

Precarious work and insecure lives. *De facto* informalization in Cambodia's garment factories

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Abstract:

To increase understanding about the weak implementation of labor rights in global value chains, this paper examines processes of in-fact informalization (Chang, 2009) that in Cambodia's garment industry exclude workers from legal protection in a hidden yet effective manner. Informalization in contemporary global capitalism is often examined as driven by capital. This article broadens the analysis to how states and workers contribute to top-down and bottom-up processes of in-fact informalization, and emphasizes the role of workers' collective organization. In Cambodia, subcontracting and temporary contracts prevent workers from collectively claiming their legal entitlements. In-fact informalization is promoted by the government as a strategy of indirect rule aimed at ensuring political power, and strengthened by the workers' gendered needs and strategies of intergenerational wellbeing. Together, informal work and insecure lives discourage unionization, which further increases top-down and bottom-up informalization.

Keywords: labour rights, informal work, precarious work, global value chains, trade unions, Cambodia

Introduction

The notions of informal and precarious work have emerged in different contexts to denote the absence of what is assumed to be standard: legally protected stable employment. From a historical and global perspective, it is evident that informal and precarious forms of work are the norm rather than the exception¹. Equally evident is their persistence that prevents most of the world's workers from accessing the rights defined in the international labor conventions of the ILO and referred to by the concept of Decent Work.

This article examines the contradiction between the labor rights commitments of states and corporations, and the lived realities of contemporary workers. In particular, it draws attention to the phenomenon of *in-fact informalization*, which affects workers who work in the "formal sector", in garment factories integrated into global value chains (GVCs). The notion of *in-fact informalization* was proposed by Dae-Oup Chang² (2009) who observed how the integration of

¹ Arne L. Kalleberg and Kevin Hewison, "Precarious Work and the Challenge for Asia," *American Behavioral Scientist* 57, no. 3 (2013): 271–88; Sarah Mosoetsa, Joel Stillerman, and Chris Tilly, "Precarious Labor, South and North: An Introduction," *International Labor and Working-Class History* 89 (2016): 5–19; Ronaldo Munck, "The Precariat: A View from the South," *Third World Quarterly* 34, no. 5 (June 1, 2013): 747–62.

² Dae-oup Chang, "Informalising Labour in Asia's Global Factory," *Journal of Contemporary Asia* 39, no. 2 (May 2009): 161–79.

Asian economies into the global factory implied an overarching process of informalization that contradicted the expectations of industrial upgrading. This article uses Chang's notion to emphasize the blurred boundaries between different types of work and to reject the idea that particular types of work are tied to particular realms of the economy. Nonetheless, the differences between the protection of labor rights in different types of work matter, and this paper argues that they form a central part of the inequality that GVCs are built to exploit, in line with structuralist perspective presented by Nicola Phillips³.

Research on informality in contemporary Asia has analyzed patterns of informality and the role of in-fact informalization in the economic models⁴, emphasizing informalization as an economic process driven by the interests of capital. Without disagreeing with this perspective, this paper takes a complementary focus and examines the embeddedness of informalization in historical, political and social processes. Inspired by Phillips⁵ observation that informalization is produced through top-down and bottom-up processes, the article broadens the scope of the analysis and focuses on the role of states and workers. It draws on research that has challenged the idea of informalization as an absence of state regulation. Second, it follows perspectives from the anthropology of labor and feminist political economy to analyze workers' decision regarding paid work as part of a continuum of strategies aimed at sustaining life across generations⁶. In both, the paper emphasizes the importance of workers' collective organization and recognizing the prevention of workers' collective claim-making as an *objective* of informalization.

The analysis focuses on Cambodia's garment industry, where in-fact informalization is produced through a systematic use of short-term contracts and subcontracting⁷. Previous studies⁸ have suggested that this as an employer strategy to reduce costs amidst fierce international competition. This paper examines the role of the state and of workers in order to strengthen

³ Nicola Phillips, "Informality, Global Production Networks and the Dynamics of 'Adverse Incorporation,'" *Global Networks* 11, no. 3 (July 2011): 380–97, <https://doi.org/10.1111/j.1471-0374.2011.00331.x>.

⁴ E.g. Dennis Arnold and Stephen Campbell, "Capitalist Trajectories in Mekong Southeast Asia," *European Journal of East Asian Studies* 17, no. 2 (2018): 181–91; Chang, "Informalising Labour in Asia's Global Factory"; Kalleberg and Hewison, "Precarious Work and the Challenge for Asia."

⁵ Phillips, "Informality, Global Production Networks and the Dynamics of 'Adverse Incorporation'".

⁶ Susana Narotzky and Niko Besnier, "Crisis, Value and Hope: Rethinking the Economy. An Introduction to Supplement 9," *Current Anthropology* 55, no. S9 (August 1, 2014).

⁷ Other mechanisms of "informalization within the formal" in South and Southeast Asian economies include the use of different forms of labor contracting and special economic zones (see e.g. Arnold and Campbell, "Capitalist Trajectories in Mekong Southeast Asia"; Hammer, Anita. "Comparative Capitalism and Emerging Economies: Formal-Informal Economy Interlockages and Implications for Institutional Analysis." *Review of International Political Economy* 26, no. 2 (2019): 337–60; Hewison, Kevin, and Arne L. Kalleberg. "Precarious Work and Flexibilization in South and Southeast Asia." *American Behavioral Scientist* 57, no. 4 (April 1, 2013): 395–402; Masina, P. P., & Cerimele, M. (2018). Patterns of Industrialisation and the State of Industrial Labour in Post-WTO-Accession Vietnam. *European Journal of East Asian Studies*, 17(2), 289–323; Mezzadri, Alessandra. "Globalisation, Informalisation and the State in the Indian Garment Industry." *International Review of Sociology* 20, no. 3 (March 1, 2010): 491–511.. In Cambodia SEZs are not formally excluded from the coverage of labour law and thus are not as central a tool of informalization as elsewhere.

⁸ Dennis Arnold, "Street Vendors, Factories and Family Workers: Informalizing Labour in Cambodia," *Asian Labour Law Review* 2008: *Rights for Two-Thirds of Asia* 2008 (2008): 107–124; Dennis Arnold, "Workers' Agency and Power Relations in Cambodia's Garment Industry," in *Towards Better Work: Understanding Labour in Apparel Global Value Chains*, ed. Arianna Rossi, John Pickles, and Amy Luinstra (Palgrave Macmillan, 2014); Dennis Arnold and Toh Han Shih, "A Fair Model of Globalisation? Labour and Global Production in Cambodia," *Journal of Contemporary Asia* 40, no. 3 (August 1, 2010): 401–24.

previous understanding about the persistence of the phenomenon and of the challenges involved in reversing it. Rather than interpreting Cambodian government's policy as mere pro-employer strategy, the paper argues for seeing it as a form of indirect rule aimed at securing political control and regime survival without losing the legitimacy of adherence to national and international law. Furthermore, the article calls for a deeper consideration of the fact that many Cambodian workers prefer conditions that in-fact informalize their work. This involves more than false consciousness and immediate need of cash. Workers' strategies are not only defined by individual economic maximization; they also reflect more complex needs and values. In Cambodia, the insecurity of work and the gendered insecurity of life combine to attract workers towards informal work arrangements and effectively hamper collective organization.

A key insight that emerges from the analysis is the centrality of workers' collective organization in both processes of in-fact informalization. This is circular: informality discourages unionization, and the lack of unionization encourages informality both top-down—through lack of political representation—and bottom up—through a lack of awareness of the law. In-fact informalization effectively undoes freedom of association and prevents mobilization without explicitly abandoning Cambodia's commitments to international labor and human rights normative.

This article is based on ethnographic research conducted in Cambodia, mainly Phnom Penh. The main data were collected and produced over 13 months of fieldwork in 2016–2017. I also continued discussions with a more limited set of participants during three additional months in 2019 and 2020. Altogether, I have discussed different issues related to labor rights and politics—not limited to the questions addressed in this paper—in semi-structured interviews with over 120 informants, including garment workers and union activists and representatives of local and international labor NGOs, intergovernmental organizations, supplier and buyer companies, and the Cambodian government.

