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New Forms of Work:
precarious, informal and migrant

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précaire, informel et migrant

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Small garment factory of about 50 workers in Dharavi, outside Mumbai, India. With a population estimated as high as one million people, it is an area of informal housing and multiple informal sector workplaces including leather tanning and pottery making, garment, shoe manufacturing and others.
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EDITOR’S NOTE / NOTE DE LA RÉDACTRICE

Suzanne Dansereau

Al Chernov’s image on our cover is of the 25-ton sculpture of Pittsburgh, U.S. steelworkers on the site of the former steel furnaces and represents a decline in large-scale industry organised around well-paid permanent unionised jobs. This is in contrast to the growth of precarious work seen in Adam Cohn’s image of the small scale informal garment factory in Dharavi, India, in which undocumented workers earn far lower wages, producing goods for the export market.

Warnings about impending new forms of work largely refer to the spread of artificial intelligence and the expanded use of robotics (See the World Bank’s 2019 World Development Report). Yet the world of work has already changed for millions as neoliberal globalisation, outsourcing and employers’ ongoing search for lower wages, greater flexibility and reduced regulation has led to the relocation of production to workplaces in the South with lower wages and less worker and environmental protection. The result is the rise of informal workplaces, a variety of forms of precarious employment, and increased migration, resulting in the growing erosion of decent work in both the North and the South.

These new forms of work are increasingly precarious with workers hired on a part-time or contract basis, or paid piece work, even in formal sector workplaces and in the growing number of informal workplaces, sweatshops and export-processing zones. We also see the return or persistence of indentured labour and new forms of slavery. New technologies have extended contract work in the form of platform and gig economies, where ‘workers’ have been replaced by ‘self-employed entrepreneurs’. Many of these workplaces are in places with weak regulations around labour,
and health and safety laws including the right to unionise, and around environmental protection.

The need to migrate internationally for work has increased with the relocation of production, low wages and poor working conditions, along with the expansion of political instability resulting from war and violence. These have pushed people into labour intensive work camps, temporary foreign worker programmes where they face a context of limited rights. This increased worker mobility makes it easier for some to fall victim to traffickers or usurious contracts.

For the first time, therefore this issue of the journal brings together studies from countries in both North and South as we explore increasing similarities in the new forms of work across continents. Several articles touch on gender aspects as many of the new forms of work affect the growing number of women hired in the new workplaces. This includes in Ghana’s export processing zones (Adomaa & Apatinga) and in India’s information technology sector (Chakraborty). We see new forms of precarity in Canada’s guest worker programme (Hastie), and in India and South Africa’s auto industries (Monaco) and the gig economy in the charter fishing industry in Canada’s Lake Ontario (Fanelli). Finally a presentation of the broad impact of the growing work flexibility in Japan (Mirza & Bernier), and a look at the difficulties in finding solutions to these problems through the decent work agenda in a study of domestic workers in Nigeria (Olayiwola).

We regret to announce the passing of a cherished member of our Editorial Committee, Carolyn Bassett who had made important contributions to the journal. Carolyn obtained her PhD from York University, and had been teaching Political Science and chairing the Development Studies Programme at the University of New Brunswick at Fredericton. Her research explored the role of trade unions in South Africa both during the struggle against apartheid and more currently. She will be greatly missed.
A note to Librarians: *Labour, Capital and Society* will not be issuing Volume 47, 2014. Volume 48, 2015 was published in January 2017 as a double issue. The articles for this issue Volume 49, no. 1 were received in January 2019 and published in October 2019. It is in fact Part I on the theme of New Forms of Work. Volume 49, no. 2 will be published shortly and will be Part II of the same theme.
Émancipation économique des femmes et précarité d’emploi dans les zones franches industrielles du Ghana

Faustina Obeng Adomaa & Gervin Ane Apatinga

Résumé

Dans de nombreux pays à revenu faible et intermédiaire, les zones franches industrielles (ZFI) ont été adoptées comme stratégie de croissance générée par les exportations, et saluées pour leur rôle d’absorption de la main-d’œuvre féminine de surplus. Les conditions de travail défavorables sont cependant prédominantes à l’échelle mondiale dans les ZFI en raison de la relaxation des normes de travail, ce qui affecte sérieusement la main-d’œuvre majoritairement féminine. Les recherches empiriques sur les expériences des travailleuses dans les ZFI du Ghana et de l’Afrique subsaharienne sont toutefois limitées. Dans cet article, nous levons le voile sur la précarisation de l’emploi en tant que nouvelle forme de travail dans les ZFI. Nous décrivons comment les travailleuses dans les ZFI du Ghana négocient cet espace et ses effets sur leur émancipation économique. Nous signalons que travailler en ZFI constitue une importante transition dans la trajectoire de travail des femmes puisqu’il s’agit d’une amélioration de leurs possibilités d’emploi. Cela leur permet de progresser vers de nouveaux rôles en tant qu’acteurs économiques, au foyer comme au sein de leur famille, rehaussant ainsi leur estime de soi. Par contre, les salaires moins élevés, la précarisation des emplois et les mises à pied, conditions courantes dans les usines des ZFI, peuvent affecter la durabilité de leur émancipation économique, ainsi que leurs rôles et leur identité économiques fraîchement acquis.
Women’s Economic Empowerment and Precarious Employment in Ghana’s Export Processing Zones

Faustina Obeng Adomaa¹ & Gervin Ane Apatinga²

Abstract

Many low- and middle-income countries have adopted export processing zones (EPZs) as a strategy of export-led growth and for their role in absorbing surplus labour, especially female labour. However, unfavourable working conditions are pronounced in EPZs globally due to a relaxation of labour standards, greatly affecting the predominantly female labour force. Yet empirical research on the experiences of women EPZ workers in Ghana and Sub-Saharan Africa is limited. In this paper, we unpack the precarization of employment as the form of work in EPZs. We describe how women workers in Ghana’s EPZs navigate this space and the effects it has on their economic empowerment. The paper reports that EPZ employment is an important transition in the work trajectory of women and represents an improvement in their employment opportunities. It offers women a chance to transition into new roles as economic actors in their households and families and thereby enhance their sense of self-worth. However, lower salaries, labour casualization and dismissals, common in EPZ factories, can affect the sustainability of women’s economic empowerment and their newly constructed economic roles and identity.

Introduction

Developing countries have increasingly adopted export-processing zones (EPZs) as industrial policies and export-led growth strategies (Boyenga, 2007). The International Labour Organization (ILO) defines EPZs as industrial zones with special incentives set up to attract foreign investors, in which imported materials undergo some degree of processing before being exported again (ILO, 2008). The rationale behind establishing EPZs include but are not limited to diversifying exports, promoting foreign exchange and foreign direct investment and generating employment in host countries (ILO,
EPZs have become significant in absorbing many women employees in the developing world. They have provided them with opportunities to attain some level of financial autonomy, which may have trickle-down effects on other dimensions of empowerment (Madani, 1999; Hancock & Edirisinghe, 2012).

Notwithstanding these benefits, the capital investments of zone development, coupled with tax exemptions and free import and export duties granted to investors, have led to sceptics questioning the development potential of EPZs. More importantly, EPZs have been associated with unfavourable working conditions in many developing countries. Some of the commonly cited poor working conditions are lax enforcement of labour laws, restrictions on trade union creation and action, low wages, job insecurity and sexual violence; these issues require prompt attention from researchers and policymakers (see Mies, 1986; Wills & Hale, 2005; Cling et al., 2005; Carty, 2006; Engman et al., 2007).

While the evidence confirms that EPZs are associated with poor working conditions in many developing countries, there is limited scholarship on this topic, especially in Ghana and Sub-Saharan Africa. Little focus has been given to the nexus between EPZ employment and the empowerment of its predominantly female workforce. This is problematic as studies on the gender composition of EPZ jobs reveal that the female labour force is higher, and due to economic rationalization and gender stereotyping, women are more likely to experience poor working conditions compared to men (Khan, 2012; Pepper, 2012). Unfavourable working conditions can have important gender-related implications, such as effects on the social, economic and political capital of women, thereby contributing to the vicious cycle of poverty, feminization of poverty and gender inequalities. However, little is known about the lived experiences of female workers in EPZs in the Ghanaian and Sub-Saharan African context, where poor working conditions are commonplace. This study fills a significant research gap by employing qualitative in-depth interviews to examine the experiences of female workers in Ghana’s EPZs and how they translate EPZ employment into economic empowerment.

The puzzle underlying our study is this: the empowering potential of employment is a widely acknowledged one, but how sustainable is such empowerment if the employment is characterized by precarity? In the lives of many women in the
developing world, access to employment outside the home, which EPZ work represents, is seen as having positive direct effects on their economic empowerment. However, the precarities surrounding EPZ employment have the potential to transform this employment into a turning point event in the lives of its women employees. Our central argument therefore is that, while EPZ employment may be a positive transition for women and offers them the opportunity to make achievements in the economic dimension of empowerment, its precarity is a major hindrance to the sustenance of women’s achieved economic empowerment.

The paper is organized as follows: after this introductory section, we give an overview of how data was collected and analyzed for this paper. We then present discussions on the feminization of EPZ employment and how labour casualization and flexibilization have become the new forms of employment in EPZs. We highlight how these labour casualization and flexibilization of EPZ employment have the potential to transform opportunities opened for women in EPZs into a pathway to precariousness. We then provide a summary of how we conceptualize economic empowerment in this paper. We commence our discussions with an overview of Ghana’s EPZs, after which we present evidence of women’s achieved economic empowerment and discuss its sustainability amid increasing precarity. Using a life-course lens, we reflect on the place of EPZ employment in the lives of the women and then present a conclusion.

**Data Collection and Analysis**

The data underlying this study was a follow-up on a study we conducted in 2013 on working conditions in Ghana’s EPZ and their implications for women’s empowerment (see Obeng et al., 2015). We selected two factories – a fruit processing factory and a garment factory – that were part of our 2013 study and conducted multiple in-depth interviews with 22 women in 2017. We studied how the women translated their EPZ employment into economic empowerment and especially how the precarity of their employment mediated the sustenance of their attained economic empowerment.

We adopted a life-course perspective to analyze the processes that link the micro world of women EPZ workers, strongly woven in the relationship between the personal, family and work domains, to the macro world of institutions within which EPZ employment and its characteristics are embedded (Giele & Elder, 1998). We
employed three of the five principles of the life-course perspective in our analysis. The principle of agency acknowledges that within the constraints and opportunities in the broader socio-economic, historical and cultural context, individuals make decisions about their life-course through both long-term planning and short-term survival considerations. The principle of time and place indicates the importance of how individual life-courses are strongly influenced by the larger historical context in the economic, social and cultural dimensions as well as specific locations of individuals. The principle of linked lives emphasizes that the life-course is interdependent with others especially within micro-level contexts (Elder, 1985; Hareven, 2000).

We studied the lives of the women both retrospectively and prospectively. We paid attention to their transition into EPZ employment in their work trajectories and how it related to other trajectories, specifically their economic empowerment trajectory. We analyzed this in the context of the interplay between the evolving constraints and opportunities of employment in world-market factories and the socio-economic position of women in global manufacturing, on one hand, and the interpersonal relations of women in the households and families at the micro level, on the other hand.

EPZ Employment and Its Feminization: A Pathway to Precariousness

Over the past few decades, researchers and practitioners have recognized that women’s access to and control over employment, skills and knowledge are essential for their empowerment and, unlike accumulated wealth, land and associated landed assets, it is easier to redistribute these (Keller-Herzog, 1996; Thorin, 2001). Thus, when new manufacturing production locations are associated with new employment opportunities and demand for the paid labour of women, the positive directed effects for women are lauded (Keller-Herzog, 1996:11). Many countries of the Global North have shifted to a knowledge-based economy in recent years, resulting in the relocation of many labour-intensive industries to the Global South (Chant & McIlwaine, 2009; Neumayer & De Soysa, 2011). The remarkable spread of EPZs around the world is an epitome of this geographical rationalization, and women are seen as the greatest beneficiary of this spread.
The assembly-line, agro-processing, garment and electronic manufacturing sub-sectors have been prominent in absorbing women workers into EPZs. In these sub-sectors, the relocation of production into EPZs in the Global South has been characterized by the search for cheap and especially female labour. In the early 2000s, it was estimated that the female composition of the global EPZ workforce ranged between 60 and 80 per cent (ILO, 2004) and was even more pronounced in garment manufacturing. The link between EPZ employment and women is so strong that Standing (1999) speaks of feminization of employment in EPZs.

The preference for women in labour-intensive production units in EPZs is well known (see Elson & Pearson, 1981; Standing, 1999; Chant & McIlwaine, 2009). Economically, women offer cheaper labour than men because they are willing to accept extended working hours with poor payment (Chant & McIlwaine, 2009; Khan, 2012). Thus, it is economically prudent to employ women in such units to reduce production costs. It has also been argued that women have nimble fingers and gentle hands and hence, are best suited for these jobs, which are low-skilled, repetitive, monotonous and boring (Elson & Pearson, 1981; Khan, 2012). Additionally, women’s supposed docile and malleable character means that they yield to instruction and supervision more easily than men (Peedoly, 2011) and are easier to hire and fire according to external-demand conditions (Khan, 2012).

The preference for women in EPZs is undoubtedly a combination of both economic rationalization and gender stereotyping. These twin factors have rendered women the preferred labour force in EPZs, where new forms of work/employment, usually poorly paid and non-standard, are also the norm. Foreign direct investment in EPZs choose to locate in host economies to take advantage of the lower cost of production (Beesley, 2010) and thus, lower levels of salaries, sometimes below the national minimum wage, are incentives for investors. Also, host governments are noted to use lax enforcement of labour laws and, in some cases, partial or full suspension of labour laws in EPZs as incentives to investors (see LaRRI, 2000). The competition among Third World economies to attract more investments has “fuelled ‘a race to the bottom’ in labour standards and because women are usually concentrated at the lower segments of global supply chains, they bear the greater cost of this race” (Dejardin, 2008:3).
Not only is the new form of work in EPZs poorly paid and non-standard, it is also insecure and unprotected. World-market factories located in EPZs generally are more mobile and sensitive to factor price changes, and the cost of labour is one factor that these factories are sensitive to. To stay competitive in the global economy, many factories have increased flexibility in the production process and labour casualization is one of the methods adopted (Obayelu, 2007). This process of casualization manifests itself in the replacement of permanent workers with casual workers who do not enjoy many benefits (Rama, 2001). EPZ employment has therefore become a new form of work in which flexibilization and casualization of labour is dominant. Employees fill permanent job needs, yet their work is insecure and unprotected. The overrepresentation of women among flexible, unsafe and insecure labour at the base of the global production line means that they are more vulnerable to job cuts when global competition heats up (Wichterich, 2009; Floro et al., 2010).

Standing (1999) argues that EPZ employment continues to be feminized because, increasingly, more work in global-market factories bears the features of traditional female household jobs, which are low-skilled, precarious and unpaid or poorly paid. In his view, the feminization of employment in EPZs also explains the flexibilization of labour for both females and males – the nature of jobs is changing such that irregular conditions are thought of as synonymous with women’s secondary employment (Standing, 1999). As long as flexible labour strategies continue to be adopted by both host governments and world-market factories in EPZs, more and more women will drift into precarious employment in this sector.

Hu-Dehart (2007) indicates that the global production pyramid is sustained by massive numbers of Third World women, whose persistent position at the base of the production line gives them a comparative advantage in employment. In EPZs, low salaries, coupled with the worldwide growth of flexible labour arrangements, are twin processes that expose women to forces that compromise their opportunity for well-paying and quality employment (Sheen, 2017). EPZ employment, which provides women a chance to escape the precariousness of informal employment, has therefore become a pathway that ushers them into a sector in which precariousness is seemingly formalized. Thus, not only is EPZ employment feminized, there seems to be a feminization of precariousness in the EPZ sector as well.
Working or engaging in income-generating activities is an essential trajectory in the life-course of women. Whether within the informal or formal public and private sectors, women construct and maintain the sequence of roles and expectations of a work trajectory, and Ghanaian women are no exception (see Adomako Ampofo, 2007). For many women employed in Ghana’s EPZs, their employment seems to be an important development in their life. However, the place of EPZ employment in ensuring long-term stability in the work trajectory of women is not certain as this change seems unstable due to precarities.

**Conceptualizing Women’s Economic Empowerment**

Empowerment is the process by which those who have been denied power, gain access to power to make strategic choices concerning their lives (Moser 1993; Kabeer, 1999; Alsop & Heinsohn 2005). Scholars and practitioners have identified economic autonomy/economic empowerment as a crucial dimension in this process (see Sen, 1999; Oakley, 2001; Malhotra et al., 2002). Women’s economic empowerment is about them participating in, contributing to and benefiting from a growth process (Eyben et al., 2008) that enables them to succeed and advance economically (Golla et al., 2011). The process of economic empowerment is measured by access to and control over resources that serve as important building blocks that women can draw on to succeed economically (Kabeer, 1999; Oakley, 2001; Golla et al., 2011).

Women’s access to and control over income and their relative contribution to the household budget are important indicators of economic empowerment (Malhotra et al., 2002; Golla et al., 2011). However, economic empowerment goes beyond immediate survival needs (Eyben et al. 2008) and short-term goals of increasing women’s access to income (UNIFEM, cited in Mosedale, 2005). Economic empowerment involves the entrance into the means of making a living on a sustainable and long-term basis (UNIFEM, cited in Mosedale, 2005). Thus, sustainable incomes and livelihoods secured through access to resources such as skills and knowledge, levels of women’s income and individual wealth (Golla et al., 2011) are important indicators of economic advancement for women.

In a similar vein, Lutrell et al. (2009) highlight the importance of access to capabilities and appropriate skills for women’s economic advancement, while Eyben et al. (2008)
acknowledge resources such as housing, homestead land and income savings as critical assets that can make an enormous difference for attaining sustainable economic empowerment. In this paper, while acknowledging access to income and contribution to household budget as aspects of women’s economic empowerment, we measure the sustenance of women’s achieved economic empowerment with indicators that ensure economic advancement and a sustained means of making a living.

Ghana’s Export Processing Zone: An Overview

In Ghana, the Free Zones Program has existed since an Act of Parliament, the Free Zones Act (Act 504), was passed on 31 August 1995. The Act established the Ghana Free Zones Board (GFZB) and enabled it to develop free zones for the promotion of economic development. The program commenced in September 1996 with the objective of attracting foreign direct investment, creating employment opportunities, increasing foreign exchange earnings, providing opportunities for joint ventures between foreign investors and Ghanaians, enhancing technical and managerial skills for Ghanaians and promoting the transfer of technology (GFZB, 2013; 2016). The Free Zone Program operates two schemes: the export processing zone enclave and the single factory enterprise free zone. This allows investors to either locate in the designated free zone enclaves of Tema EPZ, Ashanti Technology Park, Shama Land Bank and Sekondi EPZ or any other location of their choice in the country (GFZB, 2013; 2016). This renders the entire country one big free zone.

In December 2013, 234 enterprises were operating under free zones licence in Ghana (GFZB, 2013). This rose to 352 in 2015 (GFZB 2015). The priority sectors that the Ghana Free Zones Board identifies for investment include agro-food processing, especially for fruit, vegetables and cocoa, information and communication technology, textiles and apparel manufacturing, seafood processing, jewellery, metal fabrication (GFZB, 2013; 2016) and oil and gas (GFZB, 2016). The Free Zone Program in Ghana is completely private driven. Developing the physical infrastructure of zones is one of the priority areas for investors. Thus, the government’s role is limited to the facilitation, regulation and monitoring of zone developers/investors and enterprises.

Operating in Ghana’s EPZ also comes with some monetary
and non-monetary incentives. These include 100 per cent exemption from payment of direct and indirect duties and levies on all imports for production in free zones and exemption from income tax on profits for 10 years, which will not exceed 8 per cent thereafter, and withholding tax on dividends arising from free zones investments. There is no import licensing requirements and minimal customs formalities (GFZB, 2013; 2015). Additionally, investors have 100 per cent ownership of shares in free zone enterprises, no restrictions on repatriation of dividends or net profit, permission to operate foreign currency accounts in banks in Ghana, agreement to sell up to 30 per cent of products in local markets, guaranteed protection against nationalization and expropriation, and relief from various bureaucratic restrictions and other statutory requirements (GFZB, 2016).

Ghana’s EPZ is touted as a success story in terms of employment creation and surplus labour absorption (see Ackah et al., 2012). Angko (2014) reports that the labour force in Ghana’s EPZ increased from just 579 in 2001 to 4485 in 2003 and to 8868 in 2008, which indicates an increase of about 93.47 per cent over the eight-year period. Although the female composition of the workforce in Ghana’s EPZ remains lower than the male composition, the increasing number of light manufacturing activities in the zones is leading to a steady increase in the female employment there (Obeng et al. 2015). For example, in the period between 2010 and 2014, the percentage share of women employees increased. In 2011, the sector employed 29,216 people, an increase over the 2010 figure of 25,000 employees. This was made of up of 78.07 per cent males and 21.93 per cent females. In 2012 there was a further increase to 29,511, comprising 77.60 per cent males and 22.40 per cent females. There was a further increase in 2013 to 30,111 employees, comprising 77.37 per cent males and 22.63 per cent females. In 2014 when there was a 4 per cent decrease in employment numbers from the 2013 figure, to 28,908, there was still a percentage increase in female employment evidenced by a sex composition of 71.76 per cent males and 28.24 per cent females. (GFZB 2010; 2011; 2012; 2013; 2014).

While the percentage of women employed in Ghana’s EPZ is increasing, reports indicate that a significant number of them are employed as contract or casual labour. Torvikey (2018) reports that in one fruit processing factory there were 4,000 workers in June 2018
and 60 per cent of them were women. She indicated that about 70 per cent of the workforce were casual labour and the majority of them were women. In their 2016 study of the same factory, Torvikey et al. indicated that while employing more women was the pride of the company, the over-concentration of these women at the production line, which was sensitive to seasonality in raw materials, meant that they were the same workforce that was recycled as casual labour. Obeng et al.’s (2015) study also reported that a greater proportion of women employed in EPZ factories were employed as casual or contract workers, engaged in low-skilled and low-ranked activities and their salary levels were generally low.

Like some other countries in the developing world, EPZ jobs in Ghana are characterized with precarities evident in the concentration of women in lower-rank activities which are highly casualized and attract lower salaries (Obeng et al., 2015; Torvikey et al., 2016; Torvikey, 2018). Unionization is generally absent in the EPZs although there are no explicit restrictions on union activities by the Government of Ghana or the EPZ factories. In cases where a workers’ union exits, strikes and lock-outs are forbidden, rendering these unions less effective in seeking redress through such means (Obeng et al., 2015). With the inherent precarities of EPZ employment, there is little or no stability for workers, and by extension women, to unite in creating a workers’ union or to make unions effective where they exist. The question then is, how do women translate this employment into economic empowerment, and how does its associated precariousness mediate the sustenance of women’s achieved economic empowerment?

**EPZ Employment and Women’s Economic Empowerment in Ghana**

Many of the women employed in Ghana’s EPZs are earning regular income for the first time because of their employment in the factories. During the 2013 study, it was evident that 33.2 per cent of women were unemployed while another 32.1 per cent were engaged in petty trading before EPZ employment. For another 13.6 per cent, they had moved to EPZ employment right after completing junior high school or senior high school (see Obeng et al., 2015). Thus, for these women, their work enabled them to earn regular income, a crucial resource which hitherto did not exist. This offered the women access to and control over income, which is a fundamental resource
necessary for their economic empowerment.

In our 2017 analysis of how the women translate their employment into economic empowerment, we found out that the women we interviewed constructed economic empowerment in terms of financial accessibility and independence. The narratives of women were replete with statements such as “earning regular income”, “being able to afford what I want” and “not depending on anyone for money”. In this study, we found out that many of the women were either unemployed before EPZ employment or engaged in home-based trading that provided them with meagre incomes. EPZ employment therefore was an improvement on their prior employment opportunities.

For these women, if there was any outcome at all in their economic empowerment, it was evident in their ability to earn regular income, which helped them to cater for their households financially. Although the women constructed their economic empowerment to include the ability to afford what they wanted, this want was also built into the domain of what was needed in their households. For many of the women, their income had enabled them to meet more financial needs in their families as much of their income was spent on cooking for the household, children’s education, medical bills and taking care of other dependants as well as remitting to their extended families. Some women also paid rent and utility bills with their income. Although for many Ghanaian households, utility bills, children’s education and rent are significant expenses that are the primary responsibility of the head of the family, usually a male (Brown, 1994; Oppong 2005; Wrigley-Asante, 2011), many of the women were taking up such financial roles in their households even in homes where there were male heads. Increasingly, Ghanaian women are assuming more economic responsibilities in their households as a result of their access to income (Brown, 1994; Oppong 2005; Wrigley-Asante, 2011). The women who took part in this study were no exception, and as noted by Wrigley-Asante (2008), with their increased contribution to the household budget, they have become important economic actors even in male-headed households.

For some of the women, taking care of aged parents and other members of the extended family had been economically empowering and had had trickle-down effects on other dimensions of empowerment. They highlighted the respect they had gained in their hometowns due to their ability to provide for their parents
and extended families. One woman indicated, “because I can send money home to my parents every month and whenever there are funerals, everybody in our family house respects me” (32-year-old woman from garment factory). Another woman who worked in a fruit processing factory indicated how a young woman in her family is expected to get married so that her husband can take care of her aged parents. However, since her marriage did not work out, the only reason she had not been considered a failure was her ability to financially provide for her aged parents with her EPZ income. As noted by Dolphyne and Ofei Aboagye (2001), in Africa, apart from very educated women and religious leaders, another group of women who are accorded much respect are those who can provide for their families financially. Thus, the women in our study commonly believed that respect emanates from their ability to provide financially for their family.

While the above sources of empowerment are crucial for women and are evidence of resource control indicators of economic empowerment, there had not been a lot of achievement beyond supporting household budgets and sending remittances, as was also evident in Obeng et al. (2015). Income savings is recognized as an essential financial asset and crucial to the accumulation of capital to start up a business or purchase properties (Oppong, 2005; Oduro et al., 2011). However, the majority of the women in this study had not been able to save much of their income. The few women who had saved part of their income were engaged in other revenue-generating activities aside from EPZ employment. One woman asserted: “I have a provision stall in front of my house and my daughter takes care of it. Usually, income from that business is what I use to run the household, so I can afford to save my EPZ income” (47-year-old woman from fruit processing factory).

Not only was income savings low among the women, similarly and perhaps resultantly, their ownership of productive assets was also low. Although the importance of access to, ownership of and control over productive assets for women’s empowerment are well-known, assets ownership in general for the Ghanaian woman is low as compared to their male counterparts. The situation was no different for women in this study. Except for a few consumer durables, the women owned no productive assets before their employment in the factories, nor had they saved enough money from their work to accumulate such assets.
The women highlighted that their salaries were generally low and as such, even if they were saving, the actual amounts saved were too small to enable them to accumulate capital for significant expenses. Thus, for the few who had purchased some assets with their EPZ income, they were only able to buy household consumer durables instead of substantial assets such as land, houses or vehicles. One woman indicated: “I will say I have not bought any property with this income, except some household appliances, some shoes and clothes for myself and my children but these are not considered properties” (31-year-old woman from fruit processing factory).

For the few women who had purchase some landed assets, it was evident that such assets were not acquired primarily with income from EPZs because such women had other income-generating activities in addition to EPZ employment. The fact that the acquisition of properties was relatively higher among women with other businesses aside from EPZ employment suggests that the generally low salaries in the EPZs is prominent among the reasons why the women were not able to accumulate savings to acquire major assets.

Akin to the inability of women to save their EPZ income for acquiring assets, they had not been able to establish additional businesses from income savings. Although owning and running one’s own business is one physical asset that is important for women’s economic empowerment, data from the study indicated that many of the women were unable to achieve this through their employment in factories. While a few of them had started businesses with EPZ income, as evident in this assertion: “I have started selling fruits and vegetables on weekends with income from this employment and it helps me to earn extra revenue instead of relying on my monthly salary alone (24-year-old woman from garment factory), they were engaged in small-scale petty trading in fruits, vegetables, recharge cards and other food items arranged on top of tables in front of their dwellings. This phenomenon is a major characteristic of businesses owned by females in Ghana (Oppong, 2005).

EPZ employment and foreign direct investment, in general, is a process that does not only involve the transfer of capital from the developed to the developing world but one that encompasses the transfer of technology, skills and new knowledge generated from exposure of workers to modern production methods (Hancock & Edirisinghe, 2012). In spite of this, many of the women were not
gaining new employable skill in EPZ factories. Women who worked in the fruit-processing factory indicated that apart from learning safety measures, which helped them to adhere to occupational health and safety, they had not gained new employable skills that can earn them income outside the factory. One woman said:

The only activity most of us here do is to stand all day cutting fruits with an ordinary knife that we all use in our kitchens. There is no skill that one can gain from this except the fact that the rate at which you may cut your fingers with the knife reduces and you also cut more fruits in a day the longer you stay here. (26-year-old woman from fruit processing factory)

At the garment factory, the primary skill women had acquired was how to use the industrial machine for sewing. Strict division of labour along the production line meant that women only learned how to sew aspects of a full cloth. Thus, it was difficult for women who had no skills in sewing before their job to gain enough sewing skills, as evident in these assertions:

I did not know how to sew before I came into this factory and I thought by the time I leave here, I will know how to sew, but I was employed to only iron and fold the sewed clothes for packaging; how then will I learn how to sew? (28-year-old woman from garment factory)

Some of the women complain that they will not be able to learn how to sew because they are not engaged in the actual sewing in this factory. Well, I have been sewing in this factory for three years but all I do is to sew the back pockets of trousers and shorts, so I have also not learned anything apart from the fact that I can handle the industrial machine. This is no skill for me to be able to sew on my own when I leave here. (24-year-old woman from garment factory)

For those of us with no sewing experience before this employment, the only way we can learn how to sew a complete cloth is when we get to work in all the units
along the production line, a situation which never happens. (32-year-old woman from garment factory)

Although it is argued that EPZ employment provides women with new employable skills, this is very much dependent on the type of activities women are engaged in at the factory as well as the production processes adopted by the various factories. Many of the women were doing jobs that are synonymous with traditional female roles in the household or engaged in little aspects of the production processes, neither of which offer employable skills.

Women speak of economic empowerment in terms of access to, and control over, income that give them the ability to provide for their households and extended families. The associated sense of self-worth that comes with earning regular income and providing for the home are ways in which the economic empowerment of women has had trickle-down effects on their interpersonal empowerment. However, generally, women have not been able to translate their employment into economic advancement as evidenced by achievements in income savings, establishing businesses, acquiring assets or acquiring employable skills. How sustainable then are women’s achieved economic empowerment when their attainments in terms of economic advancement indicators are low or absent?

**Sustainable Empowerment?**

Financial autonomy that comes with earning regular income at all levels of a woman’s life is identified as a significant source of empowerment. The sustainability of women’s economic empowerment means thinking beyond immediate survival needs (Eyben et al., 2008). For the women’s achieved economic empowerment to go beyond immediate survival needs, access to and control of resources such as skills and knowledge, wealth, financial savings, physical capital and businesses are essential building blocks they need to draw on to succeed. However, the precariousness of EPZ employment that is evident in lower salaries has become a hindrance to women’s ability to achieve economic advancement.

Also, because women’s employment in the factories has not enabled them to make these advancements, their achieved economic empowerment is threatened because the insecurity of their work is a spectre that stares them in the face daily. These women narrated:
In this factory, the moment one gets pregnant, she should be prepared to go home. They [management] say that is it difficult for pregnant women to sit for long hours sewing. So, they ask them to go home without asking whether they can work on not. ...if you want your job, don’t get pregnant. (28-year-old woman from garment factory)

Four months ago, they [management] said we were too many, and they had to let some of us go home. Can you believe everyone that was pregnant then and some loud ones were all asked to go home? Three weeks later they brought new people [employed new people]. Everyone just knew that they sacked the women because they were pregnant or because they caused trouble for them [management]. (33-year-old woman from garment factory)

I am a casual worker. I work for six months, and I go home [laid off] after that. During the six months that I work, I must be of good behaviour so that I can be called again. I know many people especially those who challenge their supervisors who are not called up again after their six months contract. Some do not even end their six months contract. If they are troublesome [challenge management usually on working conditions], their contract is terminated. By the grace of God, I am often called back after about a month or two in the house. I have been here for four years now. (47-years old woman from fruit processing factory)

Not only are the women’s jobs in the factories insecure because they are employed as casual labour but even within the period of one’s casual contract, pregnancy and standing up to management can be used as reasons to terminate their appointment. In the event of ultimate precarity evident in job loss, as suffered by some of the women’s former colleagues, EPZ employment will be translated into turning points in the lives of women, which will not only lead to a collapse of their attained economic empowerment but also have dire consequences for their newly constructed sense of self-worth, ingrained in their abilities to provide financially
for their households and families. Undeniably, the effects of the precariousness of EPZ employment can lead to women questioning their socially constructed identity (Quinlan et al., 2001). What is the place of EPZ employment in the lives of its women workers then?

The Place of EPZ Employment in the Life-Course of Women

Mary Odoom is a 43-year-old single mother of five children and a grandmother to three-year-old twin boys. Before she joined the fruit processing factory as a casual worker some five years ago, she sold oranges in front of her house, which gave her a meagre income. She indicates: “The income I get from this factory is small but at least I know that at the end of every month I will get my salary.” Her face glowed when she was narrating the importance of this income to the survival of her eight-member household. She also asserted: “The period that I am home after the end of every six months contract is always a difficult time and I have to borrow money from others to feed the family and pay back when I am called back.” As such, she is always happy when she is called back and given another six months contract. When asked what will happen if she does not get called up again after her contract ends, she said: “What will we eat then? How will I pay the school fees of the children? How can I buy clothes for them? What kind of mother will I be if I cannot provide for my children? God forbid but that will never happen. I will always be called back.”

From Mary’s story and for many other women employed in the factories, within the limitations of their prior work trajectory, if any, agency was exercised in seeing and recognizing EPZ employment as an opportunity towards which they made active decisions to seek jobs in the sector. One woman said:

*I had been in the house doing nothing for a very long time. So, when this factory opened, I rushed here and spoke to the manager and she asked me to apply. I am not educated, so my options are limited in getting employment. However, in this factory, they did not bother about the fact that I was not educated. Now I am also working and earning income. (34-year-old woman from fruit processing factory)*
With expressions such as: “I am finally working”, “I can also boast that I am employed”, “I am no longer idle”, “this [EPZ employment] is better than when I was home doing nothing” common in the women’s narrations, EPZ employment represents an important transition in the work trajectory of the women and has become a pathway with positive effects for their life-course in general. For the women like Mary, who were engaged in household income-generating activities with meagre incomes, their access to employment in the factories is a significant transition in their work trajectory. For those who were unemployed before EPZ employment, it is the beginning of a trajectory with associated impacts on their personal and household experiences.

As noted in the experiences of the women with regards to their financial autonomy and ability to contribute towards household expenditure, the transition from unemployment or underemployment to EPZ employment represents a substantial change in their role and status and a distinct departure from prior roles and conditions. In consonance with the principle of shared lives within the life-course which manifests firmly in the household and family domains (Elder, 1985), the transition into EPZ employment for these women represents a change whose impact is felt in interpersonal contexts within more micro-level settings.

However, at this time in global manufacturing, flexible labour standards and precariousness, the socio-economic place of women at the bottom of the global labour force and the geographic location of these women in the Third World, where the race to the bottom in labour standards is practised and foreign direct investment is highly sensitive to factor price changes, are combined processes that render EPZ employment a precarious transition with associated effects on the economic empowerment of women. In the case of Mary Odoom and many others like her, she experiences a halt in her achieved economic empowerment in the few months she spends at home before being called up again for another contract. If she does not get called up, she is likely to have a heap of loans to pay in addition to looking for money to feed her household. As well, she will certainly question her role as a mother, as ingrained in her ability to feed her children and grandchildren.

