul style="list-style-type: none"> ◦ Structure of work within an industry or sector ◦ Labor supply and demand
Agents	Iteration	Repeated (including with variation) interactions between workers, recruitment intermediaries, employers, and locations	<ul style="list-style-type: none"> ◦ Social relationships, kinship and social networks ◦ Systems of seniority and access, including those maintained by hierarchical gender, class, caste, race, and nationality-based differentiation
Elements	Segments	Linked components of LSCAs, including within and between geographic, labor market, and promotion junctions	<ul style="list-style-type: none"> ◦ Rural labor surplus ◦ Labor markets ◦ Opportunities for advancing to higher skilled and paid employment

Conditions: Frequency in high informality contexts

A fundamental condition defining LSCAs into garment and domestic work is regular engagement in seeking employment—which I term *frequency*. Women engage with LSCAs at a range of frequencies that are specific to the structures of garment and domestic work in Delhi and Mumbai, and the distribution of labor supply and demand in rural and urban India. Despite distinct patterns of engagement between sectors, both garment and domestic workers have high frequency engagement with LSCAs rooted in structures of informal work.

Engagement frequency among garment workers

Temporary garment workers have high frequency engagement with LSCAs — including daily, weekly, monthly, and seasonal searches for work. Among the 99 women garment workers we engaged, the vast majority worked ten months of the year with routine retrenchment periods in July and August due to lean periods in fast fashion production cycles. Workers returned home to Bihar, Chhattisgarh, and Jharkhand during periods of unemployment and reengaged LSCAs upon returning to production hubs. Women also reported regular shifts among garment factories.

High frequency engagement with garment sector LSCAs is rooted in the structure of work within garment global value chains (GVCs) that produce for fast fashion markets. Since 2010, garment GVCs have increasingly relied on contract workers (Chan 2013) who cost less to employ. Employment practices at the factory level are dictated by fast fashion brand business models and purchasing practices: since brands commonly release between eight and ten style seasons annually (Silliman Bhattacharjee 2020), rapid turnover in retail stock accelerates production cycles and shortens lead time. Downward pressure on prices, combined with unpredictable seasonal variation in production, requires supplier factories to employ a flexible, low-wage work force.

This flexible industrial workforce is facilitated by the systematic deregulation of industrial production, which has unfolded amidst the broader deregulation of Indian markets beginning in the 1980s and peaking in 1991 as India pursued legal and market reforms that diminished state and federal labor regulations (Silliman Bhattacharjee 2016). In 2009, India's National Commission for Enterprises in the Unorganized Sector (NCEUS) recognized garment workers as "informal workers in the formal sector." This designation accounts for the range of temporary roles garment workers fill—including home-based work, and daily wage and contract labor in factories. On GVCs and other contingent work regimes, my findings suggest that common structures of low wage, temporary, industrial work may dictate common LSCA engagement frequencies, and attendant consequences for workers – vulnerability to hiring and firing, low wages, and no employment benefits.

Engagement frequency among domestic workers

The 155 domestic workers who participated in this study engaged LSCAs less frequently and regularly than garment workers. In the Delhi-NCR and Mumbai, we identified three predominant employment modes among domestic workers: full time live-in, part time, and commercial housekeeping. Women transition between these types of work as their and employer needs evolve. Whereas garment workers reported *routinized* daily, weekly, and monthly engagement with LSCAs to secure factory employment, domestic workers move between employers and types of employment with less rigid but still patterned frequencies.

Domestic work in India is largely unregulated. With few exceptions, domestic workers are excluded from labor rights protection due to definitions of "workman," "employer," and "establishment" that do not include the household as a site of employment. As such, employment conditions are in part set by the market, but are also highly contingent upon particular employers—accounting for frequent mobility between jobs for domestic workers as both employers and domestic workers seek out preferred working arrangements.

Women in domestic work described a common trajectory of migrating to urban hubs for full time live-in employment, and then transitioning to part time work. As one woman explained, increased freedom of movement and pay are significant incentives:

Girls who come to Delhi for the first time prefer to work full-time and live-in to avoid lodging and food expenses. Soon enough, many realize movement is restricted and pay is

scanty. Then, like me, they search for a few part time jobs. We earn the money we need without relinquishing our freedom.

Domestic workers described repeat engagement with LSCAs as they moved between full and part-time employment; or for those who remained in full-time work, between employers. Part-time domestic workers also described engagement with LSCAs as they expanded the number of households where they worked, or shifted between employers.

Like garment workers, domestic workers described gaps in employment due to transitions between employers, seasonal migration for agricultural work, and family and personal obligations. During these gaps, women report working in rural economies, including in agricultural and daily wage work. The LSCAs involved in moving between urban domestic and rural work — while outside the scope of this study — attest to the intersection and coexistence of a multitude of LSCAs in the lives of women employed in India's informal sector.

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Frequent engagement with LSCAs to secure employment in garment and domestic work is driven by employment insecurity in contexts of high informality— a term that refers to labor markets and employment contexts that are not regulated by the state (Hart 1973). Absence of state regulation and the governance conditions it creates can take varied forms—encompassing deregulation in the garment sector, a once regulated sphere going through processes that withdraw state regulation; and the unregulated domestic work sector.

The distinct engagement frequencies between workers and LSCAs in the garment and domestic work sectors articulate with corresponding distinctions in the structure of these temporary forms of work. Regular engagement frequency between garment workers and industrial LSCAs facilitates a ready pool of low wage workers that can fulfill irregular contracts, and be scaled back as demand wanes. The structure of work for garment workers is largely fixed based upon somewhat standardized production requirements among similarly positioned supplier factories with low levels of specialization, bargaining power on GVCs, and margins (Nathan and Silliman Bhattacharjee et. al. 2022). By contrast, women who engage LSCAs into domestic work move between not only employers, but also types of domestic work in a comparatively fluid manner.

The comparative fluidity of LSCAs in domestic work helps to account for the common trajectory among migrant women from employment in garment and other industrial work into less structured parts of the informal sector. In garment factories in India and elsewhere, women production line workers, for the most part, age out of employment by age 35. This is due to an industry preference for younger women who can sustain the rigour of meeting extremely high production targets; and who are less likely to be married and therefore more likely to submit to compulsory overtime work (Nathan and Silliman Bhattacharjee et. al, 2022). Alessandra Mezzadri and Sanjita Majumder's (2019) analysis of the life history of twenty women garment workers who are over 40-years-old documents the employment trajectory from garment factories to the informal sector in Bangalore, India. After aging out of the garment labor force, women workers took up domestic work, home-based garment work, or agricultural work.

The successive and non-linear engagements of migrant women workers with LSCAs in garment, domestic work, agricultural and other informal sectors underscore the methodological advantages of studying LSCAs as intersecting assemblages comprised of common features or building blocks. In this example, they intersect in the lives of particular women workers—seasonally, during layoffs, as they age out of industrial employment, and as they respond to domestic responsibilities. The LSCA architecture laid out in this paper provides a unifying theoretical framework for tracing the relationship between recruitment and placement processes between employment sectors, facilitating integrated understanding of complex labor migration processes.

Agents: Iteration facilitating employer access to temporary workers

My use of the term *iteration* refers to interactions between workers and either locations or intermediaries that exhibit repetition with variation. I therefore differentiate territorial from relational iteration, although they may intersect. Territorial iteration on LSCAs includes return to physical recruitment sites. Relational iteration encompasses repeat relationships between workers and recruitment intermediaries. It also includes established relationships between recruitment intermediaries and employers, and personal networks that link workers to LSCAs. Of the 254 migrant garment and domestic workers engaged in this study, 76% (194) reported relying upon personal networks at some stage in the migration process or while seeking employment.

Iteration in garment LSCAs

Relationships between workers, subagents, and production line managers within garment LSCAs may be longstanding. After gaps in employment, workers often return to work with the same line managers; and line managers are, in turn, employed directly by factories, or as subagents of large subcontractors. One worker described their relationship with these recruitment intermediaries: “*Subagents keep details of all workers they employ. When there is an urgent assignment, the subagent will call me and other workers over the phone and ask us to work.*”

If working relationships are positive, workers may move with a line manager or subagent from factory to factory. At best, these informal alignments offer workers combined benefits of flexibility, mobility, and some level of stability, including the ability to re-enter garment production after employment gaps. One worker recounted: “*Working with a subagent there is more flexibility. You can leave, go home, come back, talk to the subagent and get re-instated.*”

In addition to employing workers through line managers, large contractors also recruit workers at iterative locations, including in worker neighborhoods, at factory gates, and in labor *chowk* areas where daily wage workers congregate. As one woman explained:

A garment production line manager will stand outside the gate with a writing pad and call out the name of a department where a worker is required. If they need more workers than they find at the gate, they may go to ‘*peer baba*’ [a labor chowk/recruitment site].

Many of the workers we spoke to confirmed this routine practice by large contractors of sending associated subagents to actively recruit at labor *chowks* and worker housing areas.

Iteration in domestic work LSCAs

In migration sending areas, women described learning about domestic work in urban centers from returnee migrants. In these instances, personal relationships may evolve into LSCA segments, with returnee migrants connecting potential migrants with employment opportunities informally or in the role of subagents linked to chains of recruitment intermediaries.

Even the closest forms of interpersonal iteration—relationships with family members and village networks—do not make LSCAs predictable. We spoke to 25 women who reported that they migrated through personal networks, but ultimately found employment through placement agencies, subagents, and contractors—attesting to the complexity, fluidity, and unpredictability of LSCAs. Domestic workers also draw upon kinship and professional networks in destination areas to find work. 34 of the 42 part-time domestic workers interviewed (83%) reported that kinship and social networks were integral to finding part-time domestic work.

Opportunities to engage with informal networks may emerge in public spaces. For instance, in a Mumbai suburb, researchers visited a public park that served as a social hub for domestic workers from Jharkhand, Chhattisgarh, Orissa, and West Bengal. Many women present in the park on Sundays identify as Tribal-Christians. Most are employed as live-in domestic workers and spend their weekly day off in the park following church services. A woman explained: *“Here, I feel I am not alone in my struggle. My story is one among thousands of men and women.”* The park is at once a site of locational and interpersonal iteration that functions as a site of solidarity and clearing house for information about prospective employers. Women use information from other workers to identify prospective jobs that have been vetted by domestic workers from similar backgrounds. Facilitating employment was described as one of many forms of social capital exchanged within this informal network. Workers also described standing up for one another in times of crisis, problem solving together, and loaning or borrowing money. Like this park, women identified religious institutions as iterative locational junctions on LSCAs.



Frequency and iteration are linked conditions of LCSAs into temporary work: the frequent need to secure employment in the garment and domestic work sectors creates conditions for iterative engagement on LSCAs. In both garment and domestic work, well-trod recruitment and placement pathways facilitate employer access to a ready pool of temporary workers. In this sense, frequency and iteration articulate with labor supply and demand in India where there is a large labor reserve in the rural economy that drives workers into patterns of circular migration for even unstable employment below or just at legal minimum wages (Nathan and Silliman Bhattacharjee et al. 2022).

These iterative relationships are nurtured by workers confronting the vagaries of the labor market. For migrant women, iterative engagement with LSCAs after periods of unemployment facilitates reintegration into destination area labor markets after periods of time at home. This may be particularly important for workers who migrate seasonally; and when they require

extended leave to fulfill family and personal obligations. In this regard, frequency and iteration in both the garment and domestic work sectors also articulate with patriarchal structures of care work that require women workers to enter and exit labor markets with even higher frequency than their male counterparts.

Elements: Segments, discrimination, and barriers to regulation

In varied combinations, *segments* come together to comprise LSCAs. In garment and domestic work, these recruitment segments exist, for the most part, outside regulatory frameworks and are therefore subject to alternate modes of governance. Access to particular segments is not consistent for all workers, and instead may depend upon experience, training, social relationships, and patterns of exclusion conditioned by gender, caste, race, and other modes of hierarchical differentiation. As described in the section that follows, the *agents* discussed in the previous section connect workers with these varied segments.

Segments in garment LSCAs

Training segments and barriers to upward mobility

Of the 99 women garment workers interviewed for this study, 47 received training. On average, trainings ranged from 16-20 days with costs varying widely. Women workers reported engaging in training to access initial factory employment, and to shift between types of work. To this end, they trained to develop skills as quality checkers and line tailors. While training did provide some women entry, shifts from lower to higher paid employment were comparatively less frequent.

Private training centers—often referred to as “*aadas*” or “learning with *masterji*”—are run by well-connected former workers. These centers have as few as 8-10 trainees at one time and focus on training workers as line tailors. They typically run two-hours long and last for around 20 days. In the Delhi-NCR, migrants comprise the majority of workers in these centers. They move into factory jobs based upon referrals from the centers to contractors and line-managers within factories. It is common for training centers to take commissions, including charging workers retroactively for placement.