In the following section, I review theorization of the processes of informalization in global value chains. In the next section, I suggest examining the role of the state and of workers by embedding top-down and bottom-up processes of informalization into concrete political and social contexts. I then proceed to analyze the Cambodian garment industry, in which work is *in-fact informalized* through the systematic use of temporary contracts and subcontracting. Adopting a broader scope of the actors that push informalization, and emphasizing the importance of workers' collective organization, the paper deepens the understanding of how in-fact informalization is produced and why it persists despite resistance by trade unions and the international community.

Before progressing with the analysis, I would like to make a conceptual note. The notions of informality and precarity emerged in different contexts and with different objectives, but some authors have recently suggested using precarity as a concept of broader scope⁹. In this paper, the notions are used to refer to conceptually different things. I understand the notion of in/formality as referring to the *legal* aspects of regulation and the protection of work and workers. I use *in-fact informalization* to denote the key difference between *de jure* and *de facto* protection, and to indicate that I do not see formal and informal in a dualist sense. By *precarity* I do not refer to

⁹ Kalleberg and Hewison, "Precarious Work and the Challenge for Asia"; see also Mosoetsa, Stillerman, and Tilly, "Precarious Labor, South and North: An Introduction"; Karin Astrid Siegmann, "Understanding the Globalizing Precariat: From Informal Sector to Precarious Work," 2016.

aspects of legality but to *experiences* of insecurity, uncertainty and instability of work¹⁰. These conceptual differences affect whether and how the lack of protection is detected and addressed. Finally, I am interested in how *informality* and *precarity* interrelate, as well as in the relationship between precarious work and precarious life¹¹.

Informalization in Global Value Chains

Contrary to the belief that informality would disappear with the advance of capitalist development, the integration of Asian economies into the “global factory” has been characterized by an overarching process of informalization¹². The boundaries between formal and informal work have become blurred throughout the region, and precarious work has spread into the small “formal” sectors in which workers used to enjoy a certain level of protection and security¹³. Whereas in the Global North, precarious and informal forms of work have been considered a novel characteristic of contemporary capitalism, there is nothing new about the dominance of these forms in much of the Global South. Rather, as Kalleberg and Hewison (2013) emphasize, old forms of work are put into new use in the contemporary production regimes: to provide flexibility for employers and transfer risks to workers.

The idea that informality is used by capital to increase profit is central in structuralist perspectives on informality. They emphasize an interconnection¹⁴, or a “dynamic structural blending”¹⁵ or interlocking¹⁶ of formal and informal which is fundamentally about subordinating the latter to the former. Flexibility increases competitiveness and productivity, but this benefits only employers. The formal or “modern” does not absorb the informal; it depends on it and feeds it to increase profit¹⁷.

The exploitation of difference and inequality is a central logic of capitalism, and it takes a particular form in the contemporary globalized economy and “supply chain capitalism”¹⁸ in which production is outsourced into global chains aimed at creating value and increasing profit through

¹⁰ Kalleberg and Hewison, “Precarious Work and the Challenge for Asia.”

¹¹ Ching Kwan Lee and Yelizavetta Kofman, “The Politics of Precarity: Views Beyond the United States,” *Work and Occupations* 39, no. 4 (November 1, 2012): 388–408; “The Precarious Present: Wageless Labor and Disrupted Life in Rio de Janeiro, Brazil,” *Cultural Anthropology* 29, no. 1 (February 3, 2014): 32–53; Kathleen M. Millar, “Toward a Critical Politics of Precarity,” *Sociology Compass* 11, no. 6 (2017): e12483; Andrea Muehlebach, “On Affective Labor in Post-Fordist Italy,” *Cultural Anthropology; Washington* 26, no. 1 (February 2011): 59.

¹² Chang, “Informalising Labour in Asia’s Global Factory.”

¹³ Kalleberg and Hewison, “Precarious Work and the Challenge for Asia”; for South East Asia see also Arnold and Campbell, “Capitalist Trajectories in Mekong Southeast Asia.”

¹⁴ Castells, M. and Portes, A., (1989). *World underneath: the origins, dynamics and effects of the informal economy*. In: A. Portes, M. Castells and L.A. Benton, eds. “The informal economy: studies in advanced and less developed countries”. Baltimore, MD: John Hopkins University Press.

¹⁵ Phillips, “Informality, Global Production Networks and the Dynamics of ‘Adverse Incorporation’”.

¹⁶ Hammer, “Comparative Capitalism and Emerging Economies: Formal-Informal Economy Interlockages and Implications for Institutional Analysis”.

¹⁷ Lourdes Benería, “Shifting the Risk: New Employment Patterns, Informalization, and Women’s Work,” *International Journal of Politics, Culture, and Society* 15, no. 1 (September 1, 2001): 27–53.

¹⁸ Anna Tsing, “Supply Chains and the Human Condition,” *Rethinking Marxism* 21, no. 2 (2009): 148–76, 8.

the exploitation of regulatory, socioeconomic and cultural difference—reflected in labor and other production costs—between different contexts. It is according to this logic that Phillips (2011) suggests that the informalization of work in contemporary capitalism should be understood. The global chains are created to exploit difference, but *pre-existing* inequality is not enough. It must be constantly (*re*)created to enable the continuation of accumulation, and according to Phillips, the increasing informalization and the proliferation of unprotected forms of work are a key mechanism through which this is done in the GVCs. In other words, processes of informalization are "*not only a side effect of capitalist expansion*"—as GVC studies tend to perceive them— but "also generated for the purposes of driving this expansion"¹⁹.

In the analysis of underlying dynamics and factors behind the patterns of informality in GVCs, Phillips' notion of the bidirectional processes of informalization in GVCs is helpful. She suggests that informalization is created in a "top-down" manner— by capital, firms, employers and states— but also through "bottom-up" dynamics, which she describes using Du Toit and Hickey's²⁰ notion of "adverse incorporation". Here, poverty is not seen as a result of exclusion from capitalist processes but rather of participation in precarious terms. According to this logic, work in the GVCs (re)produces vulnerability and chronic poverty instead of enabling long-term security and accumulation²¹.

Phillips emphasizes the circularity of the relationship: chronic poverty enhances vulnerability to further adverse incorporation. Mezzadri and Fan²² criticize Phillips²³ for making "too direct a link between informality, vulnerability and working poverty" (p. 1039), and for seeing the top-down and bottom-up processes as separate. I suggest that considering the role of labor's collective organization adds complexity to the analysis and helps connecting the top-down and bottom-up processes. While Phillips²⁴ mentions that GVCs seek cheap and flexible labor that is unable to negotiate the process of production, she does not discuss further the role of workers' collective organisation in countering the imbalances of power that increase workers' vulnerability.

As scholars of labor sociology and geography have shown, weakening workers' collective organization has been a central objective of the globalization of production. Outsourcing or production to the Global South was a response to the social contracts that through advanced legal and institutional protections of workers' rights limited capital's opportunities to make profit in the Global North. It resulted from neoliberal policies intended to avoid and to weaken the trade unions' economic and political power that was behind these costly protections²⁵. From this

¹⁹ Phillips, "Informality, Global Production Networks and the Dynamics of 'Adverse Incorporation,'" 389.

²⁰ Andries Du Toit and Hickey, Sam, "Adverse Incorporation, Social Exclusion and Chronic Poverty. CPRC Working Paper No. 81." (Chronic Poverty Research Centre, University of Manchester, 2007).

²¹ Phillips, "Informality, Global Production Networks and the Dynamics of 'Adverse Incorporation'"; Nicola Phillips, "Unfree Labour and Adverse Incorporation in the Global Economy: Comparative Perspectives on Brazil and India," *Economy and Society* 42, no. 2 (May 1, 2013): 171–96.