With the precarities surrounding EPZ employment, the transition of women into this employment can easily be transformed into a life event involving a relatively abrupt change in the work
trajectories of the women, which can produce severe and long-lasting effects. As indicated by Hareven (2000), when a transition (in this case transition into EPZ employment) is followed by crises or unforeseen negative consequences (in this case precariousness) and requires exceptional social adjustments, then such a change becomes a turning point in the lives of the people involved. For women EPZ workers, there is the likelihood of direct negative implications on the sustainability of their achieved economic empowerment.

Conclusion

Providing more insights into the role of larger socio-economic contexts and the timing of events and role change in the lives of individuals, the life-course perspective has offered a useful lens in analyzing how EPZ employment and its precariousness mediate the empowerment of women employed in the sector. Often, individuals are affected by more substantial social changes through the impact that such changes have on their interpersonal contexts within more micro-level settings. In the lives of women workers in EPZs, the transition into employment in these zones is a critical aspect of their work trajectory and has significant effects on their empowerment at the personal and household levels. However, the precariousness of EPZ employment renders the employment one that easily translates into a life event which requires major adjustments by women, including questioning the sustainability of the empowering effects of their EPZ employment.

In analyzing the connection between EPZ employment and women’s economic empowerment, there remain unanswered questions concerning the empowering potentials of paid work in EPZs when jobs are precarious. Conceptualized as having access to and control over the means to make a living on a sustainable and long-term basis, economic empowerment of women in the developing world, which is heralded as an achievement of the remarkable spread of EPZs, is not a given. Women working in the EPZs have achieved a level of income and been able to contribute to their household budget to the extent that we conclude that they have achieved a level of economic empowerment and enhanced their sense of self-worth. However, when we examine the degree to which these gains are sustainable, we note that for many women EPZ workers, the precarious nature of their employment, evident in low salaries, labour casualization and job insecurities, means that
empowerment is often short-lived.

Within the life-course of these women, EPZ employment and its associated achieved levels of income represent an important transition in the work trajectories, whose positive effects are felt at micro domains of the household. However, it is also one that easily becomes a turning point due to its precarity and whose direct negative effects are felt within the same micro domains. This renders EPZ employment one that has as many direct positive implications as direct negative implications on the life-course of the women employed in the sector.

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Mobilisation renouvelée de la main d’œuvre face aux vieilles formes de précarité : étude de cas de la syndicalisation des travailleurs agricoles migrants en Colombie-Britannique

Bethany Hastie

Résumé

Cet article examine les efforts déployés pour syndiquer les membres du Programme des travailleurs agricoles saisonniers (PTAS) de la Colombie-Britannique au Canada. Le PTAS a fait l’objet de nombreuses critiques par rapport aux droits des travailleurs, et particulièrement ses règlements permettant aux employeurs de nommer les employés qu’ils souhaitent rappeler et embaucher la saison suivante (le « système de rappel »). Par l’examen de trois cas juridiques clés, Greenway, Sidhu & Sons, et Floralia, on démontre le rôle positif que peuvent jouer la syndicalisation et la négociation collective pour améliorer les conditions de travail et la sécurité des travailleurs agricoles migrants au Canada. À la lumière de ces cas, l’auteur explore les stratégies de syndicalisation et de négociation collective employées par les syndicats pour contrer les conséquences problématiques associées au PTAS (particulièrement le système de rappel), ainsi que la façon dont ces stratégies améliorent la sécurité d’emploi des travailleurs, leurs droits, et leur possibilité de faire entendre leur voix. Collectivement, ces études de cas démontrent le potentiel du droit du travail à modifier les expériences et les conditions de travail des migrants, et à permettre aux travailleurs de négocier des emplois décents, d’obtenir des droits et d’améliorer leurs conditions de travail. Bien qu’axé sur le PTAS canadien, cet article à d’importants corollaires pour les travailleurs agricoles migrants de nombreux autres territoires et à l’échelle internationale.
Renewing Labour’s Engagement with Old Forms of Precarity: A Case Study of Unionization of Migrant Agricultural Workers in British Columbia

Bethany Hastie

Abstract

This article examines the efforts to unionize Seasonal Agricultural Worker Program (SAWP) workers in British Columbia, Canada. Through an examination of three key legal cases, Greenway, Sidhu & Sons and Floralia, this article demonstrates the positive role that unionization and collective bargaining can have in improving working conditions and security for migrant agricultural workers in Canada. Specifically, through these cases, this article explores the strategies deployed by unions in organizing and collective bargaining processes to resist the problematic consequences associated with the SAWP’s circularity and system for recalling workers, and how those strategies enhance workers’ job security, rights and voice as workers. Together, these cases demonstrate the potential of labour law to shift conditions and experiences of work for migrants, and to enable workers to negotiate decent work, access rights and improve working conditions. Though focused on Canada’s SAWP, this article bears important implications for migrant agricultural workers in many other jurisdictions, and internationally.

Introduction

This article examines three key legal cases that evidence the potential of unionization to improve working conditions and security for migrant agricultural workers in Canada. Agricultural work is a historically precarious and marginalized form of labour. In Canada, this work is largely taken up by migrants under the Seasonal Agricultural Workers Program (SAWP) which has operated since the 1960s (see Lenard and Straehle; Satzewich; Preibisch and Hennebry, 2012; Prebisch, 2016). The SAWP brings migrant workers from Mexico, Guatemala, and a number of Caribbean countries to labour in Canada’s agricultural industry for up to 8 months per year. Critiques of the SAWP are widespread. The workplace rights violations
workers experience under the program are widely documented, as are health and safety issues (see Faraday; Preibisch, 2012; Cundal and Seaman; Nakache and Kinoshita; Basok, 2002; Hennebry; Hennebry and Preibisch, 2010; Hennebry et al; McLaughlin et al; Preibisch and Hennebry, 2011; Law Commission of Ontario; Hastie; Migrant Workers Centre; Preibisch, 2016; Reid-Musson; Silverman and Hari). As will be explained in Section I, the circular and seasonal nature of the program has been argued to create a heightened power imbalance between employer and workers, creating the potential for abusive and exploitative working and living conditions (see Basok, 2004; Fudge; Preibisch and Hennebry, 2012; Hastie). In short, it is a program that has been rife with widely documented problems for workers, including a lack of effective protections, abusive conditions of work, and violations of workplace rights ranging from wage theft to physical violence.

SAWP workers face further difficulty unionizing in many provinces, which compounds the issues noted above. This contributes to further marginalization in a context where unionization rates have broadly decreased, due in part to the globalization of trade and work (see Tapia and Ibsen; Blackett and Trebilcock). In British Columbia, a province that employs a large number of SAWP workers, agricultural workers are not excluded from unionization under the provincial Labour Relations Code, and the province has seen active organizing of SAWP workers over the past decade. The ability for SAWP workers in BC to formally organize has produced some positive results and incremental gains for these workers. This article examines the efforts to unionize SAWP workers in British Columbia. It focuses on the strategies deployed by unions to resist the problematic consequences associated with SAWP’s circularity and naming process, and how those strategies enhance workers’ job security, rights and voice as workers. Specifically, this article draws on three key cases concerning unionization efforts for SAWP workers in the province: Greenway, Sidhu & Sons, and Flaria. Together, these cases demonstrate the potential of labour law to shift conditions and experiences of work for migrants, and to enable workers to negotiate decent work, access rights, and improve working conditions.

This article proceeds in five parts. In the first part, I outline the regulatory structure of the SAWP and highlight the problems attending the circular nature of the program, naming process,
and related regulatory features. This sets the stage for examining what and how unions are effectively resisting the problems of the program through organizing and bargaining strategies in BC. The next three parts will outline and discuss each of the identified cases: *Greenway, Sidhu & Sons*, and *Floralia*. Each of these cases contribute to the growth and development of strategies to resist the problematic constraints under SAWP through labour organizing and unionization. The final part of this article will draw together the discussion of the cases to comment more broadly on the potential, and limitations, of labour organizing and labour law to shift conditions and experiences of precarious work in underrepresented and historically marginalized industries, especially for low-wage migrant workers. This part will also draw out from the cases to demonstrate how they illustrate the ways in which unions are engaging in innovative strategies to reclaim a place and purpose in the transnational workplace, marked by a consistent decline in formal unionization.

### The Seasonal Agricultural Workers Program in Canada

Canada began introducing migrant workers to the economic landscape in the mid-1960s through the Seasonal Agricultural Workers Program (SAWP). While the mid-1960s saw an explicit turn away from racially discriminatory immigration policy in Canada generally, the simultaneous introduction of this program implicitly maintained a racialized dimension towards migrants (see Lenard and Straehle; Marsden; Sharma, 2012; Sharma, 2006; Satzewich). The SAWP program invited migrants from Caribbean countries, and later Mexico (Lenard and Straehle: 8), to labour in Canada’s agricultural sectors for eight-month periods. The program was, as it still is, conducted through bilateral agreements between the Canadian government and sending country governments. In its first year of operation (1966), the SAWP program brought in 264 workers from Jamaica (Lenard and Staehle: 8). Today, over 20,000 migrants participate in the SAWP program on a yearly basis (Lenard and Straehle: 9).

Under the SAWP, as with Canada’s general Temporary Foreign Workers Program [TFWP], work permits are designated on the basis of employment at a single location for a single employer (*Immigration and Refugee Protection Regulations*: 185(b); Nakache and Kinoshita: 17-18). This means that valid status and authorization
to work in Canada is dependent on a migrant worker remaining with the employer, in the job, and at the location, listed on their work permit. Under SAWP, employers also have broad discretion and power to terminate workers for “noncompliance, refusal to work, or any other sufficient reason”, and SAWP also includes an expedited repatriation regime, such that a worker who is terminated will typically be removed from Canada within 24-48 hours of termination (Faraday: 94; see also Fudge: 25).

The impact of the closed work permit, discretion to terminate, and expedited repatriation terms, create significant constraints on the rights and autonomy of SAWP workers. Both the work permit and status in Canada are contingent and temporary, and most importantly, linked together (Hennebry: 22). This means that a migrant worker is dependent on his or her employer not just for the job or wages, but also for status in Canada (Marsden: 217; see also Vosko, 2018: 885-886); the impact of status-dependence creates significant inequality of bargaining power, often assumed to be equal in employment and labour relations. The ever-present threat of deportation, and the ease with which it can occur under the expedited repatriation regime of SAWP, conditions migrant workers in a way that “effectively render migrant workers’ labour power as disposable” (Vosko, 2018: 885; see also Basok and Belanger). In other words, the closed work permit and expedited repatriation create a compliant and easily replaceable workforce and allocate a significant amount of power to the employer in the relationship.

In addition to the nature of the employment relationship, as shaped by the work permit and repatriation terms, the seasonal and circular nature of SAWP is widely documented as problematic for workers. Under SAWP, workers come to Canada for a maximum of 8 months each year; employers have the ability to individually name migrant workers whom they would like to return the following season. Because continued participation in the SAWP is shaped significantly by being “recalled” or “named” to return, workers have strong disincentives to voicing complaints, asserting their rights, or engaging in other activity that could be viewed negatively by an employer (Basok, 2004: 58; see also Basok and Belanger). Failure to be recalled by an employer can result in indefinite suspension from the program, or, at the least, damage the migrant’s record, jeopardizing any future placement under the program (Preibisch and Hennebry, 2012: 54). In addition, poor employer evaluations
can also jeopardize continued involvement in the program for migrant workers, thus acting “as powerful instruments of coercion of migrants’ behaviour” (Preibisch and Hennebry, 2012: 54; see also Basok and Belanger).

The seasonal nature and yearly re-negotiation of contracts under the SAWP program, coupled with the closed work permit and expedited repatriation, puts workers in an extremely precarious position. The impact of these regulatory features is to create heightened disincentives for migrant workers to voice a complaint or assert their legal rights in the face of abusive or unlawful treatment. Thus, the autonomy and rights of migrant workers are constrained by the SAWP regulations, and they may perceive significant risks to their long-term employment and income-earning opportunities for engaging in non-compliant behaviour. In other words, these conditions “mobilise workers’ insecurities to spur self-disciplining behaviour” (Vosko, 2016: 1374; see also Basok and Belanger) which, in turn, leads migrant workers to acquiesce to a range of employer demands, including abusive and unlawful demands.

The poor working conditions generally associated with agricultural work, coupled with the heightened power imbalance in the employment relationship of SAWP workers, make this population ripe for unionization. However, formal exclusion from labour relations law in many provinces, such as Ontario, coupled with historical neglect of racialized and marginalized work in labour law and union activities (see Smith), has left the agricultural industry largely unrepresented. In addition, the SAWP regulations thus further complicate the task and objectives of union intervention in this field. The closed work permit, coupled with the discretionary “naming” process creates perceived disincentives for workers to organize, as this may be seen as disruptive and undesirable behaviour, giving rise to the potential for deportation and non-renewal of work. The SAWP regulations further constrain efforts by unions to engage with workers given the requirement that workers live on the employer’s property, thus limiting access.

The next sections will examine three significant cases in BC that demonstrate the potential, but also risks and limitations, of union engagement with SAWP workers. As mentioned in the introduction, BC extends application of the Labour Relations Code (the legislation governing unionization and labour relations in the province), and, thus, the ability to formally unionize, to agricultural workers.³ The
series of cases discussed below establish the evolution of the legal right to unionize, its content, operation and consequences for SAWP workers as a distinct class of agricultural workers in the province. Despite continuing problems attending SAWP workers’ experiences in BC, these cases also provide evidence about how unionization is working to resist the problematic conditions of SAWP, thereby creating greater security and voice for SAWP workers in BC.

Greenway: Creating Legal Space for Migrant Workers to Unionize

The decision of the BC Labour Relations Board in Greenway is the first decision to explicitly determine the application of the Labour Relations Code to workers under SAWP in BC. The employer challenged the union’s certification of a bargaining unit containing both resident and SAWP workers on the basis of constitutional jurisdiction, claiming that the provincial Labour Relations Code did not apply to SAWP workers who were employed through a federally created and regulated migration program (Greenway: paras 1-2). The BC Labour Relations Board in Greenway was thus asked to determine whether provincial labour law applied to workers employed under SAWP, a federally regulated labour migration program.

On the question of applicability of provincial labour law, Mayfair, a case in Manitoba, had decided this question positively two years earlier. In Mayfair, the employer had argued that SAWP workers were excluded from provincial labour law because the matter fell properly within exclusive federal jurisdiction over “naturalization and aliens” (immigration) under s.91(25) of the Constitution Act, 1982 (para 12). The Manitoba Labour Board decided against the employer and found that it had jurisdiction to adjudicate in this area. Distinguishing Greenway from Mayfair was the centrality of the employment agreements negotiated under SAWP as a reference point for determining the constitutional jurisdiction question.

Like in Mayfair, the employer in Greenway advanced several arguments concerning constitutional jurisdiction, positing that the federal government held exclusive control over SAWP and that the employment agreements negotiated between the Canadian and foreign governments constituted the totality of negotiated employment rights and obligations, rather than minimum standards that could be subject to further bargaining or alteration. Therefore,
the employer argued, allowing collective bargaining through application of the provincial *Labour Relations Code* would frustrate the federal government’s purpose in negotiating employment agreements under SAWP (*Greenway*: para 114), and “impair Parliament’s ability to regulate core aspects of the admission and regulation of foreign nationals in Canada, as well as its ability to enter into and enforce international agreements with foreign governments” (*Greenway*: para 26). In other words, the employer argued that applying provincial labour law to SAWP workers would render federal regulations governing the SAWP meaningless.

The Board’s analysis in *Greenway* turns significantly on its understanding of the nature and scope of the employment agreements in question, and on the employer’s argument that these agreements set “not merely minimum standards and protections for foreign workers while they are employed under the SAWP”, but the entirety of their employment terms, unalterable and not subject to further bargaining or negotiation (*Greenway*: para 114). The Board finds that this is not so. First, the governing Memorandum of Understanding between Canada and Mexico states that SAWP workers are to receive “treatment equal to that received by Canadian workers” (*Greenway*: para 116). As the Board notes, this includes “access to the same workplace protections, rights and responsibilities as are available to Canadian workers” under existing provincial employment and related legislation (*Greenway*: para 116; see also endnote^2 for a list of various provincial laws attending the workplace). Second, there is no explicit text in the agreements to give them the effect of constituting the totality of terms of employment. In fact, the text of the agreements itself supports the opposite position, that they are flexible rather than rigid. The Board points to, for example, provisions regarding wages that allow for variable rates of pay to support the finding that the agreements are flexible in nature (*Greenway*: paras 117-123). The Board concludes that the agreements in question set out *minimum*, not complete or unalterable, terms and conditions of employment (*Greenway*: para 124). Ultimately, the Board determined that the *Labour Relations Code* extended to SAWP workers, meaning they could organize and form a union under the *Code*.

The aftermath of *Greenway* is less positive. The unit at Greenway filed for decertification on the same day that the above decision was released (Russo, 2011: 137). Allegations were raised
by union representatives that the decertification had followed from an intimidation campaign (Russo, 2011: 137-138, citing Sandborn, 2011). Following these events, only 12 of the original 35 SAWP workers employed at Greenway were “named” to return the following season (Russo, 2011: 137). Union organizers commented that most of those named to return had not supported the union (Russo, 2011: 137, citing Sandborn, 2009). Rather than hiring new SAWP workers to supplement the workforce, the employer hired resident workers (Russo, 2011: 137, citing Sandborn 2009). Unfortunately, the consequential outcomes at Greenway may not be considered surprising, and reveal the limitations of labour law “on paper” as an effective tool to enhance worker power in practice, as will be discussed later in this article. However, despite the disappointing on-the-ground outcomes, the case is nonetheless a significant milestone in that it “concretised temporary migrant workers’ rights to collective bargaining in the province” (Vosko, 2014: 462). In other words, Greenway laid a crucial foundation for further developments by affirming the extension and application of provincial labour law to migrant agricultural workers under SAWP.

**Sidhu & Sons: Migrant Workers as a Distinct Bargaining Unit**

The legal space created by Greenway for SAWP workers to use labour law as a mechanism to improve their working conditions created a foundation for further unionization efforts and advocacy. This newly affirmed space also created new questions and tensions in parsing out the details of how best to extend and apply labour law for SAWP workers in the province. In Sidhu & Sons, in addition to highlighting many ancillary issues attending unionization of SAWP workers, the UFCW successfully argued for a determination of the bargaining unit exclusively for SAWP workers, even while working on a farm that also employed resident workers.

The union had first attempted to certify a bargaining unit containing all farm workers employed by Sidhu & Sons. Following this unsuccessful attempt, the union then shifted its focus to certifying a bargaining unit of the SAWP workers employed by Sidhu & Sons (Sidhu & Sons, 2008: para 11). This was challenged by the employer as an inappropriate bargaining unit. The union argued that the distinct terms and conditions governing the employment relationship of SAWP workers made a distinct bargaining unit appropriate in this context (Sidhu & Sons, 2008: para 7). In its initial decision,
the BC Labour Relations Board rejected the union’s arguments and found that, while there were salient distinctions between SAWP and resident farm workers, they could not justify the designation of an exclusive bargaining unit and were “dramatically outweighed” by the shared duties and skills required for farm work (Sidhu & Sons, 2008: para 53). However, on application for reconsideration, the initial decision is reversed.

In the application for reconsideration, the Board determined that SAWP workers have sufficiently distinct interests to allow the bargaining unit. It noted that job content is not the only relevant factor in considering classification of employees, and that in this case, there were significant distinctions between SAWP and resident workers, considering “employment status, unique terms and conditions of employment, cultural, linguistic and social differences” (Sidhu & Sons, 2009: para 72). These created distinct interests relevant to determining “communities of interest” (Sidhu & Sons, 2009: para 73). Having granted the application, the decision on reconsideration certified the bargaining unit, albeit limiting negotiable issues only to those “consistent with [SAWP workers’] unique interests”, including with respect to “accommodation, rates of pay, benefits, access to medical care, transportation, repatriation, recall and name request, health and safety, discipline and discharge” (Sidhu & Sons, 2010a: para 78).

The outcome in Sidhu & Sons meant that a bargaining unit of only SAWP workers could be unionized on the farm, and that these workers could bargain to achieve a collective agreement on matters specific to their status and participation as SAWP workers. Although the prohibition on bargaining general employment conditions might be seen as limiting, in fact, the decision in Sidhu & Sons created active legal space in which workers could improve the conditions of their participation in SAWP through the collective bargaining process. It thus highlights the positive role that unionization and collective bargaining can play for migrant agricultural workers.

The collective agreement made important gains in respect of recall (“naming”) rights and seniority, concluding that employees were to be recalled in order of seniority, and laid off, if necessary, in reverse order. This provision of the collective agreement provided some insulation against the arbitrary discretion of employers to recall SAWP workers based on individual preference, as discussed in section I. It thus does some work to improve security and conditions
of work for SAWP workers employed under a collective agreement. Despite the noted gains, the agreement provisions concerning seniority and recall are nonetheless constrained by two factors. First, the agreement acknowledged that it was not to conflict with the power and jurisdiction of sending state governments to recruit and select workers, as set out under the bilateral agreements (Vosko, 2014: 482). This is particularly problematic in light of the documented politicization of worker recruitment and retention, including the practice of “blacklisting” workers who are union supporters or otherwise “cause trouble” for employer participants (see Certain Employees of Sidhu & Sons: para 67; see also Vosko, 2016). In fact, Mexican government officials were found by the BC Labour Relations Board to have improperly interfered in the recall process which aided a decertification campaign (Certain Employees of Sidhu & Sons: para 79). While state immunity did not preclude the Board from finding Mexico had improperly interfered, it did preclude the Board from ordering any private law remedies against Mexico (see United Mexican States). Second, the agreement cannot circumvent the “the overarching dictum that growers must always hire available nationals first, dependent upon available jobs and job seekers” (Vosko, 2018: 900). As a result, the seniority and recall rights set out in the collective agreement are subject to real limitations, and there is little to stop an employer from replacing their entire SAWP workforce with resident workers or workers under the Stream for Low-Wage Occupations of the TFWP (see Vosko, 2018; Hanley et al: 258-259).

As with Greenway, the aftermath of the decisions concerning certification of the bargaining unit in Sidhu & Sons reveal the limitations of labour law and vulnerability for workers created by the seasonal nature and circularity of that program. As in Greenway, the number of SAWP workers employed on the farm dramatically decreased following the decisions. The number of SAWP workers employed by Sidhu & Sons fell from 73 to 30 in the short time between the application for certification (Sidhu & Sons, 2008: para 11) and a subsequent action concerning access to the premises by the union for the purposes of discussing bargaining matters and workplace issues with its members (Sidhu & Sons, 2010b: para 3). In addition, while a collective agreement was concluded with the union, it has been characterized as creating a “vulnerable unit” (Vosko, 2014: 481) due to the limits on seniority and recall rights
discussed in the previous paragraph and their impact on the inability of the collective agreement to provide meaningful protection against sending-state “blacklisting” practices (see *Certain Employees of Sidhu & Sons*: para 67; see also Vosko, 2018), and against the employer simply replacing SAWP workers with resident workers to defeat the union (Hanley et al: 258-259).

**Floralia: A Test of the Legal Strength and Limits of Collective Agreement Terms Unique to Migrant Workers**

Building from *Sidhu & Sons*, which demonstrated the potential for labour law and collective bargaining to have concrete impact for SAWP workers, the case of *Floralia* tests the enforceability of collective agreements for SAWP workers in practice. Like in *Greenway* and *Sidhu & Sons*, the SAWP workers at Floralia had a difficult time organizing and certifying a bargaining unit, with 14 workers being laid off and repatriated very shortly after the certification application was filed by the union (*Floralia*, 2008: para 14). An unfair labour practice complaint was filed due to the layoffs, but that complaint was dismissed. In any event, and despite the chilling effect this action could have had on the subsequent vote, the unit was certified and a collective agreement reached. Subsequently, the unit was decertified and a number of workers were therefore not recalled under the provisions of the collective agreement. The series of events at play in respect of the decertification and failure to recall, along with the reasons set out by the BC Labour Board in hearing complaints on those matters, evidence the potential of labour law and collective bargaining to materially increase the security and conditions of work for SAWP participants.

The decisions discussed in this section revolve around an application for decertification and subsequent enforcement of recall rights under the previously established collective agreement at Floralia, as noted above. In its initial complaint, the union alleged that the employer had interfered with the vote on a number of bases, including improperly counting resident workers (*Certain Employees of Floralia*, 2015: paras 19, 27), moving workers from another farm to alter employee numbers (*Certain Employees of Floralia*, 2015: para 42), and improperly influencing newly arrived SAWP workers (*Certain Employees of Floralia*, 2015: paras 56-65). In its initial decision, the Board denies the union’s complaint and request to revoke the decertification application (*Certain Employees
of Floralia, 2015: para 88). However, on reconsideration, this is reversed (Certain Employees of Floralia, 2016: para 18).

During the short period in which the union at Floralia was decertified, between the initial decision and reconsideration as set out in the previous paragraph, the employer failed to recall a number of workers in (possible) violation of its collective agreement. The collective agreement in place at Floralia prior to decertification included Article 20.05, which requires the employer “to request by name SAWP workers who have recall rights” unless the worker elects otherwise (Floralia, 2017: para 15). In other words, this article operates to remove any discretion on the part of the employer in the recall or “naming” process, requiring that the employer recall existing SAWP workers unless the worker herself chooses otherwise (Russo, 2012: 178).

The facts concerning the failure to recall workers are replicated in detail in the Board’s decision. They are as follows. The initial decision ordering the unsealing of a ballot box for a decertification vote was rendered on December 30th, 2015, the vote was counted on January 6th, 2016 and the union’s certification was cancelled the following day. On January 12th, 2016, the employer submitted a Labour Market Impact Assessment (LMIA) for 8 of the most senior SAWP employees at the farm, with the exception of the 5th most senior employee who was a known union supporter (Floralia, 2017: para 31). The following day, on January 13th, 2016, assuming that the terms of the collective agreement were no longer in force, the employer submitted a second LMIA requesting 15 new SAWP workers, not previously employed at the farm (Floralia, 2017: para 32). On January 14th, 2016, the union filed for reconsideration of the initial decertification decision. Notice was mailed out to the parties, and the next day Floralia cancelled its LMIA (s (Floralia, 2017: para 34). During this period, senior SAWP employees at Floralia began being assigned to other farms due to the delay in Floralia recalling workers (Floralia, 2017: para 48). Floralia later submitted LMIA(s for seven of the most senior SAWP employees, but they had already accepted reassignments at that time (Floralia, 2017: para 50). As a result of the above events, only 9 SAWP workers were requested by Floralia in 2016, down from 24 the previous season, and only two of the nine had recall rights under the collective agreement (Floralia, 2017: para 52).

In its complaint, the Union alleged that the employer
had attempted to “decimate the bargaining unit” by delaying the submission of LMIAs until after the SAWP workers identified as union supporters had accepted other positions (Floralia, 2017: para 21). The Employer disputed these allegations of “anti-union animus” and claimed that the delays were for “bona fide business reasons” (Floralia, 2017: para 22). The Board determined that, despite the numerous reasons the employer proposed for the cancellations of the LMIAs and subsequent delays, “the only thing that changed for Floralia between January 12, 2016, and January 15, 2016, was the filing of the Union’s application for reconsideration of the 2015 Original Decision” (Floralia, 2017: para 105).

In finding for the union, the Board ordered that the employer return to the 2016 seniority list concerning recall rights and treat the employees’ terms as unbroken, despite most not being recalled in the 2017 season. This is significant because the Board was able to enforce the collective agreement despite the fact that the employer had attempted to use a legal loophole to effectively dismantle the unit. Further, The Board ordered S&G (another farm which evidence established shared workers with Floralia, as well as having familial ties in management) and Floralia be deemed common employers and that S&G’s employees be covered retroactively by Floralia’s collective agreement, including with respect to the seniority list. Finally, the Board ordered that a list of alternate workers be submitted with each LMIA (to comply with the seniority list requirements) and copied to the union, and that the union further be copied on any correspondence with Service Canada (Floralia, 2017: para 117). The result of the last decision in Floralia, and the remedies ordered, evidences the ability of labour law to enhance security and conditions of work for SAWP workers.

Advancing Worker Voice and Interests, Reclaiming a Role for Labour (Law): Implications from Greenway, Sidhu & Sons and Floralia for Unions and Workers

As set out in the first section of this article, SAWP workers experience heightened precariousness and dependency in their employment relationship due to the nature of the Program’s regulations. In particular, the recall (“naming”) process serves as a strong disciplinary mechanism for workers to comply with employer demands and creates a strong disincentive towards behaviour that would be deemed undesirable (including union support) given the
negative consequences of not being recalled on a worker’s long-term employment and income-earning opportunities. This “naming” process for recall, along with the other problematic regulatory features of the SAWP as discussed in section I, are largely non-justiciable, meaning that there is no legal basis upon which a worker can challenge the regulations in court. Outside of a Charter challenge, which would be very difficult for various reasons, both procedural and substantive, and has yet to be successful, the regulations and their implementation are largely immune from legal challenge. As such, unionization and the ability to negotiate a collective agreement provide creative and distinct legal space from which to challenge and alter the regulatory framework.

Each of the cases examined in this article establish positive developments in improving SAWP workers’ power, voice and security through their focused interventions and strategies to extend meaningful collective bargaining rights to workers through unionization. These strategies, and the legal outcomes achieved in each of the cases, provide a mechanism through which to resist, challenge and improve the labour conditions of SAWP workers that, outside of unionization, are largely uncontestable at law, as described above.

First, Greenway opened the door to union engagement with SAWP workers by establishing that their participation in a federally administered program did not preclude their coverage under provincial collective bargaining legislation. The BCLRB upheld the certification of a bargaining unit containing a majority of SAWP workers as well as some residents. This created a strong foundation for the further strategies and gains made in the Sidhu & Sons and Floralia cases.

Sidhu & Sons takes Greenway’s outcomes a step further by successfully arguing for bargaining unit determination on the basis of participation under SAWP, rather than having to unionize an entire farm workforce. The outcome of this determination also meant that collective bargaining could be attuned directly to the unique conditions and constraints attaching to SAWP workers. While it may be seen as a constraint or limitation that the collective bargaining and agreement was only limited to these issues, as opposed to also allowing for bargaining over job content and conditions, in fact, this created distinct and targeted legal space for unions to engage with, advocate on behalf of, and improve SAWP workers’ conditions of
participation under that program and in relation to their specific employment relationship. This is all the more significant when considered in light of the non-justiciable nature of the SAWP regulations and standard-form contracts, as noted earlier.

*Sidhu & Sons* evidences the creative potential of labour law to ameliorate the problematic features of SAWP by addressing workers’ concerns through novel provisions in the collective agreement. Specifically, in that case, the workers had bargained for terms of recall based on seniority. This provision represented “an important step towards eliminating the de-facto blacklisting of workers through arbitrary recall provisions” (Russo, 2012: 178). Under the collective agreement in place in *Sidhu & Sons*, proving a violation of the provision would be difficult in practice, as the Mexican government is acknowledged as having “final say” over worker selection (Vosko, 2014: 481). This means that an employer could attribute a failure to recall based on seniority to the Mexican government, placing the apparent violation of the agreement out of reach of effective legal remedy. However, the achievement of bargaining for this provision is, itself, an incremental victory and innovative strategy deployed by the union to improve the conditions of participation under SAWP and increase the possibility of longer-term job security for workers.

*Floralia* both shows the progress made in respect of bargaining for recall provisions, and the strength that can come from union engagement in creating real liability for employers who engage in problematic practices under the SAWP. As discussed earlier, the arbitrary and discretionary nature of the recall system under SAWP creates a significant power imbalance between employer and workers, and can produce a context in which workers perceive few choices beyond submission to employer demands in order to maintain “good standing” and be named to return the following season. The practices that the employer engaged in in *Floralia* demonstrate how tenuous continued employment under the SAWP is, and the array of tactics an employer can use to discipline and effectively terminate workers. However, *Floralia* also illustrates the strength that can come from union engagement in resisting and even overcoming the problematic consequences associated with the recall regulations under SAWP. In particular, *Floralia* established that provisions governing SAWP participation, such as in relation to recall, can have real teeth under a collective agreement.
The accumulation of these three case studies: *Greenway, Sidhu & Sons,* and *Floralia,* demonstrate how unions and labour law can innovate to resist the problematic conditions associated with low-wage labour migration programs, and illustrate how these innovations can be implemented, moving from conceptual principles to concrete enforcement. These innovations importantly target conditions and regulations of SAWP work that are otherwise largely non-justiciable, meaning that there are few other legal avenues through which to change or improve these conditions on a systemic or institutional basis. The strength and protection of unionization and a collective agreement both creates this legal space and gives it meaning through the ability for enforcement. As such, this works to strengthen workers’ voices and control over their labour in a context that is commonly characterized as highly vulnerable.

However, these cases also reveal the limitations of labour law’s emancipatory potential for workers. First, as mentioned earlier, despite the success of certifying bargaining units containing only SAWP workers, this has come with the constraint that collective agreements for these units can only bargain with respect to SAWP workers’ “unique interests”. Again, although that in fact creates a positive legal space for improving workers’ conditions and participation under SAWP, it does create a finite boundary beyond which bargaining in these contexts may not pass. In addition, by organizing around the workers’ collective interests as workers and as participants under the SAWP, the union may have displaced the unity and strength of worker voice around immigration status, marginalizing the goal of security in immigration or residency status in favour of improved working conditions and prolonged participation in a temporary labour migration program. This critique has been levied in other contexts (see Eleveld and Van Hooren) and provides an important caution against categorizing SAWP participants and their interests in ways which may result in rendering invisible or unattainable some interests in favour of others.

Despite the achievement of collective agreements in *Sidhu & Sons* and *Floralia,* the retroactive and complaints-based nature of labour law proceedings further constrain the force and effectiveness of the agreement and its provisions in each of these cases. As discussed earlier in this article, despite a collective agreement being in place, employers in both cases reduced the number of SAWP workers, and in *Floralia,* engaged in legally questionable tactics in
this respect. These limitations are not unique to labour law as a subset of the larger legal system; however, it is important to acknowledge the enduring issues this presents for workers, and for labour law’s emancipatory potential. Indeed, the use of formal unionization and litigation as a means to improve working conditions for migrant workers has been critiqued as expensive, protracted and limited in its overall effects (see Choudry and Thomas; Dias-Abey). As will be discussed below, alternative approaches for unions to engage in political and social activism and community building with migrant workers are suggested to create a more meaningful and broad-based response and a counter-point to the limited and incremental effects of legal avenues (see Choudry and Thomas; Tapia and Alberti).

Although the progress achieved for SAWP workers through unionization and bargaining in Greenway, Sidhu & Sons and Floralia is limited to the workers’ “unique interests” as SAWP participants, within that sphere, the potential to use labour law and collective bargaining as a tool to achieve greater freedom, voice and dignity for participants under that Program is significant. In addition to the demonstrated ability to bargain for seniority and recall rights, so as to eliminate the problematic consequences of the discretionary “naming” system under SAWP, both negotiated collective agreements and broader labour law principles can further ameliorate the problematic aspects of the Program discussed earlier in this article. For example, the closed work permit system used under SAWP creates an opportunity for abuse by employers. The closed work permit system can also result in workers becoming unknowingly irregularized in their administrative status if, for example, they are moved to work at another location (Preibisch, 2016: 177). However, as happened in Floralia, where a union can establish that the multiple employers or locations are, in fact, a “common employer”, this will bring workers within the ambit of labour law’s protection, even where they have been moved between locations or farms.