Company training, by contrast, takes place within factories with far greater turnover than private centers. Companies may train up to 500 workers annually, with batches of as many as 25-30 workers recruited by agents, line-managers, and even NGOs. For instance, a Delhi-NCR NGO reported identifying workers through “community mobilization drives” in destination areas, reaching over 150 workers per day—predominantly from Bihar, Eastern Uttar Pradesh, and Uttarakhand. Workers interested in garment sector employment are then referred to a garment manufacturer for training. The manufacturer charges workers Rs. 300 for a 3-month training before factory placement.

Women also described training as apprentices within factories for between one and three months, contributing to production processes for severely reduced or even no wages. While some women

described valuing on the job training, others reported feeling exploited and receiving even less pay than they anticipated. One woman described being promised Rs. 5,300 (USD 81.55) per month for three months during factory-based training by an agent, but received Rs. 1000 (USD 15.39). A line-manager in Gurugram, an industrial hub within the Delhi-NCR, described entirely unpaid training processes: “*Work within factories is distributed by the line-in-charge to groups of workers. New untrained workers assist the group but may not receive wages for the first 1-3 months of this period.*” Workers in Mumbai described a similar process wherein workers spend a few months working in very low skill, unremunerated or meagerly paid work before gaining acceptance of a *Masterji* (master tailor) that is required to advance to paid work.

These varied experiences of unpaid and underpaid training within factories are facilitated by the deregulation of industrial work in the garment sector described in previous sections. Absent adequate laws and enforcement mechanisms, remuneration, skill upgradation, and promotion are controlled at the training center and factory level, opening the door for workplace discrimination on the basis of gender, caste, and other axes of exclusion.

Gendered and caste-based exclusion in hiring and promotion

Within garment factories, workers are, for the most part employed on a contingent basis, with some exceptions. Sample tailors—responsible for making the sample approved by brands—are highly valued permanent workers. Other permanent workers include supervisors, line-managers and quality control monitors. These positions are rarely held by women (Silliman Bhattacharjee 2020). Upward mobility for women is, for the most part, limited to movement between lower and higher skilled temporary positions: from helper or thread cutter, to line tailor or embroidery machine operator.

In both the Delhi-NCR and Mumbai, while initial garment factory employment may be secured through training centers, shifts in employment toward better jobs in terms of employment security, pay, benefits and prestige take place predominantly through line-managers, supervisors, and senior workers. In Mumbai, workers describe a process of advancement tied to gaining acceptance of the most senior workers or “*Masterjis.*”

Within this male-dominated hierarchical structure, advancement among women workers may be limited by stigma associated with entering factory employment as a daily wage worker—a common entry point for migrant women. A woman explained: “*As daily wage workers, we face discrimination. Once you are a daily wage worker, it is very difficult to get regular employment in that factory since you are considered unskilled.*” As a result, in both the Delhi-NCR and Mumbai, the migrant women we spoke to remain concentrated in the most insecure forms of employment. This articulation of workforce composition with gender and migration status has been well documented across India, and in Cambodia, Indonesia, Pakistan, and Sri Lanka. Across these Asian countries, women workers also earn between 10 and 25 percent less than male workers for similar work (AFWA 2021).

The process of accessing promotions by gaining management acceptance also manifests in discrimination against *Dalit* (SC) and *Adivasi* (ST) workers who are concentrated in the most poorly paid jobs in the garment industry. According to data from the Government of India’s

Periodic Labour Force Survey, corresponding with the final year of this study (2017-2018), *Dalit* and *Adivasi* workers both earn median wages that are lower than other social groups. At the intersection of gendered and caste-based discrimination, none of the 99 women garment workers interviewed for this study had ever worked as a permanent employee and were instead concentrated in low wage positions in the production and finishing departments, involved in thread cutting and packaging. Since sampling for this study was not random, these figures cannot be considered strictly representative. However, the concentration of migrant women workers in contingent positions was widely noted among a range of study participants at the managerial level.

Gendered and caste-based governance of LSCAs by agents with authority over employment and promotion has significant implications for workplace violence. This research on labor supply chain governance intersects with my research on gender-based violence and harassment on garment production lines. In factories where majority male supervisors and line-managers determine hiring and oversee an overwhelmingly female workforce, male monopoly over authority can contribute to a culture of impunity around sexual and other forms of violence and harassment (Silliman Bhattacharjee 2020). As such, gendered governance of LSCAs has significant implications for working conditions and workplace safety. Strengthening protection for on-the-job trainees under India's *Apprenticeship Act, 1961* and enforcing India's *Sexual Harassment at Workplace (Prevention, Prohibition, and Redressal) Act, 2013* could make inroads in both of these areas. Introduction of training certification standards for both private and company run training centers would facilitate clear pathways for advancement among women in temporary work.

Moving between factories, contractors, and challenges to unionization

Garment factories commonly hire large contractors to supply workers across a range of departments. Within one garment factory, two to three contractors may be responsible for providing workers at any given time. Since contractors typically work with multiple factories, they can facilitate consistent employment for workers, albeit at different factories. Women described engaging with large contractors in diverse configurations. They may be hired directly by large contractors or engaged by agents affiliated with large contractors. These subagents may also function as line in-charge supervisors on the factory floor. A worker explained: "*The company pays the contractor and the contractor keeps a smaller subagent to get people into the company.*"

Large contractors create the paradox of regularized LSCA segments that function to channel workers into temporary employment gigs. These LSCA segments facilitate consistent access to a flexible low wage workforce for factories and regular temporary gigs for workers, but short circuit access to employment benefits and wage increases that come with permanent positions. Trade union representatives and union affiliated workers described the negative implications of large subcontractors on freedom of association. The availability of a pool of contract workers makes it easier for garment factories to blacklist workers who attempt to unionize. By undermining freedom of association and collective bargaining, contractor segments contribute to foreclosing opportunities for worker governance on garment supply chains.

In its initial inception, India's *Contract Labour (Regulation and Abolition) Act, 1970* prohibited use of contract labor in ongoing activities engaging 20 or more workers. These protections have been systematically eroded by a series of Supreme Court decisions, beginning in 2001, that stripped contract workers of labor protections and fueled informal work within the organized sector (Silliman Bhattacharjee 2016: 17-18). Renewed labor rights protections for contract workers could advance worker governance through trade unions, and require factories to hire workers on longer term contracts. These shifts would have significant implications for LSCA frequency, and avenues for redress in cases of rights abuses.

Segments within domestic work LSCAs

Based upon accounts from 113 women, this section focuses on labor supply assemblages into full-time domestic work—including segments in migration sending areas in Bihar, Chhattisgarh, Jharkhand and urban destination hubs. Their experiences revealed a pattern of engagement with four component segments: (1) initial contact with recruitment intermediaries, (2) transit for employment, (3) brief accommodation in destination areas, and (4) placement with an employer.

Complex recruitment chains

Recruitment intermediaries operate within complex recruitment chains with divided and well-defined roles. In Jharkhand, for instance, women distinguished between two types of agents. The first, referred to as *sardaar or sardarni*, recruit migrants from across the state and brings them to Ranchi. These agents interact directly with workers and their families, they are typically younger, and they are usually linked to a chain of agents who supervise and coordinate recruitment. From Ranchi, workers engage with a second type of agent who takes responsibility for their transportation and placement in destination areas. While these agents do not, in most cases, maintain stable employment relationships with domestic work placement agencies, informal working relations between such agents and established agencies are common.

More informal recruitment intermediaries may also play a role in personally matching workers with employers across locations. In Motihari, Bihar, men commonly migrate for employment as auto rickshaw drivers, and in this role, facilitate labor migration in domestic work. A woman explained: “*If you are looking for a job in domestic work, you can travel with men who work as rickshaw drivers. They know areas in the city where you can find a job.*”

Most full-time domestic workers spend some time within destination areas prior to placement—usually less than a week. At this stage, women may stay with yet another recruitment intermediary. Temporary accommodations in destination areas range from individual home-stays to hostel-like living where between six and eight women share a room. Larger accommodations are referred to by women workers in the Delhi-NCR as “office.” Workers did not report paying additional charges for accommodation, and some women received basic training in domestic work while transiting through hostels and “offices.”

In the final stage of placement, women are matched with employers. Many reported that the recruiting agents would sever ties with them at this stage. In other cases, recruitment

intermediaries remain engaged in the employment relationship, with employers paying wages directly to recruitment agents who either pay women workers or their families, after taking a cut. Relationships between LSCA intermediaries and women workers may have significant impacts on working conditions. Women who received wages through recruitment intermediaries reported reluctance to leave employment situations for fear of losing wages—even abusive contexts, ranging from denial of food, threats from employers, confinement, and physical abuse.

Alternately, workers may also receive training and placement through small and medium-sized agencies when they first arrive in destination areas. Personnel from nine small and medium-sized agencies, described providing skill development training for domestic workers, paid for by employers and tailored to fit employer specifications. In order to effectively match workers and employers, agencies described conducting interviews, reference checks, identity proof verification, interviews with employers, and three-day trial periods to ensure a good fit between workers and employers. Some small and medium-sized agencies in Delhi also described formal contracting processes. For these services, agencies reported charging recruitment and placement fees directly to employers.

Promising sites for regulating LSCAs in domestic work include training certification standards for domestic workers, and initiatives to promote employment contracts. These approaches draw from practices modeled by recruitment agencies that provide training and place workers through formal contractual processes. Under this model, agencies charge recruitment and placement fees directly to employers, and workers benefit from compulsory leave and regular wages. The benefits accruing to workers under this longer-term placement structure contrasts with recruitment agencies that use technology to match domestic workers with employers for hourly domestic work services, and interactions with chains of unregistered agents that provide workers no avenue for relief in cases of poor employment outcomes.

Policing in train stations, criminalization, and deregulation

All 113 migrant domestic workers whose experiences inform this section traveled by train to destination areas. They described being accompanied by family members or agents for some or all of their journey. Some reported traveling with only an escort while others reported traveling with other domestic workers.

Accounts by migrant women and agents consistently identified state policing of these well-known migration rail routes in order to enforce laws criminalizing trafficking. Many women, including women who migrated voluntarily, recalled being instructed not to speak to anyone during transit to the destination area. A respondent from an NGO in Jharkhand described the common practice among labor recruiters of arranging travel for women in groups but separating them to avoid detection: *“We were notified that 30 girls had departed by train from Ranchi. They were split up on the train so they were less visible—so it didn’t look like a case of trafficking.”* These accounts by migrant women workers and agents not only demonstrate awareness of policing practices, but also clear strategies to move under the radar of police.

India lacks well-defined laws governing recruitment, forging another dimension of informality for workers who migrate for employment. Contractors are subject to regulation under laws

governing both contract labor and inter-state migration, but these laws are rarely enforced.²¹² India's central and some state governments have also passed laws criminalizing trafficking—force, fraud, or coercion by recruitment intermediaries to obtain labor, including commercial sex.²¹³ Neither laws governing labor contractors nor those criminalizing trafficking regulate the legitimate functions of recruitment intermediaries. The result: entities that operate legally receive no benefit and only open themselves up to scrutiny and potential prosecution.

Criminalization of recruitment intermediaries incentivizes even legitimate recruitment actors to side-step registration, further deregulating LSCAs. Despite the Delhi High Court and Labour Department calling for private placement agencies to register, there is no reliable government data on labor recruiters focused on internal migration or the services they provide. Among 100 labor recruiters in the Delhi-NCR surveyed by the National Labor Institute, 67% claimed to be registered but only 3% held registration numbers. The remaining 33% reported being unregistered (Samantroy 2013).

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The networks of LSCA segments and agents in garment and domestic work described in this section link *Dalit* (SC) and *Adivasi* (ST) migrant women from the same high migration sending areas with employers in the same urban centers. Both sets of LSCAs include unregistered and regulated segments—including registered large contractors and placement agencies. Both sets of assemblages also include training centers that provide varied quality of skills training and play an integral role in matching workers with employers.

They are also similarly comprised of networked recruitment intermediaries, including combinations of agents that intersect with personal and professional networks, including returnee migrants, family members, neighbors, and other workers. For women who migrate for employment in garment and domestic work, this network of intermediaries plays a dual function: they play the well understood role of sourcing labor for employers; but they may also play a less well-recognized role in checking or vetting the reliability of line-managers and employer households interested in hiring workers. The second facet of this role—often ignored in discourses on human trafficking—is particularly important for the success of recruitment intermediaries who seek to establish a reputation for successful placement in order to build credibility with workers, other actors in the recruitment chain, and employers in order to attract more clients. As a result of the complex web of interactions described in this section, however, in most cases, no individual agent can independently guarantee a fair employment outcome, creating significant challenges for regulation—a process I refer to as deregulation by segmentation.

²¹² Contract Labour (Abolition and Regulation) Act, 1970; Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

²¹³ Immoral Traffic Prevention Act, 1956; Criminal Law (Amendment) Act, 2013, Section 370; Chhattisgarh Private Placement Agencies (Regulation) Act, 2013; Jharkhand Private Placement Agencies and Domestic Workers (Regulation) Act, 2016.