²² Alessandra Mezzadri and Lulu Fan, "'Classes of Labour' at the Margins of Global Commodity Chains in India and China: 'Classes of Labour' at the Margins of Global Commodity Chains," *Development and Change* 49, no. 4 (July 2018): 1034–63, <https://doi.org/10.1111/dech.12412>.

²³ Phillips, "Informality, Global Production Networks and the Dynamics of 'Adverse Incorporation.'"

²⁴ Phillips, 386.

²⁵ E.g. Michael Burawoy, "From Polanyi to Pollyanna: The False Optimism of Global Labor Studies," *Global Labour Journal* 1, no. 2 (2010); Harvey, David. *The New Imperialism*. OUP Oxford, 2005; Beverly J. Silver, *Forces of Labor: Workers' Movements and Globalization Since 1870* (Cambridge: Cambridge University Press, 2003); Edward Webster,

perspective, organizing production into GVCs is meant to reduce costs by exploiting the existing asymmetries in legal-institutional protections of labor by reducing its economic and political power.

Informality is an effective *means* of weakening trade unions²⁶ as well as maintaining and reproducing workers' disempowerment. The problems that informal workers in the "informal sector" face in organizing collectively to negotiate economic and other benefits have been widely documented in research²⁷. They are often linked to the lack of an employment relationship and workers' physical and socioeconomic fragmentation. These factors do not apply in the same way to *de facto* informal workers in garment factories. In particular, the concentration of precarious workers in dormitory regimes can promote solidarity-based collective action²⁸. In in-fact informalization it is more the inability to access legal protection—in particular of freedom of association—that impedes workers' collective action, whether to demand wage increases²⁹ or to defend labor rights, as this paper analyzes in the case of Cambodia.

Embedded Nature of Informalization

In their criticism of Phillips' framework, Mezzadri and Fan (2018) suggest empirically deepening the analyses of informalization processes, in concrete settings and labor relations. This resonates with the perspectives of economic anthropologists who emphasize the analysis of the motives and dynamics behind economic patterns. It is needed in order to understand informalization as not only concerning global economic processes but also as being shaped by cultural, historical and social factors, as suggested by Kalleberg & Hewison³⁰.

Top-Down Processes and Interests of the State

Political-economic analyses of informality in contemporary economies tend to emphasize the top-down processes of informalization but focus, in particular, on the role of capital. The role of the state is given less attention, which is associated to how informality is understood as a lack of regulation resulting from the absence or failure of the state³¹. In GVC studies more generally, the role of the state is often downplayed in relation to that of multinational companies and global

Andries Bezuidenhout, and Rob Lambert, *Grounding Globalization: Labour in the Age of Insecurity*, 1 edition (Malden, Mass.: John Wiley & Sons, 2008).

²⁶ Kalleberg and Hewison, "Precarious Work and the Challenge for Asia"; Webster, Bezuidenhout, and Lambert, *Grounding Globalization*.

²⁷ E.g. Rina Agarwala, *Informal Labor, Formal Politics, and Dignified Discontent in India* (Cambridge University Press, 2013); Naila Kabeer, Ratna Sudarshan, and Kirsty Milward, eds., *Organizing Women Workers in the Informal Economy: Beyond the Weapons of the Weak* (London ; New York: Zed Books, 2013); Mosoetsa, Stillerman, and Tilly, "Precarious Labor, South and North: An Introduction."

²⁸ Stephen Campbell, "Everyday Recomposition: Precarity and Socialization in Thailand's Migrant Workforce," *American Ethnologist* 43, no. 2 (2016): 258–69.

²⁹ Hewison and Kalleberg, "Precarious Work and Flexibilization in South and Southeast Asia".

³⁰ Kalleberg and Hewison, "Precarious Work and the Challenge for Asia."

³¹ Mezzadri, "Globalisation, Informalisation and the State in the Indian Garment Industry".

actors³². Regarding informality in India, Mezzadri and other authors³³ have drawn attention to how the state contributes to informalization through regulation and policy but also by aligning with the interests of capital and indirectly legitimizing anti-labor strategies.

Another perspective on the state's active role in informalization goes beyond the promotion of the interests of capital. In his recent analysis of Myanmar, Campbell³⁴ suggests that the apparent contradiction between the formalization of some sectors and the persistent informality of others is, in fact, a process of selective hegemony³⁵. Rather than being antithetical to legally protected employment, informality functions as an indirect modality of rule and the two are complementary logics of state practice. Like the colonial indirect rule observed by Mamdani³⁶, it is a divide and rule strategy aiming to preclude claims to legal rights by certain groups—in this case workers.

Campbell³⁷ suggests that the Burmese state uses simultaneous and partial formalization to achieve goals of legitimacy associated with the commitment to international standards of labor and human rights. I suggest that this is similar to the logic of in-fact informalization: both are ways of preventing claim-making in an indirect, obscured way. Deliberately precluding workers' legal claims without explicitly excluding them from legal protection *de jure* enables the state to continue claiming adherence to the international labor rights normative.

Bottom-Up Dynamics and Workers' Needs

Anthropological perspectives and “everyday political economy”³⁸ that emphasize the role of people in constructing economic structures. This has been reflected in much research on informal work but less so in the analyses of the processes of informalization in GVCs. The latter have rather seen workers as objects of informalization – or alternatively, as resisting it. For example, Phillips³⁹ use of adverse incorporation suggests that informal work results from a lack of options, being forced to prioritize short term-goals of survival at the expense of longer-term strategies of accumulation and security.

³² Mezzadri; see also Neil M. Coe and David C. Jordhus-Lier, “Constrained Agency? Re-Evaluating the Geographies of Labour,” *Progress in Human Geography* 35, no. 2 (April 1, 2011): 211–33; Frederick W. Mayer and Nicola Phillips, “Outsourcing Governance: States and the Politics of a ‘Global Value Chain World,’” *New Political Economy* 22, no. 2 (March 4, 2017): 134–52.

³³ Agarwala, *Informal Labor, Formal Politics, and Dignified Discontent in India*; Hammer, “Comparative Capitalism and Emerging Economies: Formal-Informal Economy Interlockages and Implications for Institutional Analysis.”

³⁴ Stephen Campbell, “Labour Formalisation as Selective Hegemony in Reform-Era Myanmar,” *The Asia Pacific Journal of Anthropology* 20, no. 1 (January 1, 2019): 57–73.

³⁵ Gavin A. Smith, “Selective Hegemony and Beyond-Populations with ‘No Productive Function’: A Framework for Enquiry,” *Identities* 18, no. 1 (January 1, 2011): 2–38.

³⁶ Mamdani, Mamoud. 1996. *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Princeton, NJ: Princeton University Press.

³⁷ Campbell, “Labour Formalisation as Selective Hegemony in Reform-Era Myanmar.”

³⁸ Juanita Elias and Lena Rethel, “Southeast Asia and Everyday Political Economy,” in *The Everyday Political Economy of Southeast Asia*, ed. Juanita Elias and Lena Rethel (Cambridge University Press, 2016), 3–24; John M Hobson and Leonard Seabrooke, *Everyday Politics of the World Economy* (Cambridge; New York: Cambridge University Press, 2007).

³⁹ Phillips, “Informality, Global Production Networks and the Dynamics of ‘Adverse Incorporation’”; Phillips, “Unfree Labour and Adverse Incorporation in the Global Economy.”

Recognizing that workers might prefer informal arrangements requires a more holistic understanding of how people organize their economic lives, as suggested by authors such as Narotzky and Besnier⁴⁰. This means recognizing that even under capitalism, people's economic agency is motivated by more complex factors than self-interested individual maximization, and that the money form of value coexists with other forms of value and of relations⁴¹. According to Narotzky & Besnier, affective relations such as those between generations are central to the livelihood-related anxieties of people who live in conditions of insecurity. These authors suggest that the economy should be seen as being concerned with *processes of sustaining life across generations*.

Recognizing that behavior in work and labor markets is affected by wider life concerns, is close to the tradition of feminist political economy that rejects the dualist separation between work and non-work and draws attention to the constant interlinking of productive and reproductive responsibilities⁴². Social reproduction of the individual worker, the labor force and society translates into material aspects, such as time-consuming tasks in the care of family members, and strong cultural conceptions about women's public roles. These determine the position from which workers enter labor markets, trade unions and GVCs.