Housing for SAWP workers is another commonly documented issue in existing literature (see Cundal and Seaman: 208; Hennebry and Preibisch: 30-31; Migrant Workers Centre: 10). Employers are required to provide accommodations for SAWP workers, often on the employer’s property. The inadequacies of these accommodations are frequently documented. Collective agreements for SAWP workers, based on the wording and reasoning of the cases
discussed in this article, could provide a concrete basis for improving housing conditions through the negotiation and inclusion of terms relevant to this aspect of SAWP workers’ employment and residence in Canada. Inclusion of terms in a collective agreement creates a stronger legal basis for enforcing those terms and conditions, as well as avenues for remedy where those terms are violated. As such, this may provide a stronger basis from which workers can assert their position, and the legal character of a negotiated instrument like a collective agreement may be treated more seriously by an employer in response.

Beyond the material consequences for SAWP workers in BC, the work of unions in certifying and collective bargaining for SAWP workers, as discussed through the cases examined in this article, evidences the broader potential and significance of union revitalization (see Tapia and Ibsen). The past 20 years have been characterized by continual decline of union density and coverage across the globe, due to factors including globalization, a shift from manufacturing to service work, and the erosion of the standard employment contract (see Tapia and Ibsen). Transnational labour law has recently emerged to provide a lens through which to cast into critical light neoliberal accounts of globalization and work, and to find new avenues through which to reclaim the emancipatory potential of labour law (see Blackett and Trebilcock; Blackett). The work of the unions and outcomes achieved in Greenway, Sidhu & Sons, and Floralia illustrate one kind of strategy that can lead both to union revitalization and the reclamation of labour law’s emancipatory potential by strengthening voice and security for migrant agricultural workers, as described earlier.

The strategies deployed by the unions in the cases described in this article are, admittedly, conservative when placed within a broader spectrum of strategies and innovations unions are using to reclaim a role in contemporary workplaces and labour landscapes (see Tapia and Ibsen; Tapia and Alberti; Dias-Abey). Nonetheless, there are lessons that extend beyond the material outcomes achieved through collective bargaining for the SAWP workers in these cases. First, these cases and the work of the unions to reach out to and build community with the SAWP workers illustrate efforts to become more inclusive and expand to new constituencies (see Tapia and Isben; Tapia and Alberti; Hyman and Gumbrell-McCormick). Whether this occurs through, or results in, formal labour law action, as in the cases
discussed here, or more informal coalition and community building (see Tapia and Isben; Dias-Abey), the identification of constituencies that can be served by unions in some capacity is an important step in union revitalization and in reclaiming worker voice.

Unions in Canada, the UFCW in particular, have also engaged in broader activism concerning migrant workers’ status and security in Canada. Specifically, the UFCW has been actively engaged in calling for an end to the temporary status allocated to such workers and has been vocal in advocating for permanent status for migrant workers (Basok and Lopez-Sala: 1280). In five Canadian provinces, the UFCW has also deployed a strategy of establishing community organizations which focus on education and support (called the Agricultural Workers Alliance or AWA) (Hanley et al). Also in Quebec, the IWC assist migrants in accessing benefits and connects them with advocacy groups, in addition to organizing media campaigns (see Choudry and Thomas). These activities illustrate another kind of strategy or innovation for union activity that can assist in union revitalization through participation in broader social movements and community organizing (see Tapia and Ibsen). This kind of strategy also supports worker voice, which can be particularly important for migrant workers who have a weak political voice due to the very nature of their temporary status in Canada.

Conclusion

This article examined efforts by unions to advance and adapt traditional labour law mechanisms to new contexts in order to improve the voice, security and dignity of migrant agricultural workers. Drawing on three key case studies from British Columbia: Greenway, Sidhu & Sons, and Flora, this article has demonstrated the positive outcomes and advancements in labour law in extending and enforcing formal collective bargaining rights to migrant agricultural workers under the SAWP. It has further discussed how creative collective bargaining tactics have enabled unions to assist SAWP workers in improving terms and conditions of their participation under SAWP which would otherwise be non-justiciable. These cases thus illustrate how unions and workers can use legal mechanisms to resist the problematic aspects of low-wage labour migration programs. Although these mechanisms remain conservative, the processes lengthy and arduous, and the outcomes
incremental, they are nonetheless a useful tool in a wider toolbox of innovations and strategies that unions and other organization can deploy to strengthen the voice, freedom and security of migrant workers. The final part of this article discussed this broader spectrum of strategies and innovations that unions and community organizations are using to support migrant workers and legal, political and social actors in their countries of work.

Endnotes
1. Assistant Professor, Peter A Allard School of Law, University of British Columbia. hastie@allard.ubc.ca. The author wishes to acknowledge the research assistance of Hayden Cook in preparing this article as well as Robert Russo, the anonymous reviewer and the editors of the journal for their helpful feedback and commentary.
2. Although this article focuses on unionization and labour law, these are not the only legal tools migrant workers may use to access justice in the workplace. Many of the rights violations workers experience are protected through related employment standards legislation, occupational health and safety legislation, and human rights law.
3. Under Canada’s Constitution Act, 1867 (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5, s92, employment and labour relations are within the scope of powers allocated to individual provinces (except as concerns federal undertakings). This means that each province has its own legislation to govern employment standards, labour law (unionization), occupational health and safety, and human rights law.
4. The decision of Sidhu & Sons (2008) a year earlier, had found a proposed bargaining unit of SAWP workers inappropriate. However, that case did not involve a challenge based on the application of the BC Labour Relations Code.
5. While the employment agreements governing SAWP workers were also important in Mayfair, in that case, they were used to support an argument that SAWP workers fell outside of the definition of “employee” under the provincial legislation. In Greenway, the arguments rested on the fact that, as an instrument negotiated between the federal and foreign governments, the SAWP employment agreements were jurisdictionally a matter of exclusive federal control. See Mayfair: paras 27-28, 36-38; Greenway: paras 99, 113-114.
6. Workers could attempt to bring a legal case to court on the basis of an infringement of the Canadian Charter of Rights and Freedoms, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), c 11. The Charter guarantees, among other things, a right to life, liberty and security of the person (s.7) and to equality (s.15).
7. In *United Mexican States*, it was found that state immunity precluded the Board from exercising remedial jurisdiction over Mexico, but not from inquiring into their conduct and its effect on contractual relations between domestic parties. This is because Mexico’s activity is characterized as “improper interference” under the *Code*, a finding of which is not technically a violation; it is simply an acknowledgment that “Mexico’s conduct has legal consequences for Canadian employers and their employees (*United Mexican States*: para 133). The only action the Board can take in response is refuse to count the vote (*United Mexican States*: para 62). A refusal to count a decertification vote in the wake of a finding of improper interference “is a consequence that has legal effect on the employer, the employees, and the union. There is no legal consequence for any other person who is found to have improperly interfered” (*United Mexican States*: para 67). In theory, Mexico could continually bar the participation of union supporters in the program and have no exposure to any liability whatsoever. The Board acknowledges this when it says that “a finding, if made, would not purport to regulate, change, or interfere with Mexico’s conduct” (*United Mexican States*: para 133).

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Insécurités émergentes : précarisation des relations de travail dans l’industrie automobile en Inde et en Afrique du Sud

Lorenza Monaco

Résumé
En comparant deux régimes de précarisation dans l’industrie automobile, soit le système de main-d’œuvre contractuelle en Inde et l’embauche de travailleurs par l’intermédiaire de pourvoyeurs de main d’œuvre en Afrique du Sud, le présent article étudie la possibilité que le précariat puisse être considéré comme une nouvelle classe mondiale en devenir. Tout en tenant compte d’une dangereuse tendance mondiale à utiliser la main d’œuvre temporaire comme avantage concurrentiel, l’article rejette la tentative d’universaliser les catégories. Il invite plutôt le lecteur à observer l’intégration locale de la précarisation, et en particulier les trajectoires de développement industriel, les spécificités du marché du travail et les cadres institutionnels qui affectent l’expérience vécue de la précarité. Ultimement, homogénéiser les définitions, particulièrement celles qui excluent la réalité de la précarité dans les pays du Sud, mène non seulement à une compréhension théorique limitée des nombreuses nuances de la précarisation, mais peut tendre à une sur simplification des stratégies politiques mondiales, sans refléter la complexité des dynamiques locales de formation d’une classe et de luttes.
Emerging Insecurities: Precarization of Employment Relations in the Indian and South African Auto Industries

Lorenza Monaco

There is not one but a variety of regimes of informal/precarious labour, not all vicious to the same extent. The political lesson to be drawn from this is not to rank the various fractions of the workforce in a sequence from greater to lesser vulnerability, but rather to develop strategies that underline their commonalities, to form alliances between organized and informal sectors, not to pit them against each other. (Breman, 2013: 137)

Abstract

By comparing two different casualization regimes in the auto industry, the contract labour system in India and the employment of workers through labour brokers in South Africa, the present article engages with the idea that the precariat may be considered a new, global class in the making. While acknowledging a global, dangerous tendency to rely on casual labour as a competitive advantage, the article rejects the attempt to adopt universalizing categories. It rather invites the reader to look at the local embeddedness of casualization, and in particular at industrial development trajectories, labour market specificities and institutional settings that affect the lived experience of precarity. Ultimately, homogenizing definitions, especially those excluding the reality of precarity in the Global South, not only lead to a limited theoretical understanding of the multiple shades of casualization but may tend towards an over-simplification of global political strategies, not reflecting the complexity of grassroots dynamics of class formation and struggle.

Introduction

In the past few years, Standing’s (2011; 2014; 2015) conceptualization of the precariat as a new, emerging class, and his attempt to launch a programmatic agenda to protect the rights of this global army of vulnerable workers has undeniably attracted
considerable attention and sparked interesting debates. In a sense, his provocative works have forced many young and less-young labour scholars to reconsider old conceptual categories and to face the need to innovate language and practices. Overall, this was an important development indeed. On the other hand, Standing’s contributions also embody theoretical and political risks. From a theoretical perspective, the blatant assumption of the precariat as a global class in the making risks universalizing context-dependent manifestations of precarity, inflating a process of class formation that does not necessarily entail global connotations, nor an automatic commonality of class interests. From a political viewpoint, this can be associated with the risk of diluting local specificities for the sake of defining global identities and of overlooking grassroots realities of class formation and struggle. This is particularly true when it comes to the Global South, largely absent within Standing’s (2011; 2014) bold statements on the global precariat (Braga, 2016; Munck, 2013; Scully, 2016).

The present article aims to engage with the debate developed around Standing’s (2011; 2014) conceptualization of the precariat by responding to Breman’s (2013) invitation to ground the understanding of precarious labour regimes in the multiplicity of their forms. In particular, while acknowledging the global processes described by Standing, this article aims to do the following. First, it encourages scholars to embed the nature of precarity within the analysis of specific casualization regimes. In turn, it claims that the evolution of historically and context-dependent casualization regimes is rooted within the structure of local labour markets. Within global processes of industrialization and de-industrialization, this also means that the nature of precarity may differ in the Global North and in the Global South (see also Scully, 2016; Braga, 2016; Munck, 2013). However, broad categories like North and South also have profound limitations, grouping together economies and political regimes at very different stages. Here, the invitation is to look as deeply as possible, analyzing specific labour markets, productive sectors, institutional settings and labour responses that shape the dynamics of class formation. Second, the present paper aims to counter Standing’s (2011; 2014; 2015) bold description of a global class in the making. While the perception of a global race to the bottom often exists, lived experiences of precarity and the different status of casual workers in different countries testify to the
difficulty of building a common identity and very different processes of class formation. Building on two case studies, from India and South Africa, this paper does not investigate the dynamics that led precarious workers to gain awareness of their exploitation, but seeks to highlight broader differences between two casualization regimes that inform lived experiences of precarity. Third, the paper seeks to shed light not only on different types of casualization but also on the different structural and institutional frameworks in which these are embedded. Ultimately, these frameworks shape labour responses and bring into question the possibility of creating a “global charter” to defend precarious workers’ rights. Indeed, this paper does not intend to underplay the global challenges labour faces and the need to counter them through a solid, comprehensive and updated political agenda. It rather aims, through an empirical investigation of two different cases, to highlight how the understanding of commonalities and differences may contribute to a deeper awareness of the nature of the precarious employment condition and to the formulation of sounder political strategies.

Overall, the paper compares two different casualization regimes, the contract labour system in India and the use of labour brokers in South Africa, within the same manufacturing sector – the automotive industry – which is also one of the most globalized production chains. Despite global similarities and a generalized tendency to employ casual forms of labour, the two cases are also characterized by significant differences: these are related to the way the development of the national industry affected state-capital relations, to the specific structure of the local labour market and to the institutional setting in which they are embedded. These are discussed in the following sections. Ultimately, the specificities of the local labour regime and the different shades of casualization inform labour responses and forms of organizing, corporate and institutional reactions to them and the relationship between casual workers and traditional trade unions.

In the end, the present work points to the need to avoid universalizing categories, to embed the analysis of precarity within a locally determined labour regime and to look at the complexities of class formation and determination. While corporate strategies are global indeed, the scope of casualization, the lived experience of precarity and the degree of consciousness achieved by the workers are locally and historically determined. As such, they cannot easily
be generalized nor lightly compounded into all-encompassing categories. A radical, global response to the widespread attack on labour standards is needed, and urgent, but it must rest on a careful understanding of the complexities and the different shapes of precarity and casualization processes. These will vary in the North and in the South (Munck, 2013; Scully, 2016), by country, by productive sector, and so on. Political opposition to the progressive deterioration of employment conditions is a pressing matter, but it should be informed by less paternalistic, blatant slogans and a closer, more humble approach to the grassroots reality of precarious working conditions.

The Context

While in the past few years the global auto industry has seen emerging labour movements and new forms of organizing, especially in recently industrialized countries, the overall picture seems to be one of progressive casualization of employment relations and generalized onslaught on labour institutions. Besides a few strongholds of “decent” work, mainly situated in the Global North, atypical forms of employment have proliferated, labour laws and collective bargaining systems are under widespread attack, and anti-union behaviours are more and more frequent. Against these trends, traditional unions appear to hardly keep up with the changing scenario, while employers actively contribute to such a race to the bottom. Between them, state institutions too often represent a silent actor, or alternatively, proactively support corporate needs in order to secure an investment-friendly climate for their industry.

By adopting a political economy approach to labour relations, this paper aims to analyze casualization regimes that have characterized the auto industry in two emerging economies, India and South Africa. Whilst being marked by structural differences – in terms of market size, policy trajectories, competitive advantages – the two country-cases provide equally interesting insights on how employment relations in the auto industry are evolving. Ultimately, their local specificities and the different “shades” of casualization the two countries are experiencing allow for a deeper understanding of global trends, where precarious employment relations seem to be the norm rather than the exception.

On the one hand, India shows a case of extreme casualization of the workforce, indiscriminately penetrating all the previously
organized and protected productive segments. Overall, it constitutes a clear example of instrumental use of the contract labour system, fragmenting and depoliticizing labour and hampering labour organizing. At the same time, the Indian case is paradigmatic at two levels: for the degeneration of the industrial relations system towards forms of institutionalized violence, and for the emergence of new types of labour organizing, arising beyond traditional unions. On the other hand, South Africa represents one of the traditionally most protected and widely organized auto sectors in the world. However, while its powerful metalworkers’ union maintains a strong hold on the industry and a sound position within the bargaining system, areas of contention and “insecurity” are surfacing nonetheless. Here, the work focuses on two main aspects: the still-frequent use of labour brokers, disguised behind service provision, and the incremental attack to the existing labour legislation channelled by the proposed labour law amendments.

In both cases, under different shapes, “insecurities” are on the rise, the system of labour relations faces serious threats, and the need to re-establish industrial relations more favourable to labour is of utmost importance. Overall, this paper claims, no advancement will be possible without a serious consideration of casualization processes, of the impact of changing labour laws on the most vulnerable layers of the workforce and of the necessary renewal of traditional union organizations in order to urgently counter such changes.

The present work builds on comparative field research based on a similar design. With regard to the Indian case, it rests on different rounds of fieldwork conducted in the Indian National Capital Region (Delhi) in 2009, 2011, 2012, 2017 and 2019. There, a questionnaire survey on working and living conditions of auto workers was carried out, and interviews and focus groups were conducted with academic scholars, business associations (CII, SIAM, ACMA), unions (CITU, AITUC, HMS, NTUI), labour activists and workers. In South Africa, fieldwork took place between 2016 and 2019. This involved different rounds of interviews with academic scholars working on the auto industry, government officials, sectoral business associations (NAAMSA, NAACAM, AIDC etc.), the Casual Workers Advice Office (CWAO), the Outsourcing Must Fall (OMF) movement and workers based both in the Rosslyn–Pretoria area and in the East Rand (Germiston), Gauteng Province.
The World Auto Industry and the Labour Issue

Being one of the most globally integrated industries and a terrain for continuous research and development, the auto industry still represents an advanced testing ground for production management and labour organization. At the global level, it reflects the incorporation of production into complex value chains and is dominated by leading multinational firms that often influence policy directions, investment plans and the development of local suppliers (Pavlinek, 2016; Masondo, 2018). Too often, multinational OEMs also affect the labour regime operating at the level of the local supply chain, by imposing lower costs or expressly requiring flexible labour legislations. Overall, the race to secure new investments or to simply prevent production plants from localizing elsewhere, has led to increasing competitive pressure, where countries unable to compete for high value-added activities build their advantage on cheap and/or hyper flexible labour (Pulignano et al., 2008). This has been particularly evident in the case of China and India, which have heavily relied on their large pool of low-cost workers whilst establishing their industrial advantage. Overall, in order to respond to such dual pressure, almost thirty years after the conceptualization of the lean manufacturing paradigm, the global auto industry seems to have fully embraced casualization as the ultimate frontier of competitiveness (Monaco, 2017). While the presence of informal contractual arrangements and employment relations at the bottom of the chain is not a new phenomenon, the mechanisms through which casual employment is penetrating the previously protected realm of the large factory are in continuous evolution. They are subject to a dynamic cycle of reorganizations, where labour struggles and corporate strategies anticipate or react to each other. This paper describes two different cases, experiencing different levels of casualization but also different institutional settings and degrees of resistance to it.

The Early Development of the Auto Industry in India and South Africa

While the automotive industry undoubtedly shows a global character, with the same lead assemblers and large component suppliers dominating global markets and a strong standardization of manufactured models, the structure of the local supply chain, the specific institutional settings and the established employment
relations show significant geographical variations. The structure of the local industry and the institutional architecture that shape employment conditions are closely connected to industrial policies and sector strategies; in turn, these are informed not only by a country’s comparative advantage but also by its historical path and the specific power relations and bargaining dynamics between state, capital and labour institutions. Looking at how the automotive industry developed in India and South Africa serves to show how the sector’s trajectory was not only influenced by the size of the domestic market, by geographical factors and by available resources, but by specific policy choices and by the historically determined balance of power between state and foreign capital. In addition, as in the South African case, the historical and political setting of the post-apartheid regime shaped the institutional environment that allowed for a slower and more limited penetration of casual labour within organized manufacturing.

Despite eventually aiming at global integration through market liberalization, India followed a peculiar industrial development path. Besides the potential of its large internal market and its specific competitive advantages, it can be argued that the pace and the modes of the policies implemented, together with the state ownership of the industrial development process, allowed its industry to flourish and to achieve its current status (Singh, 2009). Before liberalizing in 1991, India went through a long period of planned industrial development, which combined private sector initiative and significant state intervention, reservation of strategic industries under state ownership and protection of small enterprises. At the same time, strict anti-monopoly regulations prevented the excessive concentration of resources and economic power (Monaco, 2014). The attempt to support the young domestic industry translated into a quite prolonged phase of import substitution, import controls and limitations on foreign participation (Auty, 1994).

Within the country’s industrial development, the auto industry always played a pioneering role, epitomizing the state-capital balance that was kept before a full liberalization, and then channelling the integration of the domestic industry into international markets (Majumdar, 2012). Considered one of India’s success stories, the auto industry did not flourish simply due to a favourable market size or to particularly abundant resources, but thanks to a wise use of policy tools and to a development-oriented institutional setting,
which kept the demands of foreign capital under relative control, at least until the late 1990s. In practice, the phase of protection and import substitution was relatively long,\textsuperscript{11} while indigenization programs and local content requirements were rather strict.\textsuperscript{12} Even when market regulations were relaxed, in the 1980s, foreign capital was allowed in only in the form of joint ventures (JV) with domestic companies, and local content conditions on investment and financial participation remained high (D’costa 1995; Ranawat & Tiwari, 2009). Overall, the progressive liberalization and the opening to foreign capital still occurred under the constant supervision of the state, which always controlled foreign companies’ access, balanced the relation between foreign and domestic private capital, and effectively supported the latter (Khan, 2009). Regarding production strategies, the early orientation of the Indian auto industry towards small passenger cars, accessible to a wider consumer base than the luxury cars segment, was also facilitated by state intervention (D’costa, 1995; Ranawat & Tiwari, 2009), signalling the adoption of developmental priorities that were absent in the South African case. Built on a combination of social objectives and market calculations, the chosen manufacturing strategies undeniably allowed India to establish competitive niches and to make its development path more sustainable even throughout the following liberalization.

The South African automotive industry developed in a completely different context. While it started taking off as early as the 1920s, it underwent a substantial halt due to the sanctions imposed on the country throughout the apartheid era. Once isolation came to an end, in the mid-1990s, the desire to make up for the delay induced an accelerated liberalization, with a marked export orientation and an extreme accommodation of foreign capital, thus allowing it to influence the direction taken by the industry (Masondo, 2018). Overall, the post-apartheid restructuring of the industry entailed a rationalization of previous productive platforms and undoubtedly led to increasing productivity and competitiveness, but was also accompanied by a progressive loss of policy space (Black, Barnes, Monaco, 2018). The integration of the industry within an international market space was in fact achieved through a series of supply-side measures, including strong incentives to OEMs,\textsuperscript{13} mainly multinational, and the possibility for firms to earn import duties by increasing export. Such a rebate mechanism, still in place despite the succession of different industrial plans, basically offset
the local gains achieved through import substitution, eventually leading to lower local content, a negative trade balance and a severely imbalanced supply chain, where foreign OEMs dominate and lower tiers contracted (Monaco, Barnes, Black, 2018). The way South Africa attempted to accommodate foreign companies in order to attract investment and secure export contracts to compensate for the limitations of the small domestic market is also reflected in the pursued production strategies. As of today, the most developed segment remains that of luxury cars, while the two-wheelers, small vehicles and MHCV\textsuperscript{14} employed for public transport segments remain very narrow. Overall, ownership patterns, consumer base and work composition still heavily mirror the inequalities established during the apartheid regime, while the strong domination of foreign multinationals has rapidly replaced the old colonial influence. On the other hand, the perceived lack of ownership of the industrial development process and the persistent racial inequalities inherited by the post-apartheid national liberation project also led to a strong system of industrial relations, with powerful unions and progressive labour laws. In terms of employment relations, as we will see, this partly helped to contain the advancement of casualization.


Both the Indian and the South African auto industries liberalized in the 1990s, the former following a decade of gradual opening under Rajiv’s rule, the latter quite rapidly, once the apartheid sanctions were released. In broad terms, not only the pace and modes of global integration differed, but the ownership of the process also varied, with India managing to nurture its national champions, to build more favourable bargaining relations with multinational capital and to better protect its domestic industry. On the other side, South Africa was not only penalized by a smaller internal market but also suffered for the imbalances left as a legacy of the apartheid era. In this sense, the high concentration of capital, an exasperated export orientation that recalls the colonial resource-extraction and the uneven distribution of education and skills all affected the way the industry looks today.

At present, the Indian auto industry shows better future prospects and potential for a more sustainable growth. Its affordable and well-developed small passenger vehicle and two-wheeler segments can undoubtedly sustain increasing demand. The sector
also promises investment opportunities, employment creation\textsuperscript{15} and leeway for local suppliers. Indeed, the availability of a large pool of component suppliers around each OEM and an averagely qualified workforce provided with language, IT and engineering skills represent a positive endowment (Narayanan & Vashisht, 2008). In addition, widespread managerial capabilities and the existing institutional and financial infrastructure are seen as offering a sound base for further development (Noble, 2006). However, what also distinguishes the Indian auto industry is a competitiveness largely built on extremely low-cost labour, on the widespread reliance on casual work even within organized manufacturing (Chandrasekhar and Ghosh, 2014; Deshpande et al, 2004) and on the frequent obstruction of trade union activities (Jha and Chakraborty, 2014; Monaco, 2017). Indeed, such a “competitive advantage” binds the industry to a very low-quality development, whose sustainability can only be undermined in the long run.

Conversely, the South African auto industry might face a less rosy future and undoubtedly reveals profound structural weaknesses, but it has also been characterized by sounder industrial relations, which helped prevent an excessive deterioration of employment conditions. Today, while the industry has experienced significant improvements in terms of productivity, export competitiveness, technological upgrading and increasing volumes, the main challenges remain linked to the scarce localization and the relative underdevelopment of the supply chain (Monaco, Barnes and Black, 2018). Such weaknesses are also related to deeper structural problems left by the apartheid regime: the extreme concentration of capital and assets in a few hands, which makes market access particularly difficult for smaller firms and new entrepreneurs, and the still incipient transformation of the industry, with very limited black ownership despite the numerous BEE\textsuperscript{16} initiatives (Freund, 2007; Ponte, Roberts et al., 2007, Bell at al., 2018). Overall, since the end of apartheid, the South African auto sector has undoubtedly achieved a more “mature” industrial capacity, and it represents one of the most advanced auto industries on the African continent. However, it can still be considered “globally insignificant” (Barnes and Morris, 2008) and has not succeeded in becoming a major hub, struggling with a limited internal market, extreme distance from its export markets and still relatively low volumes (Black, Barnes and Monaco, 2018). On the other side, South Africa can pride itself on
one of the most solid systems of industrial relations and of one of the strongest metalworkers’ unions in the world. Indeed, this has contributed to protecting (so far) its workforce from a race to the bottom in terms of employment relations, to containing casualization and to defending wage levels in the industry.17

Different Shades of Casualization: Contract Labour vs Labour Brokering

Despite a different market structure, a different policy development and a different institutional setting, neither the Indian nor the South African auto industry seems immune from an overall deterioration of employment relations. What is explored here is not the degree of informality along the supply chain, whereby the belonging of small component suppliers to an unorganized, unregulated realm is not a new phenomenon, but the progressive penetration of casual employment relations within the large, organized factory. In turn, the processes of casualization that have been affecting the industry must be related to three factors: the overall structure of the labour market in the country, the role and strength of existing trade unions and the institutional setting, including labour laws. It goes beyond the scope of a comparative paper to look at these aspects in detail; however, an overall picture is provided in order to frame the two cases.

The Indian labour market is not only impressive in size, having overcome the 500 million threshold in terms of active labour force, but is also extremely segmented. Besides the complexity of defining unemployment in the presence of frequent underemployment or disguised unemployment, lines of fragmentation can be traced per organized/unorganized and unionized/not-unionized segments, as well as per employment status, gender, caste and religion (Harriss-White and Gooptu, 2001; TISS, 2009; Papola, 2013). Overall, with only 7 per cent of the workforce employed in the organized sector18 and an even smaller percentage of unionized workers (about 4 per cent) (Jha, 2008; NSC, 2012), regular and protected employment may be considered the exception rather than the rule. Defining and analyzing what represents the informal does not fall within the purview of this paper. The focus of the present work is rather on a specific and alarming phenomenon, that is, the process of increasing informalization, casualization and contractualization of those segments that previously appeared as a safe zone. In this sense, the
casualization of employment relations and conditions within the organized productive sectors, like manufacturing, is paradigmatic.

As reported by extensive studies, like the one conducted by Deshpande et al. (2004), the employment of informal, supposedly more flexible, labour within Indian organized manufacturing has been constantly increasing over time. In particular, the use of non-permanent workers, employed on casual terms, has become more and more frequent even within large firms (500+ employees), thus highlighting the blurred distinction between formal and informal production segments. Most importantly, the employment of casual workers has largely concerned core production activities, with no clear separation between primary and ancillary functions within the firm. Even writing before the latest wave of labour protests that particularly affected the Delhi–National Capital Region (NCR) industrial area, the authors underlined how the growing replacement of permanent workers with casual, temporary, contract labour not only allows for lower costs but for the functional management of industrial relations in an “orderly manner” (Deshpande et al, 2004:85; see also Barnes et al. 2015). Chandrasekhar and Ghosh (2014) also argue that the increasing use of informal contracts has served to match the requirements of the formal sectors, particularly with reference to contract workers. These represent a specific category of casual workers, distinguished for their “indirect” nature, i.e., a triangular employment relationship where they are hired by a third party and are not directly linked to the main company. Normally, they are supposed to be hired, supervised and remunerated by a “contractor”, which then reports to the “mother” or “client” company (AIOE, 2013; Barnes et al. 2015). Like other workers employed on casual terms, they tend to receive lower wages and fewer social benefits and, either for political or legal reasons, they have often been excluded from political representation.19

Papola (2013) highlighted how often discriminations are either created or reinforced by labour institutions or regulations themselves. In this regard, uneven access to union membership and welfare schemes (for casual/contract workers, for example) or labour laws with differential application according to firm size may widen rather than reduce workplace fragmentation, contributing to the uneven distribution of social security.

Overall, despite an existing Contract Labour (Regulation & Abolition) Act 1970, designed to specify where and how contract labor...
workers can be employed, violations and abuses of the law seem to be the norm (Barnes et al. 2015). Indeed, regardless of the limits posed to the use of contract labour within “core activities” and to perform tasks deemed of a “perennial nature”, such workers are frequently employed for prolonged terms and on core manufacturing operations (Papola, 2013).

Within the whole auto industry, well above one-third of the workers seem to be currently employed on a contract basis, while
in many large companies contract workers are reported to have outnumbered permanent workers.\textsuperscript{20} In the NCR, for example, labour activists and union representatives reported more than 60 per cent contract workers at Honda and up to 90 per cent at Hero-Honda Haridwar, as well as up to 90 per cent casual workforce in the Neemrana area.\textsuperscript{21} Recently, the reported abuses of the contract labour system have also generated a number of reactions and new dynamics, in terms of both labour organizing and corporate restructuring. In the NCR, a wave of labour protests has been centred around the issue of representation and regularization of contract workers, especially following the Maruti Suzuki dispute in 2011-12 (Monaco, 2017). As a consequence, traditional union organizing claims to be embracing the demands of casual workers,\textsuperscript{22} and a number of independent contract workers’ unions have emerged across the country.\textsuperscript{23} On the corporate side, Maruti’s post-strike reaction of bringing some contract workers back in-house, hiring them as “company casuals”, appeared as a way to exercise more direct control rather than actually improving working and employment conditions (Monaco, 2017). Finally, recent training and skills development schemes promoted by the Modi government, like Skill India, have also been widely criticized for supplying firms with a floating pool of highly skilled graduates, hired as trainees but with no guarantee of absorption into the labour market.\textsuperscript{24} This might be seen as a further stretching of casualization, with new layers of workers set on precarious conditions.\textsuperscript{25}

Differently from India, South Africa has a much smaller, and more protected, labour market. While the most pressing issues continue to be the extreme poverty of workers employed at minimum wage levels, income inequality and dramatically high unemployment, workers in organized manufacturing overall enjoy better remunerations and employment conditions than their Indian counterparts. However, the situation is increasingly worsening, with a widening gap between skilled workers, generally covered by permanent and protected forms of employment, and frequent outsourcing of semi- and low-skilled workers to sub-contracting companies (Englert, 2018; Theron, 2005).

The South African post-apartheid labour market was undoubtedly affected by the pressure to catch up with international markets and the ensuing, marked export orientation. The country’s willingness to attract investments and technology resulted in an
accommodation of foreign capital that also translated to stricter impositions in terms of employment relations, despite the resistance of very strong unions. The way the auto industry was progressively captured by the multinational firms’ lobbying power, which increasingly constrained the policy space and the state’s bargaining capacity, has been discussed before (see also, Masongo, 2018). Indeed, even in the presence of the powerful metalworkers’ union, NUMSA, this generated an increasing attack on labour, in order to cut costs and mitigate the confrontational industrial relations.\textsuperscript{26} As in the broader socio-political space, the period between the extension of previously denied socio-economic rights and the neoliberal attempt to cut such rights was short indeed. Today, a majority of black, often low-skilled workers, who had just enjoyed the promise of wider income and social security and hoped for an improved existence, is once again threatened by increasing precarization. In this sense, as argued by Bezuidenhout (in Von Holdt and Webster, 2005), the increasing casualization of work represents “continuity through change” rather than an actual transformation of the workplace regime. Overall, the apartheid segmentation on racial lines has been replaced by a fragmentation between a skilled core and a low-skilled periphery, while inequalities persist. However, while low-skilled workers are more exposed to vulnerable employment conditions, the increasing casualization of the workforce appears more and more as a transversal issue, cutting across different categories of workers only artificially created for corporate use.

As far as the manufacturing sector is concerned, Theron (2005) describes how processes of casualization, externalization and informalization have gained terrain. Within these, while the official use of casual labour within large firms remains relatively difficult in the presence of strongly established unions (ex. NUMSA, FAWU etc.), one of the most frequent practices is the outsourcing of workers or services to external companies. The externalization of the labour process, through the establishment of a triangular employment relation between the worker, the main employer and a labour broker, has become more and more common. Budlender’s (2013) comprehensive overview of studies of labour-brokered workers in South Africa (identified as engaged in a Temporary Employment Service, TES), places up to 71 per cent of the total analyzed sample within manufacturing. However, reliable statistical data at the sectoral level are still difficult to obtain. In general, labour-brokered workers
can be employed on temporary terms or on a project basis; in some cases, however, their contracts may also be rolled on for years. They usually receive significantly lower salaries than their permanent colleagues and do not have access to most of the available security benefits. Most often, such workers are not unionized. Overall, while outsourcing generally entails the acquisition of an entire service or process from a subcontracting company, the labour broker employment relation often involves a simple change in the employer the workers report to. A detailed study conducted by Englert (2018) with the Heineken South African labour-brokered workers shows how often workers participating in the same productive process may be placed under different employers and be subject to different pay and working conditions. Regarding the automotive industry, an ongoing investigation by the author in Gauteng Province shows how the use of labour brokers within large car assembling firms is an existing phenomenon, despite large unions may tend to underplay it.

While an increasing reliance on casual employment relations must be recognized, a strong attempt to counter this trend must be also acknowledged. In comparison to other countries, the South African labour movement has been actively engaged in fighting a possible race to the bottom, and any attempt to take away labour rights, which were obtained with such difficulty. While NUMSA campaigned and achieved a ban on labour brokers within the metalworking industry, organizations like Outsourcing Must Fall (OMF) and the Casual Workers Advice Office (CWAO) have been consistently fighting against the phenomenon and for casual workers’ rights. The former has been particularly active in defending and organizing layers of outsourced workers within public institutions (universities, public service, transport etc). The latter has been directly involved in a high number of cases related to the application of section 198 of the South African Labour Relations Act (LRA), which stipulates the right for casual and temporary workers to be made permanent under the mother company, after three months of continuous employment.

Unfortunately, such initiatives have also been followed by corporate reactions and restructuring. The most recent way to overcome the limitations imposed by section 198 of the LRA and the ban on labour brokers won by NUMSA seems that of employers shifting casual labour from labour brokers to “service providers”, which are not covered by section 198, to continue operating within the client company. In addition, the latest attack on labour, exercised
Casual Auto Workers’ Voices: Stories of Discrimination and Exploitation

During the past eight to ten years I had the honour of talking to many casual workers employed in the auto industry, both in India and in South Africa. In the Indian NCR, these were contract workers employed by both OEMs and ancillary companies; in South Africa, they were either workers from auto component suppliers or outsourced workers providing “services” within OEMs. Some examples will help illustrate their overall conditions and awareness of the injustice linked to their status. Given the scope of the paper, these are not detailed accounts, but still they can be considered as paradigmatic of a broader system.