Relevance of the labor supply chain assemblage for studies of the global economy

Theorizing my investigation of internal labor migration processes for garment and domestic work in India as LSCAs provides a lens for understanding how these constellations of recruitment practices, unfolding across the same geographies, articulate with informal labor market conditions in India across two distinct poles of informal work—deregulated industrial garment work and unregulated, own-account domestic work. The structures of employment in garment and domestic work diverge significantly. Accordingly, for the most part, LSCAs in domestic work match individual workers and employers, while assemblages in the garment sector facilitate large scale, high turnover employment on industrial production lines. Despite these significant differences in the structure of employment, in both cases, women garment and domestic workers enter into gendered and hierarchical working relationships characterized by low wages, extended working hours, and low levels of job security.

In other words, despite significant distinctions between the structure of work in these sectors, similar defining features of LSCAs articulate with employment outcomes that share common deficiencies. For migrant women garment workers, processes of deregulation by segmentation and criminalization within garment and domestic work LSCAs, overlaid with their entry into unregulated and deregulated work, create labor market governance conditions where migrant women workers are held outside the bounds of legal protection at all stages of the labor migration journey. This lack of legal protection reinforces substandard working conditions and high turnover in both the garment and domestic work sector, maintaining employer access to a ready supply of low-wage migrant women workers.

Attention to *frequency* and *iteration* as defining features of LSCAs in garment and domestic work provides a framework for understanding how LSCAs articulate with labor supply and demand in India where there is a large labor reserve in the rural economy that drives workers into patterns of circular migration for unstable employment, and repeated engagement with networks of recruitment intermediaries. *Frequency* and *iteration* in both the garment and domestic work sectors also articulates with patriarchal structures of care work that require women workers to enter and exit labor markets with even higher frequency than their male counterparts.

Analysis of LSCAs in relationship to their component *segments*, moreover, provides a framework for understanding a wide spectrum of forces that control employment outcomes for women workers absent robust state regulation and enforcement. For instance, in the garment sector, attention to training and placement segments revealed how remuneration, skill upgradation, and promotion are controlled by senior male workers in training centers and factories, opening the door for workplace discrimination and violence on the basis of gender, caste, and other axes of exclusion. The role of large contractors that channel garment workers into temporary gigs reinforces frequency of engagement with labor supply chains, and undermines mechanisms for collective action—further consolidating risks of workplace violence. In the domestic work sector, analysis of LSCA segments provides insight into a complex web of interactions in which no individual agent can independently guarantee a fair employment outcome, creating significant challenges for regulation. As laid out in the empirical sections of

this text, these insights also provide inroads into strengthening regulation at distinct sites within complex LSCAs.

While recruitment and placement processes are relevant across sectors and labor markets, a dearth of cross-cutting theoretical frameworks has largely inhibited cross-sectoral analysis of recruitment processes and their intersections. In this study, the LSCA framework lends insight into sectoral dynamics that influence successive, non-linear engagements by migrant women workers with LSCAs in garment, domestic, agricultural and other types of informal sector work in India. The real-world intersection of these LSCAs in the lives of migrant women workers underscores the methodological advantages of studying labor supply chains as assemblages that can be studied comparatively and in relationship to one another through attention to common features or building blocks. This framework, moreover, may generalize to other cases, sectors, and locations. In particular, it may prove useful in understanding iterative recruitment practices engaged by circular migrants in other contexts. It is also likely to generate insight into labor mobility across sectors in gig economies.

Finally, the LSCA has potential to guide research on the intersections between internal and international labor migration trajectories. For instance, LSCAs for garment work within India simultaneously intersect and exist discretely from LSCAs engaged by Indian workers who seek employment in the garment sector in Jordan. For male workers, these internal and international LSCAs are linked because recruitment to the garment sector in Jordan draws from established worker networks in India's garment production hubs. For women garment workers, by contrast, LSCAs in India are entirely discrete from LSCAs for garment work in Jordan because women workers under 30 are prohibited from migrating for employment to Jordan, and women workers, for the most part age out of garment sector employment by age 35. In these perpetually evolving contexts within the global economy, attention to LSCA *frequency*, *segmentation*, and *iteration* facilitates analysis of both converging and diverging actors, practices, sites, and institutions that link and decouple internal and international labor migration processes. The ability of assemblage theory to understand the relationship between labor migration processes across sectors, locations, and time periods makes it particularly well suited to understanding the articulation and consequences of varied forces that govern worker mobility in the global economy.

LSCAs are not the only assemblages at play in the mobility of workers across migration corridors. Instead, migration corridors are themselves assemblages, composed of heterogeneous LSCA and other assemblages. In their politics of assemblages, Deleuze and Guattari delineate territorial, state, capitalist, and nomadic assemblages (2003). An assemblage cannot be singularly located in any one category. Instead, each of these types is present in every assemblage. For instance, the LSCAs for temporary work that I describe in this paper are territorial because they selectively allow some workers to enter into employment, organizing migrants into differentiated labor categories; and capitalist in their establishment of wage relations. The architecture of the labor supply chain assemblage presented in this paper, therefore, explains just some aspects of the complex of assemblages that comprise migration corridors. The LSCA, in this regard, is a preliminary building block in my broader empirically grounded project of studying migration corridors as mobile assemblages, composed of territorial, state, capitalist, and nomadic assemblages.

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Chapter 4: Zones of Compounded Informality—Migrants in the Megacity

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Abstract

This paper introduces the term zones of compounded informality to demarcate locations wherein regulatory exclusions in distinct domains interact to escalate the impact of exclusions for people who live and work in these areas. Based upon a study of India’s Delhi, National Capital Region (Delhi-NCR), I explain how the interaction of flexible planning and employment in particular locales produces zones of compounded informality as a technique of governance. Circular migrant workers in Delhi-NCR overwhelmingly live and work in these zones, wherein unstable employment and housing contribute to nomadic migration. Legal exclusion from housing protections interacts with other procedural pathways, creating barriers to accessing social protection and citizenship rights. Based on ethnographic field work, including participant observation, interviews, focus group discussions (FGDs), and a survey of 981 workers, I consider how zones of compounded informality in Delhi-NCR interact with India’s Aadhar biometric identification system to variegate access to the franchise and Targeted Public Distribution System (PDS) for migrant and other low wage workers.

Introduction

Informality is a robust area of inquiry across labour, urban planning, and migration studies. Research on labour in the global economy has addressed the rise in contingent work among migrants and other workers (Silliman Bhattacharjee 2022, Valenzuela 2003, Kalleberg 2000, Beard and Edwards 1995). This line of research is increasingly attentive to working conditions for the two billion workers in informal employment across the globe (Guardian Labs 2021). Relatedly, research on cities has attended to concentration of migrants and the poor in urban peripheries wherein informality conditions their experiences of citizenship (Srivastava 2019; Bhan 2016; Holston 2009).

This paper introduces the term *zone of compounded informality* to mark a palimpsest of legal exclusions within a particular location as a technique of governance. Within these zones, exclusions in distinct regulatory arenas—such as housing and work—not only interact to escalate the impact of each exclusion on workers’ lives, but also interact with other legal and procedural pathways to determine access to rights and entitlements. In this regard, zones of compounded informality participate in the spatial production of “variegated citizenship”—distinct modes of governing segments of the population (Ong 1999). While forgoing research has attended to the relationship between formality and informality (Roy 2009, Hart 2009, Hodder 2016), this paper contributes a new framework for interrogating how informality in distinct governance domains interacts in the lives of migrant and other workers.

My analysis of zones of compounded informality is rooted in a study of how rural-urban circular migrant workers employed in Delhi-NCR experience and navigate informality at the nexus of

deregulated work and housing. Forgoing literature has well established that the working poor in Delhi-NCR is overwhelmingly comprised of migrants from across states in India (Naik 2015). However, as Gautam Bhan (2016) points out, even after decades of living and working in the city, low wage workers continue to be portrayed as migrants—including in legal proceedings concerning their rights to reside in slum areas. Systematic legal exclusion from housing and labour rights protections undermines stability and access to socio-political citizenship for migrant workers in the city, participating in producing the figure of the perpetual migrant.

Part One introduces zones of compounded informality in relationship to literature on labour, urban informality, and “states of exception” (Agamben 1998, 2005). I explain how studying zones of compounded informality deepens our understanding of the ways migrant workers experience interactions between informal employment and housing. This section also discusses my ethnographic research, including participant observation, interviews, focus group discussions (FGDs), and a survey of 981 circular migrant and resident workers employed in Delhi-NCR. Part Two provides context on uneven development, circular migration, and social stratification. Part Three lays out the interaction of legal exclusions in housing and labour rights in zones of compounded informality. It begins by detailing the context of flexible employment and flexible planning in Delhi-NCR (Gururani 2013), and then describes migrant experiences in zones of compounded informality wherein exclusion from labour and housing protections interact, propelling cycles of unemployment and debt. Part Four explains how zones of compounded informality interact with access to the franchise, Targeted Public Distribution System (PDS), and financial inclusion for migrant and other workers. Here, I focus on India’s *Aadhar* biometric identification program as a primary access pathway.

I found that in zones of compounded informality, despite holding Aadhar cards, circular migrant workers are unable to establish the proof of residence they need to vote and collect PDS rations in the city. This failure of Aadhar in facilitating enfranchisement and social protection underscores a buckling of socio-political citizenship for circular migrant workers in post-independence India. While challenges accessing identification (ID) as a barrier to citizenship have been interrogated in forgoing literature (e.g., Abbas 2016), this study provides new insight in context of the Aadhar regime. Further, locating variegation of citizenship for circular migrant workers in the interaction between deregulation of urban labour markets, unregulated housing, and pathways for accessing social protection in particular locales, my analysis contributes to scholarship on how urban social orders are based on governance of space (Bhan 2016, Caldeira 1999, Merry 2001). Part Five explains how zones of compounded informality lend insight into the exodus of millions of internal migrants from India’s megacities in the wake of COVID 19.

In Part Six, I conclude the paper by arguing that the acceleration of market fundamentalism, state withdrawal of labour and social protection, and exclusion of migrant workers from civic planning are defining features of our time. In short, zones of compounded informality are on the rise across the globe, making them integral to contemporary studies of labour migration in the global economy.

Spatial production of compounded informality

Informality and exception

The term informality was first introduced in context of labour markets and employment in the 1970s, referring to economic activity by workers that is not regulated by the state (Hart 1973). While early studies of informality focused on self-employed workers, myriad forms of wage labour outside the ambit of state regulation are now well established as informal work (Breman 1996, Srivastava 2019). Forgoing literature has considered how processes of labour informalisation characteristic of neoliberal capitalism function by segmenting workforces—including along caste, gender, and religious lines (Mezzadri 2022; Silliman Bhattacharjee 2020b; Srivastava 2019; Lerche and Shah 2018; Jha et al. 2017).

A distinct line of research on cities attends to urban informality (Roy 2005; Perlman 1976; Castells 1983, 1989); and relatedly, “spatial illegality”—illegality in the inhabitation and production of space (Bhan, Goswami, and Revi 2013). Empirical work across the global South has shown that informal and illegal inhabitation is practiced by the poor and elite (Bhan, Goswami, and Revi 2013; Holston 2009), but consequences are different in form and degree for the poor (Yiftachel and Yacobi 2003).

Empirical studies of urban informality in India include extensive research on slums (e.g., Bhan 2016), and growing literatures on informal rental housing (Desai and Mahadevia 2014; Naik 2015) and access to infrastructure (McFarlane and Desai 2015; Anand 2017; Desai 2018). Ananya Roy (2009) identifies informality as a defining feature of India’s urban planning “idiom.” She describes urban land management as dynamic processes of informality and deregulation, wherein the law is deliberately rendered open-ended and subject to multiple interests and social processes. Significantly, she emphasizes that informality in India is not casual or spontaneous, but calculated to undergird territorial state practices.

Related scholarship on states of exception (Agamben 1998, 2005) directs attention to inclusion and exclusion as mechanisms of social ordering. This research is rooted in Giorgio Agamben’s contention that sovereignty is principally expressed through demarcation between people considered integral to the body politic, and the state of exception wherein the politically marginalized are reduced to “bare life”—subjects exposed to violence and death (1998). Ananya Roy (2005) applies this framework to planning modalities that produce informality as a state of exception from the formal order of urbanization. Situating exception as a technique of neoliberal governmentality, Aihwa Ong lays out how exclusion is deployed by states in Asia to optimize spaces for capital accumulation by exempting them from planning and labour regulations (2006).

Neoliberalism as exception has been meaningfully applied by Thomas Cowan (2015) in understanding how in Gurugram, Haryana, India—a site in this study—the state governs through exception by outsourcing fragmented authority to private developers, state development authorities, and the Municipal Corporation of Gurugram. Drawing from and contributing to this research, I focus here on the interaction between regulatory regimes in spatially determined sites of neoliberal exception—sites where the state governs through layers of exclusion that optimize capital accumulation and labour extraction with far reaching human and environmental consequences.