The gendered division of care responsibilities has a profound impact on work in global value chains and in the continuum between formal and informal. The division is often particularly unequal in the contexts of the Global South. In addition to possibly more traditional gender roles, public services do not alleviate women's burdens, and care services offered by the private sector are not accessible. Women's double responsibility for the material and non-material wellbeing of their families is exacerbated by poverty.

In this context, informal work might be preferred as a way to reconcile income generation with the responsibilities of social reproduction, due to the flexibility it offers in terms of working hours and distances⁴³. For example, research by de Neve⁴⁴ shows how in India, work in informal sweatshops is—for women—a way of enabling participation in paid employment in the first place. For young male tailors, in contrast, flexibility is about personal freedom.

⁴⁰ Narotzky and Besnier, "Crisis, Value and Hope."

⁴¹ Victoria Goddard, "Work and Livelihoods: An Introduction," in *Work and Livelihoods. History, Ethnography and Models in Times of Crisis.*, ed. Goddard, Victoria and Susana Narotzky (New York; Abingdon, Oxon: Routledge, 2017), 28; Susana Narotzky, "Rethinking the Concept of Labour," *Journal of the Royal Anthropological Institute* 24, no. S1 (2018): 29–43.

⁴² Isabella Bakker and Stephen Gill, eds., *Power, Production, and Social Reproduction: Human in/Security in the Global Political Economy* (Houndmills, Basingstoke, Hampshire; New York: Palgrave Macmillan, 2003); Juanita Elias and Adrienne Roberts, "Feminist Global Political Economies of the Everyday: From Bananas to Bingo," *Globalizations* 13, no. 6 (March 1, 2016): 787–800; Silvia Federici, "Revolution at Point Zero Housework Reproduction and Feminist Struggle," 2012; Genevieve LeBaron, "The Political Economy of the Household: Neoliberal Restructuring, Enclosures, and Daily Life," *Review of International Political Economy* 17, no. 5 (November 10, 2010): 889–912.

⁴³ Gallaway, J. H., & Bernasek, A. Gender and Informal Sector Employment in Indonesia. *Journal of Economic Issues*, 36, 2, (2002): 313–321; Arup Mitra, "Women in the Urban Informal Sector: Perpetuation of Meagre Earnings," *Development and Change* 36, no. 2 (2005): 291–316.

⁴⁴ Geert De Neve, "Fordism, Flexible Specialisation and CSR: How Indian Garment Workers Critique Neoliberal Labour Regimes," *Ethnography*, November 22, 2012.

The gendered impact of care responsibilities—the need to ensure life across generations—and the overall condition of insecurity together determine the aims and strategies according to which people engage in different types of work. This highlights how the relationship between precarious labor and precarious life⁴⁵ is more complex than the linear link between poverty and informality that the idea of adverse incorporation suggests. As the analysis of the Cambodian garment workers shows, working in GVCs is determined by gendered needs and values that go beyond economic considerations.

In-Fact Informalization in Cambodian Garment Industry

In the 1990s, Cambodia emerged from decades of violence, civil war and political isolation. The post-Cold War liberal consensus was reflected in the development model that the international community introduced in the country. Democratization was to go hand in hand with market liberalization, and export-led growth was sought on the basis of ready-made garment production.

In the 2010s, the garment and footwear industry accounted for between 70% and 75% of the country's total merchandise exports. The 661 licensed export factories are owned by Chinese and other Asian companies. Around 80% of the 640,000 workers⁴⁶ are female. Each garment worker supports approximately five dependents⁴⁷. Work in garment factories is the main route for Cambodians with low levels of education to access formal wage employment.

The garment industry is the only sector with a legal minimum wage, and it is not uncommon for Cambodians to believe that labor law only applies in this sector. This is due to the existence of a hybrid governance system that leads to a much higher protection of labor rights in this sector than the rest of the Cambodian economy. Labor inspection is weak and under resourced, but in the garment sector its absence is compensated by the ILO-led monitoring program Better Factories Cambodia (BFC)⁴⁸. This has resulted in a relatively high awareness of the labor law and respect of basic provisions in terms of wages, working hours and the use of child labor. Nonetheless, the program is often criticized by Cambodian labor activists, who consider another institution of labor rights regulation, the tripartite Labour Arbitration Council (AC) much more central to their strategies of defending workers' rights (Salmivaara, 2018). Due to the overwhelmingly corrupt judicial system, the AC is the forum to which trade unions take cases of labor rights violations. The institution was originally created by the ILO and it is independent from the ruling party's political patronage⁴⁹.

⁴⁵ Millar, "The Precarious Present"; Millar, "Toward a Critical Politics of Precarity."

⁴⁶ ILO & IFC "Better Factories Cambodia: an industry and compliance review". Geneva: ILO, 2018

⁴⁷ Sabina Lawreniuk, "The Ties That Bind. Rural–Urban Linkages in the Cambodian Migration System," in *The Handbook of Contemporary Cambodia*, ed. Katherine Brickell and Simon Springer (Routledge, 2017), 10.

⁴⁸ Sandra Polaski, "Combining Global and Local Forces: The Case of Labor Rights in Cambodia," *World Development*, Part Special Issue (pp. 868–932). Making Global Corporate Self-Regulation Effective in Developing Countries, 34, no. 5 (May 2006): 919–32; Kristy Ward and Vichhra Mouly, "Employment Relations and Political Transition in Cambodia," *Journal of Industrial Relations* 58, no. 2 (April 1, 2016): 258–72.

⁴⁹ Hugo van Noord, Hans S Hwang, and Kate Bugeja, *Cambodia's Arbitration Council: Institution-Building in a Developing Country* (Geneva: ILO, 2011).

The enforcement of AC awards as well as the follow-up of BFC monitoring reports depends in practice on the buyers, international garment brands that purchase the clothes sewn by Cambodian workers. They have become the main implementers of international and national labor law in Cambodia⁵⁰. According to Cambodian unionists, this enables them to organize and defend garment workers' rights in a way that is not possible in the other sectors.

Although the international garment sector constitutes a protected exception within the Cambodian economy, work in the garment industry is increasingly being *de facto* informalized through outsourcing production to subcontractor factories and using short-term contracts. This trend has been analyzed by Arnold⁵¹ and Arnold & Shih⁵² as an employer strategy to reduce costs amidst fierce international competition, and a break from a previous commitment to the principles of decent work. In the following, I briefly present the patterns based on previous research, complementing it regarding recent developments. I then proceed to analyzing how in-fact informalization prevents workers in formal employment claiming the legal protections to which they are formally entitled. I complement previous analyses with a focus on the top-down and bottom-up processes beyond the role of employers.

Subcontracting

Licensed export factories might subcontract a part of their production to other factories, either officially or unofficially. In the first case, the subcontractor must be audited and approved by the buyer. Big export factories might have dozens of subcontractors, and a representative of the Garment Manufacturers' Association (GMAC) describes subcontracting as "part and parcel of the industry", a response to the pressures of buyers' fluctuating orders and unreasonable volumes and timelines⁵³.

Subcontracting appears to have substantially increased during the last decade, but data are scarce. Representatives of the largest independent union federation, CCAWDU, raised their estimate of around 200 unlicensed factories in 2011⁵⁴ to 400 in 2017⁵⁵. A recent study conducted by the ILO also observed an accelerating growth in subcontracting. The difference between the number of export licenses and the establishments registered at the National Social Security Fund (NSFF) had tripled in only two years—from 82 factories in 2014 to 244 in 2016. Furthermore, labor force survey data suggests that 27% of all garment workers work outside the export factories⁵⁶.

However, the figures of the NSFF probably only cover official subcontracting. According to a Labour Inspection advisor, the institution has no way of knowing about the establishments that do

⁵⁰ Anna Salmivaara, "New Governance of Labour Rights: The Perspective of Cambodian Garment Workers' Struggles," *Globalizations* 15, no. 3 (April 16, 2018): 329–46.