In the Indian NCR, the 2011-12 Maruti case (Monaco, 2015; 2017) disclosed widespread abuses of the contract labour system, with casual workers often outnumbering permanent employees, frequent anti-union behaviours and fierce repression. Recalling the story of their dispute, a former worker leader remembers how:

Workers that were already permanent in the Maruti Gurgaon plant were employed on a contract basis once they were transferred to the new Manesar plant opened in 2006. In the new plant, production rhythms were faster and facilities inadequate (no canteen, no medical facilities). We had no transport allowance, and leave was linked to production performance, with bosses often claiming we hadn’t earned any holidays. There were three contractors at the plant, often changing after 6 months. Workers only referred to supervisors but did not really know who their boss was. When we went on strike (2011) our main request was to ease working conditions, they were too tough. Straight after the strike, 546 workers were terminated, mostly casuals. Afterwards, it was difficult to find other jobs, as Maruti was on the “blacklist”. After the July 2012 accident, many workers were jailed, and the struggle became a huge legal battle.
Workplace discrimination, difficult working conditions, poor pay received by the casual workers and the repression of any form of protest did not only occur at Maruti. It was common – and still is – to most component suppliers that cater the OEMs in the Gurgaon-Manesar area, as well as in the neighbouring industrial sites. Worker leaders from Mark Exhaust, a component supplier operating in Gurgaon and catering to both car and two-wheelers manufacturers in the area, also tell of a prolonged dispute revolving around the contract labour issue:

Our struggle started around the issue of regularization. After years working for the company on a contract basis, and promises to be made permanent, only 10 out of 550 workers were regularized. These were young, not the most experienced, but certainly close to management. The other 540 contract workers were left behind, earning five times less than permanent colleagues, with scarcity of accommodations and very poor facilities in the area, no job security and families to feed. We started meeting, secretly, until we demanded a union. After the union was finally registered, coercion and victimizations by the company started. We called a strike, management shut the company and terminated all of us (550 workers). Eventually, all new workers were employed, and the union was de-registered, because our contractor had no legal status.

Differential treatment between contract and permanent workers, poor working conditions, lack of security and opposition to union activities are now the norm in the NCR auto cluster. Similar practices also affect industrial plants operating across the border, like in Rajasthan. The Daikin workers from Neemrana are currently fighting against the massive use of contract and fixed-term workers (up to 90 per cent in the area), for a minimum wage, against indecent working conditions and against police repression and criminalization of the workers movement. Their struggles have by now involved many other companies in the Neemrana industrial site and have seen permanent and precarious workers striking together, despite ongoing arrests and terminations.

In South Africa, production workers within OEMs are
largely protected by NUMSA. However, a process of casualization also affects the auto industry to the extent that labour brokers, often registered as service providers to bypass the restrictions imposed by section 198, manage to penetrate large factories despite the ban on brokers, and the use of outsourcing and labour brokering is still frequent amongst suppliers. Labour broker workers from different companies operating in the Rosslyn area (Pretoria) confirm the presence of contractors also within assembling plants. Workers from Averda, a company that does recycling inside Nissan, and Rhino Linings, providing rubber covers for the OEM, report how:

We often perform the same task as permanent workers employed by the mother company, but we get lower pay. Unlike Nissan workers, we get no medical aid. On the shop floor, there’s frequent discrimination between black and white. We don’t get bonuses, and if we get an increase it is not the same that Nissan workers will get.

In addition, Averda workers describe how:

We were shifted from one employer to another (Wasteman to Averda) all of a sudden, but we didn’t receive a different contract. We have no benefits, our salary did not change for years. [Before the new Labour Bills] we receive an hourly rate lower than the minimum wage (15.95 ZAR p/h in Sept 2017). We get no medical aid, neither sick leave. We were shifted from a weekly to a monthly pay (4 against 4.3 weeks) with no increase. We are put on a cleaning contract, but we don’t do cleaning. We do overtime but we get no extra pay.

Understanding Precarity Through Continuity and Change: Status, Organizing and Institutions

The discussion of the global context and the examination of two case studies are here used to derive both theoretical and political conclusions, not only on the nature and the degree of casualization in the sector but also on political-institutional responses to it. The focus is on three main aspects. First, the nature of such precarization processes: to what extent are these categories of workers new? How can we characterize this supposedly emerging layer of the industrial
working class? Second, what are the current forms of organization put in place by casual workers in the analyzed contexts, and what are the obstacles to their political representation and full participation in the bargaining process? Third, what are the trends in terms of institutional responses to casualization, and what can we learn from both cases?

Starting from the nature of these apparently new forms of work, it is crucial to avoid simplification of the debate and to go beyond buzzwords and trendy controversies. The first issue concerns the apparent novelty of the observed casualization processes and of the “new” forms of work absorbed by the system. While it is true that the employment of informal and casual labour in the Global South has been a long-standing issue and it often represents the norm rather than the exception, it must be acknowledged that precarization is intensifying and expanding. In the Indian case, employers are not only ignoring any restriction to the employment of casuals but are denying the possibility of regularization to layers that would have previously led, more easily, to permanent positions (e.g., apprentices, see Amit and Jyoti, 2018). In the South African case, the frequent attempt to overcome principles stated by the law and rights won by the union movement also represents a worrying phenomenon. In this regard, I see descriptions of widespread precarity as a new, unprecedented phenomenon (Standing, 2011; 2014) as theoretically and historically problematic, but opposing claims that point at how informality has always existed (Munck, 2013; Scully, 2016) as politically risky. The latter, in my view, might tend to downplay the urgency and the serious need to counter the phenomenon, which is proceeding fast indeed. As far as the capitalist attack on labour rights is concerned, it is proceeding way faster than the capacity of traditional unions to renew themselves or for labour movements to organize effectively against it.

With reference to the geographical nature of precarity, an analysis of its spread within a traditional manufacturing sector within two Southern emerging economies can also occupy an intermediate place between the two extremes of the above-mentioned debate. While Standing (2011; 2014) has been accused of Northern/Western centrism, broad analysis of precarity and casualization “in the Global South” (Scully, 2016) also have their limitations. In this sense, not only is a closer investigation of local contexts and labour regimes necessary, but it must also be driven by solid, grounded research,
going beyond statistical definitions and meeting the qualitative experience of casual employment.\textsuperscript{38} Here, I am not outlining an accusation towards any individual piece of research, but rather inviting contemporary studies of casualization and precarization to be more grounded, as a whole.\textsuperscript{39} On the other hand, while context and history matter and affect the local casualization regime, the analysis of global manufacturing sectors and a comparative study of the interaction between global and local within global supply chains may also serve to highlight continuities and similarities occurring across the globe. In this regard, as far as building global solidarity represents an imperative to act, denouncing recurring patterns and explaining to workers how their condition resembles that of others in a different geographical context may contribute to breaking isolation and give courage to otherwise invisible actors. The last point related to the nature of the precarious experience concerns the class identity of these new lawyers of workers. This is a complex issue, of no easy discussion or solution. In this regard, I would place emphasis on empirical findings that confirm how delicate this matter is and how cautious one should be in defining a common class identity. Looking at the two cases I had the honour to witness, I would point at the following. Workers often perceive the arbitrariness of being assigned a determined status. Perhaps in manufacturing more than in other productive sectors, casual workers are aware that they frequently perform the same tasks and possess the same skills as permanent workers, often side by side on the same assembly line. Similarly, contract workers can see that they execute the same job as colleagues working under a different employer.\textsuperscript{40} While this raises an awareness of the injustice experienced and often leads to a better understanding of the precarious employment condition, it also shows how lines of fragmentation are often randomly applied, mainly in order to lower costs and hamper labour organizing. In turn, this may lead to challenging the idea of a “different class identity” of workers who see themselves as entitled to the same treatment as luckier colleagues placed on less precarious terms. Recently, a worker leader from Mark Exhaust in Gurgaon reported how even regularization was enacted on random criteria, or responded to preferential treatment, dividing workers according to unjustifiable differentiations.\textsuperscript{41} In this sense, both the perception of arbitrary divisions and the constant demand to be regularized can be read as an indicator of false difference, whereby casual workers feel they
should belong to the same group as their permanent counterparts. How does this create a different, or new class identity? This is arguable. Isn’t this rather the perception of an arbitrarily different treatment within the same class group? This should be an ongoing discussion. In addition, the very existence of workers with the same levels of skills and technical expertise but placed on different statuses may lead to questioning the presence of a distinguished class group characterized by a specific technical composition within the relation of production. What places the precarious worker on a different level, except the different relationship with the employer (and with the state, in case of a public provision of social benefits and rights, see Scully, 2016)?

Shifting from a discussion of the nature of the casual employment relation to a reflection about organizing forms observed in the two contexts, several points can be made. Undoubtedly, the extent and the diffusion of casual employment practices in the Indian industry, together with working and living conditions significantly worse than in South Africa, have determined a much higher frequency and intensity of labour protests involving casual workers. Together with the higher number of protests, the Indian case seems to have been characterized by a higher level of independence of casual workers movements from traditional trade unions. On the one hand, what can be seen as a major weakness of the Indian labour movement, i.e., the much higher number and the consequent fragmentation of existing trade unions, also represents higher pluralism of organizing forms and more leeway for autonomous actions. On the other hand, the high incidence of independent actions and the more and more frequent formation of small, independent unions also signals a substantial problem of representation,] and the detachment between traditional trade unions and new workers movements (Monaco, 2015).

In the South African context, NUMSA’s “monopoly” over organizing in the auto industry represents both a strength and a weakness: on one side, it is an indicator of strength and control on the workplace; on the other, it also suffocates the possibility of non-aligned movements or actions. However, the centralization of union power around NUMSA is also counterweighed by a distinction between different bargaining fora. Overall, this factor makes bargaining along the supply chain more difficult and creates a further line of fragmentation between differently protected workers.
In terms of political representation, there are also differences between the two cases.

In the Indian context, while NCR companies are constantly hampering the formation of new unions, the triangular relationship and the frequent lack of legal compliance of contractors further complicates the registration of new, plant-level unions. In addition, many union charts still formally address only permanent, regular employees, making it difficult for casual workers to join the main company union. In South Africa, union registration and the access to principal unions on behalf of casual workers remain easier, and labour rights like the right to strike and to appeal arbitration bodies are still an individual entitlement. Furthermore, even non-union organizations (like, for example, the CWAO) can conduct negotiations and represent workers. In sum, the centrality of the union form in South Africa, compared to India, seems to be more a matter of “physical strength” of existing organizations than an actual necessity, whereby the individual worker and non-union organizations enjoy rights that in other countries are reserved for unions only.

Finally, another distinctive feature about casual workers organizing pertains to the composition of workers taking action: in the Indian NCR, not only has a much higher participation of casual workers been observed, which contrasts with the significant vulnerability of workers in the area, but also a peculiar solidarity between permanent and casual workers, often striking together. In the South African case, communication and joint actions between permanent and casual workers seem more rare and difficult to achieve. Several factors may explain such a situation: more rigid separation within the workplace, stronger attachment to the job and relative fear to lose it in a context of much wider unemployment, stronger interest to keep the benefits associated with union membership (and stewardship) etc. In India, there is no linear explanation for the unprecedented solidarity recorded in the recent NCR labour protests, but that has certainly been a distinguishing feature in most of the latest uprisings. To conclude, as casualization and precarity take different shapes in different contexts, the same can be said with reference to forms of organizing. These highly depend on the material circumstances and on the balance of forces between casual workers movements and traditional labour organization. However, albeit to different extents, the inclusion of casual workers within
traditional unions still seems to be very low in both cases, reflecting in the emergence of independent/contract workers unions in India and in the frequent lack of unionization in the South African case.\textsuperscript{48}

A last element that affects the dynamics of the casualization regime in the two cases is the institutional setting that surrounds it. This includes both the existing labour laws that should regulate the casualization process and the response of state institutions to casual labour issues. In the first instance, despite the current attack to existing laws, South Africa owns much stronger legal tools, embodied in section 198 of the LRA. This legislation, which states the obligation to make labour broker workers permanent after three months of service, definitely represents an important instrument for the organizations engaged in the anti-casualization struggle. In India, labour regulations limiting the use of casual labour do exist but are massively ignored or circumvented. In addition, the latest use of apprentices and trainees as a further pool of disposable labour appears to have been facilitated by the same government schemes for “skills development” that have practically legalized the wide use of such categories of workers.\textsuperscript{49} Finally, the relationship between casual workers and state institutions has also been different in the two cases: the use of institutional violence, of state repression, has been evidently increasing in India, with a much wider criminalization of labour protests (see Maruti, and most recent Daikin case). In South Africa, strikes and protests are more regulated: whereas violence occurs, it is often of an informal nature, involving private security and more “selective” repression (individual targets, informal use of weapons but fewer arrests and long-term convictions compared to India).

**Conclusion: Understanding the Local Embeddedness of Casualization Regimes**

Through the analysis of two different casualization regimes, both part of the same global industry, this article sought to shed light on the relationship between global and local within global production. In this regard, global competitiveness and the integration within international markets cannot be built without reliance on local labour regimes. Even more, the competitiveness of global manufacturing today seems inseparable from the search for a flexible, disposable, replaceable (and controllable) workforce. In this sense, the presence of a casual labour regime appears as a desirable
competitive advantage for global manufacturing. At the same time, it is neither only global corporate strategies nor local institutional settings that can explain casualization, but the interaction between the two and the local embeddedness of global production.

Building on comparative field research, the paper also aimed at intervening in a broader debate on precarity and on the definition of a “global precarious class”. In particular, it engaged with critiques to Standing (2011; 2014) and to his conceptualization of the “precariat, as a new, emerging global class”. To start with, the paper responded to the need, highlighted by Breman (2013), to look at precarious regimes in their variety and specific determinations, with the aim to derive commonalities and continuities on which to build solidarity and political action. This is the main purpose of such a comparative study.

Overall, while acknowledging a global deterioration of working conditions and a widespread attack on labour, the paper questions the possibility of employing universal categories in the definition of a global precarious class, seen as a new phenomenon. It underlines the importance to carefully analyze continuities and changes, to avoid easy aggregations (Global North vs Global South, for example) and to look at the local construction of precarity as a lived experience. In this regard, the paper discusses how, even within global production, the development of a national industry, the specificities of the local labour market and the institutional setting affect the nature and the dynamics of a casualization regime. In turn, these also influence the way casual workers perceive their status, build an awareness of their condition, relate to existing labour institutions and organize. Ultimately, building global solidarity and more effective political actions to counter casualization will not be possible without a careful consideration of the local, material reality of precarity on the ground.

Endnotes
1. Lorenza Monaco, Senior Lecturer, African Institute for Economic Development and Planning, College of Business & Economics, University of Johannesburg). lmonaco@uj.ac.za
2. In this regard, see the very interesting response to Standing formulated by Erik Olin Wright (2016).
3. This is done elsewhere: for example in Monaco (2015) on class formation in the Indian auto sector.
4. On this point, Standing attracted a number of quite powerful responses, too. See

5. Field interviews: NTUI, October 2017; Workers Solidarity Centre, January 2019.

6. Confederation of Indian Industries.

7. Society of Indian Automobile Manufacturers.

8. Indian Auto Components Manufacturers Association.

9. National Association of Auto Manufacturers of South Africa


11. Automotive Industry Development Centre.

12. Import tariffs are still higher than in many other countries.

13. The local content requirement set at 50% in the 1950s was increased to 80% by 1960-61 and to a further 85% by 1965-66 (Ranawat, Tiwari 2009).

14. Original equipment manufacturers, i.e. large assembling companies.

15. Medium & heavy commercial vehicle segment.


17. Black economic empowerment, term referred to the need to promote racial transformation within the economy.

18. Interview, NUMSA, 1/12/2016.

19. For ‘organized sector labour’, Harriss-White and Gooptu (2001:89) intend those ‘workers on regular wages or salaries, in registered firms and with access to the state social security system and its framework of labour law’. On the other hand, one of the most widely accepted definitions of unorganized sector is the one provided by the NCEUS (2009:12), i.e. it consisting of ‘all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and with less than ten total workers’.

20. Either for express clauses specified in union charts, covering only permanent workers, or for lack of inclusive practices on behalf of traditional unions, hardly coping with the changing labour scenario.


22. Field interviews conducted with scholars based at the Indian Society of Labour Economics, with reps from CITU, INTUC, HMS, IndustriALL (different rounds, 2012 and 2017) and with activists from the Gurgaon-based Workers Solidarity Centre (2017 and 2019).

23. Recent IndustriALL- led anti-casualization initiative in Tamil Nadu, for example.

24. Interview, NTUI, October 2017.

25. CITU and NTUI field interviews, October 2017.

26. Amit and Jyoti (2018) describe how in the NCR auto industry production has been progressively shifted onto a whole set of workers, not even recognised as such, employed on casual terms: diploma trainees, student trainees, diploma apprentices etc.

27. The way the same government is seconding corporate requirements in this sense is evident in the recently approved Labour Bills, May 2018.


30. The 2018 Labour Bills include a significant attack on the right to strike, an
agreed minimum wage well below what is deemed a decent living wage, the proposed elimination of the sectoral determination in the sectors not covered by the main bargaining fora, new bargaining rules that mostly favour large unions. Meetings with the Scrap Labour Bills campaign, 2018.

32. Interview with Mr Singh and Singh, dismissed worker leaders from Mark Exhaust. Gurgaon District Court, 16/01/2019.
33. At the time of the dispute, contract workers were earning 10-12,000 INR, permanent workers up to 60,000.
34. No gatherings allowed in the factory.
37. These companies are officially registered as service providers, so they don’t fall within the section 198 and workers belong to different bargaining fora.
38. Following the meetings workers used to have in Rosslyin, outside the factory plant, their leader was terminated.
39. A good example in South Africa is the work conducted by Englert and Runciman (2019, forthcoming).
40. In relation to this, I would like to highlight the Notes from Below experience (https://notesfrombelow.org/) in the UK as particularly interesting. I also participated in some of their initiatives and I was very impressed by the solid attempt to connect labour activism and research.
41. See for example, Mark Exhaust case – January 2019 interviews, Gurgaon.
42. The workers first took action when young, inexperienced workers closer to manager were regularized before their senior, more experienced colleagues: this made them question the criteria used for promotions and regularisation. Interview held in Gurgaon, 20/01/2019.
43. Interviews with NTUI (2017) and Workers Solidarity Centre (2017 and 2019). For an analysis of independent trade unions in India see also Hensman, 2011.
46. Interview with Mark Exhaust workers and their CITU legal advisor, Gurgaon, Jan 2019.
49. Interviews and meetings at CWAO, 2016 to 2018.
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Pirates des Grands lacs : exploration des conséquences qu’ont les économies de petits boulots et informelle sur l’industrie de la pêche affrétée sur le lac Ontario au Canada

Carlo Fanelli

Résumé

Cet article explore les conséquences, pour les opérateurs de bateaux de pêche récréative accrédités, des activités de bateaux de pêche affrétés présumés sans enregistrement ni licence et qualifiés de « pirates », à une marina du lac Ontario. Les données proviennent de vingt-quatre entrevues effectuées sur une période de six mois auprès de huit propriétaires et opérateurs de bateaux affrétés. Les participants à la recherche ont noté que cette activité informelle est facilitée par « l’ubérisation » de l’industrie de la pêche en général. Les répondants ont fait remarquer qu’en plus d’éroder la viabilité financière de leur gagne-pain, les services d’affrètement de pêche récréative informelle comportent un sérieux risque pour la sécurité publique et pourraient potentiellement compromettre la préservation et la durabilité à long terme des pêcheries.
Great Lakes Pirates: Exploring the Impacts of the Gig and Informal Economies on the Lake Ontario, Canada, Charter Fishing Industry

Carlo Fanelli¹

Abstract

This article explores how licensed recreational charter fishing operators are impacted by the activities of presumed unregistered and unlicensed charter boats, referred to as “pirates”, at one Lake Ontario marina. Data is drawn from twenty-four interviews collected over a six-month period with eight charter-vessel owners and operators. Research participants noted that this informal and underground activity is being facilitated by the “uberization” of the broader boating industry. Besides eroding the financial viability of their livelihoods, respondents noted that shadow recreational charter fishing services come with a significant risk to public safety, in addition to potentially undermining the long-term conservation and sustainability of the fishery.

Introduction

The expression “gig economy” is becoming increasingly fashionable in the media, popular culture and society at large. But the meaning being given to the expression is far from clear. Proponents of the gig economy tout the benefits of an empowered and flexible workforce that can choose when, where and how to work. So-called self-employed micro-entrepreneurs can drive for Uber one day and Deliveroo the next, and take the following day off, before working the next two freelancing as a graphic designer or copy-editor, before spending the weekend away at a cottage booked on Airbnb. Such “disruptive” practices are alleged to unleash innovation, unsettling established markets and creating new ones. The benefits are alleged to include cost-savings for consumers with ready access to abundant on-demand services available at the click of a mouse or tap on a smartphone, with advantages accruing to businesses, which benefit from a mobile workforce increasingly seeking variety, opportunity and autonomy. But this is a totally misleading view of the realities of gig work.
In practice, the growing preponderance of “gigs” — short-term, contractual, on-demand labour — can be better understood as a reversion to previous practices accelerated by new technologies, not something fundamentally new. What underlies the gig economy is a vast infrastructure of disguised employment relationships that facilitate the evasion and avoidance of worker entitlements (such as holiday pay, sick pay and superannuation) via employee misclassification, as well as regime shopping (when a multinational company selects another country for investment based on its lax employment laws and industrial relations). This infrastructure seeks to upend existing regulations and practices and preys on economically vulnerable populations most hard-hit by precarious work. In other words, the gig economy comprises “old” forms of capitalist exploitation masquerading as “new” forms of choice and freedom.

This article discusses research undertaken as part of an exploratory project examining how licensed recreational charter fishing operators are impacted by the activities of presumed unregistered and unlicensed charter boats at one Lake Ontario marina. Data is drawn from interviews collected over a six-month period with eight charter vessel captains and first mates (FMs). Research participants suggested that this informal and underground activity is being facilitated by the “uberization” of the broader boating industry. In addition to eroding the financial viability of their livelihoods, respondents noted that informal recreational charter fishing services come with a significant risk to public safety, as well as to the long-term conservation and sustainability of the fishery.

What follows is divided into five main sections. Section one outlines my methodology and discusses the broader background and context of the Lake Ontario charter fishing industry. Section two argues that undocumented charter boat activity straddles the nexus of the gig and informal economies. In this regard, while new web- and application-based technologies may be accelerating these activities, they are also an extension of older practices located in the informal economy. In section three, research participants detail how they understand and experience the impacts of alleged informal charter fishing operations and the ways in which these practices subvert existing rules and regulations. It is argued that while access to on-demand, informal charter fishing services may be financially beneficial to consumers, it comes with significant safety risks.
Furthermore, while consumers may benefit from short-term financial gain, there may be longer-term consequences for those legitimately operating recreational charter fishing services without evading and avoiding a range of rules that govern this activity. The concluding portion of this paper notes the limitations of this research, identifying future avenues of investigation that may provide a fuller account of the challenges and strategies utilized by charter fishing operators to resist “uberization”.

**Lake Ontario Charter Fishing: Background and Context**

Data for this article is drawn from ethnographic research conducted with eight charter fishing boat owners and operators over the period May to October 2017. Interviews were conducted at one Lake Ontario marina with four boat captains (John, Mark, Frank, Jerry) and four first mates (Bill, Mike, Chuck, Adam) of independently operated recreational fishing vessels. As boat owners and operators, captains are ultimately responsible for the seaworthiness of their vessel, passenger safety, ensuring compliance with marine laws and regulations and crew management. First mates (FMs) are second-in-command and ultimately responsible for ensuring the safety of the vessel and welfare of the passengers. In the event of injury or illness to the captain, FMs are tasked with implementing emergency procedures to get passengers back to shore safely or to contact first responders. In the case of the four charter fishing operations discussed here, two FMs were responsible for operating the fishing equipment, while the captain plotted fishing routes and navigated the vessel. In the other two cases, these roles were reversed, with FMs largely responsible for navigating the vessel, and captains hosting passengers and facilitating the fishing.

The Lake Ontario charter fishing industry generally operates from mid-May to early-October. Passenger minimums range from four to six persons and the maximum can be up to twelve, with individual rates averaging $120–140, although this could increase if food and beverage packages are included. Each vessel operates a maximum of two fishing expeditions per day, 6 a.m. to 12 p.m. and/or 2 p.m. to 8 p.m. The charter operations target rainbow trout, brown trout and lake trout, as well as king salmon, coho salmon and Atlantic salmon. All passengers fishing on board are required to have an Ontario fishing license, and charter operators must ensure possession limitations are followed, including, in the case
of Atlantic salmon, size restrictions. All fishing equipment, such as rods, reels, downriggers, spoons, flashers and more are provided by the operators, with fishing taking place anywhere from one-half kilometre offshore in early and late season to ten kilometres out in the middle of the summer.

In total, twenty-four interviews, one with each captain and FM in the spring, summer and fall, were conducted over this period. Each of the captains that took part in this study were sole proprietor owners, and three of four indicated that income derived from charter fishing operations was a primary source of income during these months, with one supplementing his income in off-charter days by working in the building trades. During the off-season, two indicated that they worked full-time in the construction industry, one as a tow truck driver and the other providing ice fishing services. Each of the FMs indicated that income derived from charter fishing during these months was their primary source of income. During the off-season, one indicated being enrolled in post-secondary education full-time, two worked in the building trades full-time, and one indicated working occasionally at an auto mechanic shop. The captains and FMs were men ranging in age from 24 to 62 years. Along with the names of all captains and FMs, the names of marinas and cities have been changed to protect their identity. The size of boats ranged from 35 to 48 feet, while charter fishing experience ranged from 5 to 25 years. In all cases, the boat owner was also the boat captain, and each had one permanent FM. All of the vessels were two-person operations.

An open-ended interview approach was utilized which sought to gain a deeper understanding of the charter fishing industry, its everyday practices and the challenges facing charter operators. The use of an open-ended approach is consistent with the observation that researchers rarely know what the most important issues or questions are (Acocella, 2012). To make use of a survey-style questionnaire would have required determining a priori what the most important questions and issues were. In this regard, an open-ended approach allowed those being interviewed to decide what is most central to their own “life stories” (Silver, 2006). Follow-up interviews sought to gain a deeper understanding of concerns discussed previously, in addition to drilling-down on specific issues highlighted earlier, such as the concerns about safety and potential impacts on the fishery.

As will become clearer in the pages that follow, the aim
of this exploratory research is to investigate how licensed charter fishing boat operators understand and experience the ill effects of unregulated recreational charter fishing activity at one Lake Ontario marina. In recounting the firsthand experiences of charter boat operators, I seek to gain a deeper understanding of how they are coping with the informal “uberization” of the charter fishing industry, including the implications this has on operators’ own livelihoods, as well as potential risks this poses for consumers and fisheries health more widely. This research also explores how licensed charter fishing operators confronted and challenged alleged informal charter fishing activity in a labour market increasingly characterized by gig economy labour that straddles the margins of the informal economy.

Recreational fishing for salmon and trout on Lake Ontario got its start in the early 1970s as New York State and Ontario introduced the species to help control overabundant alewife (a non-native, invasive fish species), which were dying off and washing ashore by the millions (Brown and Connelly, 1991; 2009; Kuehn et al., 2005). In the half-century since their introduction, it is estimated that Lake Ontario’s sport fisheries now contribute some $112 million annually in local economic development for the state of New York (NYDEC, 2016: 28). Research conducted elsewhere suggests measures of local economic development could be much higher when extending beyond anglers’ direct purchases. This is because the businesses that sell goods and services are in turn stimulated to use additional labour and purchase additional materials, starting a “chain reaction of spending and re-spending that has a cumulative impact of the level of sales, jobs and other economic components of the local economy” (Brown and Connelly, 2009: 21). Ontario’s fisheries and its supporting industries are estimated to contribute more than $2.5 billion annually to the province’s economy, although figures citing the individual significance of Lake Ontario are not available (MNRF, 2015: 6).

There are few estimates of total charter fishing activity in the Great Lakes region, and even fewer for Lake Ontario specifically. The most notable includes research undertaken as part of the Great Lakes Sea Grant Network, which estimates there were 1,696 captains operating as small businesses across the Great Lakes in 2011 (Lichtkoppler et al., 2011). Comparably, the Great Lakes Environmental Assessment and Mapping Project (GLEAM) identified 1,813 charter fishing operations (GLEAM, 2010). For
Lake Ontario, charter fishing operations in US waters are estimated to have grown from 33 in 1975 to 450 in the mid-1980s, before falling to around 200 small businesses in the early 2000s (Dawson, 1991; Lichtkoppler and Kuehn, 2003). GLEAM estimates there are currently 143 recreational charter fishing operations on Lake Ontario in both US and Canadian waters, although this number could be much higher when considering informal charter boat activity.

With the exception of the odd scholarly article and grey literature, general information about the recreational charter fishing industry on Lake Ontario can be found in the annual interjurisdictional reports prepared by the Lake Ontario Committee for the Great Lakes Fishery Commission (NYDEC, 2016). These reports summarize cooperative research and monitoring activities conducted on Lake Ontario and the St. Lawrence River by the New York State Department of Environmental Conservation (NYDEC), Ontario Ministry of Natural Resources and Fisheries (OMNRF), U.S. Geological Survey, U.S. Fish and Wildlife Service, Fisheries and Oceans Canada, State University of New York College of Environmental Science and Forestry, and Cornell University. This research finds that charter boats tend to have more anglers on board, fish for longer periods of time, are more likely to target salmon and trout, have higher catch rates and harvest a significantly higher percentage of the catch. In 2016, charter boats accounted for roughly 19 per cent of the total number of fishing boat trips, but close to 48 per cent of the total salmon and trout harvested from the lake (NYDEC, 2016: 33).

Some variables examined indicate that angling quality was lower in 2016, with declines in the number of charter vessels harvesting their maximum daily catch limits across all species — close to a 44 per cent decrease compared to the previous 10-year average (NYDEC, 2016: 37). Likewise, research by Lichtkoppler and colleagues exploring charter fishing activity in the US waters of the Great Lakes finds that charter trips declined 27 per cent, from over 103,000 in 2002 to less than 76,000 in 2011, while total revenue declined over this period by 24 per cent, from $48 million to $36 million, after values were adjusted for inflation. The authors note that respondents from Lake Ontario declined from 16 per cent of the total in 2002 to 6 per cent in their 2011 survey. Their research finds that respondents actually increased the mean number of trips by 23 per cent, and their mean revenues increased by 78 per
However, they caution that there was a large standard error (±13.4 for trips and ±$8,034 for revenues) for the Lake Ontario respondents. As such, it is not clear how generalizable individual lake results are (see Lichtkoppler et al., 2011: 204-206). Charter fishing operations declined more than 12 per cent when compared with 2002 (Lichtkoppler et al., 2011: 203-04). As will be discussed shortly, this is significant because it is unclear what effect informal charter activity may be having on the health of the fishery and financial viability of licensed charter fishing operations.

Responsibility for fisheries management and charter fishing activity is divided between the federal government, which has authority over the seacoast and inland fisheries, and the provinces, which have authority over natural resources, management and sale of public lands, and property and civil rights. At the federal level, Fisheries and Oceans Canada (DFO) has primary responsibility for fisheries; in Ontario, the primary agency is the Ministry of Natural Resources and Forestry (MNRF). Other agencies and levels of government also have mandates that include aspects of fisheries management, such as Transport Canada (federal), which monitors and enforces vessel safety, ports and harbours, including navigation and radio communication, training, testing and certification of marine personnel. Other regulatory bodies include the Ontario Ministry of the Environment and Climate Change, Ontario’s Conservation Authorities, national and provincial parks, and municipalities. Coordination of the Great Lakes region occurs under the auspices of the Great Lakes Fishery Commission and all state, provincial, federal and First Nations natural resource management agencies in the Great Lakes basin are signatories to the Joint Strategic Plan for Management of Great Lakes Fisheries (MNRF, 2015: 15-18).

The Gig and Informal Economies

One estimate by the McKinsey Global Institute (2016) found that some 20-30 per cent of the working-age population in the United States and the European Union, roughly 162 million people, engage in some form of independent contract labour. However, when one isolates on-demand, online work platforms for paid gigs, this number falls dramatically to just 6 per cent of the independent workers surveyed. Advocates of the gig economy argue that “the choice facing employers is now between gig workers and robots, or at least technology… Robots are an attractive way to get the
work done, given that they work cheap, do not demand benefits, never whine about needing a work-life balance and are not going to get drunk at the holiday party. In the same way, a gig worker (who you do not provide with benefits or invite to the party) may be competition for the robots” (Nazareth, 2017). Writing in Forbes magazine, Jia Wertz (2018) claims that “the gig economy isn’t made up of unemployed people looking for work. In fact, the majority of workers in this economy aren’t even interested in a long-term position… By 2027, freelancers are expected to become the majority of the workforce, based on the current growth rate, due to factors such as automation, freedom, flexibility and the ability to earn extra money… Highly qualified workers are ready and willing to be deployed to accomplish clearly defined outcomes. This, in turn creates both time and cost efficiencies that translate into bottom line profits for companies of all sizes.”

Absent from the idealistic approaches of both Nazareth and Werth is the stark reality that much of what passes as the “gig economy,” otherwise known as informal labour, exists in a legal vacuum designed in a manner that excludes employees from basic employment standards protections. As a growing body of research has found, gig workers tend disproportionately to be younger workers, those from historically marginalized communities, women and recent immigrants; in other words, vulnerable populations with few choices other than to endure the exploitative conditions of informal labour, with recent evidence suggesting this has pushed down wage growth across the labour market as a whole (Srnicek, 2016; Stewart and Stanford, 2017; Slee, 2016). For gig economy boosters, this is a labour market devoid of power relations, where class and its intersections of race, gender, sexuality and so forth are immaterial, or worse, irrelevant.

While new web- and smartphone application-enabled technologies have facilitated greater peer-to-peer exchange, what really distinguishes the gig economy from the labour market of the postwar era is a return to the “standard” employment relationship that dominated the pre-Keynesian era; one characterized by widespread precarity of job tenure, insecurity, limited social benefits and absence of trade unions, as well as evasion and avoidance of statutory entitlements in an increasingly atomized labour market with diminished worker bargaining power. “These practices are as old as capitalism, perhaps even older. The creation of more precarious
jobs, including those associated with digital platforms, reflects the evolution of broad social relationships and power balances, as much as technological innovation in its own right” (Stanford, 2017: 383). Capitalist control of the workplace increasingly took hold of the process of production as market forces came to dominate under what conditions production would occur (Rinehart, 2006). In other words, over time workers no longer sold a finished product to merchants but rather their capacity to labour for a given amount of time (Perelman, 2000; Fanelli and Noonan, 2018).

The exploitation of casual labour has been a historical constant of capitalism that can be traced back to the putting-out system of the sixteenth century (Quinlin, 2012; Finkin, 2016; Valenduc and Vendramin, 2016). New technologies extended older methods of workplace rationalization such as Taylorism, which sought to separate conception from execution on a continuous basis by breaking down tasks into discrete “gigs” in the context of an on-demand workforce deprived of broader social welfare entitlements extended via hard-won capitalist class concessions (Braverman, 1998; Huws, 2016, Srnicek, 2016; Riley, 2017). In other words, while the form of temporary, contractual and precarious labour has changed, its function remains the same: to drive down wages, weaken statutory protections and diminish collective means of worker resistance (Queenan, 2016; Sherk, 2016 Calo and Rosenblat, 2017). If there is such a thing as a “standard” (capitalist) employment relationship, it is one much more closely related to the exploitation of labour described by Marx in the mid-nineteenth century, than that of its thirty-year mid-twentieth century interlude.