Zones of compounded informality

In this paper, I introduce the term *zones of compounded informality*. This formulation highlights two significant dimensions of state exclusions of informal workers from labour and housing protections. First, identifying *compounded* informality calls for attention to the experiences of people who are not only in informal work, but are also subject to other regulatory exclusions. Second, the confluence of regulatory exclusions within discrete *zones* calls for identification of particular locations that are carved out from state regulation. While attention has been given to the relationship between formality and informality (Roy 2009, Hart 2009, Hodder 2016), this paper breaks new ground by providing a framework for marking and interrogating the interaction between informality in distinct regulatory domains, and the human and environmental impacts of these experiences.

Demarcating zones of compounded informality is significant to socio-legal studies because deregulation further conditions access to rights and entitlements for the people who live and work in these locales. People living and working in zones of compounded informality may hold rights, but be *de facto* excluded from them due to the interaction between converging forms of informality and procedural access pathways. In this regard, zones of compounded informality participate in spatially producing “graduated sovereignty”—distinct modes of governing segments of the population that produce variegated experiences of citizenship (Ong 2000, 1999).

Discovering compounded informality

I conducted the empirical work for this paper between 2014 and 2021 as an ethnographic researcher and lawyer, affiliated with the Delhi-based Society for Labour and Development (SLD). My ethnographic field research included participant observation, interviews, FGDs, photography, sketches, multimedia, and surveys conducted in South West Delhi and Gurugram, Haryana and in districts in the Indian states of Bihar, Jharkhand, and Uttar Pradesh with high levels of migration.

From within this body of ethnographic work, this paper draws primarily from ongoing participant observation, and interviews and FGDs conducted in 2016 and 2021 respectively. These include 12 interviews with circular migrant workers employed in garment, domestic, and construction work conducted in 2016 that focused on living conditions in Gurugram district—including in tenement housing in Dundaheera, Katarpuri, and Kapashera; an informal settlement referred to as Sikanderpur Pahadi; and a slum referred to as Sikanderpur Basti. In these areas, I worked with a team to document worker homes and housing areas in photography, sketches, and 360-degree video.²¹⁴ I also draw from two FGDs conducted in 2021, including 40 migrant garment workers, that sought to understand their experiences during the COVID 19 pandemic and imposition of national lockdowns in 2020.

As part of this ethnographic research, in 2017, I worked with SLD to conduct a survey of 981 workers in North India. Respondents included circular migrants (147) and residents (140) in

²¹⁴ For a virtual tour of the areas in this study, visit the Lockstitch Lives 360-degree interactive documentary (www.lockstitchlives.org).

Delhi-NCR—more specifically, in Dundaheera, Manesar, and Sikanderpur areas of Gurugram, Haryana; and Kapashera in South West Delhi. The survey distinguished circular migrants from residents based upon self-description as either moving between their homes and Delhi-NCR, or living full time in the city. We also spoke to circular migrant workers in their home districts in Katihar (102) and Purnea (121), Bihar; Latehar (110) and Palamu (118), Jharkhand; and Kanpur (133) and Kannauj (112), Uttar Pradesh.²¹⁵ These states were selected because Bihar, Jharkhand, and Uttar Pradesh have the largest rural populations in India, and are significant origin states for migrant workers (Abbas 2016). Districts were chosen based upon high levels of rural-urban circular migration, and the presence of civil society organizations engaged in supporting migrant workers. Surveys were conducted in Hindi and focused on understanding access to *Aadhar* cards, voter ID, the franchise, PDS, and bank accounts. In each area, we supplemented surveys with interviews, including with migrant workers, government officials, activists, and workers as well as leadership in civil society organizations (Silliman Bhattacharjee 2018).

Additionally, over the last decade, I have engaged in research on garment global production networks (GPNs) in India and across Asia. I draw from my understanding of the garment GPNs—and more specifically, in Delhi-NCR—to situate the ethnographic research described above in relationship to dominant trends of deregulation and casualization in the garment industry and across the global economy. This includes drawing insights from my own empirical work, and the work of academic and trade union colleagues.

Uneven development, circular migration, and social stratification

The Delhi-NCR is a spectacular manifestation of India's imbalanced economic growth (Kundu 2003, Ghosh 2012) that fuels migration. Parallel to the explosive development of urban economic and industrial hubs, India has seen declining employment in agriculture (Gidwani and Sivaramakrishnan 2003) and the inability of smaller towns and cities to attract investment. This imbalance drives millions of workers to seek employment in cities and production hubs (Abbas 2016; Tumbe 2018). In Delhi-NCR, the most populated city in the country, the migrant labour market is highly differentiated—including permanent and semi-permanent skilled and educated migrants, and low wage circular migrant workers concentrated within informal sectors and informal employment in the industrial and other formal sectors (Srivastava 2019, 2011, Deshingkar 2008). In the Indian context, forgoing research has considered how central and state government practices of liberalization, caste hierarchy and discrimination in hiring and employment, and recruitment intermediaries stratify this informal workforce (Silliman Bhattacharjee 2023, Silliman Bhattacharjee 2022a; Srivastava 2019).

Among low wage workers, migration in India has a “rhythmic, circulatory character” (Breman 1996:11): an estimated 25 percent of the rural workforce routinely migrates between their homes

²¹⁵ Due to lack of disaggregated government data on internal migration by location, sampling frames enumerating migrant workers within study locations are difficult to obtain. Accordingly, we identified respondents using a quota sampling approach that aimed to represent experiences of a diverse population, including women and men from Dalit, Tribal, OBC, and communities considered higher caste.

and urban and industrial hubs (Breman 2020). Circular migration is driven by choices to pursue opportunities for employment (Chatterjee 2008), and livelihood and food insecurity among small landholders and landless workers—processes that date back to the first half of the twentieth century and accelerated after Independence (Breman 1996; Chatterjee 2008). In this context, it is common for rural households to survive on land-based activities and wage labor (Gidwani and Sivaramakrishnan 2003; Gidwani and Ramamurthy 2018). Trans-local migrant workers accept employment for wages below or just above minimum wages in urban areas since they are higher than agriculture and other rural sectors (Nathan and Silliman Bhattacharjee et al. 2022).

A large proportion of circular migrant workers belong to groups at the base of India's social hierarchies, including Scheduled Caste (*Dalit*), Scheduled Tribe (*Adivasi*), and Muslim workers who lack access to education, livelihood opportunities at home, and land and assets. They overwhelmingly find work in informal and temporary employment (Srivastava 2019, 2011; Deshingkar 2008; Lerche and Shah 2018). Women workers are also disproportionately concentrated in informal employment in the formal and informal sectors. As such, spatial variegation of citizenship in zones of compounded informality articulates (Hall 1985) with “conjugated oppression”—co-constitution of class-based relations and oppression along gender, caste, tribe, and other identity lines (Bourgois 1988; Lerche and Shah 2018).

Zones of compounded informality in Delhi-NCR

Enter “High-Tension Gali”—a residential lane that has become synonymous with the surrounding neighborhood in urban Kapashera, Gurugram. Here, workers live in the shadow of a high voltage electric transmission tower carrying 33 kV transmission lines to export-oriented factories. The tower spans a narrow lane lined with two-story buildings. These power lines power the factories where many find work, without providing electricity to the workers' neighborhoods in their shadows. Cars, bicycles, auto-rickshaws and pedestrians' thread beneath the humming tower. Off the grid charged by these lines, workers siphon electricity from street lamps, reporting fires sparked by the maze of wires.

The power lines over High-Tension Gali are a metonym for the palimpsest of flexible labour and planning regimes in Delhi-NCR that facilitate access to labour in line with fluctuating employer needs and capital flows, while excluding circular migrants from labour rights and social protection—including stable residence, access to rights and entitlements, municipal services, and zoning, construction, and rental market regulations. Where flexible employment and housing interact in zones of compounded informality, risks associated with each informality regime intensify for the people who live and work therein.

Flexible employment

The spread of capitalism in India is marked by class relations that have given rise to informalized, insecure work, and these relations are co-constituted by relations of race, ethnicity, caste, tribe, religion, and gender (Lerche and Shah 2018). By 2019, 90 percent of India's workforce was in informal employment (ILO 2019), with 95 percent of *Dalit* and *Adivasi* workers employed in the informal sector, or in informal jobs within the formal sector (Mangubhai 2014; Sengupta, Kannan, and Raveendran 2008). Put another way: more than 400

million workers in India are channeled into flexible, labour intensive work, and without labour rights or social security (Pratap 2015; Kompier 2014).

India's labour law regime dates back to the late-colonial era, with labour rights rearticulated in post-Independence state policies (Silliman Bhattacharjee 2016). However, the persistence of the informal sector reflects both the slow pace at which the central and state governments have included the working poor within labour rights protections, and systematic deregulation of formal sector work as a route for achieving labour flexibility in line with trade liberalization (Srivastava 2016; Sodhi 1993). Despite constitutional commitments to labour rights, formal employment remains largely circumscribed to industrial production (Breman 1996).

Since the 1990s, India's economy has been transformed by central and state government promotion of trade liberalization, greater entry of foreign capital and consumer goods, and privatization across sectors (Chatterjee 2008). India's balance of payment crisis—beginning in the 1980's and peaking in early 1991—prompted the government to adopt the World Bank-IMF stabilization and structural adjustment program (Sodhi 1993). As a condition of access to conditionality-driven structural adjustment loans, the World Bank and IMF required India to promote trade liberalization, greater entry of foreign capital and consumer goods, and privatization across sectors (Chatterjee 2008). These conditions guided new central and state industrial policies and laid the groundwork for transformation of India's economy away from inward-looking economic growth, and toward the promotion of deregulated capitalism (Silliman Bhattacharjee 2016)—including by dismantling regulatory regimes, reducing the public sector, creating a larger role for private enterprises, and opening up the economy (Sodhi 1993).

In line with this template, India's central and state governments shaped the contours of Delhi-NCR with a focus on promoting manufacturing (Barnes 2018) and service industries through export-oriented policies and facilitated entry of foreign direct investment. These changes came with systematic erosion of labour standards at both the central and state level, enacted through legislatures and courts (Silliman Bhattacharjee 2023: 231-234).

Today, workers across India enter markets where formal employment models are in rapid decline as labour market policies and practices promote non-standard work. Across industrial establishments researchers have documented a hollowing out of formal employment. Measures to achieve labour flexibility among industrial employers include increased use of contract labour, outsourcing, and subcontracting (Silliman Bhattacharjee 2016, Nagaraj 2004, Zaghera 1999). By 2012, the percentage of workers with long term contracts in manufacturing fell to 17.5 percent (Srivastava 2016). Employment, moreover, is layered by social status, with socially vulnerable groups—including Scheduled Castes, Scheduled Tribes, and Other Backward Classes—concentrated in informal positions within industrial establishments (Srivastava 2019; Silliman Bhattacharjee 2020).

Flexible planning

As Delhi-NCR develops at a breakneck pace, projected to reach 36 million people by 2030 (Biswas and Tortajada 2017), it subsumes localities across state, municipal, and *panchayat* (village) jurisdictions. Together, private developers, the Haryana Urban Development Authority

(HUDA), Haryana State Infrastructure and Industrial Development Corporation (HSIIDC), and the Municipal Council of Gurgaon (MCG) administer the megacity, participating in “fragmentary governance” of this evolving landscape (Cowan 2015; Dharia 2022). In this palimpsest of governance regimes, Delhi-NCR has been developed through “flexible planning”—a deployment of exemptions, compromises, and force to secure elite interests and sites of global capital accumulation (Gurunani 2013).

Shubhra Gururani (2013) locates flexible planning in Gurugram in a series of historical developments. The creation of the Delhi Development Authority (DDA) and enforcement of the Delhi Master Plan (1962) conferred authority for land sale and development in the Delhi Metropolitan Area to the DDA. In this context, private developers like Delhi Land and Finance (DLF) were pushed out of Delhi. By the early 1980s, the visionary KP Singh of DLF and other private developers began purchasing land directly from villagers in Gurugram (then Gurgaon)—including land formally controlled under the Haryana Development and Regulation of Urban Area Act, 1975. Successive repeals of the Urban Land Ceiling Act, 1976—designed to limit monopolistic land accumulation—by the central government in 1999, and the Haryana Government in 2011 facilitated privatization. Delhi-NCR was deeply divided by these planning, privatization, and deregulation processes: the elite live in gated developments while due to rent control modifications, villagers and poor migrants are relegated to receding peripheries (Naik 2015).