⁵¹ Arnold, "Street Vendors, Factories and Family Workers"; Arnold, "Workers' Agency and Power Relations in Cambodia's Garment Industry."

⁵² Arnold and Shih, "A Fair Model of Globalisation?"

⁵³ Interview with GMAC representative, 2016.

⁵⁴ Arnold, "Workers' Agency and Power Relations in Cambodia's Garment Industry."

⁵⁵ Interview with union leader, 2017

⁵⁶ ILO, "Cambodian Garment and Footwear Sector Bulletin", Issue 6, May 2017. ILO, Bangkok. Retrieved from https://www.ilo.org/asia/publications/WCMS_555290/lang--en/index.htm.

not register with the NSFF, especially in rural areas⁵⁷. Unauthorized subcontracting to unregistered factories—or “small factories” as the workers call them—remains in the dark. They have no name displays and might operate from homes, warehouses or industrial buildings, or change location regularly⁵⁸.

Labor conditions are worse in these locally selling factories. No subcontractors are currently monitored by the BFC, despite the issue having been under discussion already in 2011⁵⁹. This means that violations of the law are not detected or sanctioned. Furthermore, in the absence of independent unions⁶⁰, awareness of labor law among workers is low and they are unable to seek protection from the AC in cases of violation. An alternative source of legal support for workers are the labor NGOs, but these seldom reach subcontracting factories as they mainly collaborate with independent unions or focus on export factory areas. They often only find out about problems at a subcontractor only when the factory closes and without the support of a trade union, the workers turn to an NGO for legal support to recover what their employers own them.

Organising in a subcontracting factory is impossible. Discrimination against independent unions is extremely common in Cambodia and organization is feasible only when protection against dismissals can be sought from the Arbitration Council. This requires the existence of reputation-conscious buyers; visible international brands committed to enforcing labor rights—including freedom of association—in their supply chain. This is why independent unions base their organization efforts on mapping the supplies of “good buyers”.

Thus, it is not only the absence of public and private monitoring that prevents workers in subcontracting factories enjoying their legal entitlements. In-fact informalization results from the lack of public and private regulation. In the absence of international buyers, organising is not possible, which results in weak awareness of legal rights and an inability to defend them collectively.

Short Term Contracts

Cambodian labor law recognizes two types of work contract, the undetermined duration contract (UDC) and the fixed duration contract (FDC). In the early 2000s, UDCs were the norm. The situation began to change after 2005, which Arnold⁶¹ links to the heightened international competition which, at the end of the WTO quota regime, forced the industry to seek new ways to maintain profits and avoid demands of organized workers.

⁵⁷ Interview with labour inspection advisor, 2016.

⁵⁸ ILO, “Cambodian Garment and Footwear Sector Bulletin”; see also Human Rights Watch, “*Work Faster or Get out*”: *Labor Rights Abuses in Cambodia’s Garment Industry*, 2015.

⁵⁹ Arnold, “Workers’ Agency and Power Relations in Cambodia’s Garment Industry.”

⁶⁰ The term ‘independent union’ is used in the article to refer to unions that belong to federations that are not aligned with ruling party. This is a small minority, as ten out of 13 trade union confederations are aligned to the government and their leaders might hold positions as high-ranking ministry officers or government advisors.

⁶¹ Arnold, “Street Vendors, Factories and Family Workers”; Arnold, “Workers’ Agency and Power Relations in Cambodia’s Garment Industry.”

Already in 2011, it was common to recruit all new workers on fixed term contracts⁶² and in 2015, around 80% of export factories employed most of their workforce on repeated two- to three-month contracts⁶³. Employers promote FDCs through a mix of pressure, manipulation and threats, sometimes in collaboration with government or employer-controlled trade unions⁶⁴. Many activists believe that factory closures are increasingly being staged to convert entire workforces to FDCs.

The legality of repeated short-term contracts is a major dispute in Cambodian labor rights governance. According to the Labour Law's Article 67, the total length of repeated FDCs cannot exceed two years, after which a contract is automatically considered permanent. This has been confirmed in numerous Arbitration Council rulings since 2003. Nonetheless, the Ministry of Labour has stringently rejected this interpretation, claiming that the law's two year-maximum only limits the duration of a single contract. In 2009, the government attempted to amend the Law to confirm the latter view, but the initiative was opposed by the unions, labor NGOs and their international partners⁶⁵, and some buyers. It was not passed, but the government continues to firmly defend this view.

The direct impacts of FDCs have been documented by Arnold⁶⁶, Fair Action⁶⁷ (2015) and Yale Law School⁶⁸. They include weaker legal entitlements with respect to the termination of contracts: shorter notice periods and lower compensation compared to permanent contracts. Whereas the dismissal of a permanent worker requires proving "serious misconduct", the non-renewal of a temporary contract requires no justification. In addition, annual leave, sick leave and maternity and seniority benefits are calculated on the basis of months of continuous service. However, the loss of seniority benefits is compensated by a 5% severance payment at the end of each temporary contract.

The indirect, or *de facto* impact of FDCs on workers' rights and benefits is more dramatic. The constant threat of non-renewal prevents workers claiming any of their legally guaranteed rights. The following example describes these dynamics at Star Fashion, a medium-sized factory in a village of a province neighboring Phnom Penh. I interviewed 19 current and former workers in January 2017.

In-fact Informalization Prevents Rights Claims

⁶² Yale Law School, "Tearing Apart at the Seams" (Allard K. Lowenstein International Human Rights Clinic, Yale Law School, 2011).

⁶³ Fair Action, "A Short-Term Solution: A Study of the Use of Fixed-Duration Contracts in the Cambodian Garment Industry" (Stockholm, Sweden: Fair Action, 2015).

⁶⁴ Human Rights Watch, *Work Faster or Get Out*; Yale Law School, "Tearing Apart at the Seams."

⁶⁵ Yale Law School, "Tearing Apart at the Seams."

⁶⁶ Arnold, "Street Vendors, Factories and Family Workers."

⁶⁷ Fair Action, "A Short-Term Solution: A Study of the Use of Fixed-Duration Contracts in the Cambodian Garment Industry."

⁶⁸ Yale Law School, "Tearing Apart at the Seams."

Star Fashion produces garments for several European brands. When it was opened in 2013, all the workers were hired on permanent contracts. The problems began in 2014, when the workers attempted to choose a worker representative. When they informed the management about the election, the main candidate was dismissed. The other workers decided to start a solidarity strike to protest this decision. Additional demands such as salary increases were later added. The company responded by dismissing another 14 workers. Over 500 workers participated in the protest, but as time went by and the management did not agree to negotiate, some returned to work. The workers asked an independent union federation for help. When the federation approached the factory, their legal officer was arrested by the local authorities. More workers were dismissed.

After three months, the strike ended with no results. Because the workers had not been able to register their union, they could not take the case to the Arbitration Council, which requires such registration for a collective case. The workers who had been photographed during the protest lost their jobs permanently. Those who were re-employed were given short-term contracts. The factory no longer hired permanent workers.

The workforce now consisted of two groups of workers. Those with permanent contracts, recruited back in 2013 when the factory was opened, were in a privileged situation, because their job security decreased the management's ability to threaten. They were able to claim their legal rights, such as paid maternity leave, or refuse illegal overnight shifts.

The vulnerable situation of the second group, the workers on fixed-duration contracts, was used as a mechanism of control by the management. The threat of non-renewal was made constantly for different mistakes: being late or failing to reach production targets, asking for leave or maternity benefits or refusing excessive overtime. The threats were occasionally reinforced by formal written warnings. The workers feared losing their jobs because there were no other factories in the area. All had several generations of family members who were dependent on their salaries and most families had huge debts. The repayments and high interest rates required regular income.