Among the most notable participants in the gig economy are ride-hailing services like Uber and Lyft, food delivery services like Deliveroo and Foodora, coding, programming and graphic design applications such as Toptal and Behance, cleaning and DIY services like TaskRabbit and Rent-A-Husband, as well as accommodation, vehicle and tool rental services such as Airbnb, Turo and ToolSity. While the work arrangements across these diverse platforms vary, “these companies attempt to both maintain, and distance themselves from, responsibility over the markets their apps create’ (Healy et al., 2017: 232). As is often said, there is now an “Uber and Airbnb” for nearly everything, which includes consulting work, freelance writing, dog walking, babysitting and virtual assistance, to name but a few (Kenney and Zysman, 2016; Ravenelle, 2016).
Uber is perhaps the most well-known company in this regard, insisting that it is not a direct employer but rather that its drivers are independent contractors. However, this position has been widely criticized since, like most traditional taxi companies, the Uber app sets the fare and route, collects payment from passengers, supervises, disciplines and returns a portion of revenue to drivers based on predetermined distance and time factors. What is more, even though Uber drivers must provide their own vehicles and pay for all related expenses (e.g., maintenance, fuel, amortization) with no guaranteed hourly or daily income, they cannot see the passenger’s destination before they accept a trip or opt out without a penalty. Drivers also run legal risks and fines: “What Uber does not do is ask drivers to comply with local laws; rather the company makes it their explicit policy to break local laws until local jurisdictions bend to their will. If they don’t do so, then Uber pulls out” (Zwick, 2017: 7).

In the case of the Lake Ontario charter fishing industry, not all operators are created equally. As study participants noted, their livelihoods, consumer safety and fisheries health are under threat from what they refer to as Great Lakes “pirates”. As they describe below, pirates are the unregulated (and presumably unlicensed) fishing charter boats of the Great Lakes, the Uber-like operators of Lake Ontario’s waterways. In most cases, these are private boat owners who, for a fee, will take a group fishing or pleasure cruising for the day. Most of these operators, respondents noted, advertise on places like Kijiji and Facebook and, in rarer cases, have their own websites. In this regard, it is probable that the charter fishing industry of Lake Ontario (and elsewhere) is undergoing a process of what might be called incipient “uberization” — that is to say, the early stages of “gigification”.

However, while unlicensed charter fishing vessels certainly benefit from platform-enabled web services in ways they could not before, there are relatively few smartphone applications thus far catering to the recreational charter fishing industry of Lake Ontario, although indications suggest this is rapidly growing elsewhere. UberBoats, for instance, recently launched seasonal on-demand services in Boston, Cannes, Istanbul, Miami and Baltimore, with permanent services in Croatia that are expected to grow across Europe and North America (Carney, 2017). Other Uber-like applications for boats have proliferated across more than a dozen countries, such as HOBA (Hop on a Boat Anywhere), EZ Waves,
GetMyBoat and Boatsetter, with software developers like Space Technologies specifically targeting companies looking to create “rent-a-boat” applications (Ryan, 2017; O’Brien, 2018; Lariviere, 2015).

Both GetMyBoat and Boatsetter currently operate in the Canadian market, with charter fishing services available on Lake Ontario. While it is probably not possible to show in this paper that unregulated charter fishing vessels are benefitting from Uber-like applications that evade, avoid or challenge regulatory laws, data gathered from interviews with licensed charter fishing operators suggests that this informal activity is having a significant impact on their operations. However, whether this is primarily occurring through traditional informal channels such as word of mouth, or websites or smartphone applications remains an open question that future research will need to explore. In this sense, this paper is primarily concerned with the presumed impacts of the shadow charter fishing industry on licensed operators. It is informed by the firsthand accounts of small business operators and the self-identified impacts of this alleged underground activity on their everyday lives. In the view of these operators, unlicensed charter fishing services are likely to involve some form of illegality and/or noncompliance with existing administrative rules, regulations and commercial licensing requirements — “working without papers” as Captain John put it.

Lake Ontario Pirates

When asked to explain who pirates are, Captain Mark observed: “A pirate’s the guy that runs without proper paperwork, proper safety equipment and takes money from people illegally, not by the letter of the law or by any commercial regulations that are in place by Transport Canada.” Illegality and evasion of Transport Canada rules were common concerns among nearly all study participants. Captain Frank was blunter is his assessment, saying; “They’re criminals. They’re fisherman that want their fishing paid for. That’s all they are. They have jobs, they have fuckin’ all this other stuff. They just want their boating and fishing expenses paid for.” While the alleged evasion and avoidance of Transport Canada marine regulations, such as a having a proper captain’s licence or safety equipment were common themes, others also raised concerns about an “unlevel playing field” (FM Adam), with informal operators benefitting from tax evasion: “Do you think those people would
fucking claim anything? Of course they don’t; it’s all cash business” (Captain Jerry). “It goes straight to his [illegal operator] personal bank account,” noted Captain Jerry. As the discussion of Uber above noted with regards to their ability to offer lower fares over taxis at the expense of breaking existing laws, pirates are believed to be able to offer cost savings by undercutting their competitors — “stealing our business” (FM Bill) — at the expense of existing laws and regulations. “You can drive that [55-foot] boat personally with just your regular boater’s license but you can’t charter passengers without the proper paperwork” (Captain John).

One operator noted that since commercial charters are not organized collectively, pirates have been able to fly under the radar due to their reduced visibility and lack of regulatory enforcement. “What am I supposed to do by myself out here in the middle of Lake Ontario? Nobody finds them, like Transport Canada. If they don’t know their name, they’re not gonna find them. But Transport Canada just has to look out to make sure that they’re following the rules, that they’re licensed, but the fact that they’re operating a business illegally, that’s not their business. So that would go under somebody else’s jurisdiction” (Captain Jerry). FM Mike added: “Revenue Canada… They would have to be a licensed business, like an incorporated business or something. That’s even separate from having the proper paperwork [licensing].” Given the mobility of charter vessels and ease with which presumed unregistered businesses and unlicensed operators could now advertise on their own websites or places like Kijiji, when asked whether these illegal operators shared parallels with Uber, FM Adam responded, “Absolutely, but I don’t know if there’s an Uber that’s gonna do it but they might fucking expand into this area, you never know.” Captain Mark also agreed when asked the same question, responding with some surprise, “Yeah, I guess they’re doing to us what Uber did to taxis. Shit… I’m not gonna use them anymore.”

There was also a feeling that legitimate charter operators were disproportionately targeted by MNRF conservation officers: “We operate in plain sight, open to the public. They’re hidden away in a marina, right? Come here and the game warden is standing right there when we come in with our fish and he says, ‘Do you have licenses?’” (FM Adam). Captain John added, “COs [conservation officers] rarely go out there [into the lake], these guys [pirates] are hidden in a marina behind locked gates. How’s Transport Canada
even supposed to know he’s a fucking charter boat. He’s just out there floating around.” Others also raised concerns about the difficulty identifying recreational charter fishing boats from recreational non-charter fishing boats, since there are “no visible signs and if anyone asks, they’re my ‘friends’” (FM Mike).

A common view was that because most pirates were presumed to be occasional gig workers, with other forms of primary employment, these informal operators benefitted from not having to make both short- and longer-term investments for their business to grow. This includes, for instance, the absence of a fixed marine dock, along with liability and commercial vessel insurance. Captain Mark noted: “A licensed charter boat always carries commercial liability… $5 million a head, at least, minimum.” Captain John explained further: “And we have to pay the insurance on the dock… and it depends on the size of your boat. These docks are $73 a foot times the size of your boat.” With the size of study participants’ boats ranging from 35 to 48 feet, respondents noted that this additional cost could range anywhere from $2,500 to $3,500 per annum. Captain John explains further:

*It depends on the boat, it depends on how many passengers you can carry, everything. Sure, my insurance is not gonna be the same as somebody that’s only gonna carry six when I could carry 12. And then some of the pirates don’t even know the rules. Commercial vessel with our licenses are only allowed 12 people max, no matter what your boat says. Mine’s rated for 26 people. It doesn’t matter. 12 is max. Anything over that you start to get into different paperwork, and then you need more crew every time. Two crew is good for up to 12, anything over, you need an extra person.*

In other words, licensed charter operators were required to have both commercial liability insurance once their vessel leaves the marina, and dock insurance in case passengers injured themselves while boarding or leaving their docks. “These other people [pirates] probably just have regular boater’s insurance” (FM Chuck), which is not mandatory for non-charter boats to have. Some also questioned whether any injured passengers on an unlicensed and uninsured charter boat would be covered by non-charter recreational insurance,
“because we’re insured to carry customers, paying passengers” (FM Adam). Similar concerns have been raised in the case of an accident and/or injury for both Uber drivers and passengers, with the Insurance Bureau of Canada cautioning people to be careful if they are using their vehicle as a cab but without commercial insurance, which is more comprehensive and costly form of coverage carried by licensed taxi drivers. While insurance rules vary by jurisdiction, Ontario and Alberta have recently extended a hybrid form of personal-commercial coverage to Uber drivers with similar plans elsewhere (Jones, 2016; The Economist, 2018).

Related, Captain Frank noted that unlicensed charter operators “might stay here [at this marina] for a month and then they might go east or west for another month…moving around.” Pirates are seen as profiting off of the backs of legitimate charter operators since they are presumed not to be investing in the communities out of which they run their operations. “One day they might use the public ramp at Paradise Marina, another day use the public ramp in Gotham City, and one out of ten times they might pay $20 to use a private marina’s ramp for the day” (FM Mike). Captain Mark also noted that the dock rates for commercial operators and regular boats differed drastically: “Over the years my dock has ranged from $2,000-3,000, versus those guys [pirates] which will pay a fraction of that because they’re private.” Depending on the size of the vessel, there may be additional safety regulations, such as requirements about personnel training in marine first aid, extinguishers and axes in the case of a fire, life jackets, which are different from personal flotation devices (PFDs) because they keep your face out of the water by turning you on your back in the case of a loss of consciousness or inflate upon impact with water. “What happens with a PFD is, if you’re unconscious it will not right you, you can still drown. If you get knocked unconscious, your face goes in the water and you can drown. With an actual life jacket, what it does is it flips you over on your back and keeps your head above water. And the vest-type have a collar on it, so it keeps your head out of the water. And it has to have Solas tape on it” (Captain Jerry).

Other respondents raised concerns about following the procedures regarding on-board alcohol consumption, as well as life rafts in the case of an emergency. “You need your smart serve in order to have alcohol on board. And passengers can’t consume it unless you are moored to a dock or anchored” (Captain Mark).
In a similar vein, Captain Mark notes, “If you have more than one boat and you run two, you’re considered a fleet, and then you got to pay Transport Canada navigation costs for the blue markers, radio airwaves usage for the commercial channels.” Some respondents also raised concerns about changing requirements from Transport Canada. Captain John quipped, “Every year they change shit. Even my fucking engineering permit. One year they said I needed it, I got it and next year they said, ‘Oh, you don’t need it.’ They made everybody buy new life jackets with whistles on them. Then the year after they said, ‘Oh, you don’t need the whistles.’” While in a few cases respondents indicated that these safety measures were seen as burdensome, many were most concerned with the health and safety risks not following these rules posed for consumers, as well as the additional costs of licensing and registration required of them.

Study participants went to great lengths to stress the significance of marine licensing requirements, such as Small Vessel Operator Proficiency (SVOP) or master’s licences. Before one is eligible to become a registered boat captain, it is necessary to have two years’ experience as a FM. “It’s based on the honour system, someone who is a captain vouching for you (FM Chuck). Captain Frank added, “Before I became a captain, I had to get Captain Larry [his former employer] to sign a paper from Transport Canada declaring that I worked for him for so many hours on the water.” Captain Jerry outlined the steps that are needed before one can be accredited as a charter boat master: “First you need your boating card, then you get your SVOP or captain’s papers, MED [Marine Emergency Duties] and radio certificate.” And marine first aid was understood as going beyond traditional first aid certification in the sense that “I can’t just tape it up and call an ambulance. I’m an hour offshore. We don’t have help, we gotta deal with it in the middle of nowhere” (FM Mike). FM Adam also noted that one person on the boat has to have an MED, “You need two or more every 12 persons, I think…and they need to be 13 metres from the helm at all times.”

Respondents also stressed the importance of engineering certification in the event of mechanical breakdown, or the ability to find their way back to shore in the event of a power loss or equipment failure, as licensed charter operators are trained to do using an old-fashioned compass and map. “You learn about climatology, weather patterns, charting and navigation… Say your instruments go down, you have to be able to take a chart out and figure out where you are.
on the lake and for an emergency” (Captain John). One captain also expressed that in the event of a power failure, charter boat captains are expected to be able to navigate back to the marina “knowing the stars. Because if your vessel breaks down and there’s no help around and it suddenly gets dark, and you have a problem… It’s not like when your car breaks down and you can get out and walk or call another cab” (Captain Mark). Then there’s the rules of the road, added FM Bill, “like overtaking vessels, who has the right-of-way when two boats are approaching each other, what side of the channel markers you’re supposed to be on going up and down the river.”

Depending on the length and weight of the vessel, some charter boat captains may also be required to have their master’s limited licence (an advanced certificate of competency). “I had to take a Transport Canada inspector out on my boat to get certified and show them that I can handle and maneuver my vessel, know where all the fuel shut offs are, and have an emergency procedure in place” (Captain Frank). “And you have to apply when you get your licence for Transport Canada, and you have to tell them how many people will be on board the boat, and what kind of cruise you’re gonna take. If it’s inter-coastal, if it’s two miles offshore, if it’s 25 miles offshore, there’s classes of cruises that you take, and you have to apply for that, and then they go over your information, tell you yes or no” (Captain Jerry).

Respondents also noted that since Transport Canada mandates that charter vessels have emergency procedures in place in the event of an emergency, there is no way to know if illegal charter boat operators are prepared in the same manner:

>You have to have emergency protocol procedures in place, that if there is something wrong, you have to have other boats stand-by that you can call in an emergency to come out and help you. In case something happens to me, or anybody, a [first] mate, the customers can grab this book and be like, “Okay this is the situation. This is what needs to get done,” type of thing. Like last year, when she had the seizure, Captain Monica, she was on the floor shaking, her mate brought the boat back. Well, he had a little help. Because I was on the phone with him the whole time. As well as I had the ambulance come down right away. (Captain John)
Charter boat operators estimated that there were anywhere from a handful to close to a dozen illegal charter vessels currently operating out of the marina they were stationed at. And, in their view, this comes with a great risk not only to their livelihoods but to consumer safety, including the loss of important information about the health of the fishery. Respondents noted that accidents like those involving True North II and Northern Spirit are stark reminders of what can go wrong on the Great Lakes. In June 2000, the glass-bottomed True North II sank in Georgian Bay while ferrying visiting Grade 7 students. Eighteen individuals were rescued, although two children died as a result of the accident (Appleby and McLaughlin, 2000). And in June 2015, a passenger fell off the Northern Spirit, operated by Mariposa Cruises. His body wasn’t recovered until eighteen days later. A subsequent investigation by the Transportation Safety Board of Canada said the crew’s response was ad hoc and disorganized (National Post, 2016). Speaking on the aftermath of these two tragedies, Captain Jerry noted, “When the guy fell off the Mariposa [Northern Spirit] there was a big crackdown on us by Transport Canada.” Many shared similar insights, observing, “When there’s a big accident and somebody dies, it’s going to be disastrous for the entire industry. People will be less likely to go for a charter; some are already too scared” (FM Chuck). These sentiments were shared by Captain Frank, who bluntly remarked, “Nothing is going to get done [to resolve this problem of pirates] until another Edmund Fitzgerald happens,” referring to the infamous US-based Great Lakes freighter that sank in Lake Superior with all 29 crew members on board in 1976.

Before that [Edmund Fitzgerald accident], no life rafts were required on board because they figured, “Ah, a Great Lake, what the fuck is a lake. It’s never going to blow up enough to sink one of those 150-foot lakers [freighter boats].” Superior tossed her around in November and look what happened, they didn’t think a lake could take her [the boat] down. But our lakes aren’t like the oceans where you have 20-foot swells 300 feet apart so you could ride them out... Here that tanker’s gonna take 10 rogue waves at once. (Captain Frank)
In addition to being a risk to consumer safety, which threatened the viability of their own operations should a significant accident occur, the absence of required safety equipment on board was also understood as a financial requirement that illegal operators benefited from by not having to make. “Another thing, they [pirates] don’t have to pay for a life raft. That costs me $2,000 every year, depending on the age of the raft. If it’s twenty years or older you gotta do it every year, if it’s under you gotta do it every two years” (Captain John). While new life rafts can cost up to $10,000 (Captain Frank), life rafts are not required on all charter boats. “You don’t have to have a life raft, you can have other stuff. It depends... You can have survival [floatation] suits for everybody... or they have eight-man life rafts in like a duffel bag... It expands automatically. It’s like those inflatable life vests” (Captain Mark). FM Bill adds, “Ours also has a flare kit and emergency rations.” As all study respondents noted, the potential absence of requisite safety equipment on board presents significant risks for consumer safety in the absence of regulatory bodies ensuring compliance.

With reference to the impact of informal charter boat operations on his own business, Captain Frank asked rhetorically, “You’re taking people [passengers] that don’t know anything about boats. What happens if something happens to you [the illegal charter operator] because you’re by yourself? They don’t know how to fucking drive it.” Respondents also pointed out that “these guys [pirates] come and charge $80-100 a person, undercut everybody by 20-30 per cent. Drives the cost down, and they don’t have to pay anybody, or any of the other shit” (FM Adam). FM Mike commented: “I saw one pirate’s website. He specifically says right there that he only has the fucking mate certificate. He says specifically, ‘MED A3 certified Transport Canada.’ Doesn’t allow you to be a captain. You’re a mate, can’t drive. You have to have your captain’s licence if you’re going take people out commercially.”

Finally, respondents spoke of their extensive knowledge of the Great Lakes, often honed over decades, informing the MNRF of changes in marine health, communicable fish deceases and invasive species that feed on commercially important fish. “You want to ensure a healthy fishery, right? You don’t want these fucking pirates coming in here and taking out all kinds of fish. If you’re not checking if people have fishing licences, because you don’t even have your own fuckin licences, then they’re not contributing money for fish
to be restocked” (Captain Jerry). FM Bill added, “The MNRF asks us what kinds of fish we caught, at what depths, their length… This information goes towards helping understand what is happening to the fishery. They probably don’t get that shit from pirates… Who knows if they’re poaching, or if they’re keeping undersized Atlantics [salmon]… They [MNRF] even take samples of fish, check if they have nose tags in them, transmitters.”

Concerns about unlicensed operators undermining the sustainability and conservation of Lake Ontario’s fishery were widespread. Take sea lampreys, for instance, which use their mouths to attach themselves to fish and drain their blood. “One sea lamprey can consume more than 40 pounds of fish over the course of its life,” noted Captain Mark, with dire consequences across the food web as a whole. Some also pointed to invasive Asian carp, “which will be the end of our industry” (FM Chuck) since they voraciously consume prey fish, zebra and quagga mussels “that eat all the zooplankton bait fish rely on” (Captain Frank). Charter fishing operators indicated a great deal of concern for the long-term viability of the Lake Ontario fishery, not only as a matter of sustaining their livelihoods, but of ensuring the continued health of marine life as a matter of environmental conservation.

Conclusion and Directions for Future Research

This paper has explored how Lake Ontario charter fishing operators interpret and understand the ill effects of informal charter fishing activity. Respondents noted that the informal charter fishing market threatens the financial viability of their operations and consumer safety, as well as jeopardizes fisheries protection. There was a pronounced sentiment among study participants that undocumented charter fishing activity was being facilitated by increasingly available on-demand services procured though web- and application-enabled technologies, although this was not possible to determine in this paper. Respondents noted that the charter fishing industry is being undermined in ways similar to that of the taxi industry by Uber.

Since this article is informed by the perspectives of those impacted by undocumented charter fishing operations, future research will need to explore the perspectives of those currently operating in the informal economy to gain clarity about their own motives and understanding. One explanation may be that presumed
pirates are responding in individualized ways to a labour market increasingly characterized by insecure and precarious forms of work. However, given the significant financial investments required in procuring a boat, trailer, fishing gear and other required tools of the trade, which could easily run into the tens, even hundreds, of thousands of dollars, it is unlikely that such activity shares similarities with the economically disadvantaged populations that have been a characteristic of Uber and many other on-demand services.

A somewhat surprising finding, or lack thereof, was the absence of greater confrontations between charter boat operators and “pirates”. The general sentiment among respondents was that “there is nothing we could do” (Captain Jerry), although one FM (Bill) spoke of “accidentally on purpose” driving over a suspected pirate’s fishing lines while out on the water. Others noted they responded in more passive aggressive ways, such as asking suspected illegal operators where they received their captain’s license, or “telling their customers to go the wrong way” (Captain Mark) when asking for directions at the marina. It was expected that, like the widely publicized direct confrontations between Uber and taxi drivers, conflicts would abound. However, the fact that most charter fishing companies are independently owned and operated and that there is no governing body or lobbying association, helps to explain why active forms of resistance took individualized as opposed to collective means. Future research will need to explore forms of resistance more fully, including charter operators’ own beliefs on why collective forms of resistance have been slow to grow.

In general, respondents were undecided on the most appropriate means of combatting alleged informal charter boat services. One suggested that local marine police services crack down on vessels that do not follow the “rules of the waterway” (FM Alex), although it is unclear what wider impact this would have on any illegal operations besides potentially making pirates better at avoiding identification. Captain Mike suggested Transport Canada and the OMNRF step up its proactive enforcement, although in the same breath noted both are “underfunded.” Given the mobility and ability of charter vessels to hide in plain sight, it is necessary for future research to explore this question more fully with a wider range of charter fishing operators.

Finally, most respondents in this study noted that charter fishing services were their primary means of employment and
income for at least half the year. Follow-up studies will need to explore whether this is a common or exceptional occurrence across the charter fishing industry, especially in the context of one report which found that a majority of charter fishing operations did so as a means of secondary income (Lichtkoppler et al., 2011). Although other studies exploring how online and platform applications are restructuring local fishing charters (and the marine taxi industry more generally) have been slow to emerge, this paper is written in the spirit of spurring that conversation forward. Are there ways of incorporating the best elements of gig work (e.g., flexible hours, diverse work, autonomy) without the insecurity and low wages? How might effective reforms to employment standards legislation mitigate employee misclassification, evasion and avoidance of basic protections? Are there alternative online platforms that might serve as a model? And what might collective forms of resistance look like in online labour platforms? These questions and others are central as workers continue to look for ways to challenge exploitation in the gig economy on and off the water.

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Aperçus d’emploi précaire et de lutte sociale : employées en services de soutien dans le secteur des technologies de l’information en Inde

Indranil Chakraborty

Résumé

Cet article examine les conditions de travail et l’expérience de la vie urbaine des employées en services de soutien. Elles sont concierges, gardes de sécurité ou livreuses de restauration rapide professionnelles dans les parcs technologiques de développement d’applications logicielles en Inde. La majorité de ces travailleuses font partie de familles d’ouvriers agricoles ou de petites familles propriétaires de maigres terres, lesquelles ont migré vers les cités indiennes durant les bouleversements économiques de la mondialisation qui ont suivi les années 1980. L’article s’attarde particulièrement à leurs luttes économiques et sociales en milieu de travail face à l’instabilité d’emploi et aux demandes croissantes de leur rôle domestique, inhérentes aux conditions d’emploi précaires. Les sociétés technologiques internationales confient en sous-traitance la gestion de leurs installations à des agences locales ou multinationales, qui embauchent des employés précaires ou informels comme personnel de soutien. S’appuyant sur des entrevues approfondies auprès de 37 travailleuses dans sept villes de l’Inde, l’article souligne les normes changeantes du rôle des femmes, passant de l’identité domestique dans un espace privé à celle de travailleuse dans un lieu public. Les entrevues répertorient leur expérience quotidienne de lutte, de négociation, de contestation, d’accommodement et de plainte sur leur situation dans le contexte des relations sociales changeantes qui façonnent leur vie de tous les jours comme travailleuses et membres d’une famille.
Narratives of Precarious Work and Social Struggle: Women Support Service Workers in India’s Information Technology Sector

Indranil Chakraborty

Abstract
The article examines the working conditions and urban life experiences of women support service workers. They are housekeepers, security guards and fast food servers in the Indian technology parks that develop software applications. The majority of these women workers are from families of landless agricultural labourers or small farming families with marginal landholdings, who had migrated to the Indian cities during the economic churning of globalization after 1980. In particular, the article focuses on their workplace economic and social struggles as they encounter job instability and the growing demands on their domestic roles, which are incommensurate with precarious employment conditions. Global technology companies sub-contract the work of managing the facilities to local or multinational agencies, who hire support service staff as casual and informal workers. Based on in-depth interviews with 37 women workers across seven Indian cities, the article highlights the changing gender norms following the transition from a domestic self in a private space to a woman worker in a public place. The interviews record their experience of everyday struggle, negotiation, contestation, accommodation and complaint about the state of being in changing social relations that shape their lives as women workers and members of a family.

Introduction
This article explores the life, working conditions and urban experiences of outsourced support-service workers in India’s $181 billion information technology (IT) sector. They are housekeepers, security guards and fast food servers who work in and around the technology parks that develop software applications for a world market. The paper is drawn from a larger study carried out across several Indian cities that have a large concentration of software service companies. It included a quantitative component, but this
paper explores the in-depth qualitative interviews with 37 women workers which recorded their voices, including their discordant notes of hope, frustration, struggle and aspiration, based on their experience of everyday negotiation, contestation, accommodation and complaint about the changing social relations that shape their lives as outsourced support staff in the Indian IT industry.

The women we interviewed are typical of this workforce: young and middle-aged, between the ages of 18 to 60. Their job roles are housekeeping — cleaners, janitors, servers and cooks at food courts — and security — monitoring the movements of visitors and guarding IT companies in the technology park. Though support service jobs also include car and bus drivers ferrying software workers between homes and offices, I could not find any women drivers to interview. Like their male colleagues, the majority of women workers come from families of landless agricultural labourers or small farming families with marginal landholdings; many of these workers migrated from rural or semi-urban areas at the beginning of globalization in the 1980s. Some were initiated into city life when their parents arrived in urban centres to search for jobs and ended up becoming servants in middle-class homes, outcast labourers in brick kilns, garbage disposal and construction companies or street vendors. Many women workers arrived in urban areas more recently, when their husbands decided to leave their villages and towns and live in slums not far from the glass and steel wonderland of an IT park.

The flourishing IT industry in the metropolis offers workers an escape from a life defined by poverty and drudgery. This is a drastic change from their part-time or seasonal employment on a farm or in a local factory, where, besides long hours and unsafe working conditions (especially for women), workers depend on the employer’s mercy to receive even the legally mandated minimum wage. The new economic situation was a ray of hope for both men and women workers, who sensed a world of improved opportunities in the IT and related industries compared to casual employment in other urban jobs, like those in construction and brick kilns, as servants in middle-class homes or street vendors, in terms of labouring conditions and dignity of work. Jan Breman’s fieldwork on the working conditions of the labouring underclass, the landless migrants from the villages working in the cities of the state of Gujrat as construction labourers, reminds us of “the
precarity of the classes in the lower circuits of economy in society” (Breman, 2016: 3). Breman’s findings point to the state of misery that exists in the informal sector of the Indian economy even after nearly three decades of economic reforms. “Our informants found, on average, employment for fifteen to twenty days per month... the workers are prone to accidents because of lack of protection for the head, face, arms, back, legs and feet which result in infectious wounds as well as fractures and painful joints which take time to heal” (Breman, 2016: 182). Breman reports that employers do not take any responsibility and there are no health benefits for the ailing workers. For the women it is a double burden, “running the household and taking care of the children as well as working along with the men on the building site” (Breman, 2016: 183). However, my research suggests that, compared to “footloose jobs” in the informal sectors, like construction and domestic labour in the cities, support service jobs in the IT sector deliver more regularized and secure employment. The opening up of the Indian economy in the last three decades has led to two important developments. First, a series of economic reforms resulted in the growth of employment in the organized sectors, particularly in new areas like IT and financial services; however, the economic liberalization that drove such job growth added another layer of employment in the organized sector outside formal employment. The formalized positions are joined by regular-informal and casual employment, wherein there is minimal government intervention and the absence of collective bargaining. In recent times, job creation in the organized sector is mostly of this type of flexible employment rather than secure, permanent jobs with benefits. According to a report by the International Labour Organization (ILO), about 80.9 per cent of India’s employed population (80.7 per cent men and 81.6 per cent women) are in the informal economy (ILO, 2018:129).

In his study titled “Globalization, Growth and Employment in India,” Ajit K. Ghose finds that, between 2000 and 2010, “the growth of informal employment in the organized sector was larger than that of formal employment, so the share of formal employment in total employment declined very substantially” (Ghosh, 2016: 146). Recent years have seen an acceleration of this trend,

*indicating a faster growth of employment in the informal sector. Thus, the country is currently in a state of*
Informalisation of the Formal Sector,’ where the entire increase in the employment in the organized sector over this period has been informal in nature. (Singh, 2014: 5)

This is especially true of the IT sector, which contributed around 7.7 per cent of India’s GDP in 2017–18 (IBEF, 2019). The Indian IT industry boom is a direct result of economic liberalization and globalization, which led to increasing cross-border trade, the rise of global supply chains and acceleration of production-consumption commodity cycles. All of these have made the Indian market integrated with the rest of the world; the country has become a favourable destination for offshore technology services; and more flexible labour laws have permitted global and local IT companies to outsource some of the basic facility management services to contractors and companies.

Methodology
The qualitative interviews included in this case study of the women support service workers aimed to elicit responses in a free-flowing discussion that would reflect the workers’ lives and experiences in a modern, technology-infused environment. During interviews, I tried to make connections between the relationship of the worker’s lived experiences and their material world, including their labour conditions, union participation, gender issues and household management, as well as the narratives of their hopes and aspirations, their future life and the ways of improving their children’s lives. These conversations took place in their workplaces, near their office premises and homes and at the local markets. Since I attempted to keep the conversations as informal as possible, on occasion we entered into relatively private and personal topics. Though it was awkward and embarrassing at times, especially when the women workers shared difficult stories of how their mothers-in-law expect grandsons, which led to subsequent discussions about their reproductive rights, we gained valuable gender insights from these types of discussions. The aim was to elicit responses in a free-flowing discussion that would reflect the women workers’ lives and experiences in a modern, technology-infused environment.

The mean age of the women interviewed was 30.9. In terms of marital status, 26 were married, seven were single, two were divorced or separated, and two were widowed. Twelve women were
from upper caste groups. Twenty-eight had at least one child. The mean weekly working hours for these women workers was 53.6, earning mean and median monthly incomes of CAD $152 (CAD 1= 52 rupees) and CAD $140 respectively.

**Migration and Change**

The women interviewed feel their lives are caught up in the maelstrom of change. As one female security guard, Aparna (age 26: the women’s names have been changed as per ethics requirements in order to protect the anonymity of respondents) says,

> Everything is changing...there's been a drastic change. I feel that in the next two years, things will change even more. I don’t know what people after us will do, the way of life for them.

An overwhelming majority — over 95 per cent of the women worker interviewees — are first-generation industrial workers and, for many (almost 60 per cent), coming to the metropolis was facilitated by their job at an IT firm. The financial daily *Business-Standard* reports that, in the last two decades, besides the construction and textile sectors, the IT industry has been the largest contributor to urban job growth, which has led to the massive migration from rural areas (Roy, 2017). These workers were previously living in their traditional family settings in rural villages or semi-urban settings, surrounded by poverty, informal labour and non-economic obligations. New communication technologies promised jobs with monthly pay, which would lead to a lifestyle that had only been a distant dream for most labourers; however, it would be simplistic to argue that these workers were merely part of a traditional social system infused with feudal values before joining the IT sector. Rather, Indian villages, rural hamlets and semi-urban localities have their share of post-colonial capitalist development with a fair bit of capital infusion in agriculture, transport and agro-based industries. Despite this, individual and family lives continued in much the same way as their parents and grandparents had lived. These workers had traditional moorings, but their lives were also connected to commodity production. There were occasional disruptions, such as the arrival of multinational cosmetic brands in local shops. For many, the “desi” (indigenous) face creams remained the preferred choice because they
were affordable and consumers were not “experienced” enough to replace “use value” with “brand value.” The scenario changed post-1990 with the launch of India’s new economic policy, liberalization and globalization, as new ITs brought economic transformations in the way that goods are financed, produced and marketed. The villages did not remain unaffected by this new development. Though the spread of capital is still unevenly distributed across the rural regions for historical and cultural reasons, there has been profound progress. As Dipankar Gupta argues,

There is a certain resistance in accepting the fact that the Indian village is undergoing major changes, not just economically, but culturally as well. The reluctance in coming to terms with this reality arises largely from the widely prevalent belief among intellectuals that the Indian village is timeless and unchanging and that the Indian villager likes nothing more than living in a rural setting. These notions need to be revised, not just for the sake of factual accuracy, but also because of the imperatives of the planning and developmental process. (Gupta, 2005: 751)

Changes can be measured by the fact that

more than 40 percent of the rural population is engaged in non-agricultural occupations today and the number is rising rapidly. A substantial part of this population consists of rural labourers who do not own land but do not find enough opportunity for agricultural work. (Chatterjee, 2008: 59)

Moving to a city is also an opportunity for workers to explore a different way of living, away from the suboptimal living standards that many faced in their villages of origin. Lakshmi comes from a nearby district in Hyderabad. She is the mother of two children, age 15 and 12. Her husband once worked as a mason in the village. Following a road accident that left him disabled, Lakshmi moved to Hyderabad in search of work to finance her children’s education. She now works as a housekeeper in HITEC City, earning around CAD$150 per month. Lakshmi argued that moving to Hyderabad,
one of the largest IT areas in southern India, was the best thing that ever happened to her:

*Hyderabad is a good place to live as I have a steady income and secured life. I like my work and nobody has anything to say about the kind of work I do. The people around me are good. They helped me gather money to get medication for my husband and I am really thankful to all my colleagues about that.*

On the other hand, she described village life as a sort of hell in which she could not find any employment. Lakshmi is from a pot-maker family, which, in terms of caste hierarchy, belongs to a scheduled caste. She recounted that it was difficult for her parents to raise four children, which is the reason she had to drop out of school and support the family. In her village, she worked as an embroiderer, although she never earned enough to provide what her family needed. Work in HITEC City has provided Lakshmi with a sense of freedom to choose a future that was simply impossible in her hometown. Nevertheless, when asked if she would like to go back to her village, she answered, “Maybe but if it ever happens it would be after my retirement.”

**Changing Gender Norms**

I met Sera (age 23) while she was checking a visitor’s briefcase at her workplace in Bangalore’s White Field area, one of the software hubs in India’s Silicon Valley. Unlike many young Indian women who are brought up traditionally, Sera does not shy away from speaking with unfamiliar people. Perhaps her job managing visitors’ movements at the main entrance taught her to be more sociable with strangers, so she did not seem surprised when the research assistant caught her in the middle of her duties. When the purpose of the conversation was relayed to her, she was reluctant to talk and initially declined, but then promised to meet us outside the technology park after work without committing to an interview. The next day, we waited for her outside the gate, hoping that she would have some time for us. To our surprise, Sera approached us and whispered that she wanted to share several things about her family and work. Even before we could find a place to sit and chat, she began pouring out her story. She complained about her
workplace culture and wage rate as well as shared how offended she
is by the misogynist jokes of her male employers in front of female
guards. She asserted that, as a woman, she does not feel sufficiently
respected in society. When asked why she did not initially want to
speak, Sera said,

Maybe this is the first time in my life I am complaining
about anything. My parents always tell me to be a good
woman, never complain. Nevertheless, everything has
a limit. I need to have a decent wage and a job free of
harassment. The supervisors speak extremely rudely with
the female staff. Our contractors are so worker unfriendly
— that they do not even pay for our uniform allowance so
we have to buy our own uniform.

As a woman whose upbringing in a traditional Tamil society
was informed by the values of a caste-based patriarchal society,
Sera’s demands for respect and better working conditions meant
ignoring the centuries-old community-sanctioned definition of a
“good woman” — always compliant and submissive to societal
norms. Sera admitted that she didn’t have the courage to speak to her
superior about her grievances. She had only confided her discontent
to people with whom she feels she can connect. One reason for this
is apprehension about losing her job, which she needs to run her
family and provide financial support to her parents as, “This city
is expensive and only husband’s salary is not enough.” Her spouse
works as a front-office executive at a telecommunications service
provider.