Tight control on land within Delhi-NCR prevents migrants who seek to get a foothold in the city—including those who have been there for decades—from illegally occupying or squatting on land (Bhan 2016). Instead, nearly all low-income housing in Gurugram exists as a form of informal rentals, ranging from slums to single and multi-story tenements (Gurunani 2013, Naik 2015). Circular migrants in Gurugram overwhelmingly find housing in *lal dora*²¹⁶ (urban village) areas that fall outside the bounds of municipal authorities (Cowan 2015). In Gurugram, for instance, informal rental units are exclusively located within 39 urban villages, or alternately illegally constructed on agricultural land (Naik 2015). In 1957, the Delhi Municipal Corporation (DMC) notified lands classified as *lal dora* as exempt from building bylaws and construction norms under the Delhi Municipal Act.

Complete state abdication of responsibility for construction norms, public health, and security is unsanitary and dangerous for migrant workers and other area residents. In one four-story tenement building in Dundahera, for instance, there are 148 rooms housing between 600 and 800 people. The building has 16 toilets in all—between 40 and 50 people share one toilet. Lack of access to toilets requires residents to defecate in nearby forests. Geeta Devi described risks of open defecation: “*There are insects, animals, black snakes and mosquitos. We can’t go at night. We are frightened.*” Workers recounted cases of sexual assault, kidnapping, and murder when they leave settlements to defecate in the open.

²¹⁶ The term *lal dora* [red thread] was first used in 1908 to refer to non-agricultural village land. These areas were demarcated by the land revenue department by tying a red thread denoting their exemption from the jurisdiction of municipal authorities.

Not only are construction norms unapplicable, but entire areas are excluded from Delhi and Gurugram Municipal Corporation beats. Meena, a migrant woman living in the High Tension Gali area explained: “*Where we live, the drains are open. Municipal workers don’t come here.*” Acute water shortages, bacterial and mosquito borne health conditions like dengue and malaria, and devastating accidents are common in areas outside the bounds of municipal water and sanitation. On January 27, 2016 in Kapashera, for instance, five-year old Ankit Kumar, the son of a migrant construction worker, drowned in an open septic tank just outside his school (Indian Express 2016).

Zones of compounded informality

In Delhi-NCR, informal work and housing compound in the sense that they interact to intensify the consequences of deregulation in each individual arena. Employment insecurity for temporary workers who face layoff periods heightens the impact of predatory housing practices by deregulated landlords. In this regard, informal work and housing—characterized by unstable income and unpredictable skyrocketing costs, respectively—interact to leave workers in financial deficit. These conditions push migrant and other area residents who live below the poverty line to the brink of survival where they take on debt to meet basic needs.

Between cycles of employment, workers in zones of compounded informality are vulnerable to involuntary relationships of dependence with landlords who extort additional payments on credit. A worker I will call “Sidh” is unemployed for three months each year when production cycles wane. During these periods, he enters into debt with his landlord in Dundahera. Between June and September each year, Sidh and his family live on credit. “*Until October, nobody gets work. To pay for room and rations, we go into debt by INR 8,000-10,000.*” As a condition of delaying rent payments while unemployed, Sidh’s family is required to buy rations from the landlord’s shop—an added expense of 20-25 percent. Penalties for unauthorized outside purchases can be severe, he explains. “*If you don’t buy from the landlord’s shop, then you can be thrown out—other landowners get people beaten up.*” The practice of landlords requiring tenants to buy marked up groceries on credit during periods of unemployment was common for workers I met in Dundahera and Kapashera.

What are the interests that sustain zones of compounded informality? First, circular migration keeps labour costs down for industrial and other employers who can capitalize on wage differentials between rural and urban areas. Unstable housing in Delhi-NCR prevents migrant workers from establishing stable residence in the city, contributing to nomadic circular migration (Breman 2020). A woman I refer to as Manju described feeling like a foreigner in Delhi-NCR despite being a citizen: “*This is foreign land and we are foreigners. We cannot settle here. We come to work.*”.

Second, urban planning that operates through deregulation and “unmapping” allows the state and parastatal elites flexibility to alter land use, deploy eminent domain, and acquire land for various forms of urban and industrial development (Roy 2003)—without taking responsibility for worker well-being. Municipal and state authorities in Delhi-NCR cut costs by sidestepping planning and housing infrastructure for large populations of migrant and other workers. Mobility among

transient worker populations, furthermore, allows multiple jurisdictions to evade responsibility for their needs by claiming it is the responsibility of another authority (Dharia 2022). In this regard, the withdrawal of regulatory power in Delhi-NCR is a feature of power, creating what Roy describes as a “logic of resource allocation, accumulation, and authority” (2009: 83) that is calculated to undergird the territorial practices of the state and extract migrant labour from this industrial base of vast global production networks.

Variegating citizenship in zones of compounded informality

As marked by K. Sivaramakrishnan (1998), for the last twenty years, nation building in the post-independence Indian state—the largest democracy in the world—has been driven by a “bipolar cultural core” encompassing jostling imperatives of democracy and market-driven development. Identification as a gateway to citizenship (Abbas 2016) is a key site of negotiation in India’s rapidly evolving governance landscape.

Embracing both of these imperatives, the Indian government rollout of the Aadhar²¹⁷ program, the world’s largest biometric identification system, had the articulated aim of improving targeted delivery of social protection measures and access to formal financial inclusion. Deregulation in zones of compounded informality, however, interacts with Aadhar to condition access to rights and entitlements for circular migrants and the urban poor more generally. There are a variety of citizenship outcomes that emerge in these areas, with consequences for migrant and other workers conditioned by the extent and nature of residential and employment informality.

Aadhar and social democracy

Since independence in 1949, India’s central government has adopted laws and policies with the explicit aim of dismantling entrenched structures of caste, religious discrimination, and patriarchy—including civil rights laws and social protection to support exit from caste-based and other feudal labour structures. The Targeted Public Distribution System (PDS), a food security program for below poverty line (BPL) households, for instance, aims at advancing the constitutional right to food.²¹⁸ I use access to PDS and the franchise as a barometer of access to socio-political citizenship in zones of compounded informality. My engagement with Indian citizenship here is interested in ideals of political equality, social protection, political participation, and inclusion within political community (Abbas 2016).

Both residence and identity (ID) proof are required to vote and access social protection, including PDS. Forms of ID and address proof within India include voter ID cards, Aadhaar

²¹⁷ *Aadhaar* identification numbers can be obtained by Indian citizens and resident foreign nationals. *Aadhaar*-linked biometric and demographic data is collected by the Unique Identification Authority of India (UIDAI), established in 2009 by the Government of India, and charged with implementing the *Aadhaar (Targeted Delivery of Financial and other Subsidies, benefits and services) Act, 2016*.

²¹⁸ Article 21 of the Indian Constitution, protects the fundamental “right to life” and has been interpreted to include the right to food. On July 3, 2013, India passed the National Food Security Act (“Right to Food Act”), aimed at addressing endemic hunger. The right to food is operationalised through PDS that provides grains at subsidised rates.

cards, and passports. Voter ID, Aadhar, and passports all include residency information, but only allow one residential address—necessarily creating dislocation between formalized and actual residence for those who move between residences in India. Of course, consequences of this dislocation are heightened for workers and families that depend upon public services and social protection frameworks.

It is most common for migrant workers to Delhi-NCR to retain strong connections with their native places, and for their families to be split between Delhi-NCR and their native homes. A survey of 300 migrant garment workers in the NCR found that 76 percent had family members in their native homes (Mezzadri and Srivastava 2015). Since access to the franchise and PDS rations is conditional upon local residence, however, and both Aadhar and voter ID cards only allow one address, circular migrant workers must choose between voting and accessing rations in their native homes or destination areas.

The decision of whether to access the franchise and PDS at home or in destination areas, does not, however, exist as an actual choice in zones of compounded informality. In these areas, landlords are not accountable for providing leases—a requirement for proving residence. While address proof can also be confirmed by an electric or water bill, property tax receipt, or liquid petroleum gas (LPG) connection, workers in informal housing lack personal water, electricity, and LPG connections. Unable to prove residence, circular migrant workers are functionally undocumented within their native country.

Restricted access to the franchise

Only six percent of migrant workers surveyed in Delhi-NCR held voter ID cards permitting them to vote in the city. Notably, 96 percent of circular migrants interviewed in Bihar, and 77 percent in both Jharkhand and Uttar Pradesh, reported being registered to vote in their home constituencies. Since under Article 326 of the Indian Constitution, a citizen can exercise their right to vote only in the constituency where they establish formal residency, labour migrants are not allowed to vote unless they travel to their native places during elections. Extending absentee privileges to interstate migrants has been opposed by the Election Commission (Choudhary 2015). Notably, in 2015, the Supreme Court authorized Non-Resident Indians (NRIs) to vote in elections from outside India.

At their nexus, laws that allow citizens to vote only in the constituency where they establish residence, and the absence of in absentia voting provisions for internal migrants, raises critical questions about defacto disenfranchisement of circular migrant workers. The near complete disenfranchisement of circular migrant workers from local electoral process in Delhi-NCR undermines incentives for local officials to include migrant needs in urban development and labour rights protections. Put another way, housing deregulation and the corresponding exclusion of migrant workers from access to residency proof bars migrants from informing political processes to advance their interests, systematically entrenching zones of compounded informality.

Restricted access to PDS

Circular migrants and residents both reported challenges accessing PDS rations in zones of compounded informality. Of the 147 circular migrants we spoke to in South West Delhi and Gurugram districts, none of them held ration cards or accessed PDS rations in the city. However, 110 out of 140 residents (79 percent) reported holding ration cards in Delhi-NCR. Residents also, however, reported challenges accessing PDS rations even while holding ration and *Aadhar* cards. Among 110 residents holding ration cards and local *Aadhar* cards, only 70 (57 percent) confirmed consistent access to rations while 40 (43 percent) reported access challenges. The inability to access PDS rations for workers living in informal housing in Delhi-NCR compounds experiences of employment informality by preventing workers from accessing the social safety net during routine gaps in unemployment.

Cross-cutting challenges in accessing PDS rations among circular migrants and residents in zones of compounded informality highlight the spatial concentration of exclusions. The complete inability to access PDS rations among circular migrants, when compared to the possibility of accessing rations among residents, demonstrates how within these zones, workers are impacted by varying dimensions and degrees of informality. These findings demonstrate variegated access to rights and entitlements for migrant workers in destination areas, rather than a complete eclipse of India's social democratic state.

Citizenship, insurgency, duplicity, access

Experiences of citizenship are not static, but rather, flexible and contingent forms of political subjectification that emerge through iterative and constitutive performances between the state and its subjects (Ong 1996; Gidwani and Sivaramakrishnan 2003). As laid out by Nikhil Anand (2017), citizenship is claimed not only through social practices of voting, but also through demands for state resources—including water services, schools, and health care. In his account of how Mumbai residents seek to be recognized by city agencies through legitimate water services, Anand argues that “hydraulic citizenship” is an “intermittent, partial, and multiply constituted social and material process”—cyclical, iterative, and highly dependent on social histories, political technologies, and distribution infrastructures (2017: 8-9).

Like hydraulic citizenship in Mumbai, claiming residence in Delhi-NCR as a marker of citizenship is iterative and far predates the 2016 rollout of the *Aadhar* regime. Significant scholarship has attended to the challenges that migrants and the poor face in complying with the demand for evidence of permanent settlement in the city (Srivastava 2012; Bhan, Goswami, and Revi 2013; Bhan 2016). Amidst these barriers, Sanjay Srivastava (2012) focuses on how residents of a Delhi slum produce fake IDs and other documents. The preceding discussions of access to the franchise, PDS, and bank accounts focused on formal access pathways—calling for further research into how migrants forge informal, insurgent, or duplicitous access pathways within the *Aadhar* regime.

Compounded informality, COVID 19, and exodus from the megacity

India, March 2020: the COVID 19 pandemic, coupled with the Government of India imposing immediate lockdowns across the country, drove the worst domestic migration crisis since Partition in 1947 (Infante 2020). As lockdowns halted public transportation, an estimated 10

million circular migrant workers returned to their rural homes, walking hundreds or even thousands of kilometers in the scorching heat. Images of families walking bare feet, without food and water, circulated in the global media—a dark icon of India’s forty-day lockdown.

Prevailing flexible employment practices facilitated widespread layoffs when COVID 19 struck. An estimated 130 million people in India lost their jobs the day after the lockdown was ordered (Breman 2020). Migrant workers, concentrated in informal employment and housing were disproportionately affected (Sriraman 2022). Women, overrepresented in the lowest rungs of supply chain production and in domestic and construction work (Action Aid 2020; Silliman Bhattacharjee 2020b), were also particularly hard hit. According to a survey of 433 garment workers—an overwhelmingly female migrant workforce—working in production clusters in Gujarat, Haryana, Karnataka, and Tamil Nadu, 89 percent of workers experienced layoffs or terminations, leading to a 73 percent decline in wages during lockdowns (AFWA 2021). A 2020 survey of migrant workers who returned to their native homes during lockdowns found that 90 percent had been dismissed without receiving owed wages or severance (SWAN 2020). Exacerbating the impacts of sudden job loss, internal migrant workers were unable to access PDS rations in cities (SWAN 2020).