Similar experiences of labour rights violations and opposition to independent organizing are common in the narratives of workers and labor activists in Cambodia. The example of Star Fashion shows how temporary contracts are used to punish workers and to prevent their claim-making. It also illustrates how the strategy is intimately linked with the precarious life conditions of workers and their gendered responsibilities of social reproduction. Across this highly feminized industry, temporary contracts are used to avoid maternity leave costs. They enable detecting pregnancy in time. As one federation-level leader explained: "When you go to find a job, [you get] a three-month contract. If you are good and you are not pregnant, you can renew. But if you are pregnant (...) they will end your contract."⁶⁹

Arnold and Shih note that employers in Cambodia use informal/flexible labor to maintain or increase profits and to "avoid the demands of organised workers"⁷⁰. This does not happen *de jure*:

⁶⁹ Interview with federation leader, 2017.

⁷⁰ Arnold and Shih, "A Fair Model of Globalisation?" p. 417-8; also Arnold, "Workers' Agency and Power Relations in Cambodia's Garment Industry." p. 222

according to the law, temporary workers have the same right as permanent workers to form trade unions. The impact is indirect and results *de facto* of the combination of the “in-built insecurity” of the temporary contracts⁷¹ and the precarious situation in which workers seek to ensure the survival and wellbeing of several generations of family members.

At Star Fashion, temporary contracts were put in place to prevent efforts to organize. In other cases, they are used to eliminate troublemakers when prevention has failed. This was what happened to Vuthy, 29, who organised an independent union at another factory in the same province. The company rejected the union registration letter and management began following Vuthy, the newly chosen union president, at the workplace. Vuthy told me: “*They waited until the end of my two-month contract and then they told me that there was not much work and they had to finish my contract.*” The same happened to the vice-president and other 20 union members. All had short contracts despite having worked in the factory for years.

I have heard countless accounts of retaliation against independent unions and the resulting vulnerability. The situation is dire: Even when the dismissed activist has a permanent contract, it is hard to prove that the termination was motivated by union discrimination. If the activist has a temporary contract, there is no case. The company is protected from allegations of anti-union behavior and possible buyer involvement. A former union leader explained how this strategy has come to replace open discrimination:

“In the past, if there is union or worker representative at the workplace and they are active in demanding benefit for workers, the employers just immediately dismissed them. But now they change. They still discriminate the union but they don't want to [get caught], so they use the short term contracts. If they see that someone is active and a union leader, and they don't want a union in the workplace to ask for more benefits, they just don't renew the contract.”⁷²

This also weakens unions indirectly as it affects permanent workers’ ability to organize. When a large part of a factory’s workforce is afraid to join the union due to short-term contracts, it is difficult for the union to reach the legal criteria of representativeness required for collective bargaining (and after the trade union law of 2016, also for representing workers at the Arbitration Council).

Arnold and Shih⁷³ consider FDCs a major challenge for union organization and workers' livelihoods in Cambodia. They also prevent the efforts of independent unions and NGOs to defend workers’ legal rights. One experienced female organizer described how the combination of insecurity of work and life deters organization in practice:

⁷¹ Fair Action, “A Short-Term Solution: A Study of the Use of Fixed-Duration Contracts in the Cambodian Garment Industry.”

⁷² Interview with a former union leader, 2017.

⁷³ Arnold and Shih, “A Fair Model of Globalisation?”; also Arnold, “Workers’ Agency and Power Relations in Cambodia’s Garment Industry.”

“When I try to meet with [workers] they are very worried, and they call me back: ‘Oh but what if they don’t renew my contract?’ All are very afraid. The short-term contract is the biggest problem! And when workers have a loan, they are in debt and need to pay every month, so if they are dismissed they cannot make the transactions... So this is the real worry.”⁷⁴

The risks are aggravated by the burden of social reproduction and the need to ensure intergenerational survival and wellbeing. In Cambodia, social reproduction falls exclusively on women, and this entails both material and non-material obligations that follow women even as they migrate from the rural areas to work in factories.⁷⁵ Women’s non-traditional roles and their work in the garment factories is accepted because of their contribution to intergenerational wellbeing that forms a continuation of their roles in social reproduction and care of family members⁷⁶ in a monetized form⁷⁷. Daughters in particular are expected to financially support their parents and this responsibility is exacerbated in the context of the widespread over-indebtedness of the rural population amidst the world’s highest levels of microfinance saturation⁷⁸. Care responsibilities imply significant time constraints for possible union activism, which are further restricted by the families’—and male leaders—opposition to women’s activism⁷⁹. The wellbeing of several generations depends on the garment jobs, which leads many women workers to avoid risks associated with activism and open resistance. Naila Kabeer calls this a trade-off “between access to employment and conditions of employment”⁸⁰.

To sum up, the prevention of claim-making and unionization adds complexity to Phillips’⁸¹ view of bottom-up informalization as a tacking between poverty and informality. The combined effect of the insecurity of work and the gendered insecurity of life is to hamper collective organization and creates incentives to entering informal work. The implications reach beyond the workplace. At the societal or political level, the absence of collective representation of workers’ interests furthers injustice. Unions cannot function without legal protection, which is why labor’s political power is needed to push for such legal protection in the first place (as was the case in the social contracts of the Global North⁸²). This makes evident the centrality of workers’ collective organization in the

⁷⁴ Interview with a former federation leader, 2017.

⁷⁵ The responsibility thus remains, despite the spatial detachment that Masina and Cerimele (2018) consider an externalization of the costs of social reproduction in Vietnam’s dormitory regime.

⁷⁶ Anna Salmivaara, “But what if they don’t renew my contract?”: Cambodian garment workers, social reproduction and the gendered dull compulsion of economic relations. In Hammer, A. & Fishwick, A. (eds.) “The Political Economy of Work in the Global South”. London: Red Globe Press, 2020, 19.

⁷⁷ W. Nathan Green and Jennifer Estes, “Precarious Debt: Microfinance Subjects and Intergenerational Dependency in Cambodia,” *Antipode* 51, no. 1 (January 2019): 129–47.

⁷⁸ Laurie Parsons, Sabina Lawreniuk, and John Pilgrim, “Wheels within Wheels: Poverty, Power and Patronage in the Cambodian Migration System,” *The Journal of Development Studies* 50, no. 10 (October 3, 2014): 1362–79.

⁷⁹ Salmivaara, “‘What If They Don’t Renew My Contract?’ Cambodian Garment Workers, Social Reproduction and the Gendered Dull Compulsion of Economic Relations.”

⁸⁰ Naila Kabeer, “Globalization, Labor Standards, and Women’s Rights: Dilemmas of Collective (in)Action in an Interdependent World,” *Feminist Economics* 10, no. 1 (maaliskuu 2004): 24,.

⁸¹ Phillips, “Informality, Global Production Networks and the Dynamics of ‘Adverse Incorporation.’”

⁸² Kalleberg and Hewison, “Precarious Work and the Challenge for Asia.”

bottom-up dynamics and their circular impact on the top-down dynamics of informalization, and in connecting the two.

Top-Down and Bottom-Up Dynamics of In-Fact Informalization

Interests Of The Government

Cambodian government has played a key role in allowing and actively promoting in-fact informalization, as illustrated by its stringent opposition to the Arbitration Council's legal interpretation of the two-year limit of FDCs. The government's position provides support to the employers, who claim that subcontracting and short-term contracts are needed to provide flexibility and cost-efficiency to ensure the industry's competitiveness⁸³. This is not uncommon in garment-producing countries, as was discussed above with reference to the case of India described by Mezzadri⁸⁴.