Like Sera, some of the other female interviewees suffer
from workplace harassment and discrimination. We asked Jaya (age
26), a housekeeper, “As a young woman, do you feel secure at your
workplace?” This is Jaya’s second job in the last three years at the
largest software park in Pune. Jaya answered, “It’s not possible to
feel secure, is it? If you are working outside, then you can’t feel
secure.” After a pause, she continued, “There are men here, the way
they look at you…” then her voice trailed off as if struggling to find a
way to describe her situation. She attempted to explain: “If we try to
take any initiative, then [men] tell us that it is not proper to do it, and
you should do it in a certain manner.” When asked what she would
do if she had the choice between staying back home as a housewife
or working outside, she raised her voice to drive home her point: “If my husband would’ve been earning enough then I wouldn’t even have thought about working. But, he doesn’t, so it’s not feasible to stay at home.” The job’s salary motivates Jaya to work. Once at work, women like her find that discrimination and harassment make the outside world an alien, unsafe space where their labour and gender do not garner respect and security.

Hema (age 27), a security guard from Pune, intimated the extent of the discomfort women experience daily in these work environments:

This problem is common everywhere, no matter what company you go to. I cannot begin to tell you how hard it is every day, to work and at the same time to keep yourself safe from these people. And I have to face it every day. Because, if you don’t listen to them, you cannot come to work from the next day on, so we have to face these things, for our children.

Most of the time, the affected women either ignore abusive remarks or, if these comments go beyond their threshold of patience, they share their pent-up anger with a loved one or someone they trust to keep the information private. These women cannot speak about these issues in a public forum for fear of their employer’s reprisal, not to mention the possibility of being identified as “too sensitive” by male colleagues and supervisors. These fears prevent women workers from seeking recourse by making a formal or informal complaint about their treatment in the workplace. In the software companies where these women work, there are sexual harassment policies which call for greater gender equality, but these policies apply to only their employees, not to contract workers. As such, support-service workers cannot take part in the internal complaints committee (ICC). Twenty per cent of women interviewees raised the issue of insecurity and disrespectful behaviour in the workplace. The majority of the remainder either did not share if they faced workplace harassment or said that they had not experienced it at all. However, reports by the National Commission of Women (NCW), National Crime Records Bureau (NCRB) and Indian Bar Association suggest that there has been a noticeable rise in sexual harassment cases in the workplace: “70% women said they did not report sexual
harassment by superiors because they feared the repercussions, according to a survey conducted by the Indian Bar Association in 2017 of 6,047 respondents” (Chachra, 2017). There is a high rate of non-compliance in the private sector, as is evident in the 2015 study, *Reining in Sexual Harassment at the Workplace*, by Ernst and Young, which states that two in five IT companies were oblivious to the need to set up ICCs (Chachra, 2017). This is not an anomaly between the representativeness of the sample and the situation on the ground. It is plausible that some women did not face harassment or they may not be conscious of what constitutes non-physical harassment. Even if they are aware of harassment definitions and boundaries, they may not be ready to discuss their experiences with an outsider. The objective situation is that any conversation about sexual harassment in the workplace in India is still taboo. If this is so for middle-class working women, it is even more so for poor female labourers.

**Unionization**

Labour unions could be a useful avenue to address unfair labour practices like violation of wage and benefit contracts. Since the unionization rate in my sample is less than 5 per cent and these unions are mostly concentrated in just two cities — Calcutta and Bangalore — the scope of addressing complaints and discrimination are negligible. The low unionization rate is not limited to support service jobs; rather, this is across all professional groups in the IT industry, as reported by various studies in the last few decades (see Bisht, 2010; Sandhu, 2006).

Hema is one of the few women workers who would like to form a union to address various workplace issues; however, there are no unions in Pune’s IT service delivery centres. According to Hema, the problem of forming a union is the nature of the job profile, which is contractual, casual and informal. Hema said, “We didn’t have any unions because we didn’t work for the company itself. We were contracted employees. It is very difficult to form a union among contract employees, who are easily dispensable.”

The fear of a manager’s punishment, uncertainty about consequences and anxiety around stigmatization by neighbours, family members and colleagues deter these women from talking about their work issues candidly. While talking to these employees we came across several incidents where companies deployed various
types of coercive and consensual mechanisms against unionization efforts. There are also structural issues, such as the contractual and outsourcing nature of support-service jobs, which seldom provides opportunities for the people to form a union. Workers are expendable at any time, so creating an organization with a long-term membership is a formidable challenge. Although many workers are aware that a union would help them to address some of their workplace issues, organizational challenges are quite difficult. Major roadblocks include employers’ repressive policies, including termination of employment or threat of physical violence, scattered and dispersed workplaces and bureaucratic political leadership in existing unions.

Most of the time, non-unionized workers have no way to file grievances about poor labour conditions. Compared with many developing nations, Indian labour laws have some well-directed rules and regulations which could benefit these workers, especially in the areas of minimum-wages, contract conditions, benefits and pensions, etc. Nevertheless, implementing such laws is difficult as the inspectors are hand-in-glove with the employers. Sometimes it depends on the manager’s relationship with the worker to solve peripheral work-related issues, such as scheduling or sick leave. Workers lack the bargaining power to address more structural issues, like the violation of labour statutes. In situations like these, some workers have had to invent innovative practices.

Among the few exceptions is Radha (age 32), a housekeeper at Google’s software development centre in Hyderabad. She is pro-union, although she could not find any opportunity to join one. In Hyderabad’s HITEC City, there were a few attempts to rally for signing union cards, but without much success. The workers do not want to be rude to their employers as they are at least “providing food in our mouth,” Radha said. One can view this worker-employer relation as a variant of the client-patron relationship, which is not unusual, but rather a carryover from the feudal past. Many workers in Hyderabad have roots in the village economy, where, for a midday meal and a paltry daily wage, they would work for the rich landed gentry they venerate as “mai-baap” (mother-father). Radha ended the interview by saying that, although she understands the need for a union, her employer never crossed the line of decency:

*I never thought of being part of a union because my employment is not permanent and housekeeping staff
does not have a union. But they help each other. A few years ago when my husband met with an accident the housekeeping unit supported me economically and emotionally, for which I would always be thankful to them. I can never forget those disastrous moments in my life. It is important to have a union because it’s always good to look to someone when you are in need and you can rely on them.

When we asked Radha whether it is possible to fight against employer’s injustice and form a collective body, she answered:

_It is possible to fight against employer’s injustice. The housekeeping staff knows every other worker in the company and if something requires us to form a collective body, we can. But the employers get along with us; they never treated us badly._

After a pause, she added, “Except that everything is measured in money.” Radha favours a union not because she thinks that it is one of the workers’ inalienable rights to safeguard their interests (or perhaps she does, but this is not clear from the interview), but because unions are collective, social bodies within which fellow workers help each other in difficult times. For her, the care and emotional attachment absent in a society where “everything is measured in money” becomes a rallying point to form a union. Fellowship, as experienced in the traditional system, returns in a different form with different content within the modern urban centre’s institutional setup.

**Breadwinners vs. Homemakers**

Aside from union bashing and the perils of gender-based discrimination, the IT industry boom has created new job opportunities for many poor Indian women whose life accomplishments had previously been measured only by their commitment to household chores. In rural India, individuals are often “part of a large household comprising also their parents and married or unmarried siblings” (Breman, 2016: 172). Young (married or unmarried) women arrive in the cities fresh out of their cocooned joint-family existence only to realize that many of their values and beliefs do not fit with urban
living conditions. They grew up with the familiar notion that the home is a private, female space while the world outside is the man’s domain. In short, men will be breadwinners and women will be homemakers.

This arrangement often does not work in the new urban situation as the financial strains of maintaining a family often force women to work as security guards, caretakers or fast-food servers in the technology sector. The double burden of work for these women, which includes taking care of the family as well as earning money to cover family expenses, often challenges their received notion of womanhood — that is, subservience to their financial provider, the husband. This is reflected in their conversations on family life.

During the in-depth interview phase, we asked whether married male workers share in household chores. Almost all male partners stated that they do not participate in matters related to the shared domestic space. Few (less than 5 per cent) said they take care of the children when their wife is busy cooking or washing clothes. The general response of the married women is that sharing the household work would be ideal in a situation where both the husband and the wife are working, but the traditional patriarchal culture does not sanction this practice. Cultural and religious notions understand the husband as guardian of the family, leaving it to a man’s discretion whether he would like to participate in household chores. Women, on the other hand, do not have any option since housework is clearly gendered. Latamani (age 46) is originally from Hyderabad and now works in housekeeping. When asked about her husband’s role at home, she told us, “I got married to my own brother in-law who always backed me and [he] takes care of me. It would be good if he helps me in cooking or washing clothes. Not everything you get in life.”

Women’s social role is primarily to be a homemaker and, if men share household work, then this is reflective of his goodness. This is the cultural norm that our respondents inherited from their parents and communities. The idea that the family sphere is a woman’s enclave while the public sphere belongs to men is one that the female interviewees learned very early in life. This idea of gendered training has been naturalized to the extent that few women have or are allowed to have a different opinion. There were some murmurs of dissent, but it is limited to expressing hope that someday their husbands will take part in domestic work. But hope may not be
enough in the face of practical life situations. Most of the married women in the sample have children to care for in addition to household chores. After an 8- to 12-hour workday, fatigued and exhausted, they return home to their domestic duties. Several told us that this routine is unsustainable in the long run unless their husbands step up to assist them. The women’s longing to be a “good wife” is often challenged by the family’s financial contingencies, the obligatory condition for becoming the new proletariat of the IT industry. To be or not to be a submissive, compliant and domestic wife is never a choice; rather the possible course of action is to sublimate their traditional beliefs in accordance with the requirements of modern life and then wait for better days.

For example, Sera demands a fair share for her labour at work, but does not bother much about her unwaged services at home. In fact, she expressed that she does not expect her husband to come home from work and help her with the dishes because “in [her] family [she] did not see this happening; it is not in our culture.” Pam (age 29), a security guard from Assam, also asserted, “Sometimes I feel very tired. I hope he understands this. The work pressure is increasing every day and then coming back from the duty and start cooking immediately is not something I like.”

Whether it is Sera, Pam or Latamani, this interplay between their ontology, consciousness and social reality produces a qualitatively different subjectivity (i.e., a “knowing subject,”), a personhood that neither totally rejects nor accepts the past identity, but interprets the past based on new social and economic conditions that force them to make necessary adjustments with the ethos of family life to enter the public space. To remain confined within the four walls of their homes is to bury their heads in the sand, risking losing their lives to oblivion. To be part of the new social structure defined by flexible labour, communication technology and mobile capital presents the agonizing experience of feeling torn between past and present.

New Life, New Commodities

The new social dynamic has its charms too. Paid work provides money for sustenance and expenses such as high tuition fees for children studying in private schools, which would otherwise not be possible. The public space also offers workers the freedom to purchase a plethora of commodities, including cosmetics, fancy
clothing and feature-filled mobile phones. Previously, these poor women’s basic needs were food, water and shelter; now, they can afford to buy beyond what they need and into what they want. This desire may manifest as the luxury of having a mobile phone, television and an occasional fast-food meal.

For example, some women who had been using homemade sanitary napkins now buy safe and hygienic ones from the pharmacy for themselves and their daughters, even if it stretches their meagre income. As Savitri (age 42) shared, “We used to use cloths back in our time. But now we use sanitary pads. We are aware that cleanliness affects our health.” Having income, however little, does afford some possibility for advancement. The decision to leave behind the past is a result of the Indian state’s communication initiatives about bettering women’s health and advertisements from pharmaceutical companies focusing on how sanitary napkins help to ease hygiene and mobility problems during menstruation, especially for working women. This transition is also a result of conversations in public spaces with female colleagues and friends as well as health workers and doctors at Employees’ State Insurance (ESI) hospitals. Regular work, even precarious work, enables some financial freedom to exercise individual choice. These choices can be empowering to working women.

The meaning of well-being, as taught by their parents and school teachers, has become a contentious, unsettled issue. There is excitement to emerge from private family life and beyond the axis of primary relationships that was previously mapped out by the intersections and coordinates of family, spouse and the local village community. With such freedom and anticipation, there are also anxieties, dissatisfaction and anguish. Savitri is happy that her alcoholic husband left her, relieving her of the duty to feed him every day, but she is lonely in the city as close relatives cut off their relationship with her. She explained how city life has thus been hard on her:

It’s been eight years since my husband abandoned us. Since then, I have taken the responsibility of my family and have been taking care of my children … I have worked my way through all these years. I have worked for daily wages in farms, in building constructions, carrying bricks and soil, etc. As we grow old, we will have difficulties in doing such jobs as our body wears
and tears and does not support such jobs. During that period, I got to know about jobs in housekeeping from someone and shifted to this.

Here, I introduce two interviewees with unmarried participants. Aparna is single, but in a relationship. Abha, aged 24, who at the time of my first interview was going through a troubled marriage, had filed for separation when we returned for the second in-depth interview and now lived with her daughter. Her parents still resided in their ancestral village. The two women lived 2,000 kilometres apart — one in Calcutta and the other in New Delhi. Both worked as security guards at IT campuses. Aparna worked as an outsourced employee in a software development centre and Abha worked at a Domino’s Pizza restaurant in Nehru Place, New Delhi’s hardware retail hub. Both are from lower-middle-class families whose fathers were the only breadwinners and whose mothers raised the children. Both had to find jobs after finishing high school. With few marketable skills, they ended up as security guards, working 10 to 12 hours per day, six days per week, earning around CAD$175 per month with few workplace benefits. Both take pride in their self-sufficient natures, fending for themselves and helping their families.

A few months before the second round of interviews, Abha separated from her abusive husband and now had to look after her daughter and her extended family with insufficient income. Her parents did not support her as she had married the man against their wishes in the first place. Abha does not want to be a stay-at-home housewife like her mother, but her status as a divorced woman forced her to realize that she is the only one responsible for her daughter. This is her only choice as her family denies any responsibility. When Abha was asked what she would like her daughter to be, she replied:

*I would like her to study much more than I did. I could not do much in life. I hope she gets a good degree and then a good job. And after that she can marry whenever she wishes to. There will be no hurry to marry her off. Nowadays, nobody marries too early. Many women stay single until they are thirty. I believe I married too soon. I should not have gotten married at such a young age. I really wanted to study further. I still do. I couldn’t, only because I didn’t have the money to continue my education. I was in the commerce stream in school. I would have*
needed private tutoring in the evenings to be able to study in college. My parents said they wouldn’t be able to help with the money and that if I wanted to study further I’d have to get a job. That would mean that I would come back from work at around eight. It would be too late to go to tutoring sessions. Had I been a boy, maybe I could have studied more. They can be outside on the streets as long as they like. Even if they return home at 1 a.m. in the morning, nobody will harass them. But a woman has always got to worry about stuff like this. We feel scared after 8–9 p.m. and think it is best to return home quickly.

Faced with various social stigmas related to women who are divorced, Abha is not comfortable raising her daughter with the traditional values that her parents passed on to her. Her intention is for her daughter to do what she herself could not — be free to choose the way to live. Whether it is education, job or marriage, the decision will be her daughter’s. As a mother, Abha has little to say about these choices, beyond preparing her for a better future by providing emotional and financial assistance.

Abha is convinced that, if her daughter does not want to suffer like she did, she must go to university and then find a good job. This is one part of Abha: a modern woman demanding respect from society; however, there is another side to her. Later in the interview, we asked about her dreams. Without second thought, Abha answered, “I dream that I should not have to work and (can) stay with my daughter at home. I want to take care of her and spend my time with her. I want to be a good mother.”

For less-educated Indian women, the idea of a “good mother” is a symbolic representation of a woman who takes care of her family and rears her children without aspiring to work. Unfortunately, Abha cannot do this as she is committed to raising her daughter and readying her for a “good job” in the market. This means that she must earn money and invest in her daughter’s education. Given her skill set, this is only possible if she works as she does now — in a job that does not require higher education and training. Her narrative suggests that she would like to be a stay-at-home mother, but the reality of her situation does not permit this as economic necessity has forced her to join the workforce. Whereas her mother submitted to the tradition of motherhood, there is one
important difference — her mother’s status as a housewife was already decided by her family, husband and community. There was no option, even if it meant living in squalor. For Abha, the notion of motherhood was a preference, an ideological affiliation; however, it is not enough. Modern institutions and the economic structure have thrust upon her the desire to see her daughter achieve what she could not. Even if she wants to be a “better mother” by staying at home, she cannot as there is a conflict between her modern aspirations and traditional beliefs. Sometimes, this role conflict can be bridged and sometimes it cannot as the tension and restlessness of the present keep the contradiction alive.

When we met Aparna (also a security guard) we realized that she was very aware of her life amid the whirlpool of social changes. She talked about the uncertainty she faces in her job and the changing relationships with her family members. I met her at a tea stall in Calcutta’s software enclave on the eastern fringe of the city. She was taking a break during her usual 12-hour shift to talk to her union representative about some work issues. She was wearing pants, common with female security guards in the Indian corporate sector; however, Indian women prefer to wear the saree or the salwar kameez (a type of suit, worn especially by Asian women, with loose trousers and a long shirt) when going out for work. A decade ago, there were almost no female guards, but this began to change with the opening of security jobs for women in the service sectors, such as in retail and IT. I asked whether she feels comfortable in the uniform. In traditional non-urban circles, women wearing shirts and pants are considered ultra-modern and westernized. It was not easy for any Indian woman to ignore these markers.

Well, Sir, I don’t like this job but I have to do it. I’m searching for a better job. Well, my job isn’t bad per se... but I never wanted to work in a job where I have to wear a uniform... [By uniform she meant the shirt and pants she has to wear during her duty hours.] I wanted a nice job...my previous job in the cosmetics industry... I had to dress well... the whole situation was much more likable. Initially I found it difficult to adjust to my current job but now I’m used to it.

Here “dress well” does not mean dressed in expensive and
fashionable clothes. For Aparna, it signifies a sartorial style that would not violate her society’s perception of a modest woman. She wants to leave her current profession and find another where she has the option to abide by the dress code approved by her family and society. She has applied for a receptionist position as well as a sales job in a cosmetic company.

Three months later, I returned to Calcutta to conduct an in-depth interview with her. She had left her previous job and joined another security company, which serves a few multinational IT companies. She became neither a receptionist nor a sales person in cosmetics after all. I asked her why she had decided to leave her previous position and Aparna replied:

\[I\ left,\ not\ because\ of\ any\ specific\ reason.\ They\ came\ to\ interview\ me\ here.\ They\ had\ called\ me\ from\ the\ NIS\ [her\ company]\ office\ and\ said\ that\ I\ should\ visit\ because\ they\ have\ a\ good\ job\ offer.\ Much\ better\ than\ what\ I\ would\ have\ earned\ being\ a\ receptionist\ or\ a\ sales\ girl.\ After\ all\ I\ don’t\ have\ English\ fluency.\]\

The only consideration for her is to “keep herself safe”. It is a “good job offer” that made her continue as a security guard in the technology sector, and it is within commutable distance. However, in her culture, leaving home to work in the outside world with men as colleagues is still considered a “fall” from the accepted notion of women’s modesty and dignity. As such, a good job as a security guard is also the beginning of an everyday struggle against a socially imposed meaning of decency. When asked whether her family approved of her current job, Aparna replied, “There’s no one in my family to object as such. And those who are there, like my brother and sisters, have no objection to my working as long as I keep myself safe. They have faith in me and know that I won’t do anything untoward.”

Twice during the interview Aparna uttered the phrases “won’t do anything untoward” or “keeping myself safe”. Like an oath to the sacred, it is her solemn promise to society that she would never violate community norms and values.

\[By\ keeping\ myself\ safe,\ I\ don’t\ mean\ being\ introverted\ or\ isolated\ from\ others.\\ That\ is\ not\ what\ I\ mean.\ At\]
work, one has to work and laugh with the others, even if sometimes, the person doesn’t want to. You have to adjust at your workplace. But by keeping myself safe, I mean it’s all right to chat and laugh. If somebody asks to have tea together, on some days, it’s all right to agree.

It is all about keeping the family’s reputation intact, so that it is not lost and no one in the community can accuse her of being a loose woman.

Nobody should be able to say or think, at home or outside, that this girl is bad. It may be that I... how do I put it? I like interacting — talking, staying in the company of other people. I’m like that. So, even here, honestly speaking, I’ve been in this profession for four years, and in the job I not only love my fellow staff members, but also the brothers in the housekeeping staff.

Aparna participates in office socials but always maintain a safe distance from the revelry.

In any matter — special occasions, enjoying, I like taking part in these activities a lot. Maybe it’s not appropriate to be overindulged in these because there’s a saying if you allow something to get in over your head, bad things might happen.

Every day when Aparna returns from work, she has to convince her family, relatives and neighbours — perhaps none more important than herself — that she has kept herself “safe” from the allures of big-city life. And it does not stop there: she also has to convince her employer that she is a disciplined and obedient worker who is always ready to rise to the demands of her workplace: “At work, one has to work and laugh with the others, even if sometimes, the person doesn’t want to.” Like a slackwire artist tenuously walking a rope, Aparna tries to balance the traditional values and beliefs she inherited from her family and community with the demands of the urban industrial world to be more flexible in accommodating new ideas and ways of living. As in the lives of other women workers, Aparna’s everyday existence is divided between the home and the
outside world. There is a palpable conflict between the two centres of her life, and the tension cannot be resolved by simply discarding one in favour of the other.

The job in the IT sector enables her family to have more than a hand-to-mouth existence and it also sows the seeds of a new subjective feeling which was unknown to her mother or grandmother: the status of financial independence. The money allows her to realize that she can have her own choices and desires without seeking confirmation from her elders. The money can also help her make some crucial decisions, such as whether to marry or live with her boyfriend, as she does not have to depend on her spouse’s income. Aparna calls this a “good life”, which her mother never experienced. She does not want to be like her mother — taking care of her children while her husband looked after the family’s financial needs — because Aparna does not accept this division of labour within families. When asked how important financial independence is to her, she responded, “I have a habit of treating people. I feel like giving something to someone. Every month after getting my monthly salary, I’d treat people to whatever they wanted to eat. I am like that. Losing this would be a big deal.” We asked why Aparna thought financial independence was so necessary for women in the modern world when our mothers’ generations never needed it. She replied:

No, it wasn’t. Slowly, everything is changing. From all spheres. In case of salary, people nowadays earn much more than my father used to. As the times are changing, everything’s changing. I’ve heard that earlier, our mothers didn’t wear anything but saris. Nowadays, we’re wearing everything — jeans, tops, churidars [Bengali word for salwar kameez], everything. But in some simple middle-class families, other family members may say that you shouldn’t wear anything that looks bad. You can wear jeans, but act accordingly. There are many families like that even today. I’m not saying all are like that. So, in that sense, there’s been a drastic change. I feel that in the next two years, things will change even more. I don’t know what people after us will do. Our generation is seeing changes in husband-wife relationship. Already young people are saying there’s no need to marry. Live in
is better, because everybody wants to live independently now.

When asked what independent living means to her, she said:

Independent meaning, there’ll be nobody to scold and interfere in anything, like where we’re going. Like, parents ask where we’re going that late at night, or not to wear something, or not to eat something — this tendency is gradually decreasing.

But Aparna does not approve of this notion of absolute freedom or independence: “I would say a hundred times yes there should be a limit to freedom. I don’t know about other families but it’s still there in my family and I’m following that.”

On the issue of financial freedom, the “limit” does not work for Aparna. What happens if there is a “limit” on how Aparna spends her money, placed especially by her future in-laws? She said that it is her money and nobody, not even her in-laws, is permitted to ask questions about the way she chooses to spend what she has earned:

Suppose I work after I get married. I’ll keep a part of the income for myself, a part for my family and then comes the issue of giving to the in-laws. Some in-laws will hold a grudge and say that I give money to my parents. But, why should they complain? It is my money and I have every right to share it with my parents if there is a need. Does that mean I can’t contribute after I’m married? I can’t accept that.

Aparna is interrogating one of the core patriarchal values of the Indian joint-family system: once a woman is married, she must abide by the family norm that married women do not have any independent existence except as a member of her family by marriage. We asked her if men can give it, why can’t women?

Yes. Men like my boyfriend will give part of their income to their parents if required, so why can’t we, as women, give money? After all, they’re also my family just like my husband’s family... So, if the mother-in-law thinks that
even after working the girl can’t give her income to her family, she is wrong. She shouldn’t think that way.

As a working woman, Aparna wants to control the way she spends her hard-earned money. Social customs say that a married woman belongs only to her husband’s family and, thus, she has no say over her own labour and income, but she does not subscribe to this belief system. The financial independence gained from waged employment has provided women like Aparna with a degree of autonomy and freedom that is otherwise absent in their family, where women are not allowed to work outside the home. But the subjectivity of individual choice and desire has its limited application only in matters of money and work culture.

In some other areas of life, Aparna accepts what her parents taught her, especially in terms of her relationships with other communities, such as Muslims. The cosmopolitan workplace where people from different castes and religions work together creates a sense of collegiality, but this seldom overcomes the traditional barriers of identity and community. When asked how she views her colleagues from other religions, Aparna said:

*The place where I used to work, there were Christians and Muslims. You won’t believe it; one Muslim boy at the call centre once brought “semui” [sweet vermicelli] for me. He offered me his food to me with love and affection and would I throw it away just because he’s a Muslim? I don’t accept that. I eat from everyone’s hand.*

Nevertheless, when it comes to developing a personal relationship with a Muslim, Aparna would never entertain the idea: “No, because my mother used to speak to me frankly and she told me that it was all right to be friends with Muslims but not to fall in love with a Muslim. Punjabis and others are all right but Muslims, I don’t know why.” Although Aparna has worked with Muslim colleagues, she is not open to the idea of having a Muslim boyfriend. It is not that she is against modern values based on respect and individual choices but, as she says, “Not everything in our tradition we should reject.” This complex blend of tradition and modernity and the resulting seemingly incompatible feelings present in Aparna’s story were also observed among the majority of women workers we interviewed.
Conclusion

How do we understand these transitions? In what respect have the economic policies of globalization in the Indian economy resulted in new cultural developments? Is everything just about moving forward or do these women workers look backward, too? Do they try to engage in some kind of adjustment and negotiation between the past and the present? Above all, can the changes they experience be couched as a linear movement from traditional or “feudal” values to a more “progressive” ideology of capitalist modernity?

Like their male counterparts, most women workers (whether they were born in the cities or migrated later in life) decided that working in technology parks is a better option than working in a rural community, where women work as housemaids in rich farmers’ houses, or as landless agricultural workers, or without wages in the home. This could be one of the reasons why, unlike Breman’s interviewees, the majority of women in my study did not want to return to their villages. For most of the women in my study, the attractions of working in technology parks include fixed working schedules with some benefits, such as provident funds and the use of medical facilities in the state-run hospitals supported by government health programs. In addition to economic benefits, the independence, empowerment and pride in earning their own livelihood in a comparatively safe working environment at a technology campus have redefined these women workers’ subjectivity. Besides, for the female workforce, workplace unionization at some parks has provided a semblance of job security, which was missing in their previous jobs.

Based on their past economic situations and semi-skilled status, employment as an outsourced worker in the IT industry is one of the viable options for women workers. The new reality is profoundly different from all their previous job experiences. Their new relationships with the urban space, employers and their more well-off colleagues (i.e., software programmers, engineers and call-centre workers), which are mediated by digital automation, financialization and the workplace discipline, have whisked away familiar ties with their rural surroundings. In this situation, the interviewees like Aparna and Radha negotiate their nurtured values and life codes passed on to them by history, family and community in light of the everyday demands of the “informational, global and
networked” culture of fast-paced urban life. Often resolution leads to contradictory social outlooks. For example, Sera, who fights for the value of her labour but does not think this should apply to household work, or Aparna, who is not ready to marry a Muslim man.

These complex and varied sociological and psychological states reveal themselves in interviews through the narration of their everyday communicative experiences in dealing with their spouses, children, employers, colleagues or even the city bus conductors. It is tempting to interpret the socio-economic transition of these workers as moving into a new stage of capitalist modernity from a state of communitarian life. But this kind of theorization does not do justice to the historical context and empirical evidence about the formation of Indian modernity, namely the birth of commodity production in the colonial period, its intensification in post-independence India and its complex relationship with the country’s long tradition of religious, ethnic and cultural diversity. Following Sudipta Kaviraj (see Kaviraj, 2000), we can argue that the response of traditional structures to disruptions in productive forces unleashed by modernity is neither total acceptance nor rejection of modern values — “more complex trajectories of adaptation rather than confronting or acquiescing to modernity” (Kaviraj, 2000: 156).

The new working class, which migrated to the city from the rural outskirts, is absorbed into the global economic structure which breeds aspirations and promises for a better life especially for the future generation. The women workers experienced changes but the expectation is much more. The research shows that the women workers have variegated responses to social and cultural displacements. Between universality of the global economic order and the heterogeneity of cultural experience, there are disquieting moments to grapple with mundane issues of life, such as bread and employment. These are the moments when these workers face the ambiguities and paradoxes of India’s neoliberal economic reform program, which sought to transform India “from an inward-looking, command-and-control economy to an outward oriented, incentive-based, private sector-led economy” (Ahmed and Varshney, 2012: 71).

Manju (age 29), a housekeeper at one of India’s most venerated IT companies in Pune, reminds us that the salary is not good as the prices of everything are going up. She demands that the government or the company she works for should provide a
sustainable salary. Manju’s words are a poignant reminder of the complex nature of globalized modernity in developing countries such as India, which offers limited monetary and social emancipation to the women workers. Yet it puts forward new forms of socio-economic challenges that they have to struggle against to survive in fast-paced global cities, now bereft of community supports upon which low-paid workers in the past relied for their well-being and reproduction.

Endnotes
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3. ESI is a social security and health insurance scheme for Indian workers. The employee provides 1.75 per cent and the employer 4.75 per cent of the wage in every wage period: “The Employees ‘State Insurance Act, 1948 provides a scheme under which the employer and the employee must contribute a certain percentage of the monthly wage to the Insurance Corporation that runs dispensaries and hospitals in working class localities.” Retrieved 20 March, 2019. http://www.mondaq.com/india/x/50440/employee+rights+labour+relations/Labour+And+Employment+Laws+Of+India.

Bibliography


Transformation, flexibility and workplace contradictions in Japan

Vincent Mirza and Bernard Bernier

Abstract

In spite of Japan’s return to economic growth and claims of labour shortage, the number of precarious workers has now reached record levels. Against this background of contradictions, the paper examines how the growing flexibility of workers and the transformation of workplaces that has taken place in the last twenty years has had an impact on social participation, and on life choices and aspirations of young adults. We argue that these transformations have affected different social spheres, especially the sense of belonging, self-realisation, family and marriage patterns as well as a growth in inequality.
Transformations, flexibilisation et contradictions du travail au Japon

Vincent Mirza¹ et Bernard Bernier²

Résumé

Malgré une reprise de l’économie et le discours sur la pénurie de la main d’œuvre au Japon, le nombre de travailleurs irréguliers a atteint des niveaux records. À partir de cette contradiction apparente, cet article examine comment la flexibilisation de la main d’œuvre et les transformations du travail des deux dernières décennies ont affecté la participation sociale, les aspirations et les choix de vie des jeunes adultes. Ces transformations affectent différentes sphères du social que nous analyserons, notamment le sentiment d’appartenance à la société, la réalisation de soi, la famille et le mariage ainsi que la montée des inégalités.

Introduction

Un paradoxe apparent a émergé progressivement dans les dernières années dans plusieurs économies avancées. En effet, on évoque une pénurie de main-d’œuvre alors que bon nombre de personnes qui ont des emplois précaires, conséquence de la flexibilisation du travail des 35 dernières années, se cherchent un emploi permanent. Le discours sur la pénurie de travailleurs cache la tendance générale qui domine depuis quelques décennies et qui vise à diminuer le nombre de personnes bénéficiant de la sécurité d’emploi et d’avantages sociaux. Ces tendances et discours existent aussi au Japon. Dans le cas du Japon, le discours dissimule un ensemble de transformations du travail qui ont pris place durant les deux dernières décennies et demie et qui ont profondément affecté la société japonaise et la définition du consensus économique des années de haute croissance.


Économie et emploi

Dans les années allant de 1955 à 1990, un système d’entreprise et de relations de travail s’est institutionnalisé à la suite de dures luttes entre syndicats et patrons qui se sont soldées par la victoire du patronat, appuyé pendant les années de l’occupation militaire américaine par les autorités américaines et le gouvernement japonais. Le système mis en place dans les grandes entreprises et qui était plus ou moins bien imité par les PME comportait les éléments suivants : sécurité d’emploi pour les salariés considérés comme réguliers (le soi-disant « emploi à vie »); insertion de tous les salariés réguliers, qu’ils soient cadres, employés de bureau ou ouvriers, dans une seule hiérarchie avec possibilité de promotion pour tous; courbe de salaire de base à l’ancienneté, avec ajustements pour la formation scolaire, le poste hiérarchique et l’évaluation de la productivité par le supérieur immédiat; syndicats d’entreprise, après l’affaiblissement des fédérations sectorielles et confédérations qui avaient mené la lutte entre 1945 et 1950; embauche des jeunes (seulement des hommes jusque dans les années 1980) à la sortie de l’école ou de l’université et refus d’embaucher des femmes et des personnes en milieu de carrière; définition de tâches collectives et non pas individuelles; rotation systématique des tâches pour tous les salariés réguliers qui passent d’une équipe et d’une tâche à une autre tous les deux ans en moyenne.

Ce système n’excluait pas le travail temporaire ou à temps partiel, mais à peu près tous les salariés (hommes) qui voulaient un emploi régulier, avec ou sans sécurité d’emploi, pouvaient
l’obtenir. La mobilité inter-firme dans les grandes entreprises était inexistante, mais elle se situait à des niveaux élevés dans les PME. Le taux de chômage officiel se trouvait à environ 2%, on avait donc officiellement le plein emploi.

Dans les années 1980, les jeunes hommes sortant des écoles ou université avaient en moyenne trois offres d’emploi chacun. Les enseignants dans les écoles secondaires ou les universités maintenaient des relations suivies avec des cadres de certaines entreprises pour assurer le placement de leurs étudiants ou élèves à la fin de leurs études. Plusieurs familles dépensaient d’énormes sommes pour préparer l’entrée de leur fils dans les meilleures écoles secondaires ou universités, celles dans lesquelles les grandes entreprises et le gouvernement recrutaient, afin d’assurer l’avenir de leur progéniture.

Le système d’entreprise a connu certaines modifications dans les années 1980 devant le manque de main d’œuvre masculine pour remplir les postes. Les grandes entreprises ont commencé à embaucher des jeunes femmes pour lesquelles elles ont créé des postes réguliers spéciaux, avec des heures de travail réduites. Dans la plupart des cas, on a maintenu les modèles d’emploi antérieurs.

Tout cela a changé dans les années 1990 avec la fin d’une bulle spéculative qui a duré de 1985 à la fin de 1989. Dans les années 1980, et surtout après 1985, en effet, il s’est produit au Japon une bulle spéculative, fondée sur une hausse incroyable du prix des terrains et de celui des valeurs mobilières, produite par l’investissement excessif dans ces secteurs. Des auteurs ont calculé que le prix du terrain du palais impérial, qui fait environ 3,41 km2, s’élevait au prix de l’ensemble du territoire du Canada ou de celui de la Californie (Ottino-Loffler, 2016). Ces investissements spéculatifs provenaient de l’immense entrée de capitaux au Japon générée par le surplus commercial et les profits des entreprises japonaises à l’étranger, fonds trop considérables pour trouver des débouchés productifs. De là la spéculation qui a mené à la bulle. Dans les cas des terrains à Tokyo, la prévision que cette ville devienne le centre financier mondial a encouragé la spéculation excessive.