At the same time, unable to afford rent, workers in zones of compounded informality faced sharp penalties from deregulated landlords. Ashmita, a migrant garment worker living in Kapashera, explained: *“We were unable to pay on time so they charged us penalties each day. We paid fines, until we could not afford them anymore.”* Workers also reported charges levied for any additional occupants. Meena, a migrant garment worker living in Kapashera explained: *“Owners began charging us for every guest who stayed in our rooms—we had to pay when relatives in the city needed a place to stay, and when family from the villages came for medical treatment.”* Unable to meet escalating expenses, many migrants had no option but to return to their native homes (Mukherjee, Gupta, and Kumar 2020).

During the first lockdown, relief from the central government amounted to less than one percent of India’s GDP (Breman 2020). A 2020 survey of migrant workers who returned to their native homes during lockdowns found that almost no one received cash allowances from the government (SWAN 2020). As a result, 66 percent of migrant workers surveyed had less than 200 rupees, and 75 percent only had food to last them for two days.

For workers in flexible employment, experiences of sudden economic free fall are not new—but the scale of job loss due to COVID 19 lockdowns and supply chain disruptions were unprecedented. In this regard, the pandemic functioned as a magnifying glass (Mezzadri 2022: 381)—amplifying the vulnerability of workers in zones of compounded informality in Delhi-NCR and across the country. Sudden job loss, extortion from deregulated landlords, and exclusion from social protection pushed migrant workers and other workers to the brink of survival. During the 2020 lockdown, the average debt among migrant garment workers increased by more than 200 percent, with 93 percent pushed below the international poverty line (AFWA 2021). In Delhi-NCR and elsewhere, spatially determined exclusion of workers from job, housing security, and social protection drove humanitarian crisis and mass exodus of in the wake of COVID 19.

Critically, where employers and the state retreated, civil society activists responded to the urgent needs of migrant workers. Tarangini Sriraman provides an account of relief work assisting migrant workers to travel home—a process that for activists included archiving their engagement and managing their anxiety by systematically cataloguing their work. These archival practices included noting the Aadhar ID numbers of the workers they assisted (Sriraman 2022). In effect, then, although *Aadhar* numbers did not facilitate access to India’s social safety for migrant workers in the wake of COVID 19, they did provide a mechanism for activists to track and legitimize their interventions, facilitating archival practices required for legal and administrative accountability to funders. This mode of using *Aadhar* for archival purposes suggests that Aadhar may in fact facilitate access to alternate resource pathways, beyond those envisioned by the state—providing preliminary insight into the question of how migrants and activists, together, use Aadhar numbers to forge alternate, informal or insurgent access.

Conclusions

Over the last four decades, an accelerating multiplication of rural-urban linkages in South Asia has expanded labor circulation exponentially (Gidwani and Sivaramakrishnan 2003). Beyond Delhi-NCR, workers inhabit zones of compounded informality across India’s megacities and production hubs. Globally, flexible employment is on the rise, catalyzed by the growing gig economy, and employment practices on product supply chains, construction sites, and in the hospitality and service sectors. At the same time, the acceleration of market fundamentalism and corresponding erosion of labour protections, collapse of social protection floors, and exclusion of migrant workers and the poor from civic planning are defining features of contemporary neoliberal capitalism. As uneven development, environmental devastation, and conflict continue to drive migration, we require frameworks for understanding the interaction between informal work and deregulation across other domains. The experiences of circular migrant workers in Delhi-NCR, then, are relevant to the study of migration, cities, and zones of compounded informality elsewhere in the world.

First, in zones of compounded informality, experiences of migration are deeply embedded in informal dwelling and work. At their intersection, deregulation of housing and work can create a compounded and complex web of informalities with significant implications for the lives of workers and their families, including cycles of debt, inability to access social safety nets during routine gaps in employment, and exclusion from political processes that inform fair housing and labour rights. These interactions undermine financial and political stability migrant workers require to establish firm footholds in the city—thereby sustaining the idea, category, and figure of the perpetual migrant, an outsider to the realm of socio-political citizenship.

Second, in zones of compounded informality, the eclipse of the regulatory apparatus of the state in varied domains not only interacts to escalate experiences of exclusion, but also to produce additional exclusions. Such an integrated understanding is critical to gauging the real impact of exclusions on migrant workers—a project relevant to studies of migration and mobility and social policy.

Third, studying zones of compounded informality in migration studies and across the social sciences stands to facilitate analysis of accelerating informality across the globe. In particular,

this framework draws together insights from anthropology of labour, studies of spatial governmentality in cities and production hubs, and legal anthropology. Activating this methodological approach calls for locally specific ethnographic engagement and legal process analysis, together with investigation of the relationship between accelerating deregulation and “global forms” of market driven development (Ong and Collier 2005).

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Chapter 5: Corridor as Method and Governance

The three papers that comprise this dissertation are an inroad into my study of migration corridors—perhaps most significantly by making it clear that in order to operationalize a theory and analysis of migration corridors, we must answer a new slate of questions. How can social science research make sense of the multiple and intersecting forms and flows that define migration corridors? How can we theorize the connection between the tightly interlaced and hybrid networks of human, technological, financial, and information systems that structure migration corridors? What units of analysis make sense for the fieldworker trying to understand the trajectories of mobile subjects as they move between junctions in the global economy? How can we understand the past and present forces that govern migration corridors, including the manifestation of past forces as contemporary governance forms? By considering how varied modes of governance intersect in the lives of migrant workers, the papers in this dissertation provide momentum in answering these questions. This final chapter takes stock of my key theoretical and methodological learnings from this preliminary study of migration corridors, brings together learnings from these papers with aspects of critical border scholarship from international political economy, anthropology, critical criminology, and migration studies.

Theorizing migration corridors

The corridor is a dominant organizational structure in modern domestic and institutional architecture that facilitates movement between discrete spaces. According to architectural historian Robin Evans (1997), the corridor was a radical break from previous domestic building plans. It was imposed on interiors to regulate the movement of people in and out of rooms. Its varied historical functions—including separating the serving classes from the English aristocracy in the country house and regulating movement and privacy in apartment and tenement buildings—have all but disappeared from view as the corridor has claimed its place as a necessary yet invisible structure in contemporary architecture where it facilitates purposeful and necessary contact (Marshall 2013: 7-8). Since the spatial management and expression of human relationships present themselves in corridors, the corridor has also been indicted as an installation of social hierarchy and bourgeois ideology: an architectural form that directly influences social relations as a transit system for moving bodies, things, and messages (Marshall 2013: 10).

Migration corridors, like their architectural counterparts, function as transit systems for moving bodies, products, and modes of communication. They link discrete places at varied scales—from the subnational to the international, forming an interstitial network that organizes movement that traverses the globe. Like their architectural counterparts, migration corridors also include one or more entrances; directional momentum; and connection between two or more sites. These components map onto the building blocks illuminated by the case studies in this dissertation: expulsions; junctions; and forces that direct migration flows. The construct of the corridor is more than a mere metaphor. Instead, I take seriously the role of spatial metaphors in reconfiguring ideas of literal space and their governance. For instance, thinking about migration in the global economy as a corridor brings routes, flows, and junctions—including borders, urban centers, special economic zones, and work sites—within the same analytic ecosystem. Table 1,

below, provides examples of expulsions that propel migration, junctions, and forces that direct migration flows.

Table 1: Anatomy of a corridor

Entrance	<p>Expulsions:</p> <ul style="list-style-type: none"> • national and global patterns of uneven development, • environmental devastation, • corporate land grabs, • conflict, • exclusion from legal and social protection, • short term migration stints that precipitate migration.
Connection between two or more sites	<p>Junctions:</p> <ul style="list-style-type: none"> • urban production and service hubs, • special economic zones (SEZs), • territorial borders, • workplaces, and • home.
Directional momentum	<p>Forces that direct migration flows:</p> <ul style="list-style-type: none"> • global financial flows, • labor arbitrage, • securitization policies, • product and labor supply chains, and • local migration processes shaped by migrant women workers, recruitment intermediaries and kinships and social networks.

Expulsions

Expulsions function as both a catalyst and mode of governance within migration corridors. Experiences of expulsion propel migration among the migrant workers, and migration processes themselves create further experiences of expulsion. In my formulation, consistent with Nail (2015), expulsions do not necessarily refer to a singular experience of territorial displacement, but instead encompasses territorial, political, juridical, and economic deprivation or dispossession of status.

The three extended case studies that comprise this dissertation address a broad range of expulsions. Chapter 2, *Bitter Harvest—Supply Chain Oppression and Legal Exclusion*, highlights national and global patterns of uneven development that drive migration within and between nation states for agricultural work; and the systematic expulsion of migrant and other agricultural workers from legal and social protection. Chapter 3, *Migrant Labor Supply Chains—Architectures of Mobile Assemblages*, focuses on how the regular and ongoing expulsions from temporary work shapes the migration trajectories of women workers employed in the garment and domestic work sectors in India. Finally, Chapter 4 considers how informal housing and work interact to forge *zones of compounded informality* within India’s Delhi, National Capital Region.

It concludes by recognizing how *zones of compounded informality* in India's megacities functioned as sites of convulsive expulsion in the wake of COVID-19, precipitating mass exodus from cities and production hubs to rural areas with devastating consequences for migrant workers and their families.

Forces that direct migration flows

The social is increasingly constituted by flows of people, information, goods, and signs or cultural symbols (Lash & Urry 1994). Accordingly, for the last two decades, social scientists have attended to mobilities as significant sites of study (e.g. Appadurai 1996). In public policy and academic discourses on migration, however, migration flow data refers more narrowly to the number of migrants entering and leaving a country over the course of a specific period. These estimates, aside from their limitations in accounting for undocumented migrants, also lack insight into the specific trajectories of migration flows and the forces that direct these flows.

Following Walter Benjamin, *Migration Corridors—Governance at the Systemic Edge*, attends to what I refer to as both the exteriorities and interiorities of migration corridors. Observing the passages that traverse the buildings and social centers of Paris, Benjamin notes that “their connecting or mediating function has a literal and spatial as well as a figurative and stylistic bearing.” In Benjamin's account, these passages trouble distinctions between exterior and interior, and public and private environments. Instead, as technologies of transport and sites of mediation, they are at once public and private. They are structured, but movement within their interiority is fluid.

Global economic and legal structures forge what I refer to as the exterior architecture of migration corridors—these structural features include financial flows, product supply chains, labor arbitrage (Roach 2003), securitization of migration (Geiger and Pecoud 2013; Aas 2014; Bosworth 2017; Barker 2017), and legal exclusion of migrant workers within national regimes. In a sense, analysis of the exteriority of migration corridors provides insight into a logic of access, the powerful institutions, their administrative organs, and bureaucracies that forge conditions of possibility for workers in the global economy. Chapter 2, *Bitter Harvest—Supply Chain Oppression and Legal Exclusion*, focuses on agricultural supply chains and national regimes of legal exclusion as defining structural feature of the migration corridors agricultural workers traverse as they migrate for employment within and across nation states.

I also, however, trace forces that direct movement within the interiorities of migration corridors, including labor supply chains, and local communication and migration processes. Within the domain that I refer to as the interiority of the corridor, I consider the actions of migrant workers, recruitment intermediaries, and kinship and social networks. The concrete, historically specific exteriority of a migration corridor informs a material story within which I locate the interior, medial conditions of possibility. Chapter 3, *Migrant Labor Supply Chains—Architectures of Mobile Assemblages*, presents a detailed empirical account of labor supply chains into garment and domestic work. Here, I provide a framework for mapping and engaging with the complex and shifting networks of agents and sites migrant worker engage as they move between temporary employment stints in garment and domestic work.

While scholarship on many of these forces has been well developed in social science literature—and may have even been directly applied in context of migration—these forces have yet to be brought into the same analytic framework. *Migration Corridors—Governance at the Systemic Edge* introduces an empirically grounded methodology to study the presence and interaction between and among these forces in directing migration trajectories.

Junctions

My use of the term junction draws from Thomas Nail's (2015) theory and analysis of societies as regimes of motion, comprised of continuous social *flows*. In Nail's account, a junction allows some flows to pass through while others remain within its boundaries. A junction is not distinct from component flows, but instead generates perceived stasis points amidst social flows by redirecting flows onto themselves in a vortical process that creates *mobile stability* (28-29). A city is a political junction, a border or a work site is a material junction, and so forth. The human, financial, and product flows that forge migration corridors converge and are redirected in centrifugal junctions in the global economy (Nail 2015). Following a Foucauldian line, in my analysis of junctions, I seek to advance our understanding of how migration corridors are governed within particular spaces and sites in the global economy (Perry and Sanchez 1998; Caldeira 1999; Merry 2001).