Arnold and Shih⁸⁵ see the proliferation of subcontracting and FDCs in Cambodia as an *employer* strategy of competitiveness in the post-quota world. Although the employer organization GMAC's close and influential relationship with the government is well known among labor actors in Cambodia and acknowledged in several studies⁸⁶, the government's position is hardly a result of a mere pro-employer agenda. The independent labor movement has been the most important mobilizing force in the last decades in Cambodia, and weakening its ability to organize is in the government's direct interest of maintaining its power⁸⁷. The proliferation of FDCs was preceded by a period of open anti-union policy that culminated in the assassination of several trade union leaders in 2004, leading to international outcry. Several Cambodian activists and observers believe that this led to a change in the government's strategy towards the unions. The threat of open violence against union leaders and other civil society and opposition activists gave way to a more subtle approach, in which the power of independent unions was undermined through FDCs and aggressive expansion of government controlled federations. One former union leader and long term-observer reflected on why FDCs were not used at the beginning of the industry. "I think they didn't expect the movement. It was only after the killing of Chea Vicchea in 2004 that the government strategy changed."⁸⁸ Some activists believe that the idea of using FDCs actually originated among government officials who encouraged the employers to use them. Several interviewees suggest that the government's current goal is a corporatist type of control over the

⁸³ E.g. Yale Law School, "Tearing Apart at the Seams.Pdf"; Arnold and Shih, "A Fair Model of Globalisation?"

⁸⁴ Mezzadri, "Globalisation, Informalisation and the State in the Indian Garment Industry."

⁸⁵ Arnold and Shih, "A Fair Model of Globalisation?" also Arnold, 2014

⁸⁶ Arnold, "Workers' Agency and Power Relations in Cambodia's Garment Industry"; Kristy Ward and Vichhra Mouly, "Employment Relations and Political Transition in Cambodia," *Journal of Industrial Relations* 58, no. 2 (April 2016): 258–72; Salmivaara, "New Governance of Labour Rights."

⁸⁷ The threat of an alliance between key union federations and the main opposition party in the months long protests that followed the 2013 elections was perceived as a major threat to the governing party's 30-year rule (Salmivaara, 2018), and triggered a wave of restrictions of political freedoms, including the restrictive trade union law of 2016, that culminated with declaring the main opposition party illegal prior to the 2018 elections.

⁸⁸ Interview, 2017.

trade union movement, which similarly to Vietnam, would enable it to claim to respect freedom of association *de jure* while preventing independent organization and political mobilization *de facto*.

In this light, rather than a break from earlier “‘decent work’ principles”⁸⁹, the systematic use of FDCs seems to form a continuation of the government’s policy of seeking external legitimacy through a cosmetic commitment to labor rights⁹⁰. In the early 2000s, “decent work principles” were promoted simultaneously with a violent repression of labor activists. In-fact informalization appears to be a less violent way of precluding workers-citizens from enjoying freedom of association, similar to the indirect rule of the selective hegemony analyzed by Campbell⁹¹ in Myanmar. In-fact informalization prevents workers from claiming their legal entitlements despite being in formal employment. Everything looks good on paper: Workers receive the minimum wage and basic legal benefits. The indirect impact of FDCs on workers’ ability to make claims does not emerge in buyers’ audits or BFC monitoring visits. No international standards are being directly violated.

Workers’ Preferences

The employer side often justifies the use of short-term contracts by saying that workers—or trade unions—do not want permanent contracts. This is not totally baseless, because there have even been protests in which workers’ have demanded FDCs. Although these might have been organized by unions aligned with the employers or the government, they provide justification for inaction to those who benefit from the situation—the employers, buyers and the government.

The idea of workers preferring FDCs is rejected by independent unions and labor NGOs who claim that it does not even make sense: Workers are not given a choice between different types of contracts when hired. Rather than resulting from voluntary or informed choice, FDCs are imposed by employers who threaten and manipulate workers or offer them money (Yale Law School, 2011; Arnold, 2014). Workers’ lack of awareness plays a role. As one NGO worker told me: “*if a worker comes from the countryside, and knows five other workers and they all have STCs, they don’t know about anything else*”. Individual workers who are unaware of the law and have no support of a trade union are seldom able to claim formal entitlements such as permanent contracts.

An example of this view is the report by Fair Action⁹² that argues that FDCs are chosen voluntarily only in “rare cases” characterized by an urgent need of cash, fear of factory closures and poor understanding of the difference between contract types. Importantly, though, these conditions are not exceptional; they describe the reality in which most Cambodian garment workers make their decisions about work, as part of wider considerations about life and intergenerational wellbeing. Thus, preferring FDCs is often a conscious choice. Analyzing it as such can benefit both the attempts to understand the persistence of the phenomenon and to reverse it.

⁸⁹ Arnold and Shih, “A Fair Model of Globalisation?,” 420.

⁹⁰ Ward and Mouly, “Employment Relations and Political Transition in Cambodia,” April 2016.

⁹¹ Campbell, “Labour Formalisation as Selective Hegemony in Reform-Era Myanmar.”

⁹² Fair Action, “A Short-Term Solution: A Study of the Use of Fixed-Duration Contracts in the Cambodian Garment Industry.”

Two points are essential for understanding the pervasiveness of bottom-up informalization beyond the idea of adverse incorporation and lack of options⁹³. First, the preference of in-fact informal arrangements is not necessarily due to false consciousness, but based on considerations of needs and values that go beyond individual economic maximization. The responsibilities of social reproduction, related to intergenerational survival and wellbeing, make informal work attractive especially for women. For many female workers, the reason for working at Star Fashion was the lack of other employment opportunities close to home that would enable them to integrate paid work with care work. For the same reason, other female workers with children told me they preferred “small factories” that were close to home. The flexibility offered by short-term contracts is also needed by those workers whose families need help in the village during peak agricultural seasons.

Similar to what De Neve⁹⁴ observed in India, Cambodian garment workers’ reasons for preferring informal work are heavily gendered. Young male workers appreciate the more relaxed atmosphere at the “small factories”. Nimol, a male worker with no children, was now working at a registered export factory but felt nostalgic about his former job at a subcontractor’s, where order timelines were less tight. He told me: “The difference is the rules. In the big factory it’s more difficult and stricter than at the subcontractor’s. In the big factory, I have to get permission to go to toilet. [...] at the subcontractor, this was not needed.”

A second aspect that has not received sufficient attention is related to the workers’ preference for “money in hand”. As noted by Arnold and Shih⁹⁵, workers might accept FDCs because of immediate monetary benefits, namely the 5 % severance that is paid at the end of a fixed-duration contract. According to a union federation representative, some workers want to work at a “small factory” because it is not registered in the social security fund and contributions are thus not deducted from salaries. The preference of “money in hand” is often interpreted as a forced prioritizing of urgent financial needs on the expense of long-term security. Nonetheless, in Cambodia the severance pay can also be seen from the opposite perspective, linked with long-term considerations shaped by the question of trust. Accumulation of seniority is not an attractive long-term option for workers. A labor inspection advisor told me he saw a change in the debate about the contracts. Before, factories wanted to use FDCs to take advantage of workers, but now, they were suffering from excessive turnover of workers. Skilled workers, in particular, wanted temporary contracts that permitted them to change jobs. This seems to reflect the weakening popularity of garment jobs compared to the new employment opportunities in the growing service sector, in particular tourism. As many long term observers note, workers no longer queue for jobs outside factories as they did in the early 2000s. “Before, garment jobs were the first option, now, it’s maybe the last option,” one former factory worker told me. “My generation does not want their younger siblings to work in these conditions, they want them to have a better education and to work in another sector.”

This change was reflected in the discussions that I had with workers about their future plans and dreams. Few workers see themselves working in a garment factory in five years’ time. Instead,

⁹³ Phillips, “Informality, Global Production Networks and the Dynamics of ‘Adverse Incorporation.’”

⁹⁴ De Neve, “Fordism, Flexible Specialisation and CSR.”

⁹⁵ Arnold and Shih, “A Fair Model of Globalisation?”

most dream of saving money and opening a small business. Whether these dreams are realistic or not, they do not incentivize building up seniority. A coordinator of an international union federation had made the same observation. Young workers may want short contracts because of the 5% severance, but this is not because of their immediate needs; it is because building up seniority does not seem smart. The mechanism is not clear and workers consider the idea suspicious. “Money in hand” can be saved, while there is no guarantee that they will ever see the seniority that is accumulating in the employers’ account. Workers’ suspicions are due to the increasingly common factory closures. Stories circulate among workers about foreign managers and Chinese factory owners suddenly leaving the country without paying salaries and accumulated seniority bonuses. Workers know that in this sense, FDCs are less risky in the long term.