En 1990, cette bulle a crevé, donnant lieu à cinq ans d’incertitude, pendant lesquelles le ministère des Finances n’a rien fait pour régler la situation, ce qui a entraîné une hausse rapide des mauvaises créances. Entre autres, les institutions financières ont continué de financer des prêts non remboursables en faisant
crédit à certains de leurs créanciers afin de payer les intérêts sur les prêts antérieurs. Fin 1994, des faillites d’institutions financières ont commencé à se produire, qui se sont accélérées dans les années suivantes, jusqu’en 1998. Les mauvaises créances se sont avérées dépasser l’équivalent de 2000 milliards de dollars américains. De 1995 à 2003, le pays a connu huit ans de récession, marqués par des faillites (dont celle d’une des 12 grandes banques commerciales, de grandes banques régionales, de compagnies d’assurance et de celle du quatrième courtier en valeurs mobilières), une hausse du chômage qui a atteint 5,5% officiellement, la déflation, la baisse du revenu moyen, l’augmentation de la pauvreté et la baisse de la consommation. Une des conséquences de ces difficultés, c’est l’augmentation importante du travail précaire sous diverses formes : travail temporaire, à contrat de durée limitée, à temps partiel, mais aussi travail à son propre compte, un pis-aller pour plusieurs qui se sont retrouvés sans emploi permanent. C’était l’époque des villages de tentes ou de boites de carton abritant les « travailleurs pauvres » qui, ayant perdu leur emploi, étaient venus grossir le contingent de sans-abri. Notons pour plusieurs dans les générations perdues un rejet des pratiques antérieures, notamment la recherche d’emploi dans une grande entreprise, rejet qui est sans aucun doute partiellement lié à l’impossibilité pour plusieurs de se trouver ce type d’emploi.

Après une faible reprise de 2003 à 2007, propulsée par de fortes dépenses governementales qui ont fait grimper la dette accumulée à 250% du PIB annuel, en 2008, le « choc Lehmann » (crise américaine du « subprime ») a touché un grand nombre de petites et moyennes entreprises; il a aussi affaibli encore une fois le secteur financier, déjà durement touché par la crise des années 1990 à 2003. L’économie en général en a subi les contrecoups, avec une croissance qui est redevenue négative.

Pendant les années difficiles, les grandes entreprises ont coupé fortement dans l’embauche de jeunes – de là les « générations perdues » qui n’ont pu se trouver d’emploi régulier. En réalité, craignant le retour de la récession, ces entreprises n’ont augmenté leur embauche de salariés réguliers qu’à partir de 2015. Elles ont aussi forcé plusieurs de leurs salariés les plus âgés, donc ceux qui avaient les salaires les plus élevés, à prendre une retraite anticipée, ce qui a négativement affecté leur revenu et en a mené plusieurs à la pauvreté. Les premiers touchés par les mises à pied ont été les travailleurs irréguliers et les femmes. Notons que l’existence de ces
jeunes et de moins jeunes sans emploi permanent, donc d’un fort volet de sous-emploi, a paradoxalement accompagné une hausse des heures de travail des salariés permanents. En réalité cette tendance s’explique par le fait que les entreprises ont exigé des heures de travail accrues pour le nombre en diminution des salariés réguliers qu’ils ont conservés. Il s’agit là de la cause principale de ce que les Japonais ont appelé le karōshi, « la mort par excès de travail ».

Par la suite, la triple catastrophe de Fukushima de 2011 (tremblement de terre, tsunami, catastrophe nucléaire), le plus grand cataclysme que le pays a connu depuis la Seconde Guerre mondiale, a prolongé les difficultés économiques préexistantes. Non seulement cette catastrophe a détruit la production agricole et halieutique dans la région, éliminant le moyen de survie de plusieurs agriculteurs et pêcheurs, de surcroît, elle a entrainé la fermeture temporaire de plusieurs usines de la région de Sendai, avec pour résultat une perte de revenu pour les travailleurs. Quant aux personnes déplacées à cause des radiations, plusieurs ont eu de grandes difficultés à se trouver un emploi avec un salaire équivalent à ce qu’ils avaient auparavant. Certains ont aussi fait face à l’hostilité des résidents des régions où ils ont été déplacés.


Ainsi, pendant une période d’environ vingt ans, les difficultés de l’économie japonaise ont considérablement transformé la configuration du marché du travail et des pratiques des entreprises (Lechevalier, 2011). Non seulement la crise qui débute avec la fin de la bulle spéculative en 1990 a entrainé une augmentation rapide des inégalités sociales (Bernier, 2013; Minami), mais elle a également jeté la lumière sur les différences antérieures dans les conditions de travail et les aspirations et les choix de vie. Elle a aussi révélé clairement les divergences des stratégies des entreprises pour faire face à la crise (Lechevalier, 2011, chap. 2), certaines, comme Toyota, maintenant ou renforçant les modèles anciens « d’emploi à vie » et
de promotion partiellement à l’ancienneté, d’autres, comme Sony ou Nissan, empruntant des modèles américains ou européens, avec faible sécurité d’emploi et promotions dites au mérite.

L’économie japonaise n’a connu une reprise qu’en 2013. Après une légère récession en 2014 causée par la hausse de 3% de la taxe de vente, l’économie a repris sa croissance, faible (autour de 1% à 2% dans les années qui ont suivi), en 2015. Cette reprise a signifié une hausse de l’emploi, en particulier dans les grandes entreprises. Depuis 2016, sous les pressions du gouvernement, les grandes entreprises ont augmenté le nombre de jeunes embauchés comme salariés permanents (Japan Economic News, septembre 2018). Le gouvernement considère maintenant que le Japon manque de main-d’œuvre.

En réalité, ce qui manque, c’est la main-d’œuvre recherchée par les grandes entreprises, soit les jeunes, hommes surtout, fraîchement diplômés, donc ceux sortant des écoles. En marge de ces jeunes sortant des écoles, il existe depuis les années 1995 un nombre de diplômés qui n’ont pas trouvé un emploi permanent au moment d’obtenir leur diplôme et qui pourraient en théorie atténuer la pénurie de travailleurs. Ces diplômés des « générations perdues » sont considérés comme non aptes à l’embauche par les grandes entreprises, sous prétexte qu’ils n’ont pas reçu à temps la formation nécessaire. Autrement dit, les directions des grandes entreprises, et la société en général, considèrent qu’un jeune qui n’a pas trouvé d’emploi permanent dans les deux ou trois ans qui suivent sa sortie de l’université ne pourra plus obtenir la formation nécessaire pour devenir membre de l’entreprises (kaishain). C’est le paradoxe d’un pays qui en théorie manque de main-d’œuvre mais qui a accès à un bassin de travailleurs précaires prêts à travailler, toutefois considérés comme ne pouvant être formés et embauchés. Il s’agit d’une absurdité liée à l’attachement à des pratiques qui ont été développées dans les années 1955-1973, années d’abondance de main-d’œuvre. Il faut souligner que ces pratiques ont été développées dans un contexte d’affrontement entre patrons et syndicats et qu’elles faisaient partie d’un ensemble institutionnel visant au contrôle des travailleurs et que, donc, toute modification, comme dans d’autres domaines au Japon, est considérée comme allant à l’encontre de la culture japonaise et comme pouvant à terme entraîner des conséquences désastreuses.

Une autre caractéristique de l’emploi au Japon depuis 2015
est la hausse du nombre et du pourcentage de femmes qui travaillent. Bon nombre d’entre elles ont un emploi à temps partiel, mais le nombre de celles qui ont un emploi permanent a aussi augmenté. Le pourcentage de femmes entre 15 et 65 ans qui ont un emploi a en 2015 dépassé celui des États-Unis, soit 65,4%. Xx% ont un emploi considéré comme permanent. La politique du Premier ministre Abe Shinzo pour favoriser le travail des femmes (voir plus bas) y est surement pour quelque chose, mais la cause principale semble être la demande des grandes entreprises pour une main-d’œuvre fraîchement diplômée. En manque de jeunes hommes, on se tourne vers les jeunes femmes.

Malgré cette hausse de l’emploi, il demeure, comme on l’a mentionné, un fort contingent de travailleurs avec des emplois précaires. Le Japon sur ce point n’est pas différent de la majorité des pays du G-20. Dans un contexte global d’augmentation constante de la précarité, face aux transformations majeures du travail et de son rôle dans la socialisation des individus, la flexibilisation de la main-d’œuvre a redéfini le travail, la participation sociale et la définition de soi des jeunes adultes au Japon. Ainsi, les difficultés économiques des années 1990 à 2014 ont produit de nouvelles subjectivités et un nouveau sens de la participation à la société, éléments qui continuent d’avoir un effet, malgré la reprise récente de l’économie.

C’est ce contexte qui affecte à l’heure actuelle plusieurs sphères du social, notamment l’articulation entre les représentations de l’économie, la participation sociale, les choix de vie et les aspirations des jeunes adultes qui avaient dans les années de crise de plus en plus de difficulté à définir leur place dans la société et à répondre aux attentes du système. Malgré la modeste reprise récente, ces tendances demeurent, entre autres, pour les centaines de milliers de jeunes diplômés qui n’ont pas trouvé d’emploi permanent dans les années de crise.

Pratiques et relations sociales

Plusieurs discours se sont inscrits dans l’espace public pour souligner les effets du marasme des années 1995-2015, mais aussi pour l’exploiter. Avec la crise démographique, certains commentateurs soulignent le manque d’une main-d’œuvre jeune. D’autres prennent la position opposée et avancent qu’il y a trop de jeunes qui sont incapables de trouver un emploi et de supporter les contraintes d’une carrière au sein d’une entreprise. Les néolibéraux
veulent réform er l’économie et soutiennent l’idée d’une main-
d’œuvre encore plus flexible afin de donner aux entreprises plus de
souplesse pour être compétitives au niveau global, alors que pour
les conservateurs (et les syndicats) l’augmentation des emplois non
réguliers affaiblit le pouvoir de consommation des Japonais et a un
impact négatif sur l’économie. Dans tous ces cas, le discours sur
les difficultés des jeunes et les termes dont ils sont affligés (furita,
parasaito, singuru) servent de tremplin à un discours qui insiste,
pour les uns, sur la nécessité de s’adapter à la globalisation et, pour
les autres, sur le besoin de renforcer l’esprit national (Mirza, 2008).
Il faut souligner que les grandes entreprises ont été non seulement le
moteur de la croissance économique, mais aussi le maillon essentiel
d’une chaîne institutionnelle très serrée qui reliait la famille,
l’éducation et le travail, avec l’appui de l’État, tout cela dans le
contexte de l’insistance nationale sur la croissance économique. En
conséquence, les difficultés des entreprises ont rapidement mené à
un discours sur l’avenir de la nation et sur l’importance de la morale
et de l’éthique au travail.

La presse a largement pris le relais en parlant des problèmes
reliés au monde du travail. Plusieurs observateurs ont annoncé la fin
du système d’emploi à vie, et les quotidiens font état des difficultés
rencontrées par les employés dans les entreprises. Plusieurs
commentateurs ont commencé à dénoncer la nouvelle attitude
des jeunes par rapport au travail. Ils manqueraient de vigueur, de
détermination, feraient preuve d’individualisme et d’égoïsme. Bien
entendu, ce discours ignore une des conséquences majeures de la
flexibilisation du régime de travail; c’est-à-dire une baisse importante
du recrutement de salariés réguliers des grandes entreprises dans
les écoles et dans les universités. Avec une baisse du recrutement
dans les écoles secondaires et les universités, les entreprises ont
considérablement affaibli leurs liens avec le monde de l’éducation.
D’ailleurs de nombreuses recherches ont montré que la baisse de
l’embauche de jeunes diplômés à leur sortie de l’école est une
des causes importantes de l’augmentation du nombre d’employés
temporaires ou à temps partiel. Malgré tout, les jeunes et les moins
jeunes passent de longues heures au travail, ce qui revient à dire
qu’au Japon l’on travaille à temps plein, mais sans les avantages
sociaux (Brinton, 2010).

Ces dénonciations morales correspondent donc assez mal
da la réalité des jeunes adultes qui doivent s’adapter à un marché du
travail qui s’est considérablement flexibilisé, mais qui fonctionne encore, du moins dans le discours, sur le modèle de Japan Inc. C’est également ce que soulignent les sondages effectués par le Ministry of Internal Affairs and Communications qui montrent que la proportion d’employés irréguliers a progressé de 20% en 1990 à 37,4% en 2014 pour dépasser le seuil des 40% une année plus tard (Takahashi, 2015). Notons que ces chiffres minimisent la précarité, puisque sont comptés comme travailleurs réguliers les salariés des PME dont le taux de faillite est élevé et qui donc, dans ces circonstances, peuvent mettre à pied des travailleurs dits réguliers : la sécurité d’emploi est ici bien fragile.

Ainsi, on a observé dans les années allant de 1990 à 2015 que de plus en plus de jeunes se retrouvent sur le marché du travail sans sécurité d’emplois ou sans perspective d’avenir (Mirza, 2008; Bernier, 2009, chap. 7). Ces incertitudes se déclinent aussi au sujet du mariage alors que de plus en plus de jeunes femmes et de jeunes hommes ne sont pas mariés, faute de revenus suffisants ou de conjoints satisfaisants aux exigences de sécurité recherchée dans le mariage. Là encore un discours moral surtout dirigé vers les femmes insiste sur la nécessité du mariage, notamment pour répondre à la crise démographique, étant entendu dans l’idéologie que les femmes doivent avoir des enfants et que, au Japon, la proportion d’enfants nés hors mariage ne dépasse pas 1,5% (Bernier et Itoh, 2014a).

Les jeunes femmes

Cependant, un nombre croissant de jeunes femmes repoussent ou retardent le mariage, (à Tokyo, plus de 50% des jeunes femmes de 30 ans sont célibataires; l’âge moyen au mariage pour les femmes pour l’ensemble du Japon a dépassé 28 ans) et restent plus longtemps sur le marché du travail. Ce phénomène dénote une volonté de la part des jeunes femmes de la classe moyenne qui ont un diplôme universitaire d’obtenir plus d’indépendance et de développer une carrière même si les conditions de travail pour les femmes restent encore très difficiles dans les entreprises japonaises, surtout les plus grandes, et que les femmes occupent en majorité des emplois à temps partiel ou temporaires (Mirza 2016, Bernier et Itoh, 2014).

Il reste clair que le modèle de la division sexuelle du travail qui a été formulé dans le cadre de l’économie japonaise des années 1955-1990 est de plus en plus contesté et le modèle de la ryosai kenbo
(bonne épouse mère sage) ne résonne plus de la même manière auprès des jeunes femmes (Mirza, 2016). Là encore la définition du rôle des femmes dans la société ne fait pas consensus, même si dans les dix dernières années, l’opinion publique est favorable au travail des femmes, même mariées. Il est de plus en plus clair qu’il y a une volonté de soutenir le travail des femmes en raison d’un besoin de vivre dans une société plus juste et égalitaire, mais aussi pour favoriser la productivité et soutenir la croissance. Il y a aussi le désir des ménages d’obtenir un meilleur revenu.

Dans ce contexte, il faut noter une hausse de l’embauche de jeunes femmes dans des postes réguliers dans les grandes entreprises depuis 2016. Est-ce le résultat du discours politique du Premier ministre Abe Shinzo, qui a émis le souhait que la proportion de femmes augmente tant dans les postes de haute direction que dans le marché du travail en général ? En effet, Abe, en 2012, a proposé d’augmenter le pourcentage de femmes cadres supérieurs dans les grandes entreprises de 9% à 30%. Il a depuis abaissé ses espérances puisque le pourcentage visé depuis 2017 n’est plus que de 18%. En outre, il souhaitait voir une augmentation de la participation au marché du travail des femmes entre 25 et 40 ans, ce qui est survenu. Le creux de la fameuse « courbe en M », qui était caractéristique du travail des femmes au Japon, avec une baisse notable de l’emploi pour les femmes de 25 à 40 ans, s’est fortement atténué. On ne peut vraiment plus parler de courbe en M puisque le creux de la courbe a disparu à toute fin pratique. Parmi les autres souhaits de Abe, il y avait une augmentation de 200 000 places en garderie afin de faciliter l’insertion des femmes mariées avec enfants dans le marché du travail et ainsi de faciliter la conciliation travail-famille (Bernier, 2016). Il est possible que ces souhaits (sans toutefois de politiques concrètes suffisantes) aient joué un rôle dans l’augmentation de la participation des femmes au marché du travail, mais il semble que le facteur principal soit la pénurie de jeunes hommes fraîchement diplômés.

Ainsi si les femmes participent plus qu’avant au travail dans les entreprises avec sécurité d’emploi, le rôle qu’elles peuvent jouer dans l’entreprise reste encore un terrain de lutte. En fait, l’enjeu autour du travail des femmes prend aussi une tournure particulière au Japon à cause de la crise démographique actuelle. Ainsi la question de l’égalité des genres dans les entreprises a pris une coloration politique à cause du problème démographique du Japon. En effet
plusieurs études qui ont été publicisées par le gouvernement Abe à ce sujet révèle que de meilleures conditions de travail pour les femmes dans les entreprises favorisent une augmentation du taux de natalité. Cependant alors que les femmes semblent avoir de plus en plus accès à des emplois réguliers (et des emplois à temps partiel), la situation de la natalité ne semble pas s’améliorer. Au contraire, le taux de natalité continue de baisser et les jeunes adultes se marient de moins en moins ce qui est un facteur important de la faible natalité puisque à peine 1,5% des enfants naissent hors mariage.

Cette situation souligne encore, d’une part, l’ambivalence des milieux d’affaires vis-à-vis de la place des femmes dans les entreprises et, d’autre part, le discours moral encore très présent qui insiste sur la responsabilité des femmes dans la procréation, l’éducation des enfants et la bonne conduite des affaires familiales. C’est notamment à la lumière de ces contradictions entre le milieu de travail et les attentes familiales qu’il faut comprendre la diminution des mariages au Japon (Mirza, 2016)

Les jeunes hommes

Alors que les jeunes femmes refusent ou repoussent le moment du mariage, les jeunes hommes doivent, eux aussi, composer avec des parcours qui sont de moins en moins régulés par les transitions entre le monde de l’éducation et celui du travail. Ils rencontrent de nombreuses difficultés s’ils s’écartent du cheminement de carrière typique, s’ils ont fait le mauvais choix dans leur domaine d’études, ou s’ils n’arrivent pas trouver un emploi régulier dès la sortie de l’école en raison d’un marché restreint d’emplois. De plus, contrairement aux attentes, plusieurs jeunes hommes refusent de suivre le parcours prescrit et renoncent à occuper des emplois stables dans des grandes entreprises. Parmi ceux-ci, il y a ceux qu’on a nommés les « herbivores », du fait qu’ils rejettent l’agressivité et les emplois dans les grandes entreprises et qu’ils n’ont aucun intérêt pour la sexualité, les relations amoureuses et le mariage.

La flexibilisation du travail qui a résulté de ces développements s’est traduite non seulement par une expérience de perte d’intérêt pour le travail dans les grandes entreprises et d’augmentation des inégalités, mais aussi par l’émergence d’un discours qui insiste de plus en plus sur la réalisation de soi et la possibilité de faire des choix différents. Cette insistance sur la
réalisation de soi résulte sûrement en partie du manque d’alternative, donc du manque d’emplois permanents dans les grandes entreprises, mais elle fait quand même partie à l’heure actuelle de la « culture » d’une partie des jeunes hommes. La situation difficile de l’emploi pendant plusieurs années a fait en sorte que plusieurs s’y sont habitués, intériorisant alors de nouvelles façons de réagir, de faire et de penser.

Ces difficultés ont créé de nouvelles configurations qui n’existaient auparavant pas dans les débuts de carrière. En effet, si la sécurité d’emplois diminue et que les emplois stables sont plus difficiles à obtenir, l’affaiblissement du régime de travail a également ouvert plus de possibilité pour les jeunes hommes qui voyaient souvent leur parcours de vie décidé d’avance. Ainsi, plusieurs témoignages de jeunes qui décident d’abandonner un emploi stable dans une grande entreprise en période de difficulté économique et d’incertitude révèlent qu’ils le font habituellement par désir d’obtenir plus de liberté et plus de choix. Alors que pour les générations précédentes le travail était une affaire de responsabilité, d’obligation et de sécurité (notamment financière afin de pouvoir fonder une famille), plusieurs jeunes adultes qui ont grandi durant les années 1990 et 2000 mettent l’accent sur le désir, le choix et la qualité de vie. Cette génération qui a grandi avec des pères absents perçoit souvent l’idée du sacrifice de soi pour l’entreprise de façon beaucoup plus critique. Face à cette attitude plusieurs commentateurs dans l’espace public ont commencé à parler de l’individualisme des jeunes. La question de l’individualisme est importante dans ce discours parce qu’elle traduit une transition des valeurs, d’un point de vue qui considère le travail comme une obligation et un devoir social vers des valeurs qui mettent l’accent sur la qualité de vie et la réalisation de soi.

Inégalités

Du point de vue des inégalités, toutes les données démontrent que les années de crise ont entrainé des écarts de revenus accrus, avec surtout la stagnation du revenu de plus de 90% de la population et un appauvrissement des plus pauvres (Hours, 2007), une dernière caractéristique qui, du point de vue comparatif, semble particulière au Japon, la plupart des pays ayant connu une stagnation du revenu de l’immense majorité et une hausse rapide de celui des plus riches. (OCDE, 2011; Minami, 2008). Notons aussi le déclassement de
plusieurs personnes qui, avant 1990, se situaient dans la « classe moyenne », étant donné qu’elles ont perdu leur emploi à cause des mises à pied ou des retraite anticipées (Bernier, 2015).

Si la précarité et les inégalités sont plus fortes qu’auparavant, c’est aussi la variation dans les parcours de vie qui devient plus évidente (Smith 2018; Mirza, 2016). Ainsi la transition bien orchestrée de la société d’après-guerre qui permettait de passer de l’école à l’entreprise puis de fonder une famille a fait place à une plus grande individualisation des destins. Cette diversification des choix se traduit par une polarisation entre ceux qui ont accès aux bons emplois et les autres qui font face à plus grande précarité d’emplois. Certains auteurs ont parlé de l’émergence d’une élite qui a encore accès à des emplois permanents et dont le destin privilégié est fortement différent de celui de la majorité (Itoh et Bernier, 2014).

La diversification se traduit aussi par l’émergence d’une pluralité de représentations. Ainsi, en réponse aux dénonciations morales (Toivonen and Imoto, 2013) à l’encontre des jeunes et à la difficulté de trouver un emploi, dans la dernière décennie, des revendications politiques dans l’espace public ont émergé, par exemple, contre le nucléaire à la suite du tsunami et de la catastrophe nucléaire de Fukushima le 3 mars 2011, mais aussi contre la pauvreté et la précarité et, plus récemment, contre le changement proposé par Abe dans la Constitution afin de donner au Japon une véritable armée et de permettre l’intervention militaire internationale. Dans ce dernier cas, la participation de collégiennes aux manifestations a été notée, et décriée par les milieux conservateurs. Même minoritaires (par exemple le mouvement SEALDs [Slater et al, 2012] qui s’est déjà dissout depuis deux ans), ces mouvements sont encore des indices sur la façon dont certains jeunes adultes tentent de penser et dans certains cas de contrer les effets des réformes néolibérales au Japon (Mirza, 2015).

**La fin du compromis capital-travail à la japonaise ?**

À ce titre, l’articulation entre le travail, le politique et la vie quotidienne est un « lieu » d’étude privilégié pour comprendre et expliquer ces transformations. Il nous permet de réfléchir à ces nouvelles subjectivités qui sont en train de façonner la société japonaise contemporaine et d’analyser comment cette nouvelle vie flexible reconfigure le rapport aux autres et aux choses et oblige plusieurs jeunes adultes à créer des significations et des stratégies
pour faire face à cette nouvelle conjoncture.

Les transformations du travail, en fragilisant le cadre hégémonique des 60 dernières années, a ouvert des brèches, a fait ressortir plusieurs contradictions. Les difficultés économiques des vingt dernières années ont non seulement modifié les pratiques et les représentations du travail, mais aussi elles ont entrainé ce qui devait être maîtrisé au Japon dans la modernité : l’individualisme, la diversification des choix, etc. Le régime de travail, tout comme le régime matrimonial et la standardisation de la grande classe moyenne, avaient structuré les bases de l’économie à la japonaise dans la deuxième moitié du XX siècle. Or, c’est la fragmentation partielle de ce cadre hégémonique et les contradictions qui sont engendrées par cette fragmentation qui permettent l’apparition de nouvelles pratiques, de nouvelles valeurs et d’un « nouveau sens du travail », mais aussi d’un nouveau sens politique et d’une redéfinition de soi et de son rapport à la société chez plusieurs jeunes adultes au Japon.

Les entreprises ont modifié de façon importante leur régime de travail. La plus importante de ces modifications concerne, d’une part, l’augmentation du nombre d’employés à contrat temporaire et à temps partiel et, d’autre part, la diminution du nombre d’employés permanents qui bénéficiaient de la sécurité d’emploi. On retrouve donc de plus en plus des formes mixtes qui cohabitent dans la même institution. Les nouveaux employés engagés ne participent pas au même régime que les anciens, qu’ils soient embauchés à contrat pour une période fixe ou non, alors que les anciens qui ont échappé aux coupures conservent la sécurité d’emploi.

Nous pouvons penser que ce double mécanisme est un moyen pour le capitalisme nippon de s’ajuster de façon progressive. C’est cet ajustement qui provoque des transformations. Les entreprises, en modifiant leur politique de recrutement dans les écoles et dans les universités, ont affaibli les liens qu’elles entretenaient avec le système méritocratique de l’éducation. Ce qui veut dire qu’un nombre croissant de jeunes se sont retrouvés sans emploi ou ont éprouvé des difficultés à trouver un travail stable dans une entreprise. Toutefois, cela ne signifie pas que le système méritocratique est en train de disparaître. Il sera encore tout aussi difficile d’accéder à une bonne école secondaire ou d’entrer dans une bonne université, ce qui demeure toujours le critère nécessaire (mais maintenant non suffisant) pour se trouver un bon emploi. Une des conséquences de
ces tendances est l’augmentation des inégalités.

De plus, dans l’entreprise, bien qu’il y ait des stratégies différentes, en général, les pratiques n’ont pas subi de transformations majeures, sauf dans la diminution du noyau de salariés réguliers et dans la plus grande importance du mérite comme critère de promotion. Ce qui veut dire que la hiérarchie ainsi que les attentes de sacrifices et de dévouement, des longues heures de travail et des obligations sont toujours bien en place. Ainsi, si les processus d’accès à l’entreprise ont été affaiblis et si la sécurité d’emploi est sérieusement touchée par la flexibilisation de la main-d’œuvre, les pratiques quotidiennes dans les entreprises changent très peu. Ce point est important parce qu’il explique en partie le comportement paradoxal de plusieurs jeunes adultes qui préfèrent éviter de travailler dans une grande entreprise même lorsqu’ils en ont la possibilité. Ici, on peut voir que les difficultés économiques ont permis à plusieurs d’échapper aux contraintes institutionnelles et de revendiquer plus de liberté. Néanmoins, pour la plupart, « le choix » s’est surtout traduit par l’impossibilité de trouver un emploi.

Ce qui semble intéressant, c’est que l’émergence des nouvelles valeurs s’inscrit dans une période de crise qui a probablement favorisé le relâchement de la toile institutionnelle très serrée et ouvert de nouvelles possibilités pour les jeunes, surtout concernant l’emploi. Notons que ces possibilités sont associées à de nouvelles contraintes, soit la diminution des chances d’emploi régulier dans les grandes entreprises et des revenus plus faibles. Le discours des dirigeants politiques et économiques sur le travail, jusque dans les années 1990, a beaucoup porté sur le devoir vis-à-vis de la société et sur l’objectif de croissance économique. Ce discours s’est arrimé, du moins en partie, à l’éthique du travail. Il perdure, mais dans un contexte contradictoire. Les dirigeants ont pu maintenir une certaine forme de contrôle sur la définition des obligations, des devoirs et des responsabilités au travail. Ces formes de contrôle se font bien sûr encore à partir de l’école où l’on insiste sur la diligence, le devoir et la responsabilité collective. Toutefois, les modifications du régime de travail ont entraîné des contradictions entre le monde du travail et le système scolaire, mais aussi entre de nouvelles mesures, comme l’augmentation du travail temporaire, et le maintien d’anciennes pratiques ou d’anciens discours. En un mot, une contradiction est apparue entre la méritocratie et les difficultés d’avoir un emploi. Cette contradiction a poussé plusieurs
jeunes adultes à élaborer de nouvelles significations et de nouvelles pratiques du travail dans les interstices créés par la contradiction, ils se sont définis un espace de liberté, une nouvelle forme de subjectivité à travers un refus partiel de l’ordre établi.

Conclusion

Il existe donc au Japon à l’heure actuelle plusieurs contradictions à l’œuvre. La flexibilisation de la main-d’œuvre, l’insécurité et l’insistance relative sur les destins individuels ont profondément modifié les relations des jeunes adultes à la société. C’est ce qui se dessine de façon claire dans les transformations du mariage, les projets de vies et les représentations de la société. Le cas de l’intégration de la main d’œuvre féminine que nous avons évoqué dans cet article en est le meilleur exemple. Pourtant les universités et les entreprises fonctionnent encore à partir des modèles qui ont été prescrits dans l’après-guerre. Cette tension entre le besoin de transformations et la lenteur des institutions créent des problèmes importants. D’un côté les entreprises et les institutions sont encore prises dans la rigidité du régime de travail des années 1960 et du compromis capital-travail alors que, de l’autre, elles restreignent fortement la sécurité d’emplois pour répondre aux difficultés économiques. Cette nouvelle équation qui présente les mêmes contraintes mais moins de sécurité a poussé de nombreux jeunes adultes à renoncer aux emplois offerts dans les grandes entreprises en mettant l’accent sur l’expérience de vie, les désirs et la réalisation de soi.

Malgré tout, l’idéal du salarié des grandes entreprises est encore dominant malgré un affaiblissement causé par les difficultés économiques. Il faudra voir si la reprise de l’emploi récente se maintient (on voit des signes de ralentissement de l’économie à l’heure actuelle) et, dans le cas où elle se maintiendra, si les pratiques et systèmes anciens se reviendront en force.

Si les contradictions du capitalisme ont pris des formes plus apparentes ou plus exacerbées par la conjoncture au Japon, il faut cependant se garder de penser que le capitalisme Japonais serait un cas isolé. La nécessité de concevoir de nouveaux modèles de travail et de proposer des modes alternatifs de participation sociale pour faire face au ralentissement économique et à la flexibilisation de la main-d’œuvre sont les enjeux majeurs auxquels nous devrons tous faire face dans les années à venir.
Notes
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L’agenda du travail décent de l’OIT et les travailleurs domestiques au Nigéria: défis et complexités

Peter Olayiwola

Résumé

Le triste sort des travailleurs domestiques partout au monde est bien documenté. C’est à ce titre que l’Organisation internationale du Travail (OIT) a présenté sa Convention sur les travailleuses et travailleurs domestiques afin de promouvoir le « travail décent » pour chacun d’entre eux. Des déficits au chapitre du travail décent persistent toutefois chez les travailleurs domestiques, et l’application de la Convention de l’OIT « demeure un défi colossal » dans les contextes nationaux. Au moyen de données secondaires et d’une étude de cas des travailleurs domestiques au Nigéria, cet article soutient que l’approche fondée sur les droits de la Convention de l’OIT ne tient pas compte des réalités complexes auxquelles sont confrontés les travailleurs domestiques. Les inégalités et vulnérabilités socioéconomiques et les mécanismes culturels d’adaptation en l’absence de sécurité ou de protection sociales (ou en cas d’exclusion de ces aides), sont les principaux facteurs qui contribuent à l’exploitation des travailleurs domestiques. Les politiques d’État doivent s’y attaquer pour que le travail décent devienne une réalité pour cette classe de travailleurs.
ILO’s Decent Work Agenda and Domestic Workers in Nigeria: Challenges and Complexities

Peter Olayiwola

Abstract

The plight of domestic workers worldwide is well documented. It is against this background that the International Labour Organization (ILO) put forward the Domestic Workers Convention to promote “decent work” for domestic workers. However, “decent work deficits” still persist among domestic workers, and the application of the ILO Convention in national contexts remains a colossal challenge. Using secondary data and a case study of domestic workers in Nigeria, this paper argues that the rights-framed approach of the ILO Convention does not address the complex realities confronting domestic workers. Socio-economic inequalities, vulnerabilities and cultural mechanisms of adaptation in the absence of, or exclusion from, welfare provision and social protection are the main issues contributing to the exploitation of domestic workers. State policies need to address these before decent work for domestic workers can be a reality.

Introduction

One of the operations of the International Labour Organization (ILO) is the pursuit of “decent work” for domestic workers. From when the argument for their “protection” was first put forward in 1936, the organization has committed a lot to the cause, yet not much has changed (ILO, 2013: 14). It is almost a cliché today that “domestic workers are among the most exploited and abused workers in the world” (Human Rights Watch (HRW), 2007b: 3). The Domestic Workers Convention (herewith referred to as C189) was put forward in 2011 to address the challenges faced by domestic workers, but “decent work deficits” still persist, with 90 per cent of domestic workers not enjoying effective social protections (ILO, 2016: 4). Yet the problem is not just that many countries have not ratified C189 (only 22 have), but as the ILO admits, “Indeed, even in countries where domestic workers enjoy labour rights, domestic
workers continue to face decent work deficits due to the challenges in compliance” (ibid).

Using Nigeria as a case study, this article analyzes the challenges and complexities of ensuring decent work for domestic workers by investigating the processes that lead to engagement in domestic work and the extent to which C189 and national legislation address these processes and adhere to internal standards in protecting domestic workers. To do this, I draw on existing academic literature, reports by governments agencies and international organizations and other archival documents. The article begins by looking at domestic work in the West African context, outlining the reasons for engaging in it, followed by a review of the ILO’s approach and related policy issues. Next, it highlights the case of domestic workers in Nigeria from a political economy perspective and shows how the rights-framed approach (of C189 and national legislation) compares with socio-economic realities confronting domestic workers. The final section discusses key issues and practical difficulties that C189 cannot account for, and concludes with the need for the ILO and states to address underlying issues and processes leading to the exploitation of domestic workers before decent work can be a reality.

**Domestic Work: Definition, Reasons and Policy Issues**

This paper adopts the ILO’s definition as contained in Article 1 of the Domestic Workers Convention, 2011 (C189):

(a) the term “domestic work” means work performed in or for a household or households;
(b) the term “domestic worker” means any person engaged in domestic work within an employment relationship;
(c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

Examples of work as defined above include tasks such as cleaning the house, cooking, washing and ironing clothes, taking care of children, guarding the house, driving for the family and even taking care of household pets (ILO, 2011b: 2).

Having established a working definition, it is also useful to understand why and how domestic work emerged as a distinct type of job. Based on the connection between domestic work and related
topics, like child labour, forced labour and human trafficking, the reasons for engagement in domestic work can be broadly classified into demand (pull) and supply (push) factors (UNICEF, 1997; Andvig et al., 2001; Thorsten, 2012), yet this simple classification hides many issues and ambiguities, which I will discuss below.

Any literature on domestic work is likely to have poverty at the top of its list of reasons why people — whether children or adults — are employed as domestic workers (see HRW, 2007a; Thorsten, 2012 for example). There seems to be a direct correlation between being employed as a domestic worker and many poverty-related factors at the individual and household levels, including chronic deprivation, unemployment, absence of opportunities and infrastructures, little or no education opportunities, family crises including death and illnesses of breadwinner(s) etc. Poor people are often forced to devise ways to survive, and one such survival strategies is employment in domestic work (UNICEF, 1999: 4). On a broader scale, the poverty explanation also captures the effects of external factors, like the economic crises in the late 1970s and the subsequent implementation of structural adjustment programs (SAPs), on the expansion of informal employment in many African countries (Tsikata, 2009: 5-9; Thorsten, 2012: 5).