More specifically, this dissertation examines mechanisms of social ordering based on spatial regulation in two intersecting clusters of sites: Chapter 4, *Zones of Compounded Informality—Migrants in the Megacity*—is focused on politically demarcated cities and industrial zones; and the Chapter 3, *Migrant labor Supply Chains—Architectures of Mobile Assemblages*, focuses on the homes migrant workers leave and the worksites where they travel to find employment. With this approach, this dissertation, in its entirety, undertakes a macro level analysis of global migration governance. Nested within this macro level analysis, it produces a meso level analysis, focused on migration governance in politically cities, and industrial zones. Finally, at a micro level, it considers migration governance within migrant homes and places of employment.

In the first cluster—focused on politically demarcated cities and industrial zones—I consider the Delhi, National Capital Region (NCR) and Mumbai in India. I chose to study these political junctions and their linkages because they include well traversed routes for migration into garment production and domestic work. Together, these sites encompass urban spaces, production and service hubs, and special economic zones. The association among junctions or field sites across these corridors is informed by the mobility of people, objects, finances, and governance paradigms between and across these sites. This approach is attentive to chains, paths, threads, conjunctions, and juxtapositions (Marcus 1998).

Within the second cluster of junctions—including homes and worksites—I seek to uncover mechanisms of social ordering experienced by migrant workers employed in garment factories and employer homes. Finally, migration governance within households—including both the homes workers leave and the homes that become work sites for domestic—are linked by social practices around domestic work that are common within and across junctions, but that also articulate differently in relationship to individual households and national contexts.

Methodological approaches to studying migration corridors

The globe today is traversed by an intensifying complex of interconnections. Processes of globalization are “stretching” social, cultural, political, and economic practices across frontiers as advances in technology and transport accelerate the movement of people, commodities, capital, and concepts (Inda and Rosaldo 2008). Our contemporary moment is one of *time-space compression*: the speeding up of economic and social processes is experientially shrinking the globe. In short, distance and time are no longer major constraints in the organization of human activity (Harvey 1989), including migration corridors. More than ever, happenings, decisions, and practices in one time and place have consequences for communities and cultures in distant locales. Along migration corridors, migrant workers live local lives, but their worlds are at the same time global: far flung processes have impacts on local spaces; and local developments send ripples with global repercussions (Inda and Rosaldo 2008).

How can ethnography make sense of the multiple and intersecting forms and flows that define migration corridors? Buroway et al. (2000) advocate for grounding the study of the global in the local, positioning the ethnographer firmly within the time and space of social actors living the global and tracking global processes to their local manifestations. This approach creates important inroads into how global forces intersect in particular sites, but remains limited in its ability to understand how distinct sites of governance and control are linked and interact. Whereas ethnographic practice has been dominated by embeddedness in the social relations of particular communities, an ethnography aimed at understanding global processes requires methods of inquiry and analysis that can accommodate external connections across spaces, scales, and contested boundaries (Gille and O Riain 2002).

Migration corridor as assemblage

What units of analysis make sense for the fieldworker trying to understand the trajectories of migrant workers as they move between junctions in the global economy? *Migration Corridors—Governance at the Systemic Edge*, builds upon and advances practices of multi-sited ethnography that extend the construct of the research site in space, in order to study localities tied to the outside world in complex and consequential ways (Marcus 1998). This approach requires the establishment of a posited logic of association or connection among sites that defines the ethnographic argument. What unit of analysis can encompass such distinct but linked sites of investigation?

Following Ong and Collier’s approach to studying the actual global (2008), this project studies migration corridors as assemblages (Deleuze and Guattari 1987; Ong and Collier 2008; Schuilenburg 2015). The concept of the assemblage originated with Deleuze and Guattari’s (1987) exercise in social theory aimed at overcoming static Platonic conceptions of being and social identity by emphasizing movement and heterogeneity in social life. Researchers have found the concept useful in addressing problems “that are nonisomorphic with standard units of analysis” (Collier and Ong 2005, 3). Drawing upon Deleuze and Guattari, I use the term *assemblage* to reference a contingent, open-set of actors, sites, institutions, and practices that constitutes in diverse configurations (Deleuze and Guattari 1987: 504-505; Nail 2017). My examination of migration corridors as assemblages contributes to productive lines of research

examining the territorialization of dynamic national and global phenomena (Collier and Ong 2005; Sassen 2008). It also contributes to theoretical investigations that use not only the concept of the assemblage, but also the network and the narrative to remap terrains of knowledge by expanding our understanding of the operational boundaries of systems and their environments (Marshall 2013).

In particular, my use of the term assemblage is grounded by Nail's (2017) exposition of Deleuze and Guattari, which offers a framework for thinking about assemblages as defined by three features: conditions, elements, and agents. I apply these features in two ways: first, I use them to demarcate migration corridor assemblages through attention to their common features; and second, to bring distinct spatial and historical case studies into a framework that facilitates comparative analysis of migration corridors as interlinked cases. This approach finds clear articulation in Chapter 3, *Migrant Labor Supply Chains—Architectures of Mobile Assemblages*.

The *conditions* of assemblages are particularly important in analyzing common features of migration corridors. Conditions refer to the networks of specific external relations that hold an assemblage together. For workers on migration corridors—the central subjects of my case studies – these conditions map onto what I have previously described as the anatomy of a migration corridor: expulsions, junctions, and forces that direct migration flows. The presence of these conditions across the extended case studies in this dissertation facilitate insights that transcend each individual case. In short, in this first sense, I rely upon assemblages to distill and track features of migration corridors as a global form. The ability to see common features of migration corridors across locations and periods is important because it facilitates insight into not only conditions but also governance dynamics that transcend specific cases.

In identifying migration corridors, I also use the assemblage as a unit of analysis to bound these complex case studies, each of which crosses geographies and periods. Here, *elements* and *agents*, the second and third features of assemblages distilled by Nail (2017) are particularly helpful. Elements are the concrete components that make up each assemblage. Elements of the migration corridors workers navigate include the specific junctions on a corridor—homes, territorial borders, special economic zones, workplaces, etc.; as well as specific forces that direct migration flows—labor supply chains, securitization processes, communications pathways, states, and transnational corporate actors. Agents, in turn, are responsible for connecting elements within the assemblage. As demonstrated in Chapter 3, *Migrant Labor Supply Chains—Architectures of Mobile Assemblages*, migration corridors and their associated junctions are defined by the routes taken by migrant workers. In addition to migrant workers themselves, other agents include families, recruiters who draw workers into employment, employers, state agents, and transnational firms.

Finally, I use the assemblage as a construct to facilitate spatiotemporal comparison. This approach draws from and builds upon the work of anthropologists who use the assemblage as a methodology to raise and answer anthropological questions concerning the “actual global” (Ong and Collier 2005). The essays collected in Ong and Collier (2005) draw attention to the interaction between spatial assemblages and *global forms*, defined as technological, legal, or other patterns of assemblage capable of “decontextualization and

recontextualization, abstractability and movement, across diverse social and cultural situations” (Collier and Ong 2005, 11). Chapter 2, *Bitter Harvest—Supply Chain Oppression and Legal Exclusion*, demonstrates how a globally circulating typology of legal exclusions facing agricultural workers touches down in particular national contexts. This extended case study traces global forms as they articulate across national legal regimes as well as product and labor supply chains. As a heuristic, this approach to studying global forms is instrumental to highlighting the distinct articulation of globally recognized governance forms. It provides language to describe the way that techniques of global migration governance manifest in discrete, grounded situations which can be delineated as assemblages.

Governmentality on global assemblages

Migration Corridors—Governance at the Systemic Edge seeks to advance the already productive encounter between governmentality-oriented research and migration studies. By referring to governmentality, I link my approach to Michel Foucault’s 1977-1978 Lectures at the Collège de France on *Security, Territory, Population* (Foucault 2007). The study of governmentality—including inquiry into the institutions, procedures, actions, and reflections that govern populations—provides a critical methodology for understanding linked processes of political and social control. The field of studies inspired by this work views governing rationalities—the circulation of discourses, strategies, tactics, practices, devices, and subjectivities—as dispersed across authorities and sites. This orientation facilitates understanding of the dispersed character of migration control and the technologies that mediate migration governance (Walters 2015). Due to the assembled nature of government—enacted through various sites and in relationship to distinct objectives—the process of rationalizing or making various elements internally consistent is never complete (Rose, O’Malley, and Valverde 2006: 98). As such, Foucauldian lenses for reading governmentality across migration corridors provides space for contradictions within discourses, strategies, tactics, and devices of domination.

Although Foucault never gave sustained attention to immigration (Fassin 2011; Salter 2013), the legacy of his work on governmentality is reflected in work on the biopolitics of citizenship (Tyler 2010), border security (Vaughan-Williams 2010), and the surveillance and disciplining of human mobility (Geiger and Pecoud 2013; Salter 2013; Rudnychiyi 2004). This line of inquiry lends insight into state and bureaucratic control over mobility through the projection of borders as external territorial frontiers; boundaries as internal social categorizations; and the deployment of borders and boundaries in intertwined processes of racializing immigrant populations (Fassin 2011) and disciplining transnational mobility (Pecoud 2013). Existing studies of governmentality in migration contexts provide critical insight into both the forces that direct migration; and governance within migration junctions. However, with notable exceptions (Ong 2006, Geiger and Pecoud 2013), governmentality scholarship has largely focused on how nations discover and manage populations and the spaces they inhabit *within* national territorial borders.

Expanding the study of governmentality beyond national territorial borders, Aihwa Ong (2006) considers how neoliberalism as a technology of governance relies on calculative decision making aimed at optimization, “reconfiguring relationships between governing and governed, power and knowledge, and sovereignty and territoriality” (3). In *Neoliberalism as Exception: Mutations in Citizenship and Sovereignty*, Ong (2006) is concerned with the spread of neoliberal calculation

as a historical process that unevenly articulates across political constellations, rationalizing governance and self-governance to advance technological optimization. Here, Ong breaks from the more traditional mold of governmentality scholarship in two ways: she considers how neoliberalism as a governing technology shifts the manner in which not only states but also market actors discover and manage populations; and she expands the framework of analysis beyond how states govern within national territorial borders, to consider how neoliberalism as a global form realigns market rationality, sovereignty, and citizenship. Similarly, *Corridor as Method* seeks to understand governing rationalities on migration corridors as spatial, mobile forms that may be anchored in but also transcend the boundaries of particular spaces.

Mobility in the interior - Stories as spatial trajectories

Let us return for a moment to our earlier discussion of Walter Benjamin's insight that passages—or for our purposes, corridors—trouble distinctions between exterior and interior, functioning, as technologies of transport and sites of mediation that are at once public and private; structured, but with fluid movement within their interiority. So far, the research methods I describe focus on governance processes that define the exterior architecture of migration corridors—these include structural features of the global economy such as financial flows, labor arbitrage, and securitization of migration. Analysis of the exteriority of migration corridors provides insight into the powerful institutions, their administrative organs, and bureaucracies that forge conditions of possibility for migrant workers in the global economy. But I am not only interested in governance in relationship to the exteriority or architecture of migration corridors—that is only part of the story. I am also interested in the interiority of migration corridors: fluid movement by migrant workers through the interstitial network of migration corridors that traverse the globe.

The exteriority and interiority of migration corridors are of course related. In fact, they are related by practices of governmentality. In *Migration Corridors—Governance at the Systemic Edge*, we are concerned with practices of governmentality that dictate the very conditions of mobility for migrant workers. In this regard, we are concerned with technologies of domination. But we are also concerned with a second dimension of governmentality: the subjective experiences of migrant workers—the technology of the self through which subjectivity is actualized, experienced, and performed (Foucault 1979).

Responding to critics of governmentality that consider this perspective closed to an analysis of contradictory forces and resistance, Rose, O'Malley, and Valverde (2006), argue that due to the assembled nature of government—enacted through various sites and in relationship to distinct objectives—the process of rationalizing or making various elements internally consistent is never complete (98). Accordingly, they warn against a static typification of modes of governmentality—both in relationship to modes of domination and technologies of self. Instead, they direct attention to how governing rationalities are informed by social and economic processes that are particular to place and time (98). Governmentality is particular at distinct spatial and temporal sites on migration corridors; and migration corridors are themselves shifting assemblages, characterized by both continuous and discontinuous tactics, and devices of domination. As such, Foucauldian lenses on governmentality within and across migration corridors provide space for reading contradictions within strategies and discourses. These

contradictions, in turn, generate space for migrant workers to navigate the fluid interior of migration corridors in a manner that may be constrained, but is not predetermined.

In *Migration Corridors—Governance at the Systemic Edge*, I hone in on the more fluid interior of migration corridors through the accounts of migrant workers. Since the 1960s, fields across the social sciences have been influenced by the *narrative turn*—scholarly recognition of the significance of stories, and related use of stories as tools for theory building and sources of data. Drawing from and contributing to this line of research, I highlight the role of stories in framing migration choices, and thereby determining migration trajectories. Here, the philosopher and historian Michel de Certeau (2011), provides a particularly apt account of the spatial dimensions of literary and everyday stories: stories “traverse and organize places; they select and link them together; they make sentences and itineraries out of them. They are spatial trajectories.” (115). *Migration Corridors—Governance at the Systemic Edge*, takes Certeau’s articulation literally. I argue that for migrant workers in the global economy, the stories workers access and tell function as a transit map of a global mass transportation system. The stories migrants receive and deliver take place at a dynamic intersection. They may be at once accounts of navigating migration corridors—sending beams of light to illuminate the interior of the corridor; and accounts that define the conditions of possibility for migrant workers—a hammer to the wall that either reinforces or breaks down the external architecture of the corridor.