The idea of “money in hand”, often expressed by the workers, is thus linked to long-term considerations and the question of trust, highly relevant in a social system based on interpersonal loyalties⁹⁶. Workers in Cambodia often feel a profound mistrust of employers and authorities, which is reflected in their fear of fake money and rejection of bank accounts. One factory representative of European origin told me he had been astonished by Cambodian workers’ refusal to sign permanent contracts and accept an insurance paid by the company. He told me he later understood this was due to the workers’ unwillingness to commit to someone they did not trust and their fear of being cheated. It all changed with time, he said.

When converting a permanent contract to a temporary one, the amounts can be very high. One international NGO observer told me that “In practice, this can amount to 400 USD which is an amount they can never get in their hands, so it sounds too good a deal for them.” While he suggested that this was a way of abusing workers’ poverty, he also reflected on who were we—as foreigners—to tell Cambodians what was good for them. In fact, this kind of lump sum might be a unique opportunity to make a housing-related investment without taking a loan with abusive interest rates that can later lead to spiraling indebtedness. Workers’ attempts to make “extra money” are thus also a way of managing longer term risks.

All in all, workers’ preferences are affected by poverty, but they do not mechanically follow from a lack of options or a prioritizing short-term financial needs. They are shaped by gendered considerations about intergenerational wellbeing, and shaped by collective and personal experiences regarding the unpredictability of institutions or unjust treatment by foreign managers. These considerations have important consequences in terms of preventing unionization and promoting *in-fact informalization*, which means that they need to be carefully considered when discussing the possibilities of reversing these trends.

Buyers’ Perspective

The role of international buyers in enforcing labor rights at the Cambodian supplier factories means that they are a prime target of unions and NGOs advocacy efforts aimed at reversing the trend of *in-fact informalization*. The position of the Arbitration Council has been a key argument in

⁹⁶ Trude Jacobsen and Martin Stuart-Fox, *Power and Culture in Cambodia*, ARI Working Paper Series 200 (Singapore: Asia Research Institute, 2013).

these efforts, because most buyers recognize its authority. This has been reflected in some action, for example, when several brands submitted a letter to the government against the labor law amendment in 2009⁹⁷. In recent years, several major buyers have engaged in initiatives to promote permanent contracts to their suppliers. Nonetheless, the government's stringent defense of the legality of FDCs, as well as workers' ambivalent attitudes, complicate these efforts, and are used by the companies to justify inaction. A sustainability representative of a major buyer told me about a project the company had prepared to convert all FDCs to UDCs at their supplier's. The plan had to be cancelled at the last minute due to the government's opposition. The representative of another buyer claimed that they cancelled a similar project because workers opposed FDCs. In the end, the buyers' commitment to the issue is thin. They seek low prices and flexible timelines by organizing their production into global chains, which, as Phillips⁹⁸ claims, is the logic behind informalization.

Conclusions

Informality prevents workers both in Cambodia and globally from accessing the rights and benefits described by the ILO's concept of Decent Work. As the paper has illustrated, this is not limited to the "informal sector" but also affects the workers in formally recognized employment relationships. The paper used Chang's⁹⁹ notion of *in-fact informalization* to draw attention to the mechanisms that preclude workers in formal factories, in formal employment, from enjoying the rights that the international norms of the ILO—confirmed in national legal frameworks and corporate codes of conduct—officially award them.

Inspired by Phillips'¹⁰⁰ notion of top-down and bottom-up processes of informalization in GVCs, the paper suggested broadening the analysis of in-fact informalization beyond capital-driven economic processes. In particular, it argued for reconsidering the role of the state that has often been seen as either absent or an implementer of pro-employer policy. Furthermore, the paper argued for not seeing workers as objects of informalization nor assuming that they automatically resist it. Drawing on perspectives of the anthropology of labor and feminist political economy, it suggested examining work in a garment factory as part of a continuum of livelihood strategies centered on sustaining life across generations and thus shaped by the interconnection of production and social reproduction. The paper further suggested incorporating the analysis of labor's collective organization in both top-down and bottom-up processes of in-fact informalization.

The analysis of the dynamics of in-fact informalization in the Cambodian context showed that the role of the state is not limited to supporting the interests of international capital. In fact, informalization appears as a project of selective hegemony used by the government to weaken

⁹⁷ The Cambodia Daily, Several US Firms Opposing Proposed Labor Law Changes. The Cambodia Daily, March 11, 2009. Retrieved from <https://english.cambodiadaily.com/news/several-us-firms-opposing-proposed-labor-law-changes-84609/>

⁹⁸ Phillips, "Informality, Global Production Networks and the Dynamics of 'Adverse Incorporation.'"

⁹⁹ Chang, "Informalising Labour in Asia's Global Factory."

¹⁰⁰ Phillips, "Informality, Global Production Networks and the Dynamics of 'Adverse Incorporation.'"

independent unions. The government's interests might converge with that of capital, but they are also affected by a direct interest in undoing social and political mobilization. Second, the analysis illustrated that although poverty tends to lead to adverse incorporation, workers' preference of informal arrangements involves more than a mere submission to short-term needs, or false consciousness. Cambodian workers make realistic and pragmatic choices that are shaped by gendered responsibilities and long-term considerations determined by a context of historical insecurity, in which relations with authorities and foreign factory owners do not offer reasons for trust.

The combination of the insecurity of work—the fear of non-renewal—and the gendered insecurity of life prevent workers from joining independent unions. The consequences are significant and extend beyond the workplace. This makes evident the centrality of workers' collective organization in the bottom-up as well as top-down dynamics of informalization, connecting the two. At the factory level, the weakness of independent unions implies the inability to represent workers' interests in cases of labor rights violations. At the level of the society, it leads to lack of political representation. Unions cannot exist without legal protection, their political power is needed to push for such legal protection in the first place. It is also through political struggle that social contracts and the “standard employment relation” were established in the Global North: labor's political power resulted in the creation of legal and institutional protections.

Arnold and Shih¹⁰¹ and Arnold¹⁰² suggest that the use of fixed term contracts is producing increasing discontent and resistance among Cambodian workers. The NGO reports referenced in this article also emphasize this potential, as they aim at building a convincing argument about the negative impacts of this practice to employers. The developments of the recent years have, nonetheless, pointed to another direction, making evident the importance of the role of the Cambodian government. The threat of worker unrest that was reflected in the national-level strike of early 2014, did not lead to concessions but to a tighter grip and stricter limits to workers' freedom of association. As part of a wider closing of the democratic space in the recent years, the 2016 trade union law has all but erased the independent union's ability to represent workers as it has made registering local unions and taking cases to the Arbitration Council practically impossible.

The success of the garment industry has been instrumental for the legitimacy of the government due to the economic growth and job creation it has implied. But when the industry's profit-making recently clashed with the government's political interests—when the EU threatened withdrawing Cambodia's import benefits due to the country's undemocratic development—the government chose to turn against the industry's interests. This would suggest that the government's policy is primarily driven by other considerations than the promotion of the interests of capital.

In Cambodia, in-fact informalization weakens freedom of association without touching its protection *de jure*. This paper has called attention to the gap between the official commitments of states, and companies, to the labor rights defined in the ILO's conventions and in the concept of Decent Work, and their real impact on the lived realities of the majority of the world's workers. If

¹⁰¹ Arnold and Shih, “A Fair Model of Globalisation?”

¹⁰² Arnold, “Workers' Agency and Power Relations in Cambodia's Garment Industry.”

informality is considered in *de jure* terms, the problem of worker's strategic vulnerabilization disappears as a problem¹⁰³. States and buyers maintain their legitimacy in the eyes of various audiences: the international community, donors, campaign groups and consumers. Responses through more *de jure* regulation are inefficient when the problem is not on paper but in the contradiction between labour rights and powerful economic and political interests. The same contradiction lies at the heart of Agenda 2030 and between its different SDGs.

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¹⁰³ Chang, "Informalising Labour in Asia's Global Factory."

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