Indeed, that poverty pushes people into precarious situations is hardly debatable. However, the above explanations do not fully capture the picture. Explaining domestic work in the context of poverty and poverty-related factors alone hides the wider patterns and socio-economic and cultural processes involved in its evolution as well as its dynamism in the contemporary world. Thus, it is important to understand why and how people become domestic workers within these institutional processes.

Investigating Domestic Work in West Africa

The transformation of domestic work in Africa can be explained in the contexts of colonialism, urbanization and cultural practices that have continued until today. As far as can be ascertained in the African context, domestic work only began to be constituted as wage employment during the colonial era (Hansen, 1986: 18; Oloko, 1992, 1995, cited in Ladan, 2005). Prior to that time, activities such as cooking and cleaning were mostly carried out by women and girls as part of the gendered division of labour (Tsikata, 2009: 23). But with colonialism, the bourgeois lifestyle of the colonial officers
triggered the demand for paid domestic workers (Ladan, 2005). At the time, working for the White colonial personnel was considered a sign of prestige, and it was mostly done by men (Hansen, 1986: 18; Akurang-Parry, 2010: 37). So, it was common for men to take up jobs (such as cooking, ironing, gardening etc.) that would have been considered demeaning in their own households (Hansen, 1986: 18).

However, since the 1930s, as a result of the growth in plantation agriculture, mineral extraction and factories, domestic work has become increasingly feminized, with the engagement of men in new “productive” areas, i.e., industrial and office work (Coquery-Vidrovitch, 1997: 109). With the expansion of urban centres, African workers — especially the elite and educated — began to emulate the practice of employing domestic workers to assist in services such as child-minding, and this further led to the relegation of domestic work as tasks for women and children (Ladan, 2005; Tsikata, 2009: 24).

From Prestige to Abuse

The growth and concentration of industries created opportunities for formal employment but also led to the rapid expansion of informal labour and apprenticeships (particularly in a trade and handicrafts) in urban centres (Coquery-Vidrovitch, 1997:115). With growing economic disparities between rural and urban centres, it became increasingly popular for young rural dwellers to migrate to cities in search of better opportunities. In this regard, extended family and kinship networks became the reference point — young people were often sent to live with their urban relatives to get education or learn skills in apprenticeship. In exchange, the beneficiaries repaid their sponsors by assisting them — with domestic work. It became common (and later spread after independence) in cities such as Accra, Lomé, Ouagadougou and many southern Nigerian cities (ibid). This resulted in the expansion of “in-kind” employment in domestic work, and it is closely connected to the older idea of fostering, or in Francophone West Africa, “placement” or “confiage” (HRW, 2007a: 29).

Fostering is the transfer or relocation of children from their biological homes to other homes where they are raised and cared for by other adults, usually called foster parents (Isiugo-Abanihe, 1985: 53). Although the practice is reported in other continents, it is more institutionalized in West Africa because it is rooted in kinship
structures and traditions (ibid). Fostering predates rapid migration and urbanization, but it became more complex and diversified as a result of growing inequalities between rural and urban centres and rapid rural-urban migration. One major effect of this was a rapid increase in child labour, with different experiences in terms of benefits to rural migrants; while some that lived with wealthy families ended up getting an education and moving up the social ladder, those placed with working-class families (with little or no education and poor wages themselves) were increasingly subjected to abuse and exploitative labour conditions (Coquery-Vidrovitch, 1997: 116).

Today, rural-urban migration continues on a large scale in many West African countries as a result of near neglect of the rural areas in terms of provision of basic infrastructures and services, including education. Thus, “most African domestic workers, working in cities and towns are internal migrants — they … come from rural, often less-developed and poorer areas within their countries” (ILO, 2013b: 1).

Domestic Work as Forced Labour

Similar to the idea of fostering is another practice that underlies the spread of domestic workers in West Africa. Pawning — the transfer of persons as collateral for loans — was widespread in pre-colonial times (Klein and Roberts 1987: 23; Oroge, 1985). Although it was believed to have declined in the colonial era, it remained a viable option during famine years (Klein and Roberts 1987: 24-25). It is important to emphasize that pawning was not just a result of poverty; it was a form of social protection then — an institutional mechanism against vulnerabilities (Oroge, 1985: 76; Ubah, 1991: 466), and it appears to have been rare in areas where the poor had other options (Klein and Roberts 1987: 25-33). Vestiges of the practice can still be seen, especially in female domestic work (Akurang-Parry, 2010). For example, it is not unusual to see a relative or an intermediary collecting wages on behalf of young girls working as domestic workers in order to pay for some supposed family indebtedness and obligations — including brothers’ marriages (Coquery-Vidrovitch, 1997:115).

So, worsening inequalities (between rural and urban centres as well as between groups), combined with socio-cultural processes and institutional mechanisms, explain the involvement of people
in domestic work beyond the simple poverty-related supply-side account. The demand factors are also better understood within these processes and structures.

The Demand Side

The poverty-related analysis assumes that there is demand for domestic work (and workers) because there is supply of people (cheap labour) as a result of poverty. This analysis is weak because vulnerability alone does not dictate the type of work that people do (Thorsten, 2012: 5). In other words, the range of adjustment of the poor is dependent on available opportunities and social structures. In this case, the demand side, which is often neglected, is very important. People are not just in domestic work because they are poor; they are in it because a demand exists. They could be involved in other activities if the opportunities and structures were different. Their availability does not just result in their employment; their employment is also a result of a “labour gap”.

Globally, the demand for domestic workers has grown as a result of women’s increasing engagement in formal paid employment in the public and private sectors, and the requirements of such jobs, as well as the increase in the number of female-headed households (ILO, 2013b: 2). As more women have taken paid employment, their traditional roles of childcare and domestic duties have not changed much. Employment of women in career-structured jobs particularly involves high levels of commitment and long working hours, with little room for domestic responsibilities. The solution for women with relative control over income, particularly where their partners do not share domestic duties, is the employment of domestic workers (Gregson and Lowe cited in Cox, 2000: 242). Thus, this “dual burden” has created both the need for help in the home as well as the means to pay for it (Cox, 2000: 242). In less-developed economies, including West African countries, domestic work is further driven by the lack of mechanization in households and scarcity and costliness of time- and effort-saving commercial products etc. (Ladan, 2005). These coupled with the total or near absence of government welfare support and weak institutional frameworks for enforcement of labour legislation are the other particularities of domestic work in the West African context.
Policy Issues

From the above, it is clear that the main issues driving domestic work in West Africa are interconnected. The processes are not separate from one another; to attempt to separate them is to obscure the realities of domestic work. Widespread poverty and inequalities between rural and urban centres, coupled with the institutionalization of cultural practices of fostering and pawning in the absence of a welfare state, underscore the complexity of domestic work in West Africa. Some of these complexities manifest in terms of living arrangements (some domestic workers live with their employers, some are occasional or part-time residents, and some do not live with their employers); agency (differentiating between domestic workers that have been pawned or fostered and those that are directly employed); relationship with employers; and terms of engagement (paid, in-kind or apprenticeship) (Jacquemin, 2006: 391; ILO, 2013a: 35). Identifying these intricacies, in addition to the fact that domestic workers are often “hidden” in private homes, has implications both for understanding the situation of domestic workers and the effectiveness of any policy that seeks to improve their conditions.

The main approach to tackling the problems faced by domestic workers has been championed by the ILO in form of the Domestic Workers Convention, 2011 (C189) and Recommendation (201). As an organization with a tripartite (governments, employers and workers) governance structure responsible for setting labour standards and pursuing labour rights at the international level (Lerche, 2007: 426), the ILO sought to ensure international labour standards specific to domestic work “and in the process reframed domestic work as a human rights issue” (Blackett, 2014: 251). The basis for adopting C189 is that by nature, the work of cleaning, washing, caring, etc. is “indecent” and tends to be seen within a framework of servitude. But by adopting a human rights framework, it is hoped that the servitude framework will be eradicated and it will be “decent work” (Blackett, 2016). C189 “lays down basic rights and principles, and requires States to take a series of measures with a view to making decent work a reality for domestic workers” (ILO, 2011b: 1).

Although it is not the aim of this dissertation to appraise the ILO in general, the Decent Work Agenda represents the ILO’s “fight back” of the 1990s (Lerche, 2012: 18), given the multidimensional
challenges confronting the organization in the era of globalization (Standing, 2009). The extension of decent work to domestic workers should be seen in this context, in which the ILO “quietly ceased to be an international body attempting to redress structural inequality and became one promoting employment equity” (Standing, 2009: 369). This is why it is easier for the ILO to call for better treatment of domestic workers than to call for measures to address the structural inequalities within which the exploitation of domestic workers thrives. Thus, whereas C189 has been widely praised as the panacea to the challenges faced by domestic workers, it has not been widely ratified, and even where it is in force, compliance remains “a colossal challenge” (ILO, 2016c). The obvious issue here is how international standards can be applicable in national contexts if the conditions leading to domestic work are not universal. In the West African context, domestic work is peculiar because it involves real or fictitious kin relations, cultural mechanisms of addressing vulnerabilities and internal migration processes — all of which are difficult to unpack in relation to the rights-framed approach of C189.

An in-depth analysis of the extent to which the provisions and recommendations of C189 can be applied in the national context will be done below. First however, there will be an examination of the situation of domestic workers in a single West African country case study and how C189 compares with existing legal frameworks applicable to domestic workers.

**Domestic Workers and Legal Frameworks in Nigeria**

Although Nigeria has not ratified C189, there are “numerous calls and support” for the country to do so (Taran and Youtz, 2015: 7). Nigeria has the largest population in Africa, accounting for 47 per cent of West Africa’s population (World Bank, 2015b; ILO, 2016b). The country has recorded robust economic growth in recent years (at least before the recent slump in global oil prices), but this has not translated to better living conditions for the majority of the population. A full 78 per cent of the over 170 million people are estimated to live on less than $1.25 a day (ILO, 2015), and inequality is a big challenge in the country: rural poverty is more than three times the urban poverty rate, and more impoverishment is found in the northern parts than in the southern (The Economist, 2014; World Bank, 2015a). As a result, rural-urban migration is pronounced: half of the population live in urban centres with deplorable conditions...
and high unemployment levels — the national unemployment rate is 24 per cent, but the youth unemployment rate is twice as high (ILO, 2015). Furthermore, the country does not have a functional social protection system (Muqtada, 2012). As such, many rely on the generosity of relatives and philanthropists to meet their basic needs (Nwaubani, 2015), while others are forced to rely on “any available job” for survival. Thus, a lack of decent jobs is common (The Economist, 2014), and like a typical Sub-Saharan African country, formal employment is only about 10 per cent of the labour force (ILO, 2008b:4).

Given the above, domestic work in Nigeria is best understood within a political economy framework. Within the dominant capital-labour contradiction in Marxist analysis, domestic workers are “survival-level petty commodity producers in the informal economy” (Lerche, 2012: 18), or the “classes of labour” that Henry Bernstein (2007: 4) identified that “have to pursue their reproduction through insecure and oppressive — and typically increasingly scarce — wage employment and/or a range of likewise precarious small-scale and insecure ‘informal sector’ (‘survival’) activity.” Although there is no “homogenous proletarian condition” here, what unites these groups is “the need to secure reproduction needs (survival) through the (direct and indirect) sale of labour power” (ibid). This also makes the dualist account of informality more tenable in the country — informal employment like domestic work provides income and safety nets for the bulk of people ‘living on the margins’ of structural poverty, vulnerability and social exclusion” (ibid).

Profile of Domestic Workers in Nigeria

Although there is a dearth of reliable employment data in Sub-Saharan Africa, it is estimated that men and women are almost equally employed as domestic workers in Nigeria (National Bureau of Statistics, 2009, cited in ILO, 2013: 34). This can hardly come as a surprise to anyone with a knowledge of the situation in Nigeria, given the scope of activities covered in the ILO’s definition (see above). For example, the absence or limited coverage of modern security technology, a weak policing system, high urban crime rates etc. cause many high- and middle-income households to employ security guards or “gatemen”, and these are usually men; add to this the numbers that are increasingly employed in private households as gardeners, drivers etc. and the information may not be far from reality.
Domestic workers in Nigeria vary by age group too. In general, the sector has not been comprehensively researched to ascertain which age group dominates. This is because of conceptual and methodological challenges (see ILO 2013a for the problems of counting domestic workers). The few available studies either follow the popular conception of domestic workers as “maids or servants” and exclude gardeners, gatemen, drivers etc. or focus on specific themes in domestic work, such as child labour or trafficking, in their analysis (see for example, Akinrimisi, 2002; Ekpe-Otu, 2009; WHO, 2011; Tade and Aderinto, 2012). Also, most of the studies are region-based, and given the diversity in the country, generalization becomes problematic. In northern Nigeria, young boys sent to Quranic schools, often in a master-servant relationship, may also double as domestic workers (USDOL, 2014); in eastern Nigeria, young men that are sent to live with their “uncles” to learn a trade in cities often help with domestic duties (Agbu, 2009); and in the south, domestic workers may be children, youths and adults that have been fostered or trafficked or that are directly employed (Tade and Aderinto, 2012).

In spite of the above, a plausible explanation is that domestic workers are generally from households and backgrounds “to whom society at large grants little respect” (Coser, 1973: 39). On one hand, they may be children and youths employed in lower-middle-income households because they are available at cheaper rates and are easier to control compared to adults, or if they have been fostered or trafficked, they are easier enticed by the prospects of education and apprenticeship in the cities than adults (Ekpe-Otu, 2009; Thorsten, 2012). On another hand, they may be adults considered as “social inferiors” (Coser, 1973: 39) based on ethnic, historical or cultural factors and stereotypes.

The heterogeneity of domestic workers in Nigeria is also reflected in their terms of employment and remuneration. Akinrimisi (2002: 2) sums it up like this: “Some receive wages, some do not, some have their education sponsored by their employers in return for the services that they render and some undergo some form of vocational training or the other. Some are not paid wages and are not undergoing any form of educational or vocational training. Someone else receives their wages and they may not even know how much.”

Finally, like elsewhere in the world, stories of abuse and exploitation are common. These include unregulated working hours,
unhealthy working conditions, insecure incomes, physical assaults, gun violence, sexual abuse etc. (see, for example, *The Guardian*, 2016; *This Day*, 2016; *The Punch* 2016). However, there are exceptions as a few are employed in households (or even fostered there in the case of children or youths) where they are afforded provisions and opportunities for education, training and upward social mobility (Ekpe-Otu, 2009: 30; Nwaubani, 2015).

So, to a very large extent, domestic workers in Nigeria are in a vulnerable situation — similar to what is obtained globally. As stated earlier, practices and processes of fostering, pawning, human trafficking, forced labour, child labour etc. are all intertwined in the employment of domestic workers in the country. Yet, some of these practices are prohibited by national laws as well as international laws which the country has ratified. What follows is a review of the key provisions and recommendations of C189 in relation to existing legal frameworks applicable to domestic workers in Nigeria, and an analysis of why the existing legislation has not been effective.

**C189 and National Legislation**

Like in most parts of the world, domestic workers in Nigeria are only partly covered by the various laws in the country (ILO, 2013a: 50-52). Here, the various aspects of the nation’s legislation that address (or are supposed to address) domestic work, as well as C189, will be covered. This is because although Nigeria has not ratified C189, it has been reported that: “A number of the provisions of ILO C189 are already incorporated in Nigerian national legislation and policy … existing gaps could be effectively remedied following and with support of ratification of this instrument … [and] … ratification is feasible as well as urgent” (Taran and Youtz, 2015: 7).

The laws that implicitly cover domestic workers in the country include the 1999 Constitution (which outlines the general laws governing the country, including the fundamental rights of every person), the 1990 Nigerian Labour Act (legislation relating to the labour market), the 2011 Minimum Wage (Amendment) Act (which specifies the minimum wage payable to any worker) and the 2003 Child Rights Act (relating to the rights of the child based on the country’s ratification of international conventions and treaties such as the UN Rights of the Child and the ILO’s Convention on the Elimination of the Worst Forms of Child Labour (C182)). However, because of space constraints, I will examine only the
aspects of these laws corresponding to the four strategic pillars of the Decent Work Agenda: full and productive employment; rights at work; social protection; and the promotion of social dialogue (ILO, 1998). The C189 contains 27 articles, but articles 19–27 are about administration and reporting to the ILO and are therefore excluded from this review.

Article 1 of C189 outlines the definition of domestic workers and this has been outlined above. This definition is consistent with section 91 of the Labour Act (1990) and the Minimum Wage Act 2011(2) in Nigeria except that they refer to persons employed in domestic work as “domestic servants”. Article 2 of C189 outlines any categories or groups that may be excluded from the provisions of the Convention. It is therefore not relevant here.

Article 3 of C189 requires member states to “take measures to ensure effective protection, promotion and realization of human rights of domestic workers, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation.” These are consistent with Chapter IV of the Nigerian Constitution (1999), which covers the rights of all persons in Nigeria; section 40, which guarantees freedom of assembly and association; section 34(b) and (c), which prohibits forced or compulsory labour; section 17(3), which makes provision for the protection of children and young persons from all forms of exploitation as well as protection against discrimination on any account; and section 73 of the Labour Act (1990), which prohibits forced labour and states the penalties to be meted out to offenders.

The Child Rights Act (2003) delineates anyone below the age of 18 as a child and this is consistent with Article 4 of C189, which specifies the adoption of a minimum age for domestic work consistent with ILO’s Conventions on Minimum Age and the Worst Forms of Child Labour. Section 46 of the Nigerian Labour Act (1990) also appears to be consistent with Article 5 of C189, which specifies the need to “ensure effective protection of domestic workers against all forms of abuse, harassment and violence”. Also, section 65 of the Labour Act, which makes provisions for the Minister (in charge) to make regulations concerning the employment of domestic workers and their general living and working conditions, appears to be
relevant to the need to specify the terms of employment as contained in Articles 6 and 7 of C189.

Articles 8 and 9 of C189 contain special provisions and considerations for migrant domestic workers. Although they are not mentioned as a separate group, provisions covering them could be inferred from the ones that apply to domestic workers in general.

Article 10 of C189 enumerates provisions for hours of work, including weekly rest. This is similar to section 13 of the Labour Act (1990), with its specification on regular hours of work based on agreement between employers and employees, collective bargaining or the Industrial Wages Board. Article 11 of C189 contains specifications about minimum wage. However, the national Minimum Wage Act (2011) seems to exclude domestic workers with its provision in section 2(a) that the requirement to pay minimum wage shall not apply to any organization with less than fifty employees. Also, the provision of Article 12 of C189 on in-kind payment is another part that is not covered in national legal tools.

Article 13 of C189 contains the right to a safe and healthy working environment; similar provisions are outlined in section 17(b) and (c) of the Constitution as well as sections 65 and 88 of the Labour Act. Article 14 of C189 outlines social security protection; Article 15 is on regulation of employment agencies in the recruitment of domestic workers; and Articles 16–18 contain provisions about social dialogue. Although these are covered in varying degrees by the laws highlighted here, “domestic work is not explicitly mentioned and domestic workers appear not to be covered” (Taran and Youtz, 2015: 20).

As earlier stated, the majority of workers (about 90 per cent) in Nigeria, as in other Sub-Saharan African countries, are in informal employment (ILO, 2008b: 4). So, even where the provisions are stated, the majority of workers do not have a chance to enjoy labour protection (Tsikata, 2009). It is therefore not surprising that despite the current legal provisions, domestic workers continue to suffer abuse and exploitation and the sector is booming in the country (The Guardian, 2016). While it can be argued that consolidating all these provisions in the form of C189 and ratification of the same will address the peculiar situation of domestic workers and make the laws more effective (Tsikata, 2009), the obvious question is: if existing provisions have not been effective, by what mechanisms will the ratification of C189 ensure decent work for domestic workers in Nigeria?
Socio-Economic Realities Versus Human Rights Discourse

Ratifying C189 will not be a magic bullet. The legal framework of C189, like many aspects of national legislation applicable to domestic workers in Nigeria, reflects the human rights discourse of the “international community” (notably the United Nations (UN) and its agencies, international non-governmental organizations (NGOs) and Western countries) (Mutua, 2001) rather than internal standards and cultural expectations that drive the demand for and supply of domestic workers in the country. The ILO’s position is that fighting poverty requires the promotion of decent work (ILO, 2009: 54), but this is adopting a “non-confrontational mode” (Standing, 2009: 371); it does not challenge the structure that breeds “indecent work”. The large number of individuals and households in poverty, unemployed and without state welfare provision in the country constitute a huge “reserve army of labour” (Marx, 1998 [1887]: 902), whose labour power is available for exploitation. Private households and individuals can freely draw from this reserve to manage and maintain their high-status lifestyle (Cock, 1989), while the most deprived members of society see the same work as a survival strategy or solution out of their poverty and deplorable situation. Thus, domestic work is essentially a private contract between unequal parties — a relationship that is complex and goes beyond “the language of rights” (Jacquemin, 2006: 389) in legal (public) documents.

So, whereas the human rights discourse emphasizes that domestic workers are exploited, it does not highlight the structures within which the exploitation is perpetrated. I argue against this approach and assert that domestic workers are not only “victims” in the hands of their employers, but also “victims” in a structure of inequalities, vulnerabilities and associated cultural practices in the absence of a formal welfare system; the former being perpetuated because of, and within, the latter. Therefore, relying on legal instruments to “save” domestic workers from the exploitation of employers without addressing how they become “victims” is attempting to solve a problem without addressing its root cause. This is why the legal framework cannot be effectively applied within the status quo. I analyze the practical difficulties of applying C189 in Nigeria in the next section.
C189: Key Issues and Practical Difficulties

Ignoring the structure within which people become domestic workers is a major drawback of the ILO’s approach to ensure decent work for domestic workers. In this section, I analyze some practical difficulties in applying the key provisions of C189 (formalization, fundamental rights at work, remuneration, working and living conditions, activities of intermediaries and social protection) within the existing structure in which domestic work is done.

The Challenge of Formalization

C189 is “a means of bringing domestic workers within the formal economy and into the mainstream of the Decent Work Agenda” (ILO, 2013a: 43). Thus, the ILO’s strategy is to address the plights of domestic workers by promoting the formalization of domestic work. However, as the organization admits in another report, transition to formality requires more than legal documents and reforms because of the multifarious causes of informality (ILO, 2009: 24). Thus, the main challenge is addressing the causes of informality. In this context, the underlying conditions and processes within which domestic work thrives — poverty, inequality, insecurity, pawning, trafficking etc. will need to be addressed before formalization can be effective. Yet, this is not a straightforward process; for example, kinship networks and family relationships may need to be redefined given the rather loose usage of these terms in the African context (Bass, 2004: 89-90). More importantly, informal activities and debt relations may offer freedom from unwanted dependency on relatives or enable people to fulfil their social obligations to their immediate dependants (O’Connell Davidson, 2015: 200). Beyond the formal-informal categorization however is the fact that the majority of workers are left in vulnerable and precarious working conditions given the political economy of Nigeria, as earlier stated.

Fundamental Rights at Work

The fact that domestic workers live and mostly operate alone or as isolated groups makes it difficult to enforce their fundamental rights of association and collective bargaining to improve their wages and living conditions (Tsikata, 2009: 28). There are several challenges in attempting to enforce these rights. One is that domestic workers are mostly recruited from vulnerable groups desperate for survival and are often in a dependent relationship (ILO, 2013a:44).
Furthermore, given the social stigma attached to domestic work in Nigeria and the fact that it is only seen as a temporary work (i.e., something that people do with the hope of being able to save enough money to do something better in life (ILO, 2004; Tsikata, 2009), many would prefer to leave the work completely rather than bargain for better wages or living conditions.

Another challenge is how cultural expectations affect the application of these rights. In practice, a domestic worker who has been pawned has no bargaining rights (Klein and Roberts 1987: 24-25; ILO, 2004: 34-35). So, until the conditions that make pawning a viable option are addressed, application of C189 will be difficult. Also, in Nigeria, where respect for family values and kinship ties is emphasized, domestic workers who have been fostered may see their work as an obligation to their kin group or family members, or an act of loyalty to their “benefactors” (ILO, 2004). This is why even when and where they are abused and exploited, formal complaints are rare (at least until serious physical danger is involved) or in some cases, domestic workers are encouraged by their relatives to see their plight in the overall interest of the family (or in the case of children, as part of training for a better future) (Ekpe-Otu, 2009: 30-31).

The above also explains why organizing domestic workers is very challenging in a multicultural and diverse setting like Nigeria. In many societies where there has been successful organization of domestic workers, they have been united by a number of factors — for example, where they are mostly migrant workers (in the case of many Western countries) or are mostly members of the same race (as in South Africa) (Ally, 2005). But as already established, men and women; children, youths and adults; relatives and non-relatives; members of different ethnic groups etc. are employed as domestic workers in Nigeria, and in many cases, those that are supposed to promote their rights — including trade unionists, members of parliaments and government officials — are their employers, who promote the ratification of C189 as more of conformity to the “international norm” rather than standards that are meant to be privately binding (Anderson, 2001; Oluwaniyi, 2009).

**Remuneration**

The provision of the payment of minimum wage to domestic workers and the regulation of in-kind payments in C189 are inherently problematic given that informal employment relations
tend to have their own rules and dynamics beyond state interference (Breman, 1996: 186). For a start, it is important to recognize that payment of wages does not equal freedom (from exploitation and oppression) (O’Connell Davidson, 2015: 199). This is especially true considering the difficulty in quantifying the value of domestic work (Anderson, 2000; 2001). However, even if one assumes that domestic workers are supposed to be included in the current minimum wage of N18,000 (eighteen thousand naira or about US$912) per month in Nigeria, the amount is insufficient to ensure a decent living given the country’s size and level of income (World Bank, 2015). On the other hand, a minimum wage for domestic workers (often with little or no education and/or skills) above the national minimum wage is inconceivable, whereas setting it below the national level will lead to further impoverishment and exploitation of domestic workers.

Regardless of the rate at which the minimum wage is set, translating the legislation into actual practice is even more complex. The ILO believes compliance can be measured through the number of formal complaints made by domestic workers, workplace inspections or the proportion of workers receiving minimum wages (Oelz and Uma, 2015: 17-18). However, given the abundant labour supply, high poverty and vulnerability levels, weak legal and governance institutions and cultural expectations involved in domestic work in Nigeria, the viability and effectiveness of these measures of compliance is highly limited. For example, employers have many options to keep wages low and workers can hardly complain (formally) about low wages as this represents a better option than no wages at all (Krugman, 1997).

Furthermore, regulating in-kind payments is even more difficult. This is because domestic work, like other employer-employee relations in informal employment, is governed by “social customs and traditions” (WDR, 1995: 87). Informal commitments by employers or relatives of domestic workers — especially those recruited from rural areas — to provide education, shelter, clothing, apprentice opportunity or start-up capital for business in urban centres etc. are socially acceptable in the country (ibid). Also, the ILO’s recommendation does not consider “employers” who are themselves relatively poor but have relatives as domestic workers that they are expected to help by cultural standards. The implications for the ILO’s recommendation in this regard are obvious: such arrangements and the terms have to be quantified in monetary terms,
real and fictitious kin relations have to be defined, and extended family networks and support (against insecurities and risks) may have to be regulated and/or replaced by the state. All of these require more than legislation to be feasible.

**Working and Living Conditions**

C189 calls for “measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave” (Article 10). However, the nature of domestic work itself makes it difficult to regulate. Domestic work is highly unstructured, difficult to divide fairly and involves a contractual relationship where both the worker’s labour power and personal identity are turned into commodities to be bought and sold (Anderson, 2001). In practice, domestic workers are employed to lessen the burden and enhance the leisure of their employers (Cock, 1989). So, in a sense, employers feel they own the labour power of domestic workers in some sort of master-servant relationship (Tade and Aderinto, 2012: 530).

To a large extent, the type of domestic worker determines the feasibility (or otherwise) of having “normal working hours”. For example, some domestic workers are employed on a part-time basis or for specific tasks; some are general assistants at home as well as in their employers’ businesses; while many are “maids of all works,” i.e., they are expected to “always be there” for every household need and often live with their employers (Cox, 2006: 9; HRW, 2007). The latter is particularly problematic to normalize. From their field study with employers of domestic workers in Ibadan, South-West Nigeria, Tade and Aderinto (2012: 530) portrayed the perception of many employers: “Respondents (employers) said they could use the domestic servants ‘anyhow’ because he or she is being paid to render a service.” Also, the fact that the home is also the workplace and it is hidden from public glare means regulation is difficult (ibid).

The above also explains why domestic workers are continually in demand — even where technology can replace some of their services; employing them is not only cheaper but is also often interpreted as a symbol of high status and superiority (Coser, 1973; Cock, 1989; Anderson, 2001; Tsikata, 2009). So, the issue here is not really about emphasizing the rights of the weak in an unequal power relationship; rather it is about challenging the inequalities
and practices where people are impoverished in the first place (Cox, 2006).

If the provisions of normal weekly hours and weekly rest are not difficult enough to implement, the implementation of paid annual leave is even more problematic. As already stated, about 90 per cent of the labour force in Nigeria, as in most Sub-Saharan Africa (including many employers of domestic workers), are estimated to be in informal employment relationships, where they are hardly covered by such provisions. The obvious issue here is that if employers themselves do not get paid annual leave, it would be ridiculous to expect them to provide that to their employees.

Intermediaries

It is difficult to regulate the role of intermediaries or private employment agencies in domestic service. Intermediaries may be relatives who negotiate and collect wages on behalf of the domestic workers — especially child domestic workers but also adults in some cases — under the guise of helping them to take care of some needs in the village. Regulating the activities of these intermediaries requires being able to monitor the migration of rural residents to urban centres as well as being able to regulate fostering practice or distinguish between potentially abusive and beneficial fostering practice in education or apprenticeship (Ekpe-Otu, 2009; Oluwaniyi, 2009). All these are practically impossible where the poorest people and/or vulnerable groups are left to survive on their own.

Given the intricate connections and blurred distinctions between fostering, pawning, child labour and forced labour in domestic work, “it is impossible to know how many are exploited in domestic service” (ILO, 2004:14). If it is impossible to know, how are countries expected to ensure the elimination of all forms of forced labour and child labour, as C189 stipulates? In Nigeria, as in many African states, it is perhaps safe to say that fostering would need to be eliminated or abolished before child labour, forced labour and exploitation in domestic work associated with it can be effectively abolished. Yet fostering or pawning cannot be outlawed effectively without addressing the vulnerabilities that make people engage in it. This explains why, although Nigeria is a signatory to the ILO’s conventions on forced labour and child labour — two major “drivers” of domestic work — success has been limited, and it has been suggested that child labour in particular might be on the
increase in the country (Harma, 2009).

As elaborated before, there are many child domestic workers in the country, working under the worst forms of child labour in many cases. By the ILO’s standard, they are not meant to be in domestic work if this deprives them of compulsory education or opportunities to participate in further education or vocational training (Article 4). This provision is based on the premise that there is equal access to education and vocational training. However, this is not the case in many rural areas in Nigeria; rural poverty, neglects and the near absence of opportunities for education, employment etc. “push” people into urban centres and make them readily “exploitable” (Oluwaniyi, 2009). So, the paradox in the situation of child domestic workers in the country is that opportunities for education and vocational training often come with domestic work in urban centres (ibid; Nwaubani, 2015).

Social Protection

Discussing social protection for domestic workers is contradictory in many ways. The first is how social security protection is emphasized for domestic workers but not for the conditions that make people become domestic workers. The reality for many domestic workers is that their employment itself is a form of social protection. Fostering, pawning, trafficking and forced labour in domestic work are difficult to address despite their exploitative tendencies and “illegality” (as defined by international standards) because they are individual and cultural strategies of survival where the state mechanism is non-existent or too weak to protect the poor (Oroge, 1985: 76; Ubah, 1991: 466; O’Connell Davidson, 2015: 200). While this does not justify the exploitation that domestic workers are subjected to by employers, it poses a serious challenge to the human rights discourse: if the “universally declared rights” of basic provisions and protection (Gaay Fortman, 2006: 263) are not guaranteed by the state, how well can the same state regulate individuals’ or households’ mechanisms of adaptation (and any vulnerability resulting from the same)? The real challenge therefore is to protect the poor from daily hardship and vulnerability — conditions that drive them to further exploitation when they become domestic workers, not to merely attempt to “save” them from the exploitation of employers.

Furthermore, C189 specifies that domestic workers are
entitled to work under conditions that are not less favourable than those applicable to other workers (Article 14). This is a paradox because people become domestic workers in the first place as a result of “less favourable conditions” that they are trying to overcome — either at the individual or household level. In this regard, apart from its peculiar nature, domestic work is fundamentally different because it is not a job that reflects people’s aspirations but one that reflects their marginalization and alienation. So, the main challenge here is not the conditions under which domestic workers labour, but the conditions under which they become domestic workers. If the latter is less favourable (and it is), the former cannot be expected to be different.

Another paradox here is the proposition that domestic workers should be entitled to social security protection, such as sick leave, guaranteed occupational safety and health protection etc. This is because to a very large extent, the status of a domestic worker is determined by the income of the household where the work is being done, as well as the goodwill of the employer (Tade and Aderinto, 2012). Domestic workers do not work in typical offices and factories, where standards can be strictly adhered to. International labour standards are difficult to apply in private households for several reasons: households are different across the country, and the notion of “private” reflects values, identities and practices that make it difficult to identify what is “decent” or “indecent”; to measure “exploitation”; and to judge between what constitutes appropriate or inappropriate employment relations (O’Connell Davidson, 2015: 199). There are also issues with labour inspections to ensure adherence to standards in private households: the tension between inspecting and respecting “rights to privacy” and the possibility of getting distorted facts when households are informed about inspection ahead of time (as they are supposed to be) (Article 17).

To summarize, domestic work thrives within the existing structures of the rural-urban divide, regional inequalities, high unemployment and poverty levels, absence of state welfare support, and fostering and pawnng as cultural forms of social protection. These structural and institutional arrangements present real challenges which the rights-framed approach of C189 and its key provisions and recommendations cannot address. The rights-framed approach, with its emphasis on international standards, assumes that all nations — and by extension, individuals — enjoy some equality
(Mutua, 2001: 206-08). The notions of neutrality and universality in such discourse hide fundamental tensions and contradictions as well as issues of unequal power relations in the contemporary world (ibid) — a world of the (powerful) rich and the (vulnerable) poor; the privileged and “inferior” people; the private and public; urban and rural; and other divisions within and among countries. The plights of domestic workers are rooted in these divisions and inequalities, which the rights-framed discourse belies.

Conclusion

Applying C189 without addressing the structures within which domestic work is carried out in national contexts is why it has remained “a colossal challenge” (ILO, 2016c). The rights-framed approach of C189 assumes that domestic workers are exploited primarily because of their work. Hence, it seeks to ensure the recognition of domestic workers and the regulation of domestic work. But the reality is that it is because people are in a vulnerable position in the social hierarchy that they become domestic workers to begin with. The ratification of C189 is therefore not enough to ensure decent work for domestic workers; any policy recommendation that will be effective in addressing the plight of domestic workers must begin (and be consistent) with the processes and conditions that push people into domestic work in the first place. Given viable options, not many will remain in domestic work where they are stigmatized and abused; and domestic service will likely be increasingly operated on a specialized basis (Coser, 1973:39). This is the only way decent work for domestic workers can become a reality.

It has not been the purpose of this article to argue against the exploitation and abuse of domestic workers but to show the fundamental flaw of the ILO’s approach in urging state action to regulate domestic work and protect domestic workers. State action should be directed differently — at managing the structures and conditions under which domestic work thrives. The ILO probably needs to set another “international standard” or champion a structural reform that will ensure income support and redistribution and challenge many dimensions of the inequalities through which domestic work is carried out before promoting the ratification of C189. But without changing the status quo, decent work for domestic workers is not a realistic goal.
Endnotes
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2. Based on the official exchange rate of N197 to US$1 before the recent devaluation of the naira (see https://www.cbn.gov.ng/rates/ExchRateByCurrency.asp for updates).

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