To access how migrant workers experience migration corridors, I focus on *experiential stories* (Morrill et al. 2000) that lend insight into why, how, and where workers in the global economy migrate for employment. These stories of life transforming decisions illuminate the forces that constrain experience and highlight the ways in which people engage such orderings (Ewick and Silbey 1995; Morrill 2000). Performative and projective aspects of these stories provided insight into how workers navigate and negotiate migration corridors (Engel and Munger 1996; Oberweis and Musheno 1999; Morrill et al. 2000).

Making space within structural analysis for personal stories is important because facing similar opportunities and constraints, people make distinct choices. In 2015, Indian rights activist, Saachi Kumari, Secretary of Chotanagpur Sanskritik Sangh (CSS) in Jharkhand India, told me a story that underscored how, when faced with the same circumstances, migrant domestic workers may choose very different paths. She recalled:

We were notified that 30 young women had departed by train from Ranchi. Those under legal age were equipped with false certificates to show that they were over 18. They were split up on the train so they were less visible—so it didn’t look like trafficking. We boarded the train and spoke to each of them, giving them a sense of what to expect as young women migrating for employment in full time, live-in domestic work. For those who did not want to go forward, we helped them to get off the train. Some did want to go, and we provided them with the information they needed to be less vulnerable when they arrived at their destination.

The girls on that train from Ranchi to Delhi traveled a common migration route. They were governed by similar legal standards and subject to common policing practices. They all faced the same unknown with regard to the households in which they would be placed for employment in

domestic work. Although they were situated within the same migration corridor and provided with the same information, they responded in opposite ways: some chose to go forward, while others chose to get off the train. While I have never met any of the young women who were on that particular train from Ranchi, their story informs my reading of migration corridors as technologies of transport and sites of mediation that are at once structured, and defined by the fluid movement within their interior.

Mobile ethnography

Nearly two decades ago, Zsuzsa Gille and Sean O Riain (2002) pointed to challenges posed by globalization to existing social scientific methods of inquiry and units of analysis—namely, destabilizing the embeddedness of social relations in particular communities and places. The disembedding of social relationships they describe is particularly apt in the case of migrant workers on dynamic migration corridors. “The potential and uneven delinking of the spatial and the social under conditions of globalization,” they write, “upsets ethnography’s claim to understand social relations by being there and thus demands that we rethink the character of global ethnography” (271). This intervention raises the following questions for the study of migration corridors: How can ethnography make sense of the multiple and intersecting forms and flows that define migration corridors? How can we situate our understanding of migration in a world of tightly interlaced and hybrid networks of human, technological, financial, and information systems? How can the migration corridor be both an object of academic analysis and a motivating political concept?

In *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States* (2013), Seth Holmes navigates the delinking of the spatial and the social by engaging in *embodied ethnography*. He travels together with his indigenous Triqui subjects as they migrate from Oaxaca, Mexico to find employment—facing immigration detention at the US border along the way. He also goes from farm to farm with the Triqui workers as they experience difficulty finding employment, and works side by side with them at strawberry picking—the lowest category of farm work, physically strenuous and devoid of labor protections. Holmes’ embodied ethnography provides a theory and methodology for understanding the trajectories of particular mobile subjects as they move between junctions in the global economy. He situates his ethnography in relationship to the history that precipitates migration from Oaxaca, and the structure of agribusiness in the global economy. Holmes’ approach provides meaningful methodological inroads in meeting the challenges of global ethnography.

Migration Corridors—Governance at the Systemic Edge has methodological resonances with *Fresh Fruit, Broken Bodies*. Like Holmes, I focus on the experiences of migrant workers. My field sites also extend spatially beyond a particular location to encompass migration routes, the junctions they traverse, and their destinations. Holmes attends to the interests of agribusiness anchored in immigration policy as a force that directs migration flows and determines conditions of work. In a similar methodological move, I also consider the role of lead firms on garment and agricultural supply chains. Moreover, both *Fresh Fruit, Broken Bodies* and *Migration Corridors—Governance at the Systemic Edge* focuses on how past forces manifest in contemporary governance forms. These resonances are not surprising. Like *Fresh Fruit, Broken Bodies*, this dissertation joins a line of scholarship committed to “pragmatic solidarity” (Farmer

2003)—not only perceiving social inequalities, but also seeking to challenge and transform inequalities of power (e.g. Holmes 2013; Chatterji 2015).

Migration Corridors also, however, diverges from *Fresh Fruit, Broken Bodies* in significant ways. Holmes' methodology is fit for his purposes. As an anthropologist and medical doctor, he is interested in how market forces, anti-immigrant sentiment, and racism undermine health and health care. In literally walking beside his Triqui subjects along their labor migration journey, his embodied ethnography provides deep insight into the impacts of farm work on the bodies of migrant workers, and the social, economic, and political processes that naturalize this physical suffering. Tracing a route traversed by a particular group of workers, however, is like following one person through the Parisian Arcades—you get first hand engagement with their experiences, but miss significant architectural dimensions of the network of passages and more macro-level flows within the interstices of the Arcades. Put another way, Holmes' embodied ethnography provides insight into experiences within the corridor, but does not bring the corridor itself into view.

Migration Corridors—Governance at the Systemic Edge also stakes distinct ground in developing a network-based field access methodology. Holmes' journey from Oaxaca, across the United-States, Mexico border, and through California is predicated upon complete access to the migration routes traversed by his subjects. Such access is conditioned by status, and his position within the United States as a citizen and scholar. As an American ethnographer, he is able to secure this level of access in traversing migration and employment routes into the United States. From the position of the ethnographer, this mode of engagement is much more difficult to achieve in studying migration corridors as a non-national—in my case to sending junctions in Bangladesh and Ethiopia; and destination junctions in Lebanon, Jordan, and especially the GCC states of Bahrain, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates.

My ability to traverse the routes of my protagonists is also more difficult as a woman who seeks to study how gendered forms of governance channel women workers into illegal and therefore more dangerous routes. For instance, in order to travel the routes of Ethiopian migrant workers, I would, in some cases need to transit through Djibouti, Somalia, and Yemen—transit junctions where women face extreme forms of violence. For instance, Ethiopian women who migrate illegally from Kombolcha and Mille *Woredas* (districts) in Eastern Ethiopia routinely pass through Djibouti by land, cross the Gulf of Aden, and then transit through Yemen to reach the GCC states. Along this route, women face trafficking abuses, including sexual exploitation, hostage situations with ransom, detention, torture, and murder in “terror camps.” Migrants also drown during the sea crossing from Djibouti through the Gulf of Aden, and die from heat exhaustion and fatigue during foot passage through Yemen to the Gulf. While such routes and their attendant forms of violence defy embodied ethnography as a research practice, it is nonetheless critical to access the experiences of women migrants who do traverse these routes in order to expose, challenge, and transform the multiplicity of forces that direct and maintain these corridors.

Network-based research practices

In order to bring complex interstitial networks of migration corridors into view, *Migration Corridors—Governance at the Systemic Edge* introduces a network-based research practice. This approach seeks to address extreme imbalances in information and power by strengthening network relations among researchers and participants. This methodological intervention is at the core of my answer to the question, how can migration corridors be both an object of academic analysis and a motivating political concept? In short, this requires shifting the relationship between researchers and social movements from social movements as field or object of study; to social movement actors as co-investigators, engaged in defining the fields and objectives of study.

The network-based research practice I follow in *Migration Corridors* is committed to working with local researchers embedded in structures for community mobilization. In this way, a network-based research practice provides critical information from a research standpoint, but also contributes to building research infrastructure and networks among migrant workers; their trade unions, collectives, and organizations; and allied organizations at the national and international levels. On one hand, this methodology has the capacity to inform scholarly debates and emerging legal and policy frameworks with field research from difficult to access field sites. On the other, it provides hands-on support to worker organizations and other formations within impacted communities on structured data collection. These complimentary dimensions of my research practice strengthen two-way information flows on global labor migration and value chain governance, with long lasting implications for transforming inequalities of power in knowledge generation.

This is of course not to say that collaboration between academic researchers and local communities is new. It is not. However, all too often, when local groups contribute to collecting data as part of network and consortium strategies, they may at best be acknowledged in a publication but do not have ongoing access and the control required to leverage this data to advance their own objectives at the workplace, local, or even national and regional levels. For instance, I have worked with trade unions in South Asia that regularly contribute to collecting wage data in the garment sector that is analyzed to reveal trends within and across production countries as part of transnational data collection initiatives linked to campaigns and networks based in the Global North. Unfortunately, they are, for the most part, unable to independently access the data they have collected in a form that is relevant for new and evolving initiatives—a practice that violates the most foundational tenets of a network-based research practice.

Local, community-based organizations and trade unions engage in research on a regular and ongoing basis in order to take strategic action, including to inform collective bargaining and political advocacy. This data, which is well used by impacted communities in immediate practice, is also incredibly useful in informing action and perspectives over time. Here, researchers can contribute by working with local communities to structure and store data to facilitate analysis across sites of intervention and over time. For instance, I have worked with the Delhi-based Society for Labour and Development, where I worked as Research Director from 2014-2019, to develop data collection modules on barriers to freedom of association that we could use across sectors and sites, providing the foundation for cross-sectoral and interstate analysis of barriers to freedom of association in India. Sustained investment in working with local organizations not only provides unparalleled access to information, but also contributes to

building the durability and significance of locally grounded research networks. For each of the three papers in this dissertation, I engaged in a network-based research practice, seeking to not only understand migration corridors but also to work with migrant workers, their organizations, collectives, and trade unions to advance labor rights at work and during all stages of the migration process.

As explained in Chapter 2, *Bitter Harvest—Supply Chain Oppression and Legal Exclusion*, my decision to study the exclusion of agricultural workers from labor rights through a freedom of association lens emerged as a result of my engagement in network-based rights mobilization as a research practice (Nathan and Silliman Bhattacharjee et al. 2022). My study of global paradigms of legal exclusion facing migrant workers sought to strengthen advocacy to advance labor rights for agricultural workers through networks of trade unions, workers organizations, and other civil society organizations and campaigns. Accordingly, my initial legal analysis was designed in collaboration with the IUF²¹⁹ and GLJ-ILRF²²⁰ and been used in advocacy at the Civil Society and Indigenous People Mechanism (CSM) counter-mobilization to the UN Food Systems Summit, and in ongoing IUF advocacy with the ILO Standards Review Mechanism Tripartite Working Group (SRMTWG) as Convention 11 comes under review.

My study of migrant labor supply chains in Chapter 3, *Migrant Labor Supply Chains—Architectures of Mobile Assemblages* and zones of compounded informality in Chapter 4, *Zones of Compounded Informality—Migrants in the Megacity* also emerged as a result of my engagement in network-based rights mobilization as a research practice. Data collection for these studies was anchored at the Society for Labour and Development, Delhi. The data I return to in these papers was used by the Society for Labour and Development in developing and advancing interventions to support migrant workers in India through the Interstate Migration Alliance, a network linking workers' struggles in high migration and destination areas in India through a network of Migrant Rights Centres (MRCs). By 2016, the Society for Labour and Development (SLD) set up MRCs in Gurgaon, Haryana; Katihar, Bihar; Ranchi, Jharkhand; and Kanpur, Uttar Pradesh. This rural-urban approach aims to address rights abuses associated with uneven development, rural displacement, rising migration, urban poverty and concentration of migrant workers in informal sector labor. Findings from my research with the IMA were published in policy reports, including *Migrant Workers at the Margins—Access to Rights and Entitlements for Migrant Workers in India*. They were also used to inform development of free resources to help migrant workers in North India access rights and entitlements at all stages of their migration journeys. With the MRCs as their nodal hubs, the IMA network used these research engagements and the findings that emerged to facilitate cross learning between

²¹⁹ International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), founded in 1920, is an international trade union federation made up of 423 affiliated trade unions in 127 countries representing over 10 million workers. The IUF Rules stipulate that unions representing workers in agriculture, plantations and rural areas are eligible to be members of the IUF. See *The food, farm, hotels and more global union*, IUF, (Jan. 29, 2022), <https://www.iuf.org>.

²²⁰ Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), is a new merged organization bringing strategic capacity to cross-sectoral work on global value chains and labor migration corridors. GLJ-ILRF holds corporations accountable for labor rights violations in their supply chains; advances policies and laws that protect decent work and just migration; and strengthens freedom of association, new forms of bargaining, and worker organizations.

partners; and collaboration on the local, state, and national-level to inform just migration policy and practice.